

APPENDIX K: Private Citizen Comments (F - Jan)

From: "Foster Boone" <tfb@gotsky.com>
To: <dfgsuctiondredge@dfg.ca.gov>
CC: "'Creek Hanauer'" <tcreek@sisqtel.net>
Date: 11/30/2009 6:02 PM
Subject: Suction dredging

I live on the North Fork of the Salmon River, an area where suction dredging is prevalent, and have observed its damaging effects: pollution (exhaust fumes, oil and gasoline in the river, noise), mud plumes downriver of the dredging operations, river banks eaten away, vegetation destroyed, trash in and along the river, etc. No doubt this is harmful to aquatic life in the river. In my opinion, this should not be permitted on a National Wild and Scenic river and I strongly support a permanent ban on suction dredging.

Thank you for considering my opinion.

Foster Boone, Architect
PO Box 1027
25200 Sawyers Bar Road
Sawyers Bar, CA 96027
tfb@gotsky.com
530-462-4722

From: "fred buschbaum" <fbusch@dslextreme.com>
To: <dfgsuctiondredge@dfg.ca.gov>
Date: 11/17/2009 8:43 AM
Subject: scoping meetings

Being a dredger, and living in so. cal., I find it a bit insulting to see that you have all these meetings in northern cal. far beyond my reach. (there are many of us down here that are on fixed incomes and can't travel). As to this new law requiring a new eir, it seems counter productive to pay for the same thing twice. Most of us out here are aware of the fight between the dfg and those indians who want to have exclusive fishing rights on "their" river. We also know about the invironmental wacko who got them the indian casino money to buy enough lawyers and polititions to get this law passed. It seems to me, that for a majority of people to suffer while a minority forces their way is a bad deal. Since I invested thousands of dollars in equipment and spending in local communities in gold country, I think at least the previous eir could have been reviewed to aliviate this problem. Especially since the claim that we dredgers cause fish decline, and the only river we are not allowed to dredge is the sacramento and that is the only river where fish are declining. Oh, yeah, if the off shore fish are declining, how are we supposed to be responsible for that? Well, consider this my comments about the subject. (not that anyone in sacramento listens to people who don't inject money into reelection funds).
Fred Buschbaum, 7145 Clover Ct., Oak Hills, Ca. 92344

FYI, Your notice, mailed on 11-9, got here on 11-14, with the wrong zip code on it.

FRED L. FIFIELD

2049 Titsworth Rd.
Braawley, Calif. 92227
760-344-2279 Home
760-996-1243 Mobil

Nov 21, 2009

Mr. Mark Stopher
California Department of Fish & Game
601 Locust Street
Redding, CA 96001

Dear Mark Stopher:

I have two (2) mining claims on the east fork of the Trinity River and before acquiring them have been vacationing in the area for a number of years - This past year before I was blocked from dredging I stayed in Junction City for a month and a half. Years passed I have camped on the claims or stayed in motels or camp grounds - I am from Southern Calif., so when I spend time in my claims area I spend considerable money at local stores and for the first time, heard this year, local merchants

naïve concern about the money they
were going to lose because of people like
me were not working on claims and
not going to be spending money - probably
spent close to \$3000.00 locally and know
in years pass it has been more - I know
we dredgers are not a big economic boom
but we are apart and from what I have
seen, clean up and leave the environment
in much better condition than is 70% of the
people. Just to get a little gold and silver.

I believe your job is thankless as you must
address a legislator that wants to more and
more take away our individual freedoms and
our access to all public lands and waterways.
I think we need a dredging season (?) that is
compatible with the spawning of fish and
your permits now take this into consideration.
I do not believe that dredging has in any way
effected the number of fish but the fishery
industry has seen the problems for a number
of years and they are trying to place the blame
elsewhere -

I hope you are able to finish the impact
report and let me dredge again in 2010
thank you for your consideration -
Respectfully submitted
Fred L. Trifelp

From: "Gail Golden" <ggoldbug@comcast.net>
To: <dfgsuctiondredge@dfg.ca.gov>
Date: 11/29/2009 10:08 AM
Subject: dredge permits

To whom it may concern;

We have been going to Roaring Camp in Pine Grove every summer for 20 years, We began dredging about 12 years ago at Roaring Camp and find it so entertaining and relaxing. We do this vacation every summer for the pure enjoyment of days gone by. Roaring Camp has very strict rules regarding the size of the nozzle used and where you may dredge as to not destroy the river. This river which runs through Roaring camp carries no salmon, but does have trout. Therefore there are some areas reserved for the fish which we can dredge. Only a 3 inch nozzle is allowed up stream and no dredging on the bank is allowed as to preserve the shore line. I agree that regulations need to be made and upheld to protect our rivers, fish, etc. But to ban dredging completely is absurd. You are taking away our way of enjoyment and entertainment as well as education for the young showing how the 49ers mined. My husband and I are senior citizens and we find this way of gold mining relaxing and very much enjoyable. We do not find a lot of gold, but enjoy the trying just the same. I beg you to please allow dredging where salmon are not endangered even if you have to add more rules and restrictions to the sport.

Thank you for your time and consideration to this matter,
Gail and Jim Golden
PO Box 706
Byron, CA 94514

From: "gl" <gearyluanne@netzero.com>
To: <dfgsuctiondredge@dfg.ca.gov>
Date: 12/3/2009 8:04 AM
Subject: SUCTION DREDGING -MR.MARK STOPHER

I'AM OBJECTING TO KARUKS AND THE DEPARTMENT OF FISH AND GAME IN A SECRET CHANGE OF REGULATIONS WITHOUT A NOTICE OR EXPLANATION OR A PROVEN REASON.

FROM GEARY WILSON
12594 ave 352
VISALIA, CA. 93291

November 27, 2009
17155 Valley Oak Dr.
Sonora, CA 95370

Mark Stopher
California Department of Fish and Game
601 Locust Street
Redding, CA 96001

Subject: Public Scoping Meeting Suction Dredge Permit Program

Hello...I'm sorry that I'm not able to attend one of the designated scoping meeting dates, thus this letter. Actually I don't know what a Scoping Meeting is all about, so I'm just gonna complain about this years action of imposing a moratorium upon the recreational gold dredger. It is said that this is to allow Fish and Game make a "Fish Count" for ocean going salmon into Californias streams. We all know that this was a knee jerk decision based upon foolish people wanting to eliminate the recreational dredger from the scene. Still I don't understand how gold dredging from the recreational miner can effect the salmon stock under the existing rules. Wherever there is the possibility for salmon and gold dredging operations in the river at the same time, designated non-dredging periods are already established. If there is a claim that the muddying of the river effects the salmon, they seem to forget that they do pretty well during the spring run off or after heavy rains when the river turns brown with mud. I witnessed this in the North Fork Yuba River during the spring of 2009. During the summer I seen many rainbow trout in the river with me while I dredge. I could see no salmon simply because there aren't any ocean salmon that visits this area. I do see many landlock (Kokanee) salmon in the fall, but I stop my dredging usually by September 1st simply because its too damn cold to be in the water all day by then. It seems that a lot of people share this same view because the number of other dredgers drop right around then. I view this moratorium as a move to simply pacify a bunch of 3rd generation born again hippies. It is wrong and unjustified. In practical terms, there is room in most California rivers and streams for the fisherman, swimmer, recreational miner and tree hugger. Please gentleman, put rational thinking back into our river usage and allow the recreational miner to once again follow the 49'er heritage and dredge for gold. Thank You!

George Zay
Retired Person/old fart/voter and
Recreational gold miner



From: <miner43@comcast.net>
To: <dfgsuctiondredge@dfg.ca.gov>
Date: 12/1/2009 10:49 AM
Subject: suction dredging

Mark Stopher,

I have been a suction dredger for 15 years. I work the smaller creeks above the dams in the higher elevations. I would like to say that at no time have I destroyed the fish environment. I have fish swimming around me when I am dredging looking for and eating river food. It feels like I am in a aquarium at times. I am replenishing the gravel beds and braking up the sediments. I am removing the mercury in the creeks left from the old mining methods. I remove lots of lead bullets, fishing weights, and old mining lead and brass parts. I believe I am one with the environment and help the fish to propagate. I dredge above the dams where the Salmon cannot travel. After the winter comes with the rain and heavy water flow the evidence of my work is gone. I do not understand how we dredgers are a danger to the fish when we are cleaning up and inproving their environments.

Thank You,

Gerald Vande Weg

506 Lanyard Ct.

Rohnert Park, Ca. 94928

707-795-9337

From: Cathy Wehrly <cwehrlybird@yahoo.com>
To: <dfgsuctiondredge@dfg.ca.gov>
Date: 11/24/2009 3:25 PM
Subject: Suction dredge permit program

Gerald W. Wehrly
4840 Lobo Trail
Garden Valley, CA 95633

California Gold Mining Suction Dredging

- A. Gold Mining Experience:
 - 1. Gold mining and sluicing for 38 years
 - 2. Gold dredging for 36 years
 - a. Taught numerous individuals, including my kids and grandkids, gold mining
- B. Environmental Experience:
 - 1. 33 years with the State of CA., fighting wildland fires, provides a vast knowledge of the environment.
 - 2. 30 years teaching hundreds of other state firefighters about the environment.
 - 3. 20 years with the State of CA. as a fire captain running state fire crews.
 - a. 20 years improving the environment and aesthetics on work projects.
 - b. 20 years working with other agencies improving the following work projects, with a 17 man fire crew: U.S.F.S projects, Fish & Game projects, state parks, stream clearing, erosion control, recreation improvements, protection of sensitive areas, wilderness area projects, trail management, hazardous materials, fuel reduction, forestry practices, improving forest, stream and lake aesthetics, public safety, wildlife safety, air quality, water quality, water shed projects.
- C. Benefits of Suction Gold Dredging in CA
 - 1. Gold dredgers actually work in the stream with the fish.
 - 2. Dredging feeds the fish with dredged up bugs and worms.
 - 3. Stream clearance of small logs and debris
 - 4. Stream clearance of dead animals in the stream, such a deer, bear, rats and fish
 - 5. Stream clearance of liter from rafters, fishermen, hikers and horse riders
 - 6. Removal of small stagnant water pools
 - 7. Removal of lead bullets, fishing weights, fishing line, and fish hooks from the stream
 - 8. Removal of mercury
 - 9. Removal of broken glass and pieces of wire
 - 10. Removal of liter along the banks and around campsites from other stream users
 - 11. Creating spawning holes
 - 12. Creating holes and cavities for fish to hide and holes allow for cooler sections of the river for the fish
 - 13. In shallow areas, dredging exposes the beautiful bedrock for the public to enjoy
 - 14. Removing shallow areas of gravel in the stream for fish navigation
 - 15. Educating the public on not spitting or urinating in the stream
 - 16. Educating the public on campfires. Escape fires can devastate a stream or river
 - 17. Loosening up boulder locked streams so the fish have new areas to explore
 - 18. Creating small trails for other hikers and fishermen
 - 19. Educating fishermen on location of fish
 - 20. Aeration of the water benefits the stream
 - 21. Creating recreation for gold miners and their families
 - 22. Re-creation of CA. history by gold miners
 - 23. Social economics to restaurants, hotels, and mining equipment companies

24. Financial gain to the State of CA from permits

D. Negative Impacts on the Environment from other activities such as: winter rains, snow melt, release of water and debris from dams, river rafters and kayakers, have a high impact on the river environment.

1. The aesthetics of the town of Coloma have been ruined by the rafters and kayakers.
2. Rafters yelling, cussing, and screaming can be heard for a long distance.
3. Major silt damage along the banks of the river from rafters
4. Major damage to the riparian
5. Using the river for a toilet because of limited chemical toilets
6. Using the river for a trash dump which reduces water quality
7. Kayakers and rafters yelling at gold miners and throwing beer bottles

E. Vietnamese of the El Dorado National Forest and other forests:

1. Armed gangs roaming the forest, creating unsafe conditions for public employees and the general public
2. Hunting and fishing year-round without a license
3. Shooting anything in and out of season
4. Pouring bleach in the streams to catch fish and leaving the bleach bottles

F. Winter floods:

1. High debris and silt impact
2. Hazardous materials, such as propane tanks floating downstream
3. Log jams
4. Massive amounts of litter
5. Movements of large amounts of rock and gravel

G. Indians on the Klamath River:

1. High impact of the river from litter and shacks along the river
2. Running the general public off the river
3. Fishing nets strung across the river
4. Shooting sea lions and seals and leaving the carcasses
5. Burning huge driftwood piles along the river
6. Driving in the river with their 4x4's and ATV's

H. Forest Fires:

1. High impact on the stream and river environment
2. Retardant drops in the streams and rivers
3. High impact on water shed
4. Numerous landslides
5. Downed trees and logs get into the streams
6. High danger to wildlife and vegetation

I. Summary:

Gold mining, logging, and agriculture built California! It's part of our history. For some gold miners it's a way of life and their only source of income. Suction gold dredging has a minimal negative impact on the stream or river environment. According to the Joseph Green Report, a 6 inch dredge gains turbidity in the river after 50 feet. Gold dredgers live in the water with fish, so naturally, we desire good water quality. I for one, and all the people I teach about mining are out to protect the river and enjoy the wildlife and the river.

Thank you for your time,

Gerald W. Wehrly

From: "gina sterbentz" <disterbentz@adelphia.net>
To: <dfgsuctiondredge@dfg.ca.gov>
Date: 11/30/2009 6:52 PM
Subject: dredging rights

my family and i live pay alot of taxes here where there is no salmon no dredge ban !!!!!

**To the Dept of Fish and Game
Sacramento California**

Re: Comments on suction dredge mining in the waters in the state of California.

First let me qualify my expertise in this field of endeavor. I have over 40 years experience in dredging for Gold primarily on my old mining claim on the East Branch of the Feather River. During thirty of those years I made a modest living from the Gold I recovered. I believe the thousands of hours spent under water has given me an insight as to any possible deleterious affect to the environment, to fish, and other aquatic species.

In all those years I have not found any bad affect to the Fish or the environs they live in.

What I have found in my studies of this perceived problem is that the so called expert environmentalists have never spent any time under water either dredging or observing an ongoing dredging operation. They might drive down a highway and see a dredge in operation, and say to themselves, { look at the hole that dredge has dug in the river, plus the tailings behind the dredge, and the pile of boulders and rocks that the dredge cannot suck up into its nozzle, isn't that terrible. We need to do something to stop that.} I have had those very words spoken to me by a prominent environmentalist in our community.

This person and her husband, who is a devout Fly fisherman have since changed their minds after I was able to show them how wrong they were in their ideas.

Here therefore is what a dredging operation does for the river and its inhabitants. First by digging a hole in the river gravel, the dredge is creating a cooler spot for the fish to hang out in. We all know that fish like cooler water. Second, the gravel that comes out of that hole is separated into a loose gravel bed that is conducive to the fish laying their eggs into. The small and large boulders that cannot be sucked up into the dredge nozzle, are usually stacked in such a way that there are nooks and crannies for the fry and fingerling fish to get into to hide from the larger fish that would eat them, therefore possibly helping the fish population to expand.

During the dredging process, the sluice box or boxes are separating out the gold from the gravels, plus Mercury, lead in the form of bird shot, but mostly lead sinkers used by fishermen who have lost them while fishing. { I have over 5 pounds of Mercury on my shelf in my shop, that has been recovered from the gravels I have processed over the years. This Mercury was obviously lost during the 1850's and later in the mining operations the original miners carried on. I have also recovered enough lead to melt down and turn into lead weights to use on my weight belts when I'm diving.}

I have also removed hundreds of pounds of rusty Iron that has been lost in the river over the years. We all know that the above materials form toxins in the water and need to be removed for the sake of Fish and Human health.

The dredging process also releases buried food for the fish. A smart fisherman will

always fish downstream from a dredge as he will be assured of catching fish that are drawn to the area by the gravel movement that has released food.

Then there is the economic boost to the country. The gold recovered is new wealth that is brought into the economy. For every ounce of new gold that is recovered, the trickle down effect brings the equivalent of ten times that amount into the economy. At today's price of gold that amounts to approximately 10,000.00. Not bad for a yellow metal that an ounce of can be held in the hand of a small child, or be hammered out so thin that it can cover an acre of ground.

It's time to question the bad science of the Enviros, that they use to cause their so called crisis's they use to stop Mining, Logging, Farming, and Ranching. The world that we know today cannot exist without the Mining industry. Everything that society has accomplished has originated with Mining. Without Mining there is nothing.

So I believe we should keep the suction dredging regulations as they are, as they are restrictive enough without any new ones being brought about by the bad science of the Enviros.

Sincerely

Gordon Wieczorek
PO Box 1517
Quincy Ca. 95971

Gold Dredger/Gold Miner since 1966

From: Greg Ford <fordgd@hotmail.com>
To: <dfgsuctiondredge@dfg.ca.gov>
Date: 12/3/2009 1:33 PM
Subject: Comparison control studies of non-dredge rivers

Mark Stopher:

After reviewing the 122 page Subsequent Environmental Impact Report (SEIR) on the web site:

www.dfg.ca.gov/suctiondredge/ and references, there appears to be no control studies of Northern California andramadous fish of the river watersheds that do not allow suction dredging, for comparison. This should be included in the Subsequent Environmental Impact Report (SEIR) draft. I believe there are such rivers that have already been studied and salmonoids counted annually over many years in waters that do not allow suction dredging (i.e. Mendocino County, the Eel River). A comparison of such watersheds is justified in this all encompassing report that has closed all bodies of water to suction dredging in the State of California. Where are these data?

Sincerely,

Greg G. Ford

299 West Mendocino Ave.

Willits, CA. 95490

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From: "Jim & Gretchen Diekmann" <baystore@comcast.net>
To: <dfgsuctiondredge@dfg.ca.gov>
Date: 12/2/2009 3:32 PM

To Dept. of Fish and Game

December 02, 2009

RE: Suction Dredge Permit Program

Dear Sirs;

We were unable to come to the meetings held regarding the Suction Dredge Permit program, however, we have very strong feelings regarding this issue.

My husband, my two grown sons and I all purchased our permits and had hopes of actually making it financially help us get through these tough economic times. We are and always have been outdoor enthusiasts and as small scale miners, we work hard but enjoy it.

When we go to places, we make sure we add to the local economy by getting groceries at the local stores, etc. I know that this ban on suction dredging has hurt many of the small towns along our rivers.

It seems to me that our Government is anxious to close people out of 'our' great outdoors and control what people do without having the true Constitutional authority to do so. I have not seen any environmental proof that what is done when suction dredging occurs is detrimental to any species whatsoever. I do know that allowing the tribes to net the fish going upriver has a direct effect on them, however.

We clean as we go, removing harmful debris and working with the elements to keep nature beautiful for the next observer

Seems to me we are actually a beneficial group, seeking only the minerals under the water, nothing more.

If I am unable to enjoy what I paid for, I want my money back!

Gretchen Diekmann
P.O. Box 157
Bodega Bay, CA 94923
(707) 875-2941

From: Guy Chetelat <bandgshasta@yahoo.com>
To: <dfgsuctiondredge@dfg.ca.gov>
Date: 11/18/2009 3:05 PM
Subject: CEQA input and support for suction dredge ban

Mark Stopher
DFG

We are sending this e-mail in support of a ban on suction dredging. There is plenty of evidence that suction dredging is harmful to aquatic habitat (direct disturbance), water quality (mercury and sediment release) and aquatic organisms (disturbance, take, and potential for increased mercury levels in tissue). For those reasons we strongly support strict regulation of suction dredging and other recreation mining in streams and other water bodies. During the CEQA process it will be critical to include impacts from mercury, sediment, and direct disturbance and take of aquatic organisms in the channel. The recent drop in salmon and steelhead populations means we can no longer tolerate the damage caused by suction dredging in our streams.

Your attention to this matter is appreciated.

Guy Chetelat and Bonnie Lampley
Shasta, Ca

From: "Hal" <sharkbait0259@yahoo.com>
To: <dfgsuctiondredge@dfg.ca.gov>
Date: 11/4/2009 5:46 PM
Subject: Dredge

I will be canceling my 2 week vacation that i take to prospect,to go to another state and spend my money.I know cali has lots of that. thanks for nothing Hal Clark

From: Heidi Lyss <heidilyss@mac.com>
To: <dfgsuctiondredge@dfg.ca.gov>
Date: 12/3/2009 7:07 PM
Subject: My public comment on the Environmental Impact Review of Suction DredgeMining

Dear Mr. Stopher

Thank you for attending to public comment on the Environmental Impact Review of Suction Dredge Mining

Having had first-hand experience with the impact of dredging, I felt relieved by the passing of SB 670, and do urge the Department of Fish and Game and all other relevant government organizations to make the ban on suction dredging permanent.

Our family's home is on a creek in the Grass Valley/Nevada City area of Northern California. For the past 3-4 years, various dredgers have trooped in upstream, with loud motorized equipment, suctioning deep holes into the creek bottom, spewing out rock and gravel, and filling the water with clay silt that obscures the bottom for hundreds of feet downstream. Even a motorized dredging setup that appears small, churns up significant amounts of mud, and shifts large quantities of gravel and rock. The fish population has noticeably decreased, and the creek frogs have disappeared since the dredging started in our area. The normally clear water looks like pea soup when the dredging goes on, which has been most of the time during the past 3-4 summers until SB 670 was signed recently.

In addition, hikers, fishermen, rafters and swimmers walking up the creek are in risk of injury if they step into one of the dredged holes, which are hard to spot even when the water is clear, let alone mucked up from the silt dug up and released via the dredging process. These holes usually sink 3 to 5 feet below the regular creek bed and are especially hazardous in the deeper areas (the creek's depth ranges from 1 to 8 feet, depending where you are). Someone who accidentally steps in one can easily fall underwater, and/or break an ankle or leg, and/or hit her head on one of the many large rocks in the stream. And the silt released from the dredging coats the rocks in the streambed far downstream from the actual dredging sites, making the rocks slippery to walk on for quite a distance.

The dredging in the creek has adversely impacted the fish and frog population and natural ecosystem of the water. It not only ruins the pleasure of everyone who uses the creek in a respectful, less obtrusive, way but also, because we are in a former gold-mining area, likely leads to the release of mercury and other toxins into the water where many people fish, swim, hike and raft.

Along with all this, we have experienced the dredgers, who do not live on any of the nearby property, as sometimes hostile, which concerns me greatly.

Please make this moratorium permanent. It is way overdue (the Gold Rush did end quite a long time ago!). I'm tired of the dredging and seeing the many suffer at the hands of a few hobbyists who use motorized equipment to seek a spot of luck at the expense of the rest of us: we taxpayers who try to take responsible care of California's land, ecosystems, fish and wildlife populations, and public health. There are plenty of other hobbies one can pick up. . . (including gold panning which is a more ecologically-sound way to seek gold).

Thank you for your attention to this issue.

With best regards,

Heidi Lyss

From: Hugh McGuigan <hugeibewl45@juno.com>
To: <dfgsuctiondredge@dfg.ca.gov>
Date: 11/24/2009 10:21 AM
Subject: Dredge rules

To Whom it may concern (Mark Stopher)

I am a claim owner and recreational gold miner. I have some thoughts on rules that may help some of the anti miners get off our backs, help F&G fund the administration of dredge permitting.

1. Base permit fees on size of dredge to be operated. There is of course a huge difference in the impact a 2 inch unit makes as compared to a 8 inch
2. Permit each unit with a sticker much like off road vehicle permits.
3. Have some collection points where Mercury can be turned in. Much of the fuss seems to be on this issue. If we are seen as I believe we really are as removing this toxin from the environment it would be a plus.

Thanks

Hugh Mc Guigan

From: Hugh Mc Guigan <hugeibewl45@juno.com>
To: <dfgsuctiondredge@dfg.ca.gov>
Date: 11/24/2009 10:28 AM
Subject: Dredge rules

To Whom it may concern (Mark Stopher)

I am a claim owner and recreational gold miner. I have some thoughts on rules that may help get some of the anti miners off our backs and help F&G fund the administration of dredge permitting if the ban is lifted.

1. Base permit fees on size of dredge to be operated. There is of course a huge difference in the impact a 2 inch unit makes as compared to a 8 inch
2. Permit each unit with a sticker much like off road vehicle permits.
3. Have some collection points where Mercury can be turned in. Much of the fuss seems to be on this issue. If we are seen as I believe we really are as removing this toxin from the environment it would be a plus.

Thanks

Hugh Mc Guigan

From: <messdaddy65@juno.com>
To: <dfgsuctiondredge@dfg.ca.gov>
Date: 11/23/2009 9:44 AM
Subject: Comments reference Suction dredge permit program

Mr Stopher:

I wish to preface these comments by stating that I am a conservationist as well as an active CAMC holder in Siskiyou County who dredges in the Humbug Creek.

Uneducated "conservationists" have not grasped the concept that the 1872 Mining Law gives people the right to an action involved in mining. This action is the removal of minerals from public lands. What is in question is how this right of action is used to extract minerals without affecting the environment any more than Mother Nature does during flooding.

It is true that there are dredgers who have no consideration for the environment what so ever. I feel that these individuals provide the impetus for the filing of law suits to stop dredging all together.

The present Suction Dredge Permitting laws in Section 228, Title 14 do cover all aspects relative to conserving the public's land.

HOWEVER, California was built out of Gold mining when gold was valued @ \$3 an ounce or so, and within the last 10 years gold has increased almost 400%, but the permitting fees have NOT even doubled, BUT the number of "new claims" has increased by apx thousands!! The majority of these "new" prospectors have not been educated on the proper use of their right to an action, the removal of gold.

PROPOSALS:

DEPT OF FISH AND GAME FEES:

Increase the Resident dredging permit fee from \$47 to \$100 per dredge suction nozzle inch PER WEEK.

Increase the Nonresident permit fee from \$185 to \$150 per dredge suction nozzle inch PER WEEK.

Provide a copy of each permittee's application to the USDA Forestry.

Increase dredging fines to \$1000 per incident, and enforcing the 3 strikes and you are out ruling.

USDA FORESTRY INVOLVEMENT:

Require all permittees to provide a Notice of Intent.

Enforce NOI rules and increase fines to \$1000 per incident, with 3 strikes and you are out ruling.

BLM INVOLVEMENT AND FEES:

Increase the new claim filing fees to \$100 PER ACRE.

Require all types of claim holders to file a yearly Notice of Intent to hold a claim.

Eliminate the Affidavit of Assessment work.

Increase the yearly maintenance fees from \$140 to \$10 AN ACRE.

SUMMATION:

Implantation of the above proposals would decrease the abuse of the environment as well as provide revenue for CA. It could be worked out with the 3 entities as far as training dredgers. The Hunters training program could be modified for dredgers, or Associations like GPAA or LDMA could be certified as trainers.

Bottom line is that the fees and time allowing permittees to gain access to Public Lands has been allowed to lag behind the value of Peace and quiet as well the value of Gold!

Sincerely,

Irvin E. Jahn

From: "Jack Chase" <jchase@sisqtel.net>
To: <dfgsuctiondredge@dfg.ca.gov>
Date: 11/17/2009 2:48 PM
Subject: Re scope meeting on suction dredge permit program:

Jack Chase

POB 9

21740 Scott River Rd

Scott Bar, CA

96085-0009 USA

530-496-3430

jchase@sisqtel.net

10\17\09

Mark Stopher

California Department of Fish & Game

601 Locust St.

Redding, CA 96001

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Mark Stopher

California Department of Fish & Game

601 Locust St.

Redding, CA 96001

dfgsuctiondredge@dfg.ca.gov

Re scope meeting on suction dredge permit program:

Dear Mark:

This action by the government has hurt me tremendously and I believe does not follow due process rules and regulations of our government. I own river frontage on both sides of the river, live on this area, have had and now have a gold claim, followed all rules and paid all fees, am a citizen of the United States and am a WW2 Vet and feel that the government is illegal in taking away my legal privileges without cause, evoked by hearsay that has no proof. In fact there is proof dredging actually helps the salmon. And how can government, just suddenly demand that I stop dredging immediately, without due notice and accuse me of violating the law (what law?) and sending me to prison and paying a fine if the dredge is not removed immediately.

I have put in much money and time on my claim, equipment, dredge and paying people to help me get the dredge in, as I am 85 years old and must pay for help. Will the government next state, that I am not allowed to have a garden and take potatoes out of the ground, because somebody without proof has said there might be some unproven problem? World War Two was fought to prevent Hitler from taking away our legal rights. Now our own government is "taking away" our legal privileges again. If I was a criminal and violated the law, I would be given much more consideration than my country is giving me, a loyal citizen that has obeyed the law all my life. Big government is not remembering that this is a country of freedom and of the people, by the people and for the people.

This action hurts me as the small income I get from mining is necessary for our cost of food, as I am in a low financial position. It also hurts local businesses that derive part of their income from local dredgers. Some are talking that they may have to close up, because of this loss of income. This ruling has hurt me but, also our economy and scares me what they may do next!

I am mad as hell and think my government is cheating me again!

Please add my comments to the Redding meeting as I am unable to attend.

Sincerely,

Jack Chase

Dear Mark:

This action by the government has hurt me tremendously and I believe does not follow due process rules and regulations of our government. I own river frontage on both sides of the river, live on this area, have had and now have a gold claim, followed all rules and paid all fees, am a citizen of the United States and am a WW2 Vet and feel that the government is illegal in taking away my legal privileges without cause, evoked by hearsay that has no proof. In fact there is proof dredging actually helps the salmon. And how can government, just suddenly demand that I stop dredging immediately, without due notice and accuse me of violating the law (what law?) and sending me to prison and paying a fine if the dredge is not removed immediately.

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Sincerely,

Jack Chase

12/3/69

To Whom it may concern -

This is to inform you of our great unhappiness and disagreement with the impact study regarding suction dredging. Our Yuba River is dammed up at Bullards Bar where there is no fish ladder, no way for Salmon to travel up our river. ✓

Therefore no impact to Salmon.

The Yuba River should have been exempt from the impact study.

No common sense!

Please put us on your mailing list regarding all future meetings ✓ and decisions.

Thank you -

Sincerely

Jack Steward

P.O. Box 253

Sierra City, Ca. 96125

530) 862-1268

P.S. I used to work for a Marine Biologist in Oregon.

From: Jacob Pounds <siskiyousunphlower@yahoo.com>
To: <dfgsuctiondredge@dfg.ca.gov>
Date: 12/3/2009 9:36 AM
Subject: Suction Dredging should be banned permanently - Jacob Pounds' comments

Dear Reader,

My name is Jacob Pounds, and I would like to share with you my thoughts and comments concerning suction dredging in California rivers and streams.

I have seen first hand the disruptive and destructive behaviors that accompany suction dredging. Suction dredging degrades already impaired and impacted habitat in many California rivers. The creation of dredge holes in sensitive stream bed habitat is unacceptable for macroinvertebrate populations, fish populations, and human safety. Suction dredges glean streambed cobbles, destroying macroinvertebrate habitat, create noise and turbidity pollution which affects all downstream users, and create conditions where unstable gravels, which may be used by spawning salmonids, can 'blow out' and destroy entire egg populations.

The use of a suction dredge disrupts downstream users, creating highly turbid conditions that affect water quality. This behavior releases toxic contamination - gasoline, oil, or diesel exhaust and spills, and reintroduces remnant toxics like mercury in addition to fine sediment into the water column. In some instances, dredge sites are nearby or upstream of a major community water source. Happy Camp, California, on the Klamath River, depends on community water sourced from Elk Creek. This watershed has been impaired by sedimentation and multiple mining claims upstream of the community water source.

The current rules governing suction dredging have also largely been ignored. I have seen firsthand on stretches of the Klamath River between Seiad Valley and Happy Camp dredge population densities that exceed 10 dredges per stream mile. I have photographs of these dredges with fuel cans on the dredges in the water, or tucked up along the bank with no catchment device for leaking fuel. Because there is inadequate enforcement of these laws, dredgers often create extremely detrimental environmental conditions without fear of recourse by agencies like California Department of Fish and Game, The United States Forest Service and The Bureau of Land Management.

Clearly, the banning of suction dredging on all California rivers is not only an issue of fish populations, habitat, and water quality, but also a matter of environmental justice. Make the right decision using sound science and reason. Ban suction dredging permanently in all California rivers and streams.

**James Aubert
1009 E. Robinson Street
Carson City Nevada 89701**

**Mark Stopher
California DF&G
601 Locust
Redding Ca. 96001**

Nov. 30, 2009

**California Department of Fish and Game
Suction Dredge Mining and Rule Making Process**

Constructive Notice & Comment:

Dear Mr. Stopher,

No disrespect is meant to you personally. But, I do not appreciate, and am in fact utterly outraged at being de facto forced to participate in this costly, arbitrary, error prone, unnecessary rule making process covering suction dredge mining in the state of California. I only do so, in order to adamantly defend my own, my families, and all others involved constitutionally protected private property rights.

PREFACE

The Governor of California signed SB 670 legislation into law, as an “urgency” measure August 6th 2009, lacking evidentiary support, as no “statutory” emergency existed. SB 670 took effect immediately, and mandated the issuance of small scale suction dredge gold mining permits by the Department of Fish & Game (DFG), a California Environmental Quality Act (CEQA) “project”. As well as arbitrarily prohibited the issuance of permits covering all small scale suction dredge gold mining statewide, for an indeterminate period, until various contingencies of SB 670 are met. Some of which may never occur.

The application of CEQA, to all small scale suction dredge gold mining statewide, is legally challenging, faces numerous uncertainties, huge obstacles, and is not achievable in any legal or constructively meaningful way. That is so, for the long series of material facts, and profound legal reasons, in no particular order of priority, set forth as follows:

GENERAL COMMENT # 1

DFG has no legal mandate or statutory authority to perform a statewide CEQA study

SB 670 statewide suction dredge prohibition is in effect until;

(1) The department has completed the environmental review of its existing suction dredge mining regulations, as ordered by the court in the case of Karuk Tribe of California et al. v. California Department of Fish and Game et al., Alameda County Superior Court Case No. RG 05211597.

That court order in pertinent part reads; “THEREFORE, the Department is hereby ORDERED to conduct a further environmental review pursuant to CEQA of it’s suction dredge mining regulations and to implement, if necessary, via rulemaking, mitigation measures to protect the Coho salmon and or other special status fish species in the watershed of the Klamath, Scott, and Salmon Rivers, listed as threatened or endangered after the 1994 EIR.”.

The court order SB 670 relies on specifically covers only the three distinct watersheds, of the Klamath, Scott, and Salmon Rivers.

As such, DFG has no legislative mandate, nor statutory, or regulatory authority, to perform a statewide CEQA study of it’s suction dredge mining regulations. Therefore, I “Protest” DFG illegal actions in implementing, and performing a statewide CEQA study of it’s suction dredge mining regulations. And, as a “taxpayer” in the state of California, I demand DFG stop these illegal, wasteful actions. Otherwise, I have no recourse but to bring an appropriate action in law, to have it stopped.

GENERAL COMMENT #2

Enforces an unconstitutional “taking” of private property, without first paying compensation.

Almost all small scale suction dredge gold mining statewide in California occurs on valid unpatented, and patented (fee simple) mining claims spread statewide on federal public domain. Near forty five percent (45%) of California is federally owned public domain lands. Primarily managed by the U.S. forest Service (USFS), and Bureau of Land Management (BLM). Federal public domain lands, and all unpatented mining claims on it, are under express federal statutory jurisdiction of the U.S. Forest Service (USFS), or Bureau of Land Management (BLM).

Thus, express federal policy, jurisdiction, dominant governing law, land planning, mining law, and regulation are manifestly applicable to all small scale suction dredge gold mining on federal public domain lands in California. DGF as a CEQA "lead agency", if acting in "good faith" cannot arbitrarily ignore, or omit that paramount federal presence, physical circumstance, or legal fact. Unless, SB 670's intent is to foolishly cause a direct collision between dominant federal law, and subservient state law?

"Congress shall have Power to dispose of and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States." (See, US Const, Art IV, § 3, cl. 2 (the "Property Clause"). This provision, combined with the Supremacy Clause of the United States Constitution (Art 6, cl 2), gives the federal government extremely broad authority to preempt the application of state laws to federal property when those state laws conflict with a federal mandate.

The General Mining Law (30 U.S.C. § 21 et seq.), in fact owes its origin to the discovery of gold in California, in 1848. The bulk of it's statutory construction resulted from local miners rules originating in California during the gold rush era. 30 U.S.C. § 21 et seq., is a direct federal mandate to all western states where federal mining claims may be initiated, worked, and held. California accepted that federal mandate, upon admission as state by legislative implementation of what is now Public Resource Code § 3900 et seq. Which, with very minor differences (not in conflict with federal law) mirrors the discovery, posting, recording, and annual work requirements for the maintenance of title of all mining claims existing in California.

The Supremacy clause of the U.S. Constitution (Art. VI, paragraph 2) mandates federal law "preempts" state law, where direct conflicts arise. No matter how meritorious the intent of CEQA is. It simply cannot preempt overriding federal law. Framers of SB 670, and CEQA obviously never contemplated direct collision, or preemption by dominant federal law. The winner in direct collision of state, and federal law is overwhelmingly obvious. Federal law is supreme.

If Congress has not entirely displaced state regulation over the matter in question, state law is still preempted to the extent it actually conflicts with federal law, that is, when it is impossible to comply with both state and federal law, or where the state law stands as an obstacle to the accomplishment of the full purposes and objectives of Congress, (See: California Coastal Comm'n v. Granite Rock Co., 480 U.S. 572, 581 (1987).

"Any state legislation which frustrates the full effectiveness of federal law is rendered invalid by the Supremacy Clause" regardless of the underlying purpose of its enactors." (See; Perez v. Campbell, 402 U.S. 637, 651-52, 91 S.Ct. 1704, 29 L.Ed.2d 233 (1971).

A conflict exists if a party cannot comply with both state law and federal law. In addition, even in the absence of a direct conflict between state and federal law, a conflict exists if the state law is an obstacle to the accomplishment and execution of the full purposes and objectives of Congress. *Crosby v. Nat'l Foreign Trade Council*, 530 U.S. 363, 372-73 (2000).

It has long been established that "a state statute is void to the extent that it actually conflicts with a valid federal statute" and that a conflict will be found either where compliance with both federal and state law is impossible or where the state law stands as an obstacle to the accomplishment and execution of the full purposes and objectives of Congress. (See; *Edgar v. Mite Corp.*, 457 U.S. 624, 631 (1982), et al.).

As long as the Federal government retains title, the federal interest in providing free access to its own land in order to promote mining is sufficient to preempt any state law that fundamentally bans such use. Thus under standard preemption analysis any state legislation, or regulation that conflicts with this overriding federal purpose, must fail.

To anyone knowledgeable, it is utterly clear that, "State and local regulations which render a mine commercially impracticable cannot be enforced". (See; *California Coastal Commission et al., v. Granite Rock Co.*, 480 U.S. 572, 592, 107 S.Ct.1419, 1425(1987).

South Dakota Mining Association Inc v. Lawrence County, 155 F.3d 1005 sets the precedent here, and reads as follows. "The ordinance's de facto ban on mining on federal land acts as a clear obstacle to the accomplishment of the Congressional purposes and objectives embodied in the Mining Act. Congress has encouraged exploration and mining of valuable mineral deposits located on federal land and has granted certain rights to those who discover such minerals. Federal law also encourages the economical extraction and use of these minerals.

The Lawrence County ordinance completely frustrates the accomplishment of these federally encouraged activities. A local government cannot prohibit a lawful use of the sovereign's land that the superior sovereign itself permits and encourages. To do so offends both the Property Clause and the Supremacy Clause of the federal Constitution. The ordinance is prohibitory, not regulatory, in its fundamental character. The district court correctly ruled that the ordinance was preempted. Accordingly, we affirm the judgment of the district court."

The California Statehood Admission Act (Sec. 3) expressly provides; "...said State of California is admitted into the Union upon the express condition that the people of said State, through their legislature or otherwise, shall never interfere with the primary disposal of the public lands within its limits, and shall pass no law and do no act whereby the title of the United States to, and right to dispose of, the same shall be impaired or questioned...".

Indisputably, the state of California, its legislature, and all state regulatory agencies are expressly barred from impairing, or even questioning federal mining claim owners vested right to mine, and their private property rights held under federal law. Certainly, the state can "reasonably" "regulate" small scale suction dredge gold mining. But cannot make that regulation so onerous as to arbitrarily prohibit mining, even temporarily, without incurring monumental financial liability.

The U.S. Supreme Court has unwaveringly held that valid mining claims are a form of "private & real property" In ordinary English, a "claim" is merely a demand for something, or an assertion of a right where the right has not been established. The phrase "mining claim" therefore probably connotes to most laymen an unsupported assertion or demand from which no legal rights can be inferred. But that is emphatically not so.

"In law, the word "claim" in connection with the phrase "mining claim" represents a federally recognized right in real property. The Supreme Court has established that a mining "claim" is not a claim in the ordinary sense of the word—a mere assertion of a right—but rather is a property interest, which is itself real property in every sense, and not merely an assertion of a right to property." (See; *Benson Mining & Smelting Co. v. Alta Mining & Smelting Co.*, 145 U.S.428 (1892))

Valid placer mining claims situated over California waterways grant the owners "vested" riparian water rights. The riparian owner is subject to the doctrine of reasonable use, which limits all rights to the use of water to, that quantity reasonably required for beneficial use and prohibits waste or unreasonable use or unreasonable methods of use or diversion. (See; Sec. 3, Art. XIV, Const. of Cal.; *Peabody v. City of Vallejo*, 2 Cal. 2d 351, 40 Pac. 2d 486; *Tulare Irr. Dist. et al v. Lindsay Strathmore Irr. Dist.*, 3 Cal. 2d 489, 45 Pac. 2d 972; *Rancho Santa Marqarita v. Vail*, 11 Cal. 2d 501, 81 P. 2d 533).

Vested rights are fully protected from "taking" by the government under the fifth amendment to the Constitution. See Solicitor's Opinion M-36910 (Supp.), 88 Interior Dec. 909, 912 (Oct 5, 1981); *Wyoming v. United States*, 255 U.S. 489, 501-02 (1921); *Appeal of Eklutna*, 83 Interior Dec. 619 (Dec. 10, 1976).

Section 104(b) of the California Revenue and Taxation Code defines real property in part as "All mines, minerals, and quarries in the land, and all rights and privileges appertaining thereto." The term "land" is defined in Property Tax Rule 121 in relevant part as "the possession of, claim to, ownership of, or right to possession of land; mines, quarries, and unextracted mineral products. All real property not exempt or immune from taxation is subject to property tax.

The terms "mineral rights" and "mining rights" as described in Section 607.5 include the right to enter in or upon the land for the exploration, development, and production of minerals. The taxability of unpatented mining claims was established more than a century ago by the California Supreme Court, in the case of the State of California v. Moore 12 Cal. 56 (1859), which stated in part: "The interest of the occupant of a mining claim is property, and, under the Constitution, it is in the power of the Legislature to tax such property."

This private property right entitles the owner to "the right to extract all minerals from the claim without paying royalties to the United States." (See; Swanson v. Babbitt, 3 F.3d 1348, 1350 (9th Cir. 1990). As such, the owners vested "right" to mine, as well as the mining claim, being "real property" itself is fully protected from uncompensated "taking" by provisions of the U.S. Constitution (Amend. 5). No one can rationally refute, ownership of a mining claim, containing a valuable mineral deposit, does not include the right to mine it. As one is absolutely premised upon the other. Otherwise, all private property protections provided by the U.S Constitution would be meaningless.

The California Constitution. (Art. I, § 19 (a), provides, "... Private property may be taken or damaged for a public use and only when just compensation, ascertained by a jury unless waived, has first been paid to, or into court for, the owner...". That also, would be meaningless. United States Court of Appeals, Ninth Circuit (1980). "...prospecting, locating and developing of mineral resources in the national forests may not be prohibited nor so unreasonably circumscribed as to amount to a prohibition..."(See; Weiss, 642 F.2d at 299)

"Under our form of government, the legislature is not supreme. It is only one of the organs of that absolute sovereignty which resides in the whole body of the People. And like other bodies of government, it can only exercise such powers as have been delegated to it, and when it steps beyond that boundary, its acts are utterly void." (See; Billings v. Hall, 7 California 1.). Furthermore, "An act altering, or destroying the nature, or tenure of estates is void". (See; Dewey v. Lambier 7 Cal. 347)

SB 670 immediately inflicted an illegal compensable private property taking the day it became law. By arbitrarily prohibiting all placer mining claim owners in California, all beneficial use of their mineral estate for an indeterminate period of time. In effect "taking" everything they own. The monetary magnitude of which, is as of yet unascertainable. But, with assurance, annually could amount to fifty (50) times the 1.5 million dollar cost of funding this very CEQA.

Absurdly, the state legislature negligently failed to contemplate the compensable private property takings, SB 670 would arbitrarily inflict on private property owners statewide. DFG is wrong to assume only three thousand two hundred (3,200) individuals are involved. That being the number of dredging permits, DFG usually issues annually. When, in fact SB 670, DFG, and CEQA actions here have, and continue to punitively destroy every fundamental attribute of ownership of near one hundred fifty thousand (150,000) mining claim owners statewide have.

Anyone thinking all mining claim owners in California will stand idly by, doing nothing, while SB 670 illegally deprives them of all use, utility, benefit, value, and profit derived from their private property is wrong. As doing so is a constitutionally forbidden de facto taking without compensation. Which, all mining claim owners throughout California will certainly never allow. That silent majority will in the foreseeable future, step forward in court, en mass to demand just compensation due them. Plus interest compounding from August 6th 2009, the day SB 670 caused this compensable “taking“.

GENERAL COMMENT # 3

DFG has no regulatory power over “natural resources”

CA F&G CODE Section 200

200. There is hereby delegated to the commission the power to regulate the taking or possession of birds, mammals, fish, amphibia, and reptiles to the extent and in the manner prescribed in this article.

CA F&G CODE Section 201. Nothing in this article confers upon the commission any power to regulate any natural resources or commercial or other activity connected therewith, except as specifically provided.

The protection of mineral resources in California is the responsibility of the following agencies. Which either have statutory authority or are Responsible Agencies under CEQA:

1. California Department of Conservation is the primary agency with regard to mineral resource protection. The Department is charged with conserving earth resources (Public Resources Code Sections 600-690)
2. State Mining and Geology Board, which develops policy direction regarding the development and conservation of mineral resources and reclamation of mined lands.

Without doubt, valuable minerals, particularly placer gold is a natural recourse. The Commission and Department may only act in compliance with state law. “An administrative agency must act within the powers conferred upon it by law and may not act in excess of those powers” (See; *American Federation of Labor v. Unemployment Ins. Appeals Bd.* (1996) 13 Cal.4th 1017, 1042; see *Woods v. Superior Court* (1981) 28 Cal.3d 668, 679; *Wildlife Alive v. Chickering* (1976) 18 Cal.3d 190, 295; *Ferdig v. State Personnel Board* (1969) 71 Cal.2d 96, 103.)

GENERAL COMMENT # 4

Small scale suction dredge gold mining
is statutorily exempt from DFG permitting

The Surface Mining and Reclamation Act of 1975, (SMARA), Public Resources Code (PRC) Section 2710 et seq., at Section 2714(d) expressly **EXEMPTS** **“Prospecting for, or the extraction of, minerals for commercial purposes and the removal of overburden in total amounts of less than 1,000 cubic yards in any one acre or less.”**

All small scale suction dredge permits fit within that exemption. Given that SMARA statutory “exemption”, a direct conflict in California law exists. Until such time as that conflict SB 670 created is resolved, DFG cannot legally withhold small scale suction dredge permits, nor perform this CEQA study.

GENERAL COMMENT # 5

DFG must consult with both the USFS, and BLM in this CEQA process.

SEE EXHIBIT # 1, Eight (8) page Memorandum of Understanding between CA Dept. of Conservation, State Mining & Geology Board, USFS & BLM.

GENERAL COMMENT # 6

DFG must consult with every agency or land planning entity in California.

Given this CEQA study is “statewide”, every local, regional, and state agency that effects any land planning ordinance or measure must be included.

GENERAL COMMENT # 7

DFG must give actual "Notice" to every mining claim owner statewide.

In that this CEQA study directly effects the private property, and vested water rights of every mining claim owner statewide. And, that each mining claim owner is placed in the position of a CEQA "applicant". Even if made so by provisions of SB 670. Each must be given actual notice of the project, and be allowed to give written input, or comment into the process.

GENERAL COMMENT # 8

DFG must "refund" permitting fee's for all permits it canceled.

The term "vested mining right" includes both a right established by use, as well as a right established by permit. (See; TransOceanic Oil Corporation v. Santa Barbara (1948) 85 Cal.App.2d 776; Avco Community Developers, Inc. v. South Coast Regional Comm'n. (1976) 17 Cal.3d 785, 790 [a permit becomes a vested property right where the permittee has incurred substantial liabilities and performed substantial work in reliance on the permit]; Goat Hill Tavern v. City of Costa Mesa (1992) 6 Cal.App.4th 1519; Hansen Bros. Enterprises v. Board of Supervisors of Nevada County (1996) 12 Cal.4th 533 ("Hansen").)

Each suction dredge permit holder has a vested property right in their individual permit. Each permit holder is an effected party, and in the position of an CEQA "applicant". DFG must give each actual notice of this CEQA project, and make provision for refund to each, for all permits DFG cancelled.

GENERAL COMMENT # 9

Economic impacts must be included in this CEQA study

Generally, "economic impacts" need not be included within a "CEQA" study. As economic impacts are not potential, or actual physical changes to the environment. Here however, when temporary, or permanent closures of given area's statewide may be utilized to "mitigate" or "avoid" significant effects to the environment attributed to suction dredging, economic impact is relevant to measure the significance of an environmental impact.

In-so-far as this CEQA study has a direct potential to "take" compensable private property rights of all mining claim owners statewide, valued over 1 billion dollars (\$1,000,000,000). DFG cannot deny that effect is "significant", and it must be included in this CEQA study.

GENERAL COMMENT # 10

Mining claims situated over California waterways own "riparian" water use rights

In 1870, Congress extended priority water rights "to all public lands affected by this act; and all patents granted, or pre-emption or homesteads allowed, shall be subject to any vested and accrued water rights, or rights to ditches and reservoirs used in connection with such water rights, as may have been acquired under or recognized by" the 1866 act (See; Act of July 9, 1870, ch. 235, ' 17, 16 Stat. 218).

RIPARIAN RIGHTS: No California statute defines riparian rights, but a modification of the common law doctrine of riparian rights has been established in this State by decisions of the courts and confirmed by the provisions of section 3, Article XIV of the California Constitution (see California Water Code sections 100, 101). Lands within the watershed of a natural watercourse, which are traversed thereby or border thereon, with the exceptions and limitations hereinafter, indicated, may be riparian. Each owner thereof may have a right, which is correlative with the right of each other riparian owner to share in the reasonable beneficial use of the natural flow of water, which passes his land.

No permit is required for such use. The State Water Resources Control Board's (SWRCB) policy is to consider natural flow as not including return flows derived from use of ground water, water seasonally stored and later released, or water diverted from another watershed. In administering the California Water Code, the SWRCB is governed by the following considerations relative to the doctrine of riparian rights as applied to this State:

The riparian right exists by reason of ownership of land abutting upon a stream or body of water and affords no basis of right to use water upon nonriparian land (See; *Rancho Santa Margarita v. Vail*, 11 Cal. 2d 501, 81 P. 2d 533)

The riparian owner is subject to the doctrine of reasonable use, which limits all rights to the use of water to, that quantity reasonably required for beneficial use and prohibits waste or unreasonable use or unreasonable methods of use or diversion. (Sec. 3, Art. XIV, Const. of Cal.; *Peabody v. City of Vallejo*, 2 Cal. 2d 351, 40 Pac. 2d 486; *Tulare Irr. Dist. et al v. Lindsay Strathmore Irr. Dist.*, 3 Cal. 2d 489, 45 Pac. 2d 972; *Rancho Santa Margarita v. Vail*, 11 Cal. 2d 501, 81 P. 2d 533)

Riparian rights entitle the landowner to use a share of the water flowing past his or her property. While riparian rights require no permits or licenses, they apply only to the water that would naturally flow in the stream and they do not allow the user to divert water for storage or use it on land outside its watershed. Riparian rights remain with the property when it changes hands.

It is the established doctrine of this court that rights of miners ... and the rights of persons who had constructed canals and ditches to be used in mining operations and for purposes of agricultural irrigation, in the region where such artificial use of the water was an absolute necessity, are rights which the government had, by its conduct, recognized and encouraged and was bound to protect, before the passage of the act of 1866. We are of the opinion that [section 9] of the act ... was rather a voluntary *recognition of a pre-existing right of possession*, constituting a valid claim to its continued use, than the establishment of a new one (See; *Broder*, at 276. (*Broder v. Natoma Water & Mining Co.*, [101 U.S. 274 (1879)].

The right to use water is a property right and may be protected against infringement in the same manner as any other property right; i.e., by appropriate court action.

Therefore, all mining claims situated over California waterways grant the owner have right to “appropriate”, and put that water there, to “beneficial use“. Neither DFG, nor the State Water Resource Control Board have the regulatory authority to deny that use.

The intake, and discharge from suction dredges consists totally of stream water and bed substrate material. In other words, suction dredging adds nothing that isn't already there, to a waterway. The only thing small scale suction dredge removes by design function are small amounts of valuable heavy metals trapped in the floating sluice box recovery system. In fact, suction dredging also removes lead sinkers, bullets, mercury, and metal fishing paraphernalia. All of which are certainly deleterious to water quality.

Small scale suction dredge gold mining does not discharge any deleterious chemical substance (e.g., pesticides, insecticides, petroleum products, etc.), or deleterious organic nutrient loading substances (e.g., phosphates, nitrates, urine, fecal matter, etc.) into California waterways.

Suction dredging does cause a mild fleeting increase in turbidity, for a short distance downstream from the site. But, even cumulatively, a mild fleeting, short distance increase in turbidity only, is not significantly deleterious to local, regional, or overall statewide water quality in California. In other words, suction dredging adds no “pollutants”. To set an environmental baseline consider, the combined number of swimmers, rafters, non-motorized, and motorized boating create far more turbidly than all small scale suction dredging statewide.

GENERAL COMMENT # 11

Pre-SB 670 DFG regulations adequately protect fish, and water quality.

In streams or rivers where suction dredging occurs, the most critical life stage for salmon, or any other fish is the egg stage. Current (pre-SB 670) DFG regulations prohibits all suction dredging in locations where fish are spawning or where fish eggs or alevins are known to exist. Other DFG, and water quality regulations prohibit all ways and means that small scale suction dredge gold mining might otherwise pollute California waterways. Given that fact, rather than perform another unneeded costly EIR, it would be far more prudent, and cost effective to better enforce existing DFG regulations. Rather than spend \$1.5 million dollars creating more, unneeded, and arbitrary new regulation.

GENERAL COMMENT # 12

Two differing standards are required to avoid preemption by federal law

The state of California is free to regulate whatever it may. In any way the California the Statehood Admission Act, State Constitution, and Legislature legally provides. However, the state cannot intentionally defy federal law, as the U.S Constitution forbids such acts, by any state in the union, absent cessation. Given that the majority of all small scale suction dredging statewide in California is performed on mining claims, on federal lands. The state cannot preempt federal law governing such things. Consequently, because the federal government is the higher, and absolute sovereign of all it owns. Absent cessation from the Union, the state of California cannot preempt federal law.

So-as-to avoid collision and preemption by federal law, would require DFG to establish, and promulgate differing regulatory standards for small scale suction dredging on mining claims on federal lands, verses everywhere else, statewide. As, one set of regulatory standards would not suffice. Unless that single set was tailored to suit federal law, as it pertains to all mining claims statewide, besides everywhere else.

No natural mineral resource deposit exists, in tidy packages, in orderly plastic wrapped stacks, on a shipping platform, waiting to be discovered, and hauled away. They exist in nature, in whatever setting they exist in. All mineral deposits require mining, in order to extract the valuable mineral there. Given the obvious irrefutable fact, some environmental degradation must take place, in order to mine a natural mineral resource. The cornerstone of all federal regulation governing those environmental impacts, caused by mining is carefully premised on that factual foundation. Otherwise, it would be impossible to mine any natural mineral resource.

The federal standard is not “NO” degradation. Rather, it is to prevent “unnecessary or undue degradation” in mining operations on federal lands. Plainly, if a “NO” environmental degradation standard existed, for agriculture, manufacturing, commerce, and power production. Modern civilization as we know it in America, or California could not exist.

If a **“NO”** environmental degradation standard is established here, for small scale suction dredge gold mining in California. A **“precedent”** is set, for all other uses of water, land, agriculture, manufacturing, travel and commerce statewide. Perhaps, if the legislature were to go without everything that mining fundamentally provides them with. After a day of setting cold, naked, hungry, without shelter, telephones, vehicles, electricity or every other modern necessity, or convenience mined mineral resources make possible. The legislature might come to the full realization of how foolish, and arbitrary SB 670 actually is. What next, stop limestone, or aggregate mining in California, destroying the states domestic production of cement, and concrete? In turn destroying the states construction industry.

GENERAL COMMENT # 13

NEPA standards verses CEQA standards on federal lands in California

Various state agencies (including the State Water Resource Control Board) have **“memorandums of understanding”**, or various types of similar documents providing for a workable relationship with commercial activities on federal lands within the state of California, so-as-to avoid federal preemption conflicts.

43 U.S.C. §1702(c) defines multiple use as **“a combination of balanced and diverse resource uses that takes into account the long-term needs of future generations for renewable and nonrenewable resources, including, but not limited to, recreation, range, timber, minerals, watershed, wildlife and fish, and natural scenic, scientific, and historical values; and harmonious and coordinated management of the various resources without permanent impairment of the productivity of the land and the quality of the environment with consideration being given to the relative values of the resources and not necessarily to the combination of uses that will give the greatest economic return or the greatest unit output.”**

The General Mining Law (30 U.S.C. §§ 21 et seq.) applies to **“Federal lands”**. Meaning, **“any lands or interest in lands owned by the United States, subject to location under the General Mining Law, including, but not limited to, those lands within forest reservations in the National Forest System and wildlife refuges in the National Wildlife Refuge System”**.

The Mining and Minerals Policy Act of 1970 states: **“The Congress declares that it is the continuing policy of the Federal Government in the national interest to foster and encourage private enterprise in (1) the development of economically sound and stable domestic mining, minerals, metal and mineral reclamation industries, (2) the orderly and economic development of domestic mineral resources, reserves, and reclamation of metals and minerals to help assure satisfaction of industrial, security, and environmental needs, ...so as to lessen any adverse impact of mineral extraction and processing upon the physical environment that may result from mining or mineral activities.”** 30 U.S.C. 21a.

Given, both USFS, and BLM have local district ranger offices, situated throughout the state, everywhere USFS, and BLM lands exist. As well as trained, and adequate personnel, to process every single small scale suction dredge “NOI”, and on a case-by-case, and “site” by “site” basis on all federal public domain lands statewide.

It would clearly reduce paperwork, duplication of effort, and administrative costs. If DFG were to simply let far better qualified, better funded, USFS, and BLM local personnel simply do their job. Rather than complicate it, by promulgation of more unneeded, and conflicting state regulations over suction dredging . Which could be accomplished by one single simple statewide “Memorandum of Understanding” between DFG, USFS, and BLM. Rather than produce tons of paper, at considerable cost, with no constructive use, as this CEQA study is doing here.

“BLM and the Forest Service are appropriately regulating these small suction dredge mining operations under current regulations as casual use or causing no significant impact, respectively” (See; NRC, *Hardrock Mining on Federal Lands* 96 (Nat’l Academy Press 1999).

GENERAL COMMENT # 14

DFG cannot use a CEQA study to promulgate conflicts in law.

It is an fundamental principle of California law that where legal activities that will be restricted by environmental laws, only be restricted to the extent required to mitigate their adverse effects on California Fish and Wildlife. Where mitigation measures are required, “the measures or alternatives required shall be roughly proportional in extent to any impact on those species that is caused by that person”(FGC § 2052.1).

The California Endangered Species Act specifically provides that agencies shall develop measures that avoid jeopardizing listed species “while at the same time maintaining the project purpose to the greatest extent possible” (FGC § 2053);

The standard of restraining restrictions to the minimal extent necessary is also fully incorporated into CEQA, and made particularly applicable to judicial relief. Court’s orders “shall include only those mandates which are necessary to achieve compliance with this division and only those specific project activities in noncompliance with this division”. PRC § 21168.9(b)

A public agency’s discretion to find project alternatives infeasible based on the incompatibility of the alternatives with either the agency’s policy considerations or the objectives of the project, has been enhanced considerably through a recent published appellate court opinion. *California Native Plant Society, et al. v. City of Santa Cruz, et al.* (H032502, September 18, 2009).

In particular, an agency shall not “take any action which gives impetus to a planned or foreseeable project in a manner that forecloses alternatives or mitigation measures that would ordinarily be part of CEQA review of that public project.” CEQA Guidelines § 15004(b)(2)(B). This is especially important where, as here, a public agency is entrusted with reviewing and approving its own project. See Laurel Heights I, 47 Cal.3d at 395.

A new appellate decision in a CEQA case affirms a lead agency’s authority to reject environmental impact report (EIR) alternatives as infeasible on policy grounds. (*California Native Plant Society et al. v. City of Santa Cruz* (6th District Court of Appeal, filed Aug. 20, 2009, pub. order Sep. 18, 2009, Case No. H032502).)

CEQA clearly provides that an agency may find that an environmentally superior alternative is infeasible on various grounds, including “[s]pecific economic, legal, social, technological, or other considerations” (Pub. Resources Code, § 21081(a)(3); CEQA Guidelines, § 15091(a)(3), emphasis added.)

If, as a result of this CEQA study, if DFG promulgates further in-stream restrictions, or extends existing seasonal closures, or completely closes any California waterway. That was open in pre-SB 670 DFG regulations. That would “effect” a compulsory “taking” of private property rights, over any federal mining claim situated anywhere statewide, that could occur.

CEQA Guidelines Section 15364, “feasible” (for CEQA purposes) means “capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, legal, social, and technological factors.”

That would effectively make the application of CEQA “infeasible” to any valid existing mining claims situated over waterways on federal public domain lands in California.

GENERAL COMMENT # 15

DFG’s issuance of suction dredge mining permits is made “Ministerial” by overriding federal law, provisions of the U.S. Constitution, the California Statehood Act, and the California Constitution as they apply to mining rights, on mining claims, on federal public domain lands within California. Which comprises 45% of said state.

Title 14. California Code of Regulations. Chapter 3. Guidelines for Implementation of the California Environmental Quality Act Article 19. Categorical Exemptions 15300. Categorical Exemptions Section 21084 of the Public Resources Code requires these Guidelines to include a list of classes of projects which have been determined not to have a significant effect on the environment and which shall, therefore, be exempt from the provisions of CEQA.

In response to that mandate, the Secretary for Resources has found that the following classes of projects listed in this article do not have a significant effect on the environment, and they are declared to be categorically exempt from the requirement for the preparation of environmental documents. Note: Authority cited: Section 21083, Public Resources Code; Reference: Section 21084, Public Resources Code.

15300.1. Relation to Ministerial Projects. Section 21080 of the Public Resources Code exempts from the application of CEQA those projects over which public agencies exercise only ministerial authority. Since ministerial projects are already exempt, categorical exemptions should be applied only where a project is not ministerial under a public agency's statutes and ordinances.

Both by governing federal policy, directives, statute, and governing U.S. Supreme Court case law. No state agency can make permitting regulations so onerous that it effects an outright ban on mining federal lands. Nor may any state agency de facto, or otherwise prohibit such mining. Federal laws allows no such discretion, thus as far as small scale suction dredging permits apply to federal mining claims on federal lands within California. DFG has no "discretion" to not issue such permits.

Small scale suction dredge gold mining is also categorically exempt from permitting under section 15304. Minor Alterations to Land. Class 4 consists of minor public or private alterations in the condition of land, water, and/or vegetation which do not involve removal of healthy, mature, scenic trees except for forestry or agricultural purposes.

The Surface Mining and Reclamation Act of 1975, (SMARA), Public Resources Code (PRC) Section 2710 et seq., at Section 2714(d) expressly EXEMPTS "Prospecting for, or the extraction of, minerals for commercial purposes and the removal of overburden in total amounts of less than 1,000 cubic yards in any one acre or less."

Given, those combined authorities, DFG lacks discretion to refuse to issue small scale suction dredge gold mining permits. As, doing so is contrary to governing law. "An act altering, or destroying the nature, or tenure of estates is void". (See; Dewey v. Lambier 7 Cal. 347)

GENERAL COMMENT # 16

CEQA only applies to “IN” stream effects

The legislative Act SB 670 covers suction dredge gold mining “in any river, stream, or lake of this state”. The clear intent, and unambiguous language of the Act specifically covers “in“-stream suction dredging activities only. DFG’s regulatory authority pursuant to DFG Code section 5653 et seq., pertains to the use of vacuum and suction dredge equipment in California for “IN“-stream mining.

Related provisions of the DFG Code underscore that exact point. Recently enacted DFG Code section 5653.1 covers the use of suction dredge equipment for “in“-stream mining. The critical word in both the SB 670 law, and subsequent DFG regulation is “in“-stream”. “IN“-stream clearly means in the waters of a stream, river or lake in California. In effect, anything outside the water, not in-stream in waters of California, on dry land is beyond the scope of both SB 670 law, and subsequent DFG regulations.

Given that explicit statutory, and regulatory limitation pertinent to suction dredge gold mining in California. DFG has no legal authority to regulate anything about suction dredge gold mining, not in-stream, or otherwise outside waterways in California. The legal consequence of that is that DFG has no authority to let a contract to any firm to perform a CEQA environmental study, or report concerning anything not in-stream, in any stream, river, or lake in California.

Consequently, the SB 670 CEQA initial study report performed by Horizon Water & Environment greatly exceeds the boundaries of “in“-stream environmental impact. As the initial study report, by both statutory law, and DFG regulation is expressly limited to “in“-stream environmental effects.

Thus, all matters within the initial study report relating to: “Accessing the Site” (5.5.2) “Delivering Equipment” (5.5.3) Dry land “Processing of Material” (5.5.7) “Encampments” (5.5.10) Dry land “Aesthetics” Dry land “Air Quality” Dry land “Biological Resources” Dry land “Cultural Recourses” Dry land “Geology & Soils” Dry land “Hazardous Materials” Dry land “Noise” Dry land “Public Services” Dry land “Recreation” .

Are all outside the scope of IN-stream environmental impacts this initial study report is allowed to contain. While SB 670 authorized this CEQA study. No SB 670 statutory provisions, or DFG regulations exist to authorize the inclusion of any environmental effect, or impact, direct, cumulative or otherwise anywhere other than “in“-stream”, in California waterways.

General Comment # 17

Ultimately, the stance that small scale suction dredge gold mining activity could jeopardize the continued existence of any salmon, or trout species is scientifically unsustainable. During the great California gold rush, and for decades thereafter, gold miners washed entire mountain sides and millions of pounds of toxic mercury into California rivers and streams, while salmon runs continued at record levels.

In one day of any annual fishing season alone, California fisherman, or Indian tribes catching, and killing salmon, or trout manifestly “affects the species” more than all small scale suction dredge gold mining conducted statewide has since its inception fifty (50) years ago.

DFG is in the incongruous conflicting legal position of on one hand, promoting, permitting and licensing salmon, and trout fishing statewide. Which, by California Fish And Game Code Section 86 definition equates to "Take" meaning hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill....". Which promotes the “catching and killing” of fish.

On the other hand, DFG is scathingly burdened with the task of permitting small scale suction dredge gold mining statewide. Which, SB 670 mandates is now a CEQA project. Placing DFG in the preposterous position of implementing environmental safeguards to “protect” the same fish, that proponents of SB 670, i.e.;

Association of Tribal Governments, California Coast-keeper Alliance, California Sport-fishing Protection Alliance, California Tribal Business Alliance, California Trout, Clean Water Action, Defenders of Wildlife, Environmental Justice Coalition for Water, Friends of the North Fork, Friends of the River, Karuk Tribe, Klamath River-keeper, Pacific Coast Fed. of Fishermen's Assoc., Planning and Conservation League, Ramona Band of Cahuilla Indians, Resighini Rancheria, Rogue River-keeper, San Manuel Band of Mission Indians, Sierra Club California, Sierra Nevada Alliance, Sycuan Band of the Kumeyaay Nation, and The Sierra Fund;

So they can catch, and kill them. That position is morally reprehensible to anyone with common sense, mentally impossible to fathom, and manifestly untenable. This is a perfect example of mutually incompatible statutory directives.

General Comment # 18

The word “person” would seem to be all inclusive, unless otherwise provided for by statute, and subsequent regulation derived from that statute. Which, in the case DFG is specifically as follows:

DFG CODE 5653. (a) The use of any vacuum or suction dredge equipment by any person in any river, stream, or lake of this state is prohibited, except as authorized under a permit issued to that person by the department in compliance with the regulations adopted pursuant to Section 5653.9.

DFG CODE 5653.8. For purposes of Sections 5653 and 5653.3, "person" does not include a partnership, corporation, or other type of association.

Valid unpatented placer mining claim owners act in "association" with Federal Mining Law. Accepting that federal "grant" to explore for, find, initiate ownership of, and mine at their own risk, and expense applicable valuable minerals situated on or within federal lands, open to such mineral entry. In fact, any valid unpatented placer mining claim is made in "partnership" with the federal government, under grant provided for within the Federal Mining Laws, 30 U.S.C. § 21-54.

In any instance where more than one person, acting in "association" with another person, or more than one other person, to dredge on a federal unpatented placer mining claim is a "partnership". Any valid unpatented placer mining claim owned by more than one individual is a form of "partnership" amongst all co-owners.

General Comment # 19

Fish and Game Code section 5653, subdivision (d). This provision of the Fish and Game Code makes it illegal to possess a vacuum or suction dredge in areas, or in or within 100 yards of waters that are closed to the use of vacuum or suction dredges.

All waterways statewide are closed. Meaning, anyone even transporting a suction dredge is subject to citation, fine, or arrest. Even when hauling a suction dredge on any road, highway or freeway next to, or over any bridge crossing any waterway in California.

Such bizarre regulation is legally untenable, and manifestly unjust. As it prohibits the possession, movement, transport, or sale of all small scale suction gold mining dredges, almost statewide. This regulation is meant to destroy California commerce, as it will drive the manufactures of suction dredges in California, into bankruptcy.

General Comment # 20

I, and my extended family own numerous unpatented placer mining claims in California. As well as several gold mining suction dredges, trailers to haul those dredges, dedicated vehicles to pull those dredges on trailers, and all equipment necessary to profitably suction dredge mine our placer mining claims in California.

Prior to SB 670 passage, we could produce income of around ten thousand dollars (\$10,000) a month, from suction dredge gold mining in California. By the recovery of a mere ten (10) ounces of placer gold in a month, at present day gold prices. Which are now approaching a twelve hundred dollars (\$1,200) an ounce.

The total investment in our California mining claims, and associated suction dredge gold mining equipment approaches two hundred thousand dollars (\$200,000) in value. In all SB 670, DFG, and this subsequent CEQA process has arbitrarily cut off that income. As well as reduced the value of our California suction dredge type placer mining claims to zero.

To prove that point, mid November, 2009, I offered them for sale, and received not one offer of any consequence. Because, there is no profitable way to mine them, other than by suction dredging. Which SB 670 now prohibits, until such time as various contingencies come to pass, that may never happen in the foreseeable future, if at all.

DFG regulations that arbitrarily prohibit possession of a suction dredge within one hundred (100) yards of any California waterway, make it impossible, without braking the law, to recover our suction dredges presently situated in California. As doing so, would require transporting them within 100 yards of multiple California waterways to even remove them from the state. Consequently, reducing their value to that of salvage parts, and scrap metal.

In effect, in one arbitrary swoop, SB 670, DFG, and CEQA actions here have effectively destroyed our occupation, livelihood, enjoyment, taken our income, deprived us of future income, reduced the value of our mining equipment to near zero, and made our placer claims in California worthless. Now, place yourself in that exact position, as if this bizarre circumstance had been illegally imposed to you personally. I assure you, it is difficult to contain yourself, or maintain civility in that position.

Literature Review Comments

Specific Comment # 1

2.4.1 General "...Much of the suction dredging occurs on private lands or unpatented claims owned by mining clubs; in some cases individual club members pay a fee to use the club's claim, such as with the New 49ers (New 49ers 2009)...Many miners also own their own unpatented claims to which they have an exclusive right only to the locatable minerals under claim. ..".

My Comment:

Here DFG intentionally perpetrates a material misrepresentation of fact. The bulk of all small scale suction dredge gold mining in California occurs on unpatented, and patented mining claims situated statewide. Only a small percentage of all mining claims in California are owned by “mining clubs”. The majority of mining claims in California are owned by private individuals.

Specific Comment # 2

4.3.2 Dredging Effects on Fish Spawning and Early Life Stages

“Overview: California has a number of threatened and critically endangered fish species that could be impacted by suction dredging. In particular, suction dredging may occur in the spawning habitat of many salmonid and non-salmonids species. As a result, dredging has potential to affect the population dynamics and ecology of the species in these watersheds (e.g., in terms of their survival and reproductive success). The following section provides a detailed discussion of these effects as they relate to the spawning and early life stages of California’s fish species (particularly salmonids).”

My comment:

DFG has never been able to identify a single incident in which a small scale suction dredge gold miner has ever injured, or killed a single fish or fish egg. Beyond the absence of any site-specific adverse effects whatsoever on listed species, the record is also clear that only de minimis cumulative impact arises from the activity. In part this is because all traces of any particular summer’s activity primarily vanish during high winter, and spring run-off flows, which redistribute loose stream gravels in a highly dynamic fashion.

It appears Horizons, and DFG’s approach the issue by reference to vague and general factual allegations about “potential effects” of the activity of suction dredge mining in general, not tethered to any specific mining operation even in California. In particular, Horizon singles out the most highly-biased literature possible to include here, which in itself demonstrates bias.

The reality here, DGF ignores is that salmon are driven to spawn in order propagate the species. That instinct is so strong, it governs their life cycle. Salmon will overcome monumental natural obstacles, such as miles of savage white water rapids, and waterfalls, one after another they can leap to gain access to spawning sites. Any small scale suction dredge gold mining operation salmon might encounter are by their very nature, is no impediment at all, for salmon to circumvent.

Specific Comment # 3

4.3.5 Dredging Effects on Wildlife and Habitat

My Comment:

By law, a mining claim owner has the right to use, and occupy the surface of his property, regardless of any effects it may have on wildlife and habitat. So long as they are within the limits of prevailing law.

"Under the mining laws a person has a statutory right, consistent with Departmental regulations, to go upon the open (unappropriated and unreserved) Federal lands for the purpose of mineral prospecting, exploration, development, extraction and other uses reasonably incident thereto." (See 30 U.S.C. § 21-54, 43 C.F.R. § 3809.3-3, 0-6).

This possessory interest entitles the claimant to "the right to extract all minerals from the claim without paying royalties to the United States." *Swanson v. Babbitt*, 3 F.3d 1348, 1350 (9th Cir. 1993).

30 USC § 26. Locators' rights of possession and enjoyment

The locators of all mining locations ... situated on the public domain, ...shall have the exclusive right of possession and enjoyment of all the surface included within the lines of their locations".

Federal mining claims are "private property" *Freese v. United States*, 639 F.2d 754, 757, 226 Ct.Cl. 252 cert. denied, 454 U.S. 827, 102 S.Ct. 119, 70 L.Ed.2d 103 (1981); *Oil Shale Corp. v. Morton*, 370 F.Supp. 108, 124 (D.Colo. 1973).

Specific Comment # 4

4.4 Cultural Resources

My Comment:

By law, a mining claim owner has the right to use, and occupy the surface of his property, regardless of any effects it may have on cultural resources. So long as they are acting within the limits of prevailing law.

"Under the mining laws a person has a statutory right, consistent with Departmental regulations, to go upon the open (unappropriated and unreserved) Federal lands for the purpose of mineral prospecting, exploration, development, extraction and other uses reasonably incident thereto." (See 30 U.S.C. § 21-54, 43 C.F.R. § 3809.3-3, 0-6).

This possessory interest entitles the claimant to "the right to extract all minerals from the claim without paying royalties to the United States." Swanson v. Babbitt, 3 F.3d 1348, 1350 (9th Cir. 1993).

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Specific Comment # 5

Claims "...the majority of suction dredging takes place on unpatented placer claims...".

My Comment:

DFG admission of material fact, it misrepresents elsewhere in applicable documents.

Specific Comment # 6

Economic Impacts of Suction Dredging on Local Economies

My Comment:

**Economic Impact of Suction Gold Dredging in California is Over \$52 Million
by Scott Harn
Editor/Publisher
ICMJ's Prospecting and Mining Journal**

The Surveys.

An Environmental Impact Report on suction gold dredging was completed by the State of California in 1994. As part of this process, the State sent out two survey questionnaires. The first questionnaire was sent to over 4,000 individuals. Nearly 2,000 were returned completed. The surveys covered dredge locations, annual spending activity, amount invested in dredging equipment, nozzle size and related questions. The second survey was sent to county Boards of Supervisors, Chambers of Commerce and mining businesses to determine the importance of suction gold dredging on local economies. A sample of 1,257 of the individual surveys was used by the State to complete a statistical analysis.

The Results.

“Suction dredging is an activity that requires a substantial investment.” It was determined that each suction dredger spent approximately \$9,250 per year on expenses related to suction dredging in 1994. This included motels, camp fees, food, gas, oil, equipment maintenance and repairs related to suction dredging. Suction gold dredgers are currently spending approximately \$13,249 each per year when adjusted for inflation.

The expenditures cited above did not include the cost of the suction dredge and related equipment, which the survey found was approximately \$6,000 in 1994, or \$8,594 adjusted for inflation.

In 2008, 3,523 suction gold dredging permits were issued in California. Adjusted for inflation, the economic impact of suction gold dredging in 2008 was \$46.68 million. If only one-fifth of permitted suction gold dredgers purchased a dredge during the year, another \$6.06 million would have to be added to the above figures, making the total economic impact \$52.74 million per year.

Conclusion

Suction dredge miners contribute substantially to the economy of California.

(Note: This estimate does not reflect the value of the recovered gold nor the expenditures of those who may be assisting or accompanying the miner, which could substantially increase the economic impact of suction dredge mining in the State.)

Sources

- California Department of Fish and Game. 1994. Final Environmental Impact Report, Adoption of Regulations for Suction Dredge Mining. April, 1994.
- United States Department of Labor Bureau of Labor Statistics. Consumer Price Index.
- California Department of Fish and Game, 2009. Licensing statistics, Special Permits. www.dfg.ca.gov/licensing/pdf/sp_items_10yr.pdf

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Specific Comment # 7

4.7 Recreation

My Comment:

By law, a mining claim owner has the right to use, and occupy the surface of his property, regardless of any effects it may have on recreation. So long as they are within the limits of the law.

"Under the mining laws a person has a statutory right, consistent with Departmental regulations, to go upon the open (unappropriated and unreserved) Federal lands for the purpose of mineral prospecting, exploration, development, extraction and other uses reasonably incident thereto." (See 30 U.S.C. § 21-54, 43 C.F.R. § 3809.3-3, 0-6).

This possessory interest entitles the claimant to "the right to extract all minerals from the claim without paying royalties to the United States." Swanson v. Babbitt, 3 F.3d 1348, 1350 (9th Cir. 1993).

30 USC § 26. Locators' rights of possession and enjoyment

The locators of all mining locations ... situated on the public domain, ...shall have the exclusive right of possession and enjoyment of all the surface included within the lines of their locations".

Federal mining claims are "private property" Freese v. United States, 639 F.2d 754, 757, 226 Ct.Cl. 252 cert. denied, 454 U.S. 827, 102 S.Ct. 119, 70 L.Ed.2d 103 (1981); Oil Shale Corp. v. Morton, 370 F.Supp. 108, 124 (D.Colo. 1973).

Specific Comment # 8

4.8 Aesthetics

My Comment:

By law, a mining claim owner has the right to use, and occupy the surface of his property, regardless of any effects it may have on recreation. So long as they are acting within the limits of the law.

"Under the mining laws a person has a statutory right, consistent with Departmental regulations, to go upon the open (unappropriated and unreserved) Federal lands for the purpose of mineral prospecting, exploration, development, extraction and other uses reasonably incident thereto." (See 30 U.S.C. § 21-54, 43 C.F.R. § 3809.3-3, 0-6).

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Specific Comment # 9

4.10 Noise

My Comment:

By law, a mining claim owner has the right to use, and occupy the surface of his property, regardless of any noise. So long as any such noise is within the limits of the law.

"Under the mining laws a person has a statutory right, consistent with Departmental regulations, to go upon the open (unappropriated and unreserved) Federal lands for the purpose of mineral prospecting, exploration, development, extraction and other uses reasonably incident thereto." (See 30 U.S.C. § 21-54, 43 C.F.R. § 3809.3-3, 0-6).

This possessory interest entitles the claimant to "the right to extract all minerals from the claim without paying royalties to the United States." Swanson v. Babbitt, 3 F.3d 1348, 1350 (9th Cir. 1993).

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Initial Study Suction Dredge Permitting Program Subsequent Environmental Impact Report (Prepared by Horizon Water and Environment, November 2009 Project No. 09.005)

Specific Comment # 10

4. Program Description 4.1 Applicability

That the Department's regulatory authority under Fish and Game Code section 5653 et seq. is limited to instream suction dredge mining is also underscored by legislative history. Fish and Game Code section 5653, for example, derives from former Fish and Game Code section 5653. (See former Fish & G. Code, § 5653, added by Stats. 1961, ch. 1816, § 1 (SB 1459 (Arnold).) Legislative history materials related to this former section specifically casts the Department's related regulatory authority in terms of instream mining.

My Comment:

DFG admission of material fact that it's authority is "limited to "IN"-stream " only.

Specific Comment # 11

4.3 Description of Updated Regulations

In developing any proposed updates to the existing regulations the Department is guided by, among other things, the definition of "fish" set forth in the Fish and Game Code. Section 45 of the Code defines fish to mean wild fish, mollusks, crustaceans, invertebrates, or amphibians, including any part, spawn, or ova thereof. Similarly, the Department is guided by the common sense plain meaning of the word deleterious such that deleterious effect generally means a wide-ranging or long-lasting consequence for a fish population that extends beyond the temporal or spatial context of a specific direct impact. Such deleterious effects could;

(1) Catch, capture, kill, or injure a species listed as candidate, threatened or endangered under the state or federal Endangered Species Act; (2) A substantial reduction in the range of any species, and/or extirpation of a population; (3) A fundamental change to the structure of a community or stream ecosystem, including substantial reductions in biodiversity or resiliency to disturbance, resulting in the reasonably foreseeable consequence of (1) or (2) above.

My Comment:

As such, DFG makes the issuance of all sports, and commercial fishing licenses statewide, unlawful.

Specific Comment # 12

5.4 Equipment 5.4.1 General

"Suction dredges are generally driven by either a gasoline or diesel engine that runs a centrifugal pump."

My Comment:

Less than 1/4 of 1 percent of all small scale suction dredges used in California are powered by “diesel” engines. DFG’s statement here is misleading, inferring a far higher percentage of diesel powered small scale suction dredges are used, than exist.

Specific Comment # 13

5.5.8 Location

“Many miners also own their own unpatented claims to which they have an exclusive right only to the locatable minerals under claim.”. Duration; A recreational suction dredger (representing 90 percent of all suction dredgers) may spend a total of four to eight hours per day in the water dredging an area from 1 to 10 square meters.

My Comment:

Valid mining claim owners also have the vested property right to use—occupy any—all of the surface of their mining claims for mining purposes, and those things reasonably incident thereto.

I object, and protest the intentional material misrepresentation of fact by DFG that; “...recreational suction dredger (representing 90 percent of all suction dredgers) ...”.

Small scale suction dredge gold mining is a completely legal occupation. With profit motivation, just as any other small business has. In which considerable investment is often made in both equipment, a mining claim, or multiple mining claims are acquired to pursue that occupation. Given that fact, it is false to assert 90% of all small scale suction dredge gold mining is “Recreational”.

Specific Comment # 14

5.5.10 Encampments

My Comment:

Valid mining claim owners have the vested property right to use—occupy any—all of the surface of their mining claims for mining purposes, and those things reasonably incident thereto. Consequently, they have the right (not a mere privilege) to use and occupy their property, in the pursuit of their mining activity. As well as the right to be there to protect that property, and their equipment from theft or vandalism 24 hours a day.

Specific Comment # 15

6.2 Baseline Conditions Under CEQA, the environmental setting or “baseline” serves as a gauge to assess changes to existing physical conditions that will occur as a result of a proposed project. CEQA Guidelines section 15125 provides that, for purposes of an EIR, the environmental setting is normally the existing physical conditions in and around the vicinity of the proposed project as those conditions exist at the time the Notice of Preparation is published. As underscored by appellate case law, however, the appropriate environmental baseline for a given project may be different in certain circumstances in order to provide meaningful review and disclosure of the environmental impacts that will actually occur with the proposed project. In the present case, the Department has determined that a conservative approach to identifying the environmental baseline is appropriate.

As described above, instream suction dredge mining is currently prohibited in California pursuant to a recently enacted state law. (Fish & G. Code, 5653.1, added by Stats. 2009, ch. 62, § 1 (SB 670 (Wiggins).) The same law and a related court order also prohibit the Department from issuing new suction dredge permits. The Department has determined, as a result, that the appropriate environmental baseline for purposes of CEQA and the analysis set forth below is one that assumes no suction dredging in California. This Initial Study and the SEIR will, as a result, provide a “fresh look” at the impacts of suction dredge mining on the environment generally.

My Comment:

DFG’s position that; “...The Department has determined, as a result, that the appropriate environmental baseline for purposes of CEQA and the analysis set forth below is one that assumes no suction dredging in California. This Initial Study and the SEIR will, as a result, provide a “fresh look” at the impacts of suction dredge mining on the environment generally...”, is preposterous, and utterly absurd.

Under the imposition of that manifestly bizarre, and illegal DFG environmental baseline, all human habitation, agriculture, manufacturing, mining, commerce, transportation, and power generation. As well as all else involved that serves as the fundamental infrastructure of all civilized societies needs, would be “deleterious” to the environment of California.

The imposition, and enforcement of such a utterly preposterous environmental baseline standard flies in the face of, is contrary to, and directly collides with not only CEQA guidelines, statutes, and regulation. But, also profoundly conflicts with multiple U.S. and State Constitutional provisions protecting the ownership, and use of private property. As well as numerous statutes, and all common law provisions, protecting private property rights of individuals, and all other entities in California.

The 1994 DFG suction dredging EIR, by law sets the environmental baseline here, and this subsequent EIR must be “tiered” to the initial 1994 EIR. The 1994 EIR noted many positive effects of suction dredge mining It concluded that adoption of the California regulations “will reduce . . . effects to the environment to less than significant levels and no deleterious effects on fish”

DFG’s determination that such a preposterous standard is applicable here, clearly demonstrates official malfeasance. It also unmistakably demonstrates the authors (Horizon Water & Environmental) of this study report are profoundly biased towards small scale suction dredge gold mining.

It is apparent to at least all mining claim owners, and small scale suction dredge gold miners effected by SB 670 that Horizon Water & Environmental has prejudicially tailored this study report to paint a picture to the public that small scale suction dredge gold mining is utterly, and irreconcilably environmentally degrading to the point it must not be allowed to occur in any form in California.

CEQA Section 15384. Substantial Evidence

(b) Substantial evidence shall include facts, reasonable assumptions predicated upon facts, and expert opinion supported by facts....”

Throughout the literature review, and initial study report both DGF, and Horizon Water & Environmental have consistently used grammatical devices such as qualifiers, and subjective terms, to introduce numerous written inferences into this CEQA proceeding which are far beyond the proof of the cited works. This use of “weasel” words time and time again throughout this initial study create an impression that something specific and meaningful has been said, which is far beyond the evidentiary facts.

It is clear to anyone well schooled in these matters that, both DGF, and Horizon Water & Environmental have prejudicially injected mere argument, bias, hypothesized speculation, unfounded opinion, narrative, and insupportable conclusions here. All of which are clearly erroneous, inaccurate, or not supported by substantial evidence.

Such intentional malfeasance by DGF, as the lead Agency in this CEQA proceeding, is blatantly prejudicial, to all mining claim owners, and small scale suction gold mining dredge operators involved. It is irreconcilable DFG, as the lead Agency here cannot act impartially. Nor legally complete this CEQA proceeding without incurring what eventually will probably result in near a one billion dollar (\$1,000,000,000) liability to the states coffers from compensable “takings” they arbitrarily cause.

Specific Comment # 16

6.3 Thresholds of Significance Thresholds of significance serve as a measure under CEQA to gauge the significance of changes to the environmental baseline that will result with approval and implementation of a proposed project. For purposes of this Initial Study, the Department is using Appendix G of the CEQA Guidelines, enhanced with climate change considerations, as its thresholds of significance. These thresholds may be refined for purposes of the draft SEIR, but for now the Department has determined that Appendix G in the CEQA Guidelines along with the climate change topic provides appropriate thresholds in order to make an initial assessment of the potentially significant impacts associated with the Proposed Program that should be analyzed in detail in the draft SEIR.

My Comment:

The determination of whether a project may have a significant effect on the environment calls for careful judgment on the part of the lead agency involved, based to the extent possible on scientific and factual data.

Legal facts:

1. Small scale suction dredge gold mining is categorically exempt from CEQA requirements under provisions of Title 14. California Code of Regulations Chapter 3. Guidelines for Implementation of the California Environmental Quality Act, Article 19. Categorical Exemptions, 15300. Categorical Exemptions; 15304. Minor Alterations to Land. Class 4 consists of minor public or private alterations in the condition of land, water, and/or vegetation which do not involve removal of healthy, mature, scenic trees except for forestry or agricultural purposes.

2. Small scale suction dredge gold mining is also categorically exempt from CEQA requirements under provisions of California Surface Mining and Reclamation Act of 1975. Public Resources Code § 2714 (d) & (e).

2714 (d) Prospecting for, or the extraction of, minerals for commercial purposes where the removal of overburden or mineral product totals less than 1,000 cubic yards in any one location, and the total surface area disturbed is less than one acre.

2714 (e) Surface mining operations that are required by federal law in order to protect a mining claim, if those operations are conducted solely for that purpose.

Factual project area data: California contains far more than one hundred million (100,000,000) square acres. Within that massive geographical area, excluding coastal shorelines, there are about two hundred, eleven thousand, five hundred (211,500) miles of streams, and rivers.

Using the average number of small scale suction dredge gold mining permits issued annually in California, over the last decade. That would equate to a about single dredge permit being issued for each seventy (70) mile long stretch of waterways, and thirty one thousand, two hundred fifty (31,250) square acres of land in California.

Certainly, small scale suction dredge gold mining may be more concentrated in various placer gold bearing regions of California. Regardless, on a statewide basis, as this CEQA study is. Taking into account, small scale suction dredge gold mining is a sporadic, seasonal, widely spread out occurrence. Which is equivalent to, and no more significant than all residential landscaping, gardening, rototilling, lawn mowing, and motorized boating, etc., statewide.

Combined with the mean average of all existing unbiased factually straight forward peer reviewed scientific studies on small scale suction dredge gold mining, both pro, and con. The result is the “Threshold of Significance” is well established by legal categorical exclusion, or exemption, and numerous factual scientific study reports that the effects of small scale suction dredge gold mining throughout California is so negligible, or de minimus as to be perfectly in concert with existing 1994 EIR, as well as the pre-SB 670 DFG suction dredge regulations.

CEQA mandates the 2009 literature review, initial study report, and all else involved here, must be tiered to the 1994 EIR. Given those facts, with only one exception, DFG cannot go beyond that established “Threshold of Significance”. That one exception being, the “listing” of Coho salmon as threatened, and/or endangered under ESA, and CESA.

DFG is also legally required to note, CESA has not implemented standards of land use planning to protect Coho salmon that preclude human occupation, settlement, agriculture, commerce, or any other existing land use, including logging, surface mining, and small scale suction dredge gold mining in the region. As doing so, would create profound immediate regional economic disaster in northern California. Neither DFG, or CEQA can legally do so now, without effecting somewhere near a billion or more dollars in financial liability to the state.

Specific Comment # 17

7.2 Scoping Meetings

My Comment:

At considerable personal travel expense, I attended the Sacramento so-called “scoping meeting”. Instead of a legitimate scoping meeting, under applicable APA provisions. What occurred was a tightly controlled “workshop”, where DFG, and Horizon Water And Environmental set an agenda that precluded open discussion, legitimate comments, or discourse. DFG, and Horizon Water and Environmental would not allow individuals to speak publicly to the audience.

DFG ignored pertinent “comments”, as they chose to only answer the ones they themselves gleaned out, as easy to answer. These workshops were a waste of time, effort, and cost to all involved. As they served no constructive purpose above that of a highly regimented bureaucratic circus event. Obviously done in some feeble way to add some degree of legitimacy to DFG actions here. Which, backfired in the sense the majority of attendee’s were offended by DFG’s position, and actions there.

Specific Comment # 18

Environmental Checklist

Mineral Resources “not checked”

My Comment:

The Chief Deputy Director of CDFG has made a knowingly deliberate, and utterly false official omission of material fact here, by not checking the “Mineral Recourse” checklist box in this official CEQA initial study report. The consequence, of which might not seem readily apparent, nor even significant. However, I assure you, it is strikingly significant in several differing aspects involved here.

It is common knowledge, and utterly indisputable that gold, and other associated extremely valuable minerals are certainly “Mineral Resources”. It is common knowledge, and utterly indisputable that these valuable mineral resources certainly exist as placer deposits, within waterways throughout California. It is common knowledge, and utterly indisputable that “suction dredging” is a widespread modern efficient small scale mining method throughout California.

Clearly, that is in itself is what triggered this CEQA study. It is common knowledge, and utterly indisputable that small scale suction dredging is usually profitable. Otherwise, no prudent person would invest in a suction dredge, purchase, or initiate a mining claim, nor spend time performing arduous labor to do it. It is common knowledge, and utterly indisputable that relatively significant amounts of gold, and other valuable minerals are recovered by small scale suction dredging annually in California.

Given this indisputable series of facts. It is not possible by any stretch of imagination, or reality. That the Chief Deputy Director of DFG, the very state agency that regulates all suction dredge permitting statewide throughout California, could assert small scale “suction dredging” does not involve, nor have a potentially significant impact on “Mineral Resources” within California.

DFG has no statutory authority over “mineral resources” within California. No one can rationally refute that ‘mining claims’ involve ‘mineral resources’, and their extraction. No one can credibly refute the majority of all suction dredge gold mining in California takes place on mining claims where valuable mineral resources exist.

The protection of mineral resources in California is the responsibility of the following agencies. Which either have statutory authority or are Responsible Agencies under CEQA:

1. California Department of Conservation is the primary agency with regard to mineral resource protection.

The Department is charged with conserving earth resources (Public Resources Code Sections 600-690)

2. State Mining and Geology Board, which develops policy direction regarding the development and conservation of mineral resources and reclamation of mined lands.

DFG lacks statutory authority over California’s “mineral resources”. Which negates their ability to make rulings governing, permitting, or prohibiting their extraction.

Furthermore, the site, or legal description of a CEQA project must be accurately identified within an EIR. Given, this EIR is “statewide”. It is therefore incumbent on the lead agency to identify with certain specificity each individual site, all individual property, including each mining claim where “Mineral Resources” exist. As well as include that data in order to compile the effects on “Mineral Resources”, this CEQA project will cause.

Some existing MOUs involve the state and a single federal land management agency; others are signed by representatives of the state, BLM, and the Forest Service, or other federal agencies. Some MOUs address only a single issue, whereas others deal with a broad range of management considerations.

These MOUs frequently indicate whether the federal agency will defer to state decisions, make independent decisions, or share decision-making authority, as well as define how inspection and enforcement, and monitoring will be handled. These MOUs are critically important, as they seek to avoid duplication, and conflict while recognizing the sometimes divergent interests of federal and state regulators.

All USFS and BLM lands are under one form or another of Federal “Land Use Planning”. Which encourages, provides for, allows, and neither the USFS or BLM can prohibit permitted mining on applicable federal lands. Consequently, under CEQA mandates, DFG as the lead agency in this CEQA process must invite, “consult” with, and allow those agencies to actively participate in this CEQA process. Otherwise, it is fundamentally, and fatally flawed from the onset.

Take Notice, as a direct result of the Chief Deputy Director of DFG knowingly, and deliberately omitting profound material facts here. Both the Literature Review, and Initial Study Report must be rewritten to include all aspects of “Land Use Planning”, “Mineral Resources” and “Water Quality” (MOUs) issues statewide that this CEQA process covers.

Then, reissued, re-circulated, with an additional written comment period provided under APA guidelines, so that all involved, after receiving those corrected, or supplemented documents are allowed to submit comments. Otherwise this CEQA process is fatally flawed from this monument forward, and any result, or determination made within it is illegitimate, and contrary to various provisions of multiple California, and federal laws.

Specific Comment # 20

UNCONSTITUTIONAL REGULATORY “TAKING” EFFECTED BY DFG

With regard to “suction dredge gold mining”, on all mining claims in California subject to this CEQA process, there are no feasible mitigating “alternatives”. Other than additional onerous restrictions, and seasonal, or permanent waterway closures. To “protect” California water quality, or indigenous fish from the effects of small scale suction dredge gold mining statewide. Any type closure, seasonal, or permanent beyond pre-SB 670 DFG regulation would effect regulatory “takings” of private property interests or rights held by all affected mining claim owners throughout California.

Any seasonal restriction that closes a given area (where mining claims are situated), for example eleven (11) months of the year, “takes” the owners property right for that eleven (11) month period, effecting an annual “temporary” “taking” of very significant duration, and proportion. Temporary “takings” of private property of this nature would generally be considered “compensable”, as they “take” all economic benefit for a significant period of time. Additional permanent closures of any area where any mining claims are situated, would effect a complete “taking” of all economic benefit a mining claim owner has. As he owns nothing more than the right to mine his property. Thus, rendering his property valueless.

Given the cash value of all mining claims in California, this CEQA study effects exceeds of one billion dollars (\$1,000,000,000). The law requires DFG not proceed further unless supported by a California Attorney Generals written legal opinion, how to proceed in the face operating under mutually incompatibles statutory directives, and formally effecting such unlawful “takings”.

Alternatively, DFG is required by law to immediately notify the State Legislature of the “takings” aspects DFG as the lead Agency in this CEQA project, would effect. Requesting the Legislative fund, and post a cash “Bond” in the amount of one billion dollars (\$1,000,000,000) to cover those financial liabilities, DFG incurs, by effecting a compensable “taking” of private property of this magnitude.

NOTE:

There is no need for me to submit further comments on the “ Discussion of Impacts” phase of the “Environmental Checklist”, as those comments I have already included above more than adequately address those aspects.

Comments Summation:

CEQA Section 15093 requires that the agency make a statement of overriding considerations, supported by substantial evidence on the record, where the decision maker approves a project notwithstanding the fact that the significant impact identified in the EIR cannot be avoided or substantially reduced through adoption of mitigation or an alternative, “if the specific economic, legal, social, technological, or other benefits of the proposed project outweigh the unavoidable adverse environmental effects.” An agency may not directly make the statement of overriding considerations without first making the required set of findings specified in Section 15091.

Given the series of written "comments" I have officially submitted here. Which serve as both "actual" and "constructive" notice to DFG. All of which must be included in this CEQA formal record, acted upon, and answered. The most prudent course of action for DFG to take now. Is to halt expenditure of funds allocated for this CEQA project. Until such time, as DFG is on a sound legal footing to proceed.

Or, alternatively make an immediate "finding" that small scale suction dredge gold mining is "exempt" from this CEQA process, by any number of applicable statutory directives included in my comments here, that make that so. Then forward the same to the Legislature, to act upon.

Or, alternatively make an immediate CEQA "finding" that economic, legal, or other considerations DFG now has legal "Notice" of, render infeasible the mitigation of alternatives that would in any way be identified in the EIR, if completed.

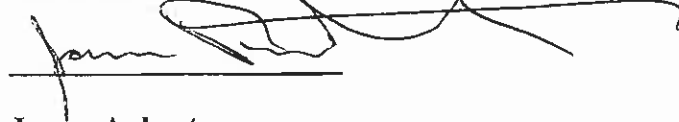
In closing;

If you care, have any conscience, or innate sense of justice? Please, I plead with you to relate these facts to the Governor, the Legislature, the Attorney Generals office, and your superiors. That, SB 670 has effectuated an unconstitutional uncompensated "taking" of private property, destroying legitimate livelihood, and arbitrarily depriving thousands of sorely needed income, they otherwise might make. That is the plain simple undeniable truth here. No matter how extenuating, or convoluted the series of events here are, that brought it about.

Simply put, if the state of California wishes to "take" every practical use, all economic benefit, all utility, and all value of every unpatented placer mining claim owners private property statewide. So that the general public, sports fishermen, tribal members, swimmers, boaters, campers and all other recreational users can revel in the glory of it all, without a miners presence there. The state must simply pay for the "private property", vested mining, and water use rights it takes.

Accordingly, I demand just compensation.

Sincerely,

A handwritten signature in black ink, appearing to read 'James Aubert', written over a horizontal line.

James Aubert

EXHIBIT

MEMORANDUM OF UNDERSTANDING

Surface mining and reclamation coordination in the State of California in accordance with California's Surface Mining and Reclamation Act (SMARA) of 1975, as amended,

by and between the

STATE OF CALIFORNIA, DEPARTMENT OF CONSERVATION
AND THE STATE MINING AND GEOLOGY BOARD,

the

U.S. DEPARTMENT OF AGRICULTURE,
FOREST SERVICE, PACIFIC SOUTHWEST REGION,

and the

U.S. DEPARTMENT OF THE INTERIOR,
BUREAU OF LAND MANAGEMENT, CALIFORNIA

THIS AGREEMENT is made and entered into by and between the State of California, Department of Conservation, through its Director, and the State Mining and Geology Board, through its Chairman (jointly referred to herein as "the State"), the Pacific Southwest Region of the United States Forest Service, through its Regional Forester ("the Forest Service"), and the Bureau of Land Management, through its State Director, California ("BLM"), for the purposes of: (1) assuring the application of adequate and appropriate reclamation throughout the State of California; (2) simplifying the administration of surface mining and reclamation practice requirements on Federal lands and on a combination of Federal and private lands; (3) achieving coordination of activity governing reclamation; and (4) eliminating duplication among the aforementioned agencies and counties serving as lead agencies ("lead agencies" pursuant to the Surface Mining and Reclamation Act, Public Resources Code Section 2728) in implementing State and Federal requirements.

WITNESSETH:

WHEREAS, local, State, and Federal agencies have certain legal requirements in regulating the effects of surface mining on Federal lands and on combinations of Federal and private lands, it is deemed advisable to develop an understanding between BLM, the Forest Service, and the State to serve as guidance for local agencies, BLM, the Forest Service, and the State in fulfilling their agency regulatory responsibilities in such situations.

Memorandum of Understanding
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WHEREAS, for purposes of this agreement, the following are exempt from SMARA pursuant to Public Resources Code Section 2714:

- (1) Prospecting for, or the extraction of, minerals for commercial purposes and the removal of overburden in total amounts of less than 1,000 cubic yards in any one location of one acre or less;
- (2) Surface mining operations that are required by federal law in order to protect a mining claim (i.e. annual assessment work), if such operations are conducted solely for that purpose; and
- (3) Such other surface mining operations which the State determines to be of an infrequent nature and which involve only minor surface disturbances.

WHEREAS, a Memorandum of Understanding (MOU) between the State, the Forest Service, and BLM, governing surface mining and reclamation coordination in the State of California, was signed in 1979 and remains in effect until this new agreement is signed by each party.

WHEREAS, the 1979 MOU was completely rewritten and resigned by the Bureau of Land Management and the State of California on February 7, 1990; and, that the purpose of this updated agreement is to make minor amendments to the 1990 MOU and to add the U.S. Forest Service as signatory.

WHEREAS, several acts of Congress provide for persons to prospect and mine on Federal lands which are administered by the Forest Service and BLM, and which are open to the operation of the United States mining, mineral leasing and mineral materials laws, providing they comply with the rules and regulations covering the Federal lands involved (applicable regulations include 25 CFR 211, 36 CFR 228 et seq., 43 CFR 3802, 3809, 3500, and 3600).

WHEREAS, Federal laws and regulations require that operations authorized under Federal mining, mineral leasing, and mineral material laws shall be conducted so as to minimize adverse environmental impact, or prevent unnecessary or undue degradation caused by such operations, and that the land be reclaimed to a second productive use, where practicable.

WHEREAS, BLM and the Forest Service are authorized to work with the State for purposes of coordinating Federal, State and local regulatory activities for environmental protection [applicable regulations include 43 CFR 3809.3-1(a)-(c) and 36 CFR 228.8 and 228.46].

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WHEREAS, for proposed mineral operations, the purpose of both the National Environmental Protection Act of 1969 (NEPA) and the California Environmental Quality Act (CEQA) is to assure the identification, analysis, and disclosure of significant environmental impacts associated with proposed projects and the incorporation of feasible mitigation to address significant adverse environmental impacts.

WHEREAS, the statutory requirements of the National Environmental Protection Act of 1969 (NEPA) for the Forest Service and BLM, and the California Environmental Quality Act (CEQA) for State and local agencies are largely equivalent.

WHEREAS, city and county "lead agencies" have the responsibility under the Surface Mining and Reclamation Act of 1975 (Public Resources Code Sections 2710-2795), as amended, and State policy for surface mining and reclamation practice (California Code of Regulations Sections 3500-3505), to regulate surface mining and reclamation within their jurisdictions to assure that:

- (1) Adverse environmental effects are prevented or minimized and that mined lands are reclaimed to a usable condition which is readily adaptable for alternative land uses;
- (2) The production and conservation of minerals are encouraged, while giving consideration to values relating to recreation, watershed, wildlife, range and forage, and aesthetic enjoyment; and
- (3) Residual hazards to the public health and safety are eliminated.

WHEREAS, "lead agencies" are cities, counties, or other agencies designated by the Board which have the principal responsibility for approving a surface mining operation or reclamation plan (as defined by SMARA and other relevant regulations and ordinances) pursuant to the provisions of SMARA, and the use herein of the words "lead agencies" shall signify the Board's approval for lead agencies to use the guidance in this MOU to satisfy the requirements of applicable State laws and regulations for surface mining and reclamation on lands in California.

WHEREAS, lead agency surface mining and reclamation ordinances certified by the Board include and comply with applicable provisions of State laws and regulations for surface mining and reclamation practice.

NOW, THEREFORE BE IT RESOLVED that the parties to this memorandum hereby understand and agree that the following will satisfy the aforesaid requirements of the aforesaid laws and are acceptable to both the Forest Service, BLM and the State. It is agreed that in regulation of surface mining of minerals on Federal lands and on combinations of Federal and private lands that:

- (1) Lead agencies and the Forest Service and/or BLM will work cooperatively to insure that conditions required of operators (as defined by Federal law, and by SMARA and any other relevant regulations and ordinances) in minimizing adverse environmental impacts conform to all applicable local, State, and Federal regulations.
- (2) Lead agencies may accept as functionally equivalent documents to meet their requirements under SMARA, operating plans, reclamation plans and environmental studies that meet the requirements of Forest Service and BLM regulations [submitted pursuant to federal regulation provided such plans and studies meet or exceed lead agency requirements as included in the lead agency's State-certified surface mining and reclamation ordinance and any other applicable laws and regulations]; and alternatively, Forest Service and BLM may accept as functionally equivalent documents to meet their requirements, operating plans, reclamation plans and environmental studies [submitted to the lead agency when such plans and studies meet or exceed requirements set by the BLM] that meet SMARA requirements.
- (3) Lead agencies may accept as functionally equivalent, documents prepared under NEPA (40 CFR 1500-1508) that meet the requirements of CEQA.
- (4) Lead agencies may enter, and in fact are encouraged to enter, into specific area agreements (including but not limited to, joint powers agreements and MOUs) with the Forest Service and/or BLM for purposes of implementing this agreement, coordinating reviews, avoiding duplication, and facilitating participation by affected agencies. Issues that may be addressed by such agreements include, but are not limited to, the filing, review, and procedures for approval of reclamation plans, fees, public inspection and enforcement activities, and bonding requirements. Such specific area agreements shall be in conformance with the lead agency's certified surface mining and reclamation ordinance and Federal law and regulation.

- (5) By written agreement BLM may delegate authority to lead agencies to be solely responsible for processing, to approval, all mining operations which are subject to federal mining law in accordance with 43 CFR 3809. A delegation agreement may provide, among other things, for lead agencies to forward copies of submitted exploration and development permit applications to the BLM; to provide a 10-day comment period to the BLM; and prior to approval, or rejection, to provide BLM 5 working days to comment on proposed reclamation and other requirements.
- (6) For the purposes of this agreement, assessment work required to protect claims under federal law is defined as prospecting or exploration work completed for the purposes of discovering an ore body. It does not include development drilling or extraction of minerals for commercial purposes, which are not exempted from the provisions of SMARA.
- (7) For BLM's Notices (written notification required to be provided to the BLM under 43 CFR 3809.1-3) for those operations of 5 acres in size or less, within 5 days after receipt by the BLM of an accepted Notice, the BLM will forward a copy of the Notice to the lead agency for appropriate action by the lead agency. The lead agency may correspond directly with the operator for purposes of approval in accordance with SMARA, including any and all additional conditions and requirements, and will send copies of all correspondence and requirements to the BLM.
- (8) For mining operations requiring a Plan of Operations for projects solely on Federal land, that are not exempt from SMARA, BLM and the Forest Service will provide lead agencies notice and the opportunity for early participation, consultation, and submission of information and recommendations for the development of environmental documents and reclamation plans.
- (9) Within 30 days of receipt of notification under paragraph (8) above and copies of relevant informational documents, lead agencies will provide comments and recommendations to the Forest Service and/or BLM so that they may be considered and incorporated, as appropriate, as part of the environmental review and proposed Forest Service and/or BLM decision.

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- (10) Public hearings for compliance with SMARA and the certified lead agency SMARA ordinance should be coordinated with the Forest Service and/or BLM.
- (11) Forest Service and BLM will forward the environmental and decision documentation, which includes the reclamation plan requirements, to the lead agency for appropriate consideration. The lead agency will correspond directly with the applicant, and within 45 days of the date of the Forest Service or BLM decision, send copies to the BLM or the Forest Service of adopted conditions of approval which differ from conditions of BLM or Forest Service approval.
- (12) Lead agencies will forward to the Forest Service and/or BLM copies of all surface mining proposals and draft reclamation plans they receive for operations located entirely on Forest Service and/or BLM lands.
- (13) Implementation of measures to mitigate adverse environmental impacts to off-site, non-federal lands will be authorized, permitted, or otherwise directed by the lead agency or other responsible local or State agency.
- (14) Lead agencies will notify the Forest Service and/or BLM whenever an application for approval of mining activities is received and a draft reclamation plan is completed for an operation which comes under the purview of SMARA and lead agency requirements on areas adjacent to Forest Service and/or BLM public lands, and will give the Forest Service and/or BLM an opportunity to provide information and recommendations for such plans.
- (15) Lead agencies and the Forest Service and/or BLM will review and coordinate Environmental Documents, Operating Plans, Reclamation Plans and Permits for those mining operations that include both Forest Service and/or BLM lands and private lands. The objective of the review and coordination process is to avoid conflicting and duplicative requirements in Operating Plans and Permits and to keep procedural impacts on the mining operators to a minimum necessary to meet all applicable requirements. Coordination responsibilities for operations encompassing two or more mixed private and Forest Service and/or BLM ownerships should be determined on a case-by-case basis by the parties involved.

- (16) The Forest Service and/or BLM will approve the Plan of Operations when the operator agrees to the conditions and stipulations, including the appropriate measures to mitigate adverse environmental impacts, incorporated into the plan or permit to meet applicable Forest Service, BLM, State and local reclamation requirements. The operator must also comply with other applicable Federal, State, and local laws and regulations including those pertaining to hazardous substances.
- (17) Where the Forest Service and BLM are the operators (i.e., for community pits), and where a Federal agency contractor will be the operator for surface mining activities on Federal lands that are not exempt from SMARA, requirements for reclamation and any other necessary environmental documentation will be prepared and approved in accordance with paragraphs 8 and 9 of this MOU.
- (18) To the extent practicable, lead agencies and the Forest Service and/or BLM will coordinate their enforcement and monitoring responsibilities, and will cooperate in the correction and abatement of any violations of the conditions of operation imposed in accordance with the procedures described in this MOU.
- (19) Financial assurances for reclamation are mandatory for surface mining operations that exceed the SMARA threshold. Any federally-required financial assurance may be used to satisfy local and State surety requirements.

Effective Date of this Agreement:

This agreement shall become effective upon each party by signature of that designated party and shall supersede the previously referenced 1979 and 1990 MOU's when signed by all parties.


Modification of this Agreement:

This agreement may be modified upon the initiative of any of the parties for the purpose of ensuring consistency with state or federal statutes or regulations, or for any other purpose mutually agreed upon. In order to be effective, any such modification must be in writing, subject to 30 days notice, and must be signed by all of the designated parties.

Termination of this Agreement:

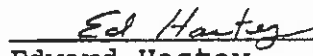
This agreement shall continue in force until terminated by any party upon thirty (30) days written notice to the other parties. The parties intend to review this agreement at the end of 12 months, and periodically thereafter, as needed.

STATE OF CALIFORNIA:


Edward G. Heidig
Director,
Department of Conservation

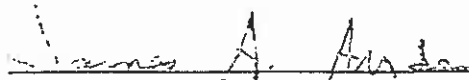
DATE: Oct 19, 1992

BUREAU OF LAND MANAGEMENT:


Edward Hastey
State Director
California

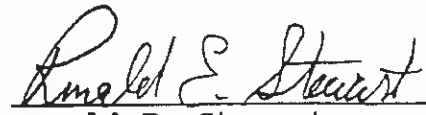
DATE: 10/20/92

STATE OF CALIFORNIA:


James A. Anderson
Chairman,
State Mining and Geology Board

DATE: Oct 19, 1992

UNITED STATES FOREST SERVICE


Ronald E. Stewart
Regional Forester,
Pacific Southwest Region

DATE: Oct. 19, 1992

From: Customer Service <filterstone@gmail.com>
To: <mstopher@dfg.ca.gov>
Date: 12/2/2009 2:59 AM
Subject: COMMENT: Suction dredge permitting under CEQA

Mark Stopher

DFG is clearly acting unlawfully in this permitting process.

By enforcement of mining prohibitions of SB 670.

TAKE NOTICE:

You are acting in contravention of Federal law.

There is NO question that the General Mining Law (30 USC § 21-54) “preempts” SB 670 state law prohibiting small scale suction dredge gold mining in California.

There are 3 ways state law may be preempted.

1. Express preemption, occurs when a federal statute explicitly confirms Congress's intention to preempt state law.
2. Conflict preemption. Under the Supremacy Clause, any state law that conflicts with a federal law is preempted.
3. Field preemption, Even without a conflict between federal and state law or an express provision for preemption, the courts will infer an intention to preempt state law if the federal regulatory scheme is so pervasive as to “occupy the field” in that area of the law.

“Shall” is a word of command & means mandatory.

30 USC § 22. Lands open

“...all valuable mineral deposits in lands belonging to the United States, ... SHALL be free and open to exploration ... and the lands in which they are found to occupation ... by citizens of the United States ... under regulations prescribed by law, and according to the local customs or rules of miners in the several mining districts, so far as the same are applicable and not inconsistent with the laws of the United States.

30 USC § 26. Locators’ rights of possession and enjoyment

The locators of all mining locations ... situated on the public domain, their heirs and assigns, ... so long as they comply with the laws of the United States, and with State, territorial, and local regulations not in conflict with the laws of the United States governing their possessory title, SHALL have the exclusive right of possession and enjoyment of all the surface included within the lines of their locations ...”.

30 USC § 35. Placer claims; entry and proceedings

Claims usually called “placers,” including all forms of deposit, excepting veins of quartz, or other rock in place, SHALL be subject to entry ... under like circumstances and conditions, and upon similar proceedings, as are provided for vein or lode claims...”.

The word “SHALL” in the federal General Mining Law statutes above preempts

state law.

The word SHALL expressly preempts SB 670 mining prohibitions, even if they are imposed “temporarily”. The word SHALL overcomes any “conflict” in state law. The word SHALL fully occupies the field of mining, over that of any conflicting state law. The word SHALL is a direct federal command.

Given this utterly unambiguous unequivocal straight forward Federal Command, no State Governor, State Legislature, State Attorney General, or State, or Federal Judge can even attempt to argue otherwise, without offending the U.S. Constitution.

That same explicit Federal Command in the General Mining Law is fully bolstered by California’s Legislature accepting Section 3 of the California Statehood Admissions act. Which, expressly provides; “...said State of California is admitted into the Union upon the express condition that the people of said State, through their legislature or otherwise, shall never interfere with the primary disposal of the public lands within its limits, and shall pass no law and do no act whereby the title of the United States to, and right to dispose of, the same shall be impaired or questioned...”. This statehood act provision directly applies to all locatable minerals under the General Mining Laws, on all applicable Federal public domain lands in California. As minerals are a part of that land, and the General Mining Law is how they are disposed of.

James Aubert
1009 E. Robinson St.
Carson City NV 98701

From: Customer Service <filterstone@gmail.com>
To: <mstopher@dfg.ca.gov>
Date: 11/25/2009 4:39 PM
Subject: COMMENT : Suction Dredge Mining and Rule Making Process

James Aubert
1009 E. Robinson St.
Carson City NV 889701
**

*Mark Stopher
California DF&G
601 Locust
Redding Ca. 96001

Nov. 25, 2009

California Department of Fish and Game
Suction Dredge Mining and Rule Making Process

COMMENT : ACTUAL & CONSTRUCTIVE NOTICE OF MATERIAL FACTS

Dear Mr. Stopher,

This is to give you “Actual“ and “Constructive Notice” of the existence of approximately twenty four thousand (24,000) unpatented mining claims, as well as near four times that number of “patented” (fee simple) mining claims situated throughout California. All held, maintained or patented under

provisions of General Mining Law (30 U.S.C. §§ 21 et seq.).

SB 670 irrationally ignores these material facts, as though they do not exist. But, DGF as the "Lead Agency" in this CEQA process cannot. As numerous CEQA provisions mandate these material facts, ramifications, and legal consequences of their existence, as well as their constitutional, and statutory protections must be included throughout this CEQA process.

The presence of federal mining claims situated statewide throughout California, and the constitutionally protected private property rights associated with them. As well as the Congressional policy, law and regulation to encourage, foster and provide for mining on applicable federal public domain lands nation wide, severely constrain the DFG, and CEQA regulatory jurisdiction, and actions here. *

**

Sincerely, James Aubert
Affected Party

From: Customer Service <filterstone@gmail.com>
To: <mstopher@dfg.ca.gov>
Date: 12/11/2009 11:44 PM
Subject: SB 670 SUCTION DREDGE CEQA STUDY "Additional Relevant Literature"
Attachments: WA goldfish 2009.pdf

As one component of DFG's efforts to evaluate the potential consequences of suction dredge mining we have conducted a review of the available literature. We are posting that review, with a list of the documents we reviewed, for your examination. If you are aware of additional relevant literature please advise us by emailing Mark Stopher at *mstopher@dfg.ca.gov
* <mstopher@dfg.ca.gov>

<http://wdfw.wa.gov/habitat/goldfish/goldfish2009.pdf>

Gold and Fish

Rules for Mineral Prospecting and Placer Mining



April 2009
2nd Edition



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Mineral Prospecting and Placer Mining Rules

The 2009 Gold and Fish pamphlet replaces all previous editions and will remain valid until the Washington Department of Fish and Wildlife (WDFW) publishes a new edition. The rules contained in it were developed to protect fish and their habitats. This pamphlet serves as your Hydraulic Project Approval (HPA) for the types of mineral prospecting and mining activities described in it. You must follow the rules in the pamphlet¹ when you conduct those projects in Washington. These rules do not relieve you from obtaining landowner permission and any other necessary permits before conducting any mineral prospecting activity. You must also follow the rules and regulations of tribal, local, federal, and other Washington state agencies. You may print out the Gold and Fish pamphlet from <http://wdfw.wa.gov/habitat/goldfish/> or request one from a WDFW office.

If you want to conduct mineral prospecting or mining activities at different times or locations, or with different equipment than allowed in this pamphlet, you must apply for a separate, written HPA. You will receive an HPA if WDFW can determine that your proposed activity does not harm fish life.

You may request a written HPA by submitting a complete application to WDFW. The application form is titled "Joint Aquatic Resources Permit Application" (JARPA). The JARPA and instructions are available online at www.epermitting.org. You can also call the Office of Regulatory Assistance at (800) 917-0043 or (360) 407-7037, or email help@ora.wa.gov

Agencies with an Interest in Mineral Prospecting

This pamphlet gives authority to conduct mineral prospecting or placer mining operations from the WDFW only. Several other federal, state, tribal, and local government agencies have their own requirements that must be met before you can legally prospect or mine in areas under their jurisdiction. Below is a brief explanation of the interest these agencies have in mineral prospecting or placer mining. Contact them for more information and permit applications.

Federal

U.S. Army Corps of Engineers (Corps)

Seattle District
Attn: Regulatory Branch
PO Box 3755
Seattle, WA 98124-3755
(206) 764-3495 phone
(206) 764-6602 fax
www.nws.usace.army.mil

The Corps is responsible for many beneficial uses of water, including transportation, navigation, recreation, and power production. Under the Federal Clean Water Act of 1977, the Corps may require suction dredge operators to obtain a Section 404 permit.

U.S. Bureau of Land Management (BLM)

Conducting placer operations and recordation of mining claims:

Spokane District Office
1103 N Fancher Rd
Spokane Valley, WA 99212-1275
(509) 536-1200 phone
(509) 536-1275 fax
www.blm.gov/or/districts/spokane

Conducting placer operations only:

Wenatchee Resource Area Office
915 Walla Walla St
Wenatchee, WA 98801-1521
(509) 665-2100 phone
(509) 665-2121 fax

Mining is authorized by several laws that apply to federal lands managed by BLM. The Mining Law of 1872, as amended (public lands), and the Mineral Leasing Act of 1947, as amended (acquired lands), are the main laws authorizing placer gold prospecting on federal mineral, fee, or split estate.

1. This pamphlet includes the mineral prospecting rules under the Washington Administrative Code (WAC) available online at <http://apps.leg.wa.gov/wac/> under WACs 220-110-020, -030, -031, -200, -201, -202, and -206. The rules were adopted by the Washington Fish and Wildlife Commission on November 8, 2008 and are effective April 3, 2009. The rules will remain in effect until modified or rescinded by the Commission.



BLM manages the surface and mineral (fee) estate on some federal lands, and the mineral (split) estate on other lands where the surface is managed by other agencies or is privately owned. The entry provisions for prospecting and the degree of BLM involvement vary depending on the land ownership status and applicable laws.

Under the Mining Law, it is your responsibility to determine if there are prior existing mining claims in your area of interest. Information on existing mining claims, rules, regulations, mineral status maps, survey plats, and filing fees is available at the Spokane District Office, Wenatchee Field Office, and in Portland, Oregon, at the Oregon/Washington State Office. If you locate a mining claim, Section 314 of the Federal Land Policy and Management Act of 1976 (43 USC 1344) requires you to file a copy of the official notice or certificate of location and a map of the location boundaries with the BLM State Office within 90 days of locating the claim.

Exploration and mining activities on BLM-managed lands are also subject to BLM regulations that vary depending on the authorizing laws and land ownership. On most public lands, the regulations depend on the amount and intensity of disturbance and require you to submit either a Notice of Intent (five acres or less and greater than casual use) or a Plan of Operations (more than five acres or mechanized equipment). Plans of Operations generally take a minimum of 60 to 90 days to obtain due to required National Environmental Policy Act clearances. "Casual Use" activities causing only negligible disturbance (such as hand sample collection) are allowed on most public lands without advance notifications. Occupying public lands under the mining laws for more than 14 calendar days in any 90-day period within a 25-mile radius of the initially occupied site requires authorization from BLM.

The state generally owns the stream channel below the mean high water mark. Instream activities authorized by the Gold and Fish pamphlet are not generally regulated by BLM. However, if WDFW requires a written HPA for mining activity or if you want to conduct highbanking operations above the ordinary high water line, BLM requires a Notice of Intent or Plan of Operations. BLM requires reclamation for all surface disturbance. Abandoning a claim does not relieve you of that responsibility.

On acquired lands, you must contact BLM and any surface management agency with jurisdiction over those lands to determine if you need a permit or if other conditions are required before you enter the lands for hobby or non-commercial collecting. Under the Mineral Leasing Act, commercial activities require you to file exploration plans and obtain a permit for prospecting. If a commercial deposit is found, a lease and a BLM-approved mining and reclamation plan are required to mine.

U.S. Forest Service (Forest Service)

Region 6 Regional Office
333 SW 1st Ave
PO Box 3623
Portland, OR 97208-3623
(503) 808-2468 phone
(503) 808-2210 fax
www.fs.fed.us/r6/

Olympic National Forest

1835 Black Lake Blvd SW
Olympia, WA 98512-5623
(360) 956-2402 phone
(360) 956-2330 fax
www.fs.fed.us/r6/olympic/

Gifford Pinchot National Forest

10600 NE 51st Circle
Vancouver, WA 98682
(360) 891-5000 phone
(360) 891-5045 fax
www.fs.fed.us/gpnf/

Mt. Baker-Snoqualmie National Forest

2930 Wetmore Ave, Suite 3A
Everett, Washington 98201
(425) 783-6000 or (800) 627-0062 phone
(425) 783-0212 fax
www.fs.fed.us/r6/mbs/

Colville National Forest

765 S Main
Colville, WA 99114
(509) 684-7000 phone
(509) 684-7280 fax
www.fs.fed.us/r6/colville/

Okanogan-Wenatchee National Forest

215 Melody Lane
Wenatchee, WA 98801-5933
(509) 664-9200 phone
(509) 664-9280 fax
www.fs.fed.us/r6/wenatchee/

National Forest System (NFS) lands are classified as either public domain (PD) or acquired. Most NFS lands in the western United States, including most NFS lands in Washington, are PD lands and therefore are open to entry and mining claim location under the authority of the General Mining Law of 1872, as amended. Acquired lands are not subject to the General Mining Law, but are instead subject to the Mineral Leasing Act of 1920. Prospecting is not allowed on acquired lands except by permit.

Some PD lands have been congressionally or administratively withdrawn from mineral entry and location. For example, Wildernesses, designated by the U.S. Congress and making up about 29 percent of NFS lands in Washington, are withdrawn



and closed to prospecting. With few exceptions, prospecting is prohibited in administrative withdrawals as well. The rest of PD lands are open to mineral prospecting and development. These lands may be prospected whether or not you have located a mining claim. However, you should ask for permission to prospect on someone else's properly located and maintained mining claim. You may address questions about the status of NFS lands to the Forest Service or Bureau of Land Management.

The Forest Service regulates mineral-related impacts to surface resources under the authority of 36 CFR 228, Subpart A. If your planned mineral activities might cause a significant impact to surface resources, submit a Notice of Intent to the local Forest Service District Ranger. Within 15 days, the District Ranger will either tell you that you may begin activities or require you to submit a more detailed Plan of Operations. In some cases, the District Ranger will require additional information prior to making a determination. You can help the District Ranger make a significance determination if you state in your Notice of Intent that your operations will be conducted in compliance with the Gold and Fish pamphlet or a separate, written Hydraulic Project Approval (HPA).

If activities will likely cause a significant impact, submit a Plan of Operations. In this case, Forest Service approval is required before starting mining activities and approval may depend on you agreeing to adopt any required mitigation measures or changes to the plan, submitting a reclamation performance bond if required, and providing a Clean Water Act Section 401 certification or waiver, if applicable. If you have any questions, contact the District Ranger having jurisdiction over the area where you plan to work.

Generally, activities that are limited to using vehicles on existing and open NFS roads, metal detecting, gold panning, non-motorized hand sluicing, battery-operated dry washing, collecting small mineral samples using only hand tools, and marking and monumenting mining claims, do not require a Notice of Intent before starting work. Other activities, including cutting trees or using any mechanized earthmoving equipment, including equipment such as a suction dredge or high-banker, require at least a Notice of Intent.

National Oceanic and Atmospheric Administration (NOAA) Fisheries (National Marine Fisheries Service (NMFS))

Habitat Conservation Division
Washington State Habitat Office
510 Desmond Dr SE, Suite 103
Lacey, WA 98503
(360) 753-9530 phone
(360) 753-9517 fax

Northwest Regional Office
7600 Sand Point Way NE
BIN CI5700, Building 1
Seattle, WA 98115-0070
(206) 526-6150 phone
www.nwr.noaa.gov

U.S. Fish and Wildlife Service (USFWS)

For areas west of the Cascade crest:
Washington Fish and Wildlife Office
510 Desmond Dr SE
Lacey, WA 98503
(360) 753-9440 phone

For areas east of the Cascade crest:
Upper Columbia River Basin Field Office
11103 E Montgomery Dr, Suite 2
Spokane, WA 99206
(509) 891-6839 phone
www.fws.gov/easternwashington/

NMFS has regulatory authority for anadromous fish issues and USFWS regulates issues involving resident fish and other animals and plants. Together these agencies administer the Endangered Species Act (ESA). This law requires government agencies to conserve plants and animals that are listed as threatened or endangered with extinction, and their critical habitats. In many areas of Washington, Chinook, sockeye, chum, and coho salmon, steelhead, and bull trout are listed or are proposed for listing under the ESA.

Activities may be restricted or limited in streams or sections of streams containing listed fish or their critical habitat in order to fully protect those species. Both NMFS and USFWS have the responsibility to ensure that no activity will jeopardize the continued existence of a listed species, or destroy or adversely modify its critical habitat.



National Parks Service (NPS)

Pacific West Region Office
909 First Ave
Seattle, WA 98104-1060
(206) 220-4000 phone
(206) 220-4159 fax
www.nps.gov

Mineral development including exploration, extraction, production, storage, and transportation of minerals may be allowed in National Parks only where there are existing valid mining claims, federal mineral leases, or non-federally owned minerals. In some parks, all or certain types of mineral development are specifically prohibited by law.

Everyone who conducts mineral development within National Parks must comply with applicable laws, regulations, and NPS policies. You may not use or occupy surface lands in a park to remove minerals outside the park unless provided for in law.

All National Parks are closed to locating new mining claims on federal lands under the General Mining Law of 1872. NPS may permit mineral development only on existing valid mining claims in conformance with the park's enabling legislation and the regulations for mining claims. NPS will perform a validity examination of a claim before approving a Plan of Operations. All mineral development and use of resources in connection with a claim will be confined to the boundaries of the claim itself, except for access and transport that are permitted under existing regulations.

All National Parks are closed to new federal mineral leasing except for five national recreation areas including Lake Chelan and Ross Lake, where Congress explicitly authorized federal mineral leasing in each area's enabling legislation. Portions of four of these units and all of Lake Chelan National Recreation Area have been closed to federal mineral leasing by the Secretary of the Interior. You may not explore for federal minerals in any of these areas except under an oil and gas lease, or in the case of solid materials, under a prospecting permit issued under regulations in 43 CFR 3500. Before consenting to a federal mineral lease or subsequent permit in any of these areas, the responsible regional director will determine that leasing, and the subsequent mineral development in connection with leasing, will result in no significant adverse affect on park resources or administration.

Some park areas contain leases that existed at the time the park was created or expanded. These leases are valid existing rights and will continue to exist until they expire under the regulations that govern federal mineral leasing. When such a lease expires, the minerals and lands containing such minerals cannot be leased again.

State of Washington

Washington Department of Ecology (Ecology)

300 Desmond Drive Ave SE
PO Box 47600
Olympia, WA 98504-7600
(360) 407-6000 phone
(360) 407-6989 fax
www.ecy.wa.gov

For water quality issues, ask for the Water Quality Program. For water right questions, ask for the Water Resources Program.

Northwest Regional Office

3190 160th Ave SE
Bellevue, WA 98008-5452
(425) 649-7000 phone
(425) 649-7098 fax

Central Regional Office

15 W Yakima Ave, Suite 200
Yakima, WA 98902-3452
(509) 575-2490 phone
(509) 575-2809 fax

Eastern Regional Office

N 4601 Monroe
Spokane, WA 99205-1295
(509) 329-3400 phone
(509) 329-3529 fax

Southwest Regional Office

300 Desmond Drive Ave SE
PO Box 47775
Lacey, WA 98504-7775
(360) 407-6300 phone
(360) 407-6305 fax

Ecology oversees the Shoreline Management Act which sets goals and guidelines for protection of shorelines as valuable natural resources. Ecology also administers water quality standards to prevent interference with or harm to beneficial uses of state waters in lakes, streams, rivers, and marine areas. No degradation of water quality is allowed in waters within national parks, recreation areas, wildlife refuges, scenic rivers, or areas of ecological importance. Ecology checks complaints of water quality violations and can prosecute offenders.

Ecology also administers water rights. A valid water right is required to remove any surface water from waters of the state. Because highbanking removes water from a stream, you may need a water right for this activity. Contact Ecology if you intend to remove water from any waters of the state.



Washington Department of Fish and Wildlife (WDFW)

Habitat Program

600 Capitol Way N
Olympia, WA 98501-1091
(360) 902-2534 phone
(360) 902-2946 fax
<http://wdfw.wa.gov>

Eastern (Region 1)

2315 N Discovery Pl
Spokane, WA 99216-1566
(509) 892-1001 phone
(509) 921-2440 fax

North Central (Region 2)

1550 Alder St NW
Ephrata, WA 98823-9651
(509) 754-4624 phone
(509) 754-5257 fax

South Central (Region 3)

1701 S 24th Ave
Yakima, WA 98902-5720
(509) 575-2740 phone
(509) 575-2474 fax

North Puget Sound (Region 4)

16018 Mill Creek Blvd
Mill Creek, WA 98012-1296
(425) 775-1311 phone
(425) 338-1066 fax

Southwest (Region 5)

2108 SE Grand Blvd
Vancouver, WA 98661
(360) 906-6700 phone
(360) 906-6776 fax

Coastal (Region 6)

48 Devonshire Rd
Montesano, WA 98563-9618
(360) 249-4628 phone
(360) 664-0689 fax

WDFW administers Chapter 77.55 RCW (Construction projects in state waters) and is therefore the lead state agency in regulating instream mining and prospecting. Chapter 77.55 RCW requires anyone wishing to use, divert, obstruct, or change the natural flow or bed of any river or stream to first obtain a Hydraulic Project Approval (HPA) so that potential harm to fish and fish habitat can be avoided or corrected.

WDFW owns and manages various lands throughout the state. You must obtain permission and a land use permit (WAC 232-12-251) from WDFW before you enter. Furthermore, a WDFW Vehicle Use Permit is required on all recreation sites owned by WDFW. Hunters, fishers, and trappers get a Vehicle Use Permit without additional cost when purchasing a hunting, fishing, or trapping license. Vehicle Use Permits may also be purchased separately for \$10.

Washington Department of Natural Resources (WDNR)

Aquatic Resources Division

PO Box 47027
Olympia, WA 98504-7027
(360) 902-1100 phone
(360) 902-1786 fax
www.dnr.wa.gov

WDNR manages about 3 million acres of state-owned uplands and 2.6 million acres of state-owned aquatic lands throughout Washington. State-owned uplands managed by WDNR are identified on the map titled "Washington State Major Public Lands" that you can obtain from one of WDNR's seven regional offices or the Olympia office.

State-owned aquatic lands managed by WDNR include the shores and beds of navigable freshwater lakes and rivers lying below the ordinary high water line. WDNR also manages the beds of marine waters and state-owned tidelands, which are shores of navigable tidal waters lying between the ordinary high tide line and the extreme low tide line, and Harbor Areas established by the Harbor Line Commission. WDNR may not have legal access to all lands under its management and may limit access to or the use of an area for panning at any time. You may obtain information on WDNR requirements and land that is open for panning by visiting or sending a self-addressed stamped envelope to the regional office managing the area where you will pan.

Prospecting, mining, and metal detecting on state-owned aquatic land must comply with all existing local, state, and federal environmental regulations. The resource management concerns posed by prospecting, mining and metal detecting on state-owned aquatic lands are primarily related to protecting habitat for fish and other aquatic life, degrading water quality, and interfering with navigation and other recreational opportunities.

The requirement for anyone wishing to conduct any type of prospecting, mining and metal detecting on state-owned



aquatic lands to obtain a use authorization prior to commencing operations will be determined on a case-by-case basis after considering all proprietary interests of the state. Proponents wishing to conduct any type of prospecting, mining and metal detecting on state-owned aquatic lands must file an application with the aquatic district office responsible for the proposed location of the operations to begin the determination process. Some uses may be allowed with no restrictions, while others may be allowed only with certain conditions that ensure WDNR is fulfilling the statutory management guidelines listed in RCW 79.105.030.

Washington State Department of Archaeology and Historic Preservation

PO Box 48343
Olympia, WA 98504-8343
(360) 586-3065 phone
(360) 586-3067 fax
www.dahp.wa.gov

The preservation of Washington's rich cultural heritage is a responsibility that we all share. On federal and Indian lands, the Archaeological Resources Protection Act (16 USC 470) and the Native American Graves Protection and Repatriation Act (25 USC 3001) protect historical and Native American archaeological sites, artifacts, burial sites, and traditional cultural places that are important to contemporary tribes. On private and non-federal public lands, state laws, including the Indian Graves and Records Act (RCW 27.44) and the Archaeological Sites and Resources Act (RCW 27.53), protect these types of locations from excavation, removal, or alteration without a permit from the Department of Archaeology and Historic Preservation. Strong civil and criminal penalties apply if these laws are violated.

Washington State Parks and Recreation Commission (State Parks)

Parks Development Service Center
PO Box 42650
Olympia, WA 98504-2650
(360) 902-8500 phone
www.parks.wa.gov

Panning, sluicing, or dredging for gold or other minerals is not allowed within streams or other waterways in any state park. Such activity is also prohibited in the state Seashore Conservation Area, which lies between the line of extreme low tide and the line of ordinary high water, extending from Cape Disappointment to the south boundary of the Makah Indian Reservation on the outer Washington coast (RCW 79A.05.605), except for the areas established under the placer mining pilot study authorized by Section 1, Chapter 83, Laws of 2008. Contact WDFW for maps of the study areas.

Local Government – Cities, Counties, and Other Municipalities

Cities and counties locally administer the Shoreline Management Act through master plans for shoreline protection. The plans identify areas where activities can or cannot be conducted. City and county planning offices require permits for any shoreline use or activity valued at \$2500 or more, or that materially interferes with normal public use of a waterway or shoreline area. Contact the local government planning department where you plan to prospect for information about permits they may require.

Tribal Governments

Streams and waterways on treaty Indian tribal lands or reservations are closed to all mineral mining or prospecting unless specific written permission is granted by the tribal government. The tribes are also interested in protecting treaty and other tribal fish habitat from environmental degradation and restoring damaged habitat to its full productive potential. Technical staff of individual tribes can provide background fisheries information for streams and may also provide assistance for fish habitat improvement projects.

If you find any archaeological materials or remains, do not disturb, alter, remove, or excavate them. Contact the responsible federal agency if on federal land or the Department of Archaeology and Historic Preservation if on non-federal land. If you believe you have discovered human remains, contact local law enforcement officials immediately.



Definitions of Terms

The following definitions apply to mineral prospecting activities that you conduct under authorization of the mineral prospecting rules and this pamphlet. Terms in this pamphlet that are in **bold** font are defined here.

Abandoning an excavation site – Not working an **excavation site** for 48 hours or longer.

Aggregate – A mixture of minerals separable by mechanical or physical means.

Artificial materials – Clean, inert materials that you use to construct diversion structures for **mineral prospecting**.

Bank – Any land surface above the **ordinary high water line** that adjoins a body of water and contains it except during floods. Bank also includes all land surfaces of islands above the ordinary high water line that adjoin a body of water and that are below the flood elevation of their surrounding body of water.

Bed – The land below the **ordinary high water lines of state waters**. This definition shall not include irrigation ditches, canals, storm water run-off devices, or other artificial **watercourses** except where they exist in a natural watercourse that has been altered by man.

Boulder – A **stream** substrate particle larger than ten inches in diameter.

Classify – To sort **aggregate** by hand or through a screen, grizzly, or similar device to remove the larger material and concentrate the remaining aggregate.

Concentrator – A device used to physically or mechanically separate the valuable mineral content from **aggregate**.

Crevice – Removing **aggregate** from cracks and crevices using **hand-held mineral prospecting tools** or water pressure.

Dredging – Removal of **bed material** using other than **hand-held tools**.

Equipment – Any device powered by internal combustion; hydraulics; electricity, except less than one horse power; or livestock used as draft animals, except saddle horses; and the lines, cables, arms, or extensions associated with the device.

Excavation site – The pit, furrow, or hole from which you remove **aggregate** to process and recover minerals or into which wastewater is discharged to settle out sediments.

Fish life – All fish species, including but not limited to **food fish**, **shellfish**, **game fish**, and other nonclassified fish species and all stages of development of those species.

Fishway – Any facility or device that is designed to enable fish to effectively pass around or through an obstruction without undue stress or delay.

Food fish – Those species of the classes Osteichthyes, Agnatha, and Chondrichthyes that shall not be fished for except as authorized by rule of the director of WDFW.

Frequent scour zone – The area between the **wetted perimeter** and the **toe of the slope**, comprised of **aggregate**, **boulders**, or bedrock. Organic soils are not present in the frequent scour zone.

Game fish – Those species of the class Osteichthyes that shall not be fished for except as authorized by rule of the Washington Fish and Wildlife Commission.

Ganged equipment – Two or more pieces of **mineral prospecting equipment** coupled together to increase efficiency. An example is adding a second **sluice** to a **high-banker**.

Gold and Fish pamphlet (“pamphlet”) – A document that details the rules for conducting small-scale and other **prospecting** and **mining** activities, and which serves as the **hydraulic project approval** for certain **mineral prospecting** and mining activities in Washington state.

Habitat improvement structures or stream channel improvements – Natural or human-made materials placed in or next to bodies of water to make existing conditions better for fish life. Rock flow deflectors, engineered logjams, and artificial riffles are examples.

Hand-held mineral prospecting tools – Tools that you hold by hand and are not powered by internal combustion, hydraulics, or pneumatics. Examples include metal detectors, shovels, picks, trowels, hammers, pry bars, hand-operated winches, and battery-operated pumps specific to **prospecting**; and **vac-pacs**.

Hand-held tools – Tools that are held by hand and are not powered by internal combustion, hydraulics, pneumatics, or electricity. Some examples of hand-held tools are shovels, rakes, hammers, pry bars, and cable winches. This definition does not apply to hand-held tools used for **mineral prospecting**. See “**hand-held mineral prospecting tools**”.

Hatchery – Any water impoundment or facility used for the captive spawning, hatching, or rearing of fish and **shellfish**.

High-banker – A stationary **concentrator** that you can operate outside the **wetted perimeter** of the body of water from which the water is removed, using water supplied by hand or by pumping. A high-banker consists of a **sluice** box, hopper, and water supply. You supply **aggregate** to the high-banker by means other than **suction dredging**. This



definition excludes **rocker boxes**. See Figure 1.

High-banking – Using a **high-banker** to recover minerals.

Hydraulic project –

Construction or performance of other work that will use, divert, obstruct, or change the natural flow or **bed** of any of the salt or fresh **waters of the state**.

Hydraulic Project Approval (HPA) –

- (a) A written approval for a **hydraulic project** signed by the director of WDFW or the director's designates; or
- (b) A printed **Gold and Fish pamphlet** issued by WDFW which identifies and authorizes specific minor hydraulic project activities for **mineral prospecting** and **placer mining**.

Job site – The space of ground including and immediately adjacent to the area where work is conducted under the authority of an **HPA**. For **mineral prospecting** and **placer mining** projects, the job site includes the **excavation site**.

Joint Aquatic Resources Permit Application (JARPA)

– A form provided by WDFW and other agencies which an applicant submits when requesting a written **HPA** for a **hydraulic project**.

Lake – Any natural or impounded body of standing freshwater, except impoundments of the Columbia and Snake rivers.

Large woody material – Trees or tree parts larger than four inches in diameter and longer than six feet, and rootwads, wholly or partially waterward of the **ordinary high water line**.

Mean higher high water (MHHW) – The tidal elevation obtained by averaging each day's highest tide at a particular location over a period of 19 years. It is measured from the **mean lower low water** = 0.0 tidal elevation.

Mean lower low water (MLLW) – The 0.0 tidal elevation. It is determined by averaging each day's lowest tide at a particular location over a period of 19 years. It is the tidal datum for vertical tidal references in the **saltwater area**.

Mineral prospect(-ing) – To excavate, **process**, or **classify aggregate** using **hand-held mineral prospecting tools** and **mineral prospecting equipment**.

Mineral prospecting equipment – Any natural or manufactured device, implement, or animal (other than the human body) that you use in any aspect of **prospecting** for or recovering minerals.



Figure 1. High-banker

Mini high-banker

– A **high-banker** with a **riffle** area of three square feet or less. See Figure 2.

Mini rocker box – A **rocker box** with a **riffle** area of three square feet or less. See Figure 3.

Mining – The production activity that follows **mineral prospecting**.



Figure 2. Mini high-banker

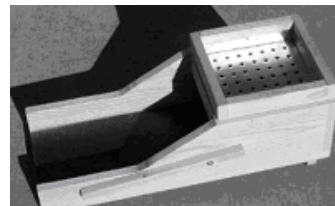


Figure 3. Mini rocker box (top view and bottom view)

Ordinary high water line (OHWL) – The mark on the shores of all waters that will be found by examining the **bed** and **banks** and ascertaining where the presence and action of waters are so common and usual and so long continued in ordinary years, as to mark upon the soil or vegetation a character distinct from that of the abutting upland, provided that in any area where the ordinary high water line cannot be found, the ordinary high water line adjoining saltwater shall be the line of **mean higher high water**, and the ordinary high water line adjoining freshwater shall be the elevation of the mean annual flood.

Pan – An open metal or plastic dish that you operate by hand to separate gold or other minerals from **aggregate** by washing the aggregate. See Figure 4.



Figure 4. Pan

Panning – Using a **pan** to wash **aggregate**.

Person – An individual or a public or private entity or organization. The term “person” includes local, state, and federal government agencies and all business organizations.

Placer – A glacial or alluvial deposit of gravel or sand containing eroded particles of minerals.

Power sluice – High-banker

Power sluice/suction dredge combination – A machine that can be used as a **power sluice**, or with minor modifications, as a **suction dredge**. See Figure 5.

Process(-ing) aggregate – The physical or mechanical separation of the valuable mineral content within **aggregate**.



Prospect(-ing) – The exploration for minerals and mineral deposits.

Redd – A nest made in gravel, consisting of a depression dug by a fish for egg deposition, and associated gravel mounds. See Figure 6.

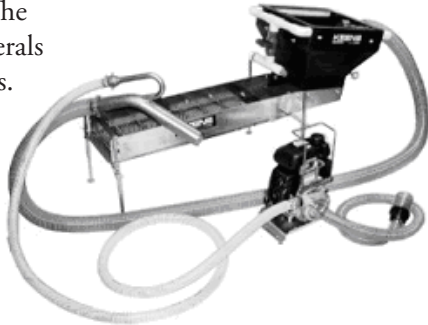


Figure 5. Power sluice/suction dredge combination

also includes land surfaces of islands above the frequent scour zone that adjoin a body of water; or a stretch of ground forming a natural or artificial incline.

Sluice – A trough equipped with **riffles** across its bottom which you use to recover gold and other minerals with the use of flowing water. See Figure 8.

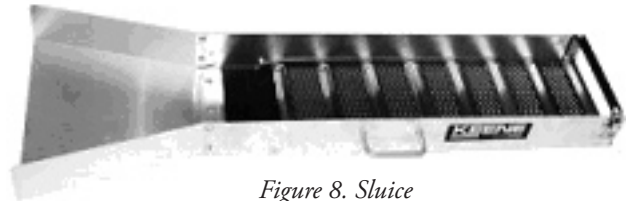


Figure 8. Sluice

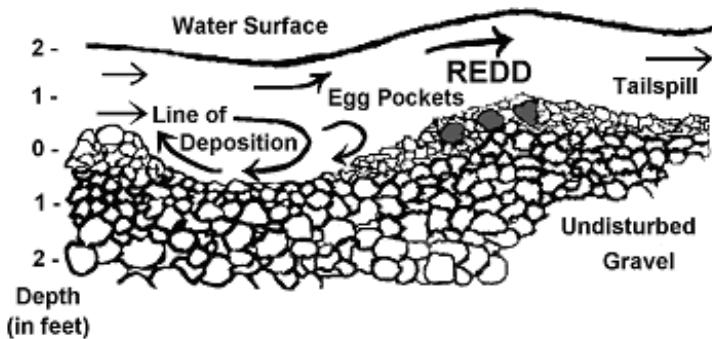


Figure 6. Cross section of a typical redd

Riffle – The bottom of a **concentrator** containing a series of interstices or grooves to catch and retain a mineral such as gold.

River or stream – See **Watercourse**.

Rocker box – A nonmotorized **concentrator** consisting of a hopper attached to a cradle and a **sluice** box that you operate with a rocking motion. See Figure 7.

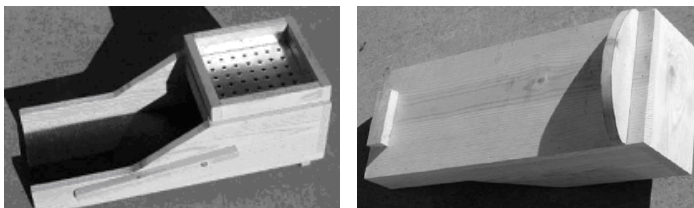


Figure 7. Rocker box (top view and bottom view)

Saltwater area – Those **state waters** and associated beds below the **ordinary high water line** and downstream of river mouths.

Shellfish – Those species of saltwater and freshwater invertebrates that shall not be taken except as authorized by rule of the director of WDFW. The term “shellfish” includes all stages of development and the bodily parts of shellfish species.

Slope – Any land surface above the **frequent scour zone** and **wetted perimeter** that adjoins a body of water. Slope

Spiral wheel – A hand-operated or battery-powered rotating **pan** that you use to recover gold and minerals with the use of water. See Figure 9.

Stable slope – A **slope** without visible evidence of slumping, sloughing, or other movement. Stable slopes will not show evidence of landslides, uprooted or tilted trees, exposed soils, water-saturated soils, and mud, or the recent erosion of soils and sediment.

Woody vegetation is typically present on stable slopes.



Figure 9. Spiral wheel

Suction dredge – A machine that you use to move submerged **aggregate** via hydraulic suction. You process the aggregate through an attached **sluice** box for the recovery of gold and other minerals. See Figure 10.

Suction dredging – Using a **suction dredge** for the recovery of gold and other minerals.



Figure 10. Suction dredge

Tailings – The waste material that remains after you process **aggregate** for minerals.

Toe of the bank – The distinct break in **slope** between the stream **bank** or shoreline and the stream bottom or marine beach or **bed**, excluding areas of sloughing. For steep banks that extend into the water, the toe may be submerged below the **ordinary high water line**. For artificial structures, such as jetties or bulkheads, the toe refers to the base of the structure, where it meets the stream bed or marine beach or bed.



Toe of the slope – The base or bottom of a **slope** at the point where the ground surface abruptly changes to a significantly flatter grade.

Unstable slope – A **slope** with visible evidence of slumping, sloughing, or other movement. Evidence of unstable slopes includes landslides, uprooted or tilted trees, exposed soils, water-saturated soils, and mud, or the recent erosion of soils and sediment. **Woody vegetation** is typically not present on unstable slopes.

Vac-pac – A motorized, portable vacuum used for **prospecting**. See Figure 11.



Figure 11. Vac-pac

Watercourse and River or stream – Any portion of a channel, **bed**, **bank**, or bottom waterward of the **ordinary high water line** of **waters of the**

state, including areas in which fish may spawn, reside, or pass, and tributary waters with defined bed or banks, which influence the quality of fish habitat downstream. This includes watercourses which flow on an intermittent basis or which fluctuate in level during the year, and applies to the entire bed of such watercourse whether or not the water is at peak level. This definition does not include irrigation ditches, canals, storm water run-off devices, or other entirely artificial watercourses, except where they exist in a natural watercourse that has been altered by humans.

Waters of the state or State waters – All salt waters and fresh waters waterward of **ordinary high water lines** and within the territorial boundaries of the state.

Wetted perimeter – The areas of a **watercourse** covered with flowing or nonflowing water.

Woody vegetation – Perennial trees and shrubs having stiff stems and bark. Woody vegetation does not include grasses, forbs, or annual plants.

Mineral Prospecting Without Timing Restrictions

You may **mineral prospect** year-round in all **waters of the state**, except **lakes** or salt waters. You must follow the rules listed below, but you do not need to have the rules with you or on the **job site**.

1. You may use only **hand-held mineral prospecting tools** and the following **mineral prospecting equipment** when **mineral prospecting** without timing restrictions:
 - (a) **Pans**;
 - (b) **Spiral wheels**;
 - (c) **Sluices, concentrators, mini rocker boxes, and mini high-bankers** with **rifle** areas totaling three square feet or less, including **ganged equipment**.
2. You may not use vehicle-mounted winches. You may use one hand-operated winch to move **boulders** or **large woody material** that is not embedded. You may use additional cables, chains, or ropes to stabilize boulders or large woody material that is not embedded.
3. You may work within the **wetted perimeter** only from one half hour before official sunrise to one half hour after official sunset.
4. You may not disturb **fish life** or **redds** within the **bed**. If you observe or encounter fish life or redds within the bed, or actively spawning fish when collecting or **processing aggregate**, you must relocate your operations. You must avoid areas containing live freshwater mussels. If you encounter live mussels during excavation, you must relocate your operations.
5. Rules for excavating:
 - (a) You may excavate only by hand or with **hand-held mineral prospecting tools**.
 - (b) You may not excavate, collect, or remove **aggregate** from within the **wetted perimeter**. See Figures 12 and 13.
 - (c) Only one **excavation site** per individual is allowed. However, you may use a second excavation site as a settling pond. Multiple individuals may work within a single excavation site.
 - (d) You may not stand within, or allow aggregate to enter, the wetted perimeter when collecting or excavating aggregate.

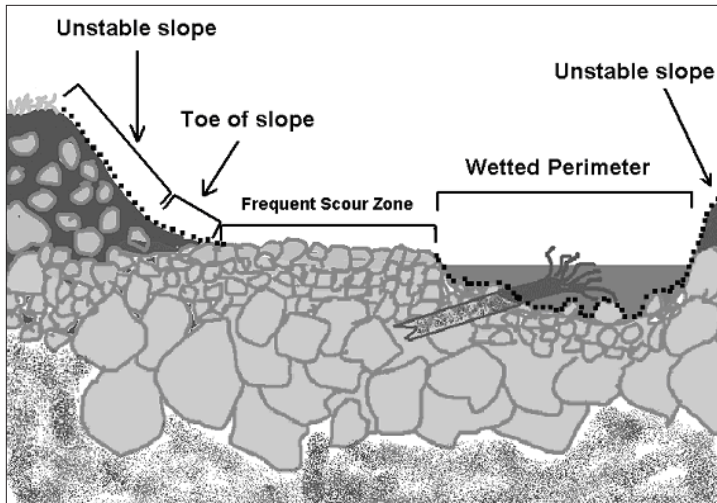


Figure 12. Cross section of a typical body of water, showing areas where excavation is not permitted under rules for mineral prospecting without timing restrictions. Dashed lines indicate areas where excavation is not permitted.

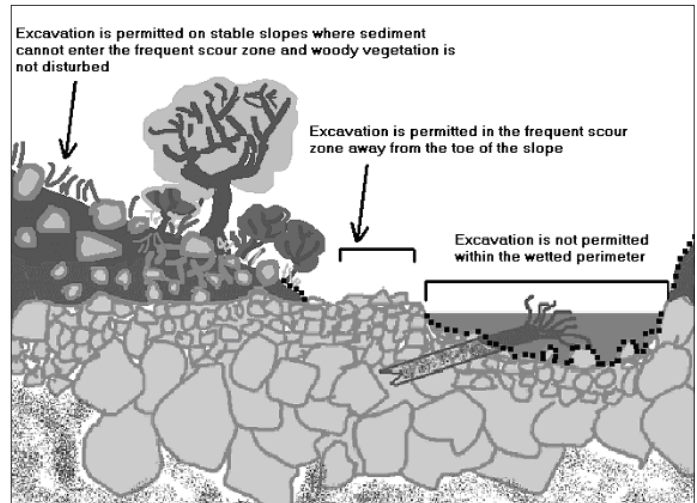


Figure 13. Permitted and prohibited excavation sites in a typical body of water under rules for mineral prospecting without timing restrictions. Dashed lines indicate areas where excavation is not permitted.

- (e) You must fill all excavation sites and level all **tailing** piles prior to moving to another excavation site or **abandoning an excavation site**. If you move **boulders**, you must return them, as best as you can, to their approximate, original location.
 - (f) You may not undermine, move, or disturb **large woody material** embedded in the **slopes** or located wholly or partially within the wetted perimeter. You may move large woody material and boulders located entirely within the **frequent scour zone**, but you must keep them within the frequent scour zone. You may not cut large woody material. See Figure 13.
 - (g) You may not undermine, cut, or disturb live, rooted **woody vegetation** of any kind.
 - (h) You may not excavate, collect, or remove aggregate from the **toe of the slope**. You also may not excavate, collect, or remove aggregate from an **unstable slope** or any slope that delivers, or has the potential to deliver, sediment to the wetted perimeter or frequent scour zone. See Figures 14 and 15.
6. Rules for **processing aggregate**:
- (a) You may stand within the **wetted perimeter** when processing aggregate with **pans, spiral wheels, and sluices**.
 - (b) You may not stand on or process directly on **redds** or disturb incubating **fish life**. You may not allow **tailings**, or visible sediment plumes (visibly muddy water), to enter redds or areas where fish life are located within the **bed**.
 - (c) You may not level or disturb tailing piles that remain within the wetted perimeter after processing aggregate.
 - (d) You must **classify aggregate** at the collection or **excavation site** prior to processing, if you collected or excavated it outside the **frequent scour zone**.
 - (e) You may process only classified aggregate within the wetted perimeter when using a sluice.
 - (f) The maximum width of a sluice, measured at its widest point, including attachments, shall not exceed 25 percent of the width of the wetted perimeter at the point of placement.
 - (g) You may process with a sluice only in areas within the wetted perimeter that are composed primarily of **boulders** and bedrock. You must separate sluice locations by at least 50 feet. You may not place structures within the wetted perimeter to check or divert the water flow.



- (h) You may operate **mini high-bankers** or other **concentrators** only outside the wetted perimeter. You may only supply water to this **equipment** by hand or by a battery-operated pump with a screened intake. You may not allow visible sediment or muddy water to enter the wetted perimeter. A second excavation site may be used as a settling pond.
- (i) Under RCW 77.57.010 and 77.57.070, any device you use for pumping water from fish-bearing waters must be equipped with a fish guard to prevent passage of fish into the pump intake. You must screen the pump intake with material that has openings no larger than 5/64 inch for square openings, measured side to side, or 3/32 inch diameter for round openings, and the screen must have at least one square inch of functional screen area for every gallon per minute (gpm) of water drawn through it. For example, a 100 gpm-rated pump would require at least a 100 square inch screen.
- (j) You may not excavate, collect, remove, or process aggregate within 400 feet of any **fishway**, dam, or **hatchery** water intake.
- (k) You may not disturb existing **habitat improvement structures or stream channel improvements**.
- (l) If at any time, as a result of project activities, you observe a fish kill or fish life in distress, you must immediately cease operations and notify WDFW and the Washington Military Department Emergency Management Division (1-800-258-5990) of the problem. You may not resume work until WDFW gives approval. WDFW may require additional measures to mitigate the prospecting impacts.

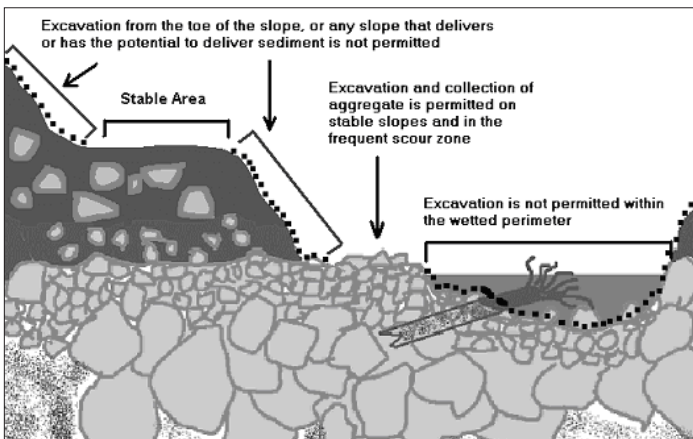


Figure 14. Cross section of a typical body of water, showing unstable slopes, stable areas, and permissible or prohibited excavation sites under rules for mineral prospecting without timing restrictions. Dashed line indicates areas where excavation is not permitted.

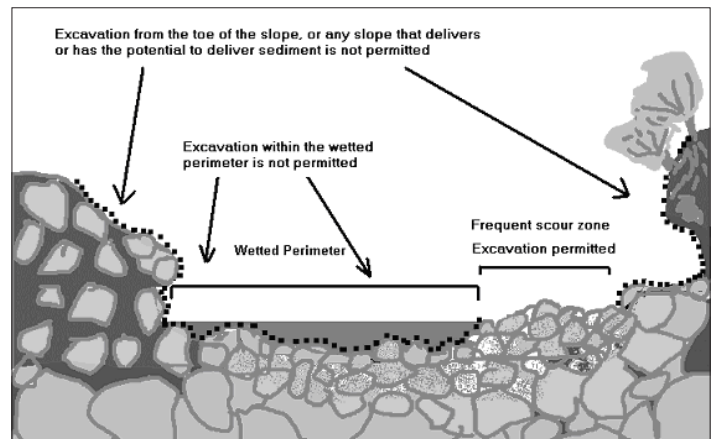


Figure 15. Cross section of a typical body of water showing unstable slopes, stable areas, and permissible or prohibited excavation sites under rules for mineral prospecting without timing restrictions. Dashed line indicates areas where excavation is not permitted.



Mineral Prospecting With Timing Restrictions

You may **mineral prospect** only in the waters, during the times, and with the **mineral prospecting equipment** limitations identified in the table of authorized work times beginning on page 17 of this pamphlet. You must follow the rules listed below, and you must have the rules with you or on the **job site**.

1. You may use only **hand-held mineral prospecting tools** and the following **mineral prospecting equipment** when **mineral prospecting** with timing restrictions:
 - (a) **Pans;**
 - (b) **Spiral wheels;**
 - (c) **Sluices, concentrators, rocker boxes, and high-bankers with riffle areas totaling ten square feet or less, including ganged equipment;**
 - (d) **Suction dredges** should have suction intake nozzles with inside diameters of five inches or less, but shall be no greater than 5¼ inches to account for manufacturing tolerances and possible deformation of the nozzle. The inside diameter of the dredge hose attached to the nozzle may be no greater than one inch larger than the suction intake nozzle size. See Figure 16.
 - (e) **Power sluice/suction dredge combinations** that have riffle areas totaling ten square feet or less, including ganged equipment, suction intake nozzles with inside diameters that should be five inches or less, but shall be no greater than 5¼ inches to account for manufacturing tolerances and possible deformation of the nozzle, and pump intake hoses with inside diameters of four inches or less. The inside diameter of the dredge hose attached to the suction intake nozzle may be no greater than one inch larger than the suction intake nozzle size. See Figure 16.
 - (f) High-bankers and **power sluices** that have riffle areas totaling ten square feet or less, including ganged equipment, and pump intake hoses with inside diameters of four inches or less.
2. The widest point of a **sluice**, including attachments, shall not exceed 25 percent of the **wetted perimeter** at the point of placement.
3. The suction intake nozzle and hose of **suction dredges** and **power sluice/suction dredge combinations** must not exceed the diameters allowed in the listing for the stream or stream reach where you are operating, as identified in the table of authorized work times beginning on page 17 of this pamphlet.
4. You may not use vehicle-mounted winches. You may use one motorized winch and one hand-operated winch to move **boulders** and **large woody material** that is not embedded, and additional cables, chains, or ropes to stabilize them.
5. Equipment separation:
 - (a) You may use **hand-held mineral prospecting tools; pans; spiral wheels; or sluices, mini rocker boxes, or mini high-bankers with riffle areas totaling three square feet or less, including ganged equipment, as close to other mineral prospecting equipment as desired.**
 - (b) When operating any sluice or **rocker box** with a riffle area exceeding three square feet (including ganged equipment), **suction dredge, power sluice/suction dredge combination, high-banker, or power sluice** within the **wetted perimeter**, you must be at least 200 feet from all others also operating this type of equipment. This separation is measured as a radius from the equipment you are operating. You may locate this equipment closer than 200 feet if only one piece of equipment is operating within that 200 foot radius. See Figure 17.
 - (c) When operating any sluice or rocker box with a riffle area



Figure 16. Dredge intake nozzle

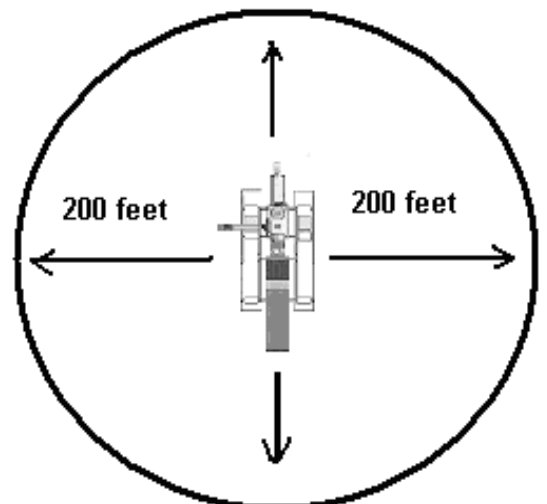


Figure 17. Equipment separation requirement



exceeding three square feet (including ganged equipment), suction dredge, power sluice/suction dredge combinations, high-banker, or power sluice outside of the wetted perimeter that discharges **tailings** or wastewater to the wetted perimeter, you must be at least 200 feet from all others also operating this type of equipment. This separation is measured as a radius from the equipment you are operating. You may locate this equipment closer than 200 feet if only one piece of equipment is operating within that 200 foot radius. See Figure 17.

6. Under RCW 77.57.010 and 77.57.070, any device you use for pumping water from fish-bearing waters must be equipped with a fish guard to prevent passage of fish into the pump intake. You must screen the pump intake with material that has openings no larger than 5/64 inch for square openings, measured side to side, or 3/32 inch diameter for round openings, and the screen must have at least one square inch of functional screen area for every gallon per minute (gpm) of water drawn through it. For example, a 100 gpm-rated pump would require at least a 100 square inch screen.
7. All **equipment** fueling and servicing must be done so that petroleum products do not get into the body of water or frequent scour zone. If a petroleum sheen or spill is observed, you must contact the Washington Military Department Emergency Management Division (1-800-258-5990). You must immediately stop your activities, remove your equipment from the body of water, and correct the source of the petroleum leak. You may not return your equipment to the water until the problem is corrected. You must store fuel and lubricants outside the **frequent scour zone**, and in the shade when possible.
8. You may work within the **wetted perimeter** or **frequent scour zone** only from one half hour before official sunrise to one half hour after official sunset. If your **mineral prospecting equipment** exceeds one half the width of the wetted perimeter of the stream, you must remove the equipment from the wetted perimeter or move it so that a minimum of 50 percent of the wetted perimeter is free of equipment between one half hour after official sunset to one half hour prior to official sunrise.
9. You may not excavate, collect, remove, or process **aggregate** within 400 feet of any **fishway**, dam, or **hatchery** water intake.
10. You must not disturb existing **habitat improvement structures or stream channel improvements**.
11. You may not undermine, move, or disturb **large woody material** embedded in the **slopes** or located wholly or partially within the **wetted perimeter**. You may move large woody material and **boulders** located entirely within the **frequent scour zone**, but you must keep them within the frequent scour zone. You may not cut large woody material.
12. You may not undermine, cut, or disturb live, rooted **woody vegetation** of any kind.
13. Only one **excavation site** per individual is permitted. However, you may use a second excavation site as a settling pond. Multiple individuals may work within a single excavation site.
14. You must fill all **excavation sites** and level all **tailings** piles prior to working another excavation site or **abandoning the excavation site**.
15. You may not excavate, collect, or remove **aggregate** from the **toe of the slope**. You also may not excavate, collect, or remove aggregate from an **unstable slope** or any **slope** that delivers, or has the potential to deliver, sediment to the **wetted perimeter** or **frequent scour zone**. See Figures 18 and 19.
16. You may partially divert a body of water into **mineral prospecting equipment**. However, at no time may the diversion structure be greater than 50 percent of the width of the **wetted perimeter**, including the width of the equipment. You may not divert the body of water outside of the wetted perimeter.
17. You may use materials only from within the **wetted perimeter**, or **artificial materials** from outside the wetted perimeter, to construct the diversion structure by hand. You must remove artificial materials used in the construction of a diversion structure and restore the site to its approximate original condition prior to abandoning the site.
18. You may **process aggregate** collected from the **frequent scour zone**:
 - (a) At any location if you use **pans; spiral wheels; mini rocker boxes; mini high-bankers; or sluices** or other **concentrators** with **rifle** areas totaling three square feet or less, including **ganged equipment**.
 - (b) Only in the frequent scour zone or upland areas landward of the frequent scour zone if you use **power sluice/**

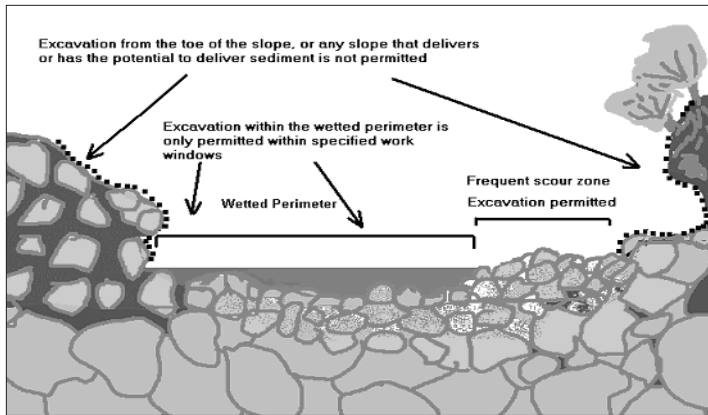


Figure 18. Cross section of a typical body of water showing unstable slopes, stable areas, and permissible or prohibited excavation sites under rules for mineral prospecting with timing restrictions. Dashed line indicates areas where excavation is not permitted.

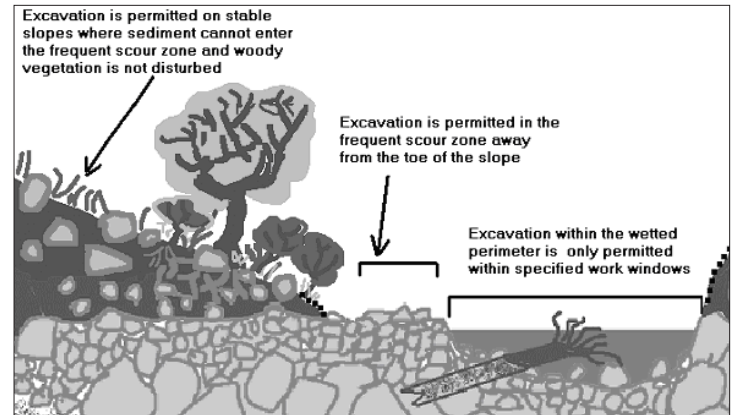


Figure 19. Permitted and prohibited excavation sites in a typical body of water under rules for mineral prospecting with timing restrictions. Dashed lines indicate areas where excavation is not permitted.

suction dredge combinations, high-bankers, or power sluices with riffle areas totaling ten square feet or less, including ganged equipment; or sluices or **rocker boxes** that have riffle areas totaling more than three but less than ten square feet, including ganged equipment. You may not discharge **tailings** to the **wetted perimeter** when using this equipment. However, you may discharge wastewater to the wetted perimeter provided its entry point into the wetted perimeter is at least 200 feet from any other wastewater discharge entry point.

19. You may **process aggregate** collected from the upland areas landward of the **frequent scour zone**:
 - (a) At any location if you use **pans; spiral wheels; or sluices, concentrators, mini rocker boxes, and mini high-bankers** with **riffle** areas totaling three square feet or less, including **ganged equipment**. You must **classify** the **aggregate** at the **excavation site** prior to processing with this equipment within the **wetted perimeter** or frequent scour zone.
 - (b) Only at an upland location landward of the frequent scour zone if you use **power sluice/suction dredge combinations, high-bankers, power sluices, or rocker boxes**. You may not allow **tailings** or wastewater to enter the wetted perimeter or frequent scour zone.
 - (c) Within the wetted perimeter or frequent scour zone with a sluice with a riffle area greater than three square feet. You must classify the aggregate at the excavation site prior to processing with a sluice with a riffle area exceeding three square feet.
20. You may use pressurized water only for **crevicing** or for redistributing dredge **tailings** within the **wetted perimeter**. No other pressurized water use is permitted.
21. You may conduct **crevicing** in the **wetted perimeter**, in the **frequent scour zone**, or landward of the frequent scour zone. The hose connecting fittings of pressurized water tools used for crevicing may not have an inside diameter larger than $\frac{3}{4}$ inch. If you crevice landward of the frequent scour zone, you may not discharge sediment or wastewater to the wetted perimeter or the frequent scour zone.
22. You must avoid areas containing live freshwater mussels. If you encounter live mussels during excavation, you must relocate your operations.
23. You may not disturb **redds**. If you observe or encounter redds or actively spawning fish when collecting or **processing aggregate**, you must relocate your operations.
24. If at any time, as a result of project activities, you observe a fish kill or **fish life** in distress, you must immediately cease operations and notify WDFW and the Washington Military Department Emergency Management Division (1-800-258-5990) of the problem. You may not resume work until WDFW gives approval. WDFW may require additional measures to mitigate the prospecting impacts.



Authorized Work Times

You may conduct **mineral prospecting** and **placer mining** only in the **state waters**, with the **equipment** restrictions, and during the times specified in the following table.

1. The general work time for a county applies to all **state waters** within that county, unless otherwise indicated in the table.
2. The work time for a listed **state water** applies to all its tributaries, unless otherwise indicated. Some state waters occur in multiple counties. Check the listing for the county in which **mineral prospecting** or **placer mining** is to be conducted to determine the work time for that state water.
3. Where a tributary is listed as a boundary, that boundary shall be the line perpendicular to the receiving stream that is projected from the most upstream point of the tributary mouth to the opposite **bank** of the receiving stream. See Figure 20.
4. **Mineral prospecting** and **placer mining** within **state waters** listed as "Submit Application" are not authorized under the **Gold and Fish pamphlet**. A separate, written **HPA** is required for these state waters.
5. **Mineral prospecting** using **mineral prospecting equipment** that has suction intake nozzles with inside diameters that should be four inches or less, but shall be no greater than $4\frac{1}{4}$ inches to account for manufacturing tolerances and possible deformation of the nozzle is authorized only in the listed **state waters**, and any tributaries to them, unless otherwise indicated in the table. The inside diameter of the dredge hose attached to the nozzle may be no greater than one inch larger than the nozzle size.
6. **Mineral prospecting** using **mineral prospecting equipment** that has suction intake nozzles with inside diameters that should be five inches or less, but shall be no greater than $5\frac{1}{4}$ inches to account for manufacturing tolerances and possible deformation of the nozzle is authorized only in the listed **state waters** in the following table. The inside diameter of the dredge hose attached to the nozzle may be no greater than one inch larger than the nozzle size. You may use only mineral prospecting equipment with suction intake nozzle inside diameters of $4\frac{1}{4}$ inches or less in tributaries of these state waters. The inside diameter of the dredge hose attached to the nozzle may be no greater than one inch larger than the nozzle size.

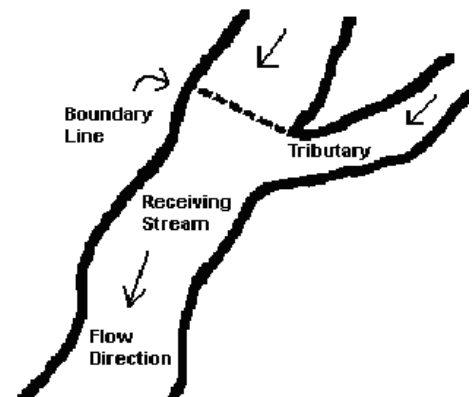


Figure 20. Stream boundary line

Authorized Work Times and Mineral Prospecting Equipment Restrictions by Specific State Waters for Mineral Prospecting and Placer Mining Projects

Washington Counties and State Waters Water Resource Inventory Area (WRIA) in parentheses	Mineral Prospecting Is Allowed Only Between These Dates	State Waters (and tributaries, unless otherwise indicated) in Which You May Use Mineral Prospecting Equipment with a Four and One-Quarter Inch Maximum Suction Intake Nozzle Inside Diameter	State Waters (not including tributaries) in Which You May Use Mineral Prospecting Equipment with a Five and One-Quarter Inch Maximum Suction Intake Nozzle Inside Diameter
Adams County	July 1 - October 31	X	-
Crab Creek (41.0002)	July 16 - February 28	X	X
Esquatel Creek (36.MISC)	June 1 - February 28	X	X
Palouse River (34.0003)	July 16 - February 28	X	X
Asotin County	July 16 - September 15	X	-
Snake River (35.0002)	See below	-	-
Alpowa Creek (35.1440)	July 16 - December 15	X	-
Asotin Creek (35.1716)	July 16 - August 15	X	-
Couse Creek (35.2147)	July 16 - December 15	X	-
Grande Ronde River (35.2192)	July 16 - September 15	X	X
Tennile Creek (35.2100)	July 16 - December 15	X	-
Benton County	June 1 - September 30	X	-
Columbia River	See below	-	-
Glade Creek (31.0851)	August 1 - September 30	X	-
Yakima River (37.0002)	June 1 - September 15	X	X
Amon Creek (37.0009)	June 1 - September 30	X	-
Corral Creek (37.0002)	June 1 - September 30	X	-
Spring Creek (37.0205)	June 1 - September 30	X	-
Chelan County	July 16 - August 15	X	-
Columbia River	See below	-	-
Antoine Creek (49.0294) - Mouth to falls at river mile 1.0	July 1 - February 28	X	-
Antoine Creek (49.0294) - Upstream of falls at river mile 1.0	July 1 - March 31	X	-
Chelan River (47.0052) - Mouth to Chelan Dam	July 16 - September 30	X	X
Colockum Creek (40.0760)	July 1 - October 31	X	-
Entiat River (46.0042) - Mouth to Entiat Falls	July 16 - July 31	X	X
Entiat River (46.0042) - Upstream of Entiat Falls	July 16 - March 31	X	-
Crum Canyon (46.0107)	July 16 - March 31	X	-
Mad River (46.0125)	July 16 - July 31	X	-
Indian Creek (46.0128)	July 16 - February 28	X	-
Lake Chelan (47.0052)	Submit Application	-	-
Railroad Creek (47.0410)	July 16 - September 30	X	-
Stehlekin River (47.0508)	Submit Application	-	-
Twenty-five Mile Creek (47.0195)	July 16 - September 30	X	-
Other Lake Chelan tributaries outside of North Cascades National Park	July 1 - August 15	X	-
Other Lake Chelan tributaries within North Cascades National Park	Submit Application	-	-
Number 1 Canyon (45.0011)	July 1 - February 28	X	-
Number 2 Canyon (45.0012)	July 1 - February 28	X	-
Squilchuck Creek (40.0836) - Mouth to South Wenatchee Avenue	July 1 - September 30	X	-
Squilchuck Creek (40.0836) - Upstream of South Wenatchee Avenue	July 1 - February 28	X	-
Stemilt Creek (40.0808) - Mouth to falls	July 1 - September 30	X	-

Washington Counties and State Waters Water Resource Inventory Area (WRIA) in parentheses	Mineral Prospecting Is Allowed Only Between These Dates	State Waters (and tributaries, unless otherwise indicated) in Which You May Use Mineral Prospecting Equipment with a Four and One-Quarter Inch Maximum Suction Intake Nozzle Inside Diameter	State Waters (not including tributaries) in Which You May Use Mineral Prospecting Equipment with a Five and One-Quarter Inch Maximum Suction Intake Nozzle Inside Diameter
Stemilt Creek (40.0808) - Upstream of falls	July 1 - February 28	X	-
Wenatchee River (45.0030) - Mouth to Lake Wenatchee	July 1 - July 31	X	X
Beaver Creek (45.0751)	July 1 - September 30	X	-
Chiwaukum Creek (45.0700)	July 1 - July 31	X	-
Chiwawa River (45.0759) - Mouth to Phelps Creek	July 1 - July 31	X	X
Chiwawa River (45.0759) - Upstream of Phelps Creek	July 1 - July 31	X	-
Deep Creek (45.0764)	July 1 - February 28	X	-
Phelps Creek (45.0875)	July 16 - August 15	X	-
Icicle Creek (45.0474) - Mouth to Johnny Creek	July 1 - July 31	X	X
Icicle Creek (45.0474) - Upstream of Johnny Creek	July 1 - July 31	X	-
Fourth of July Creek (45.0525)	July 1 - February 28	X	-
Lake Wenatchee (45.0030)	Submit Application	-	-
Little Wenatchee (45.0985) - Mouth to Wilderness Boundary	July 1 - July 31	X	X
Little Wenatchee (45.0985) - Upstream of Wilderness Boundary	Submit Application	-	-
White River (45.1116) - Mouth to White River Falls	July 1 - July 31	X	X
White River (45.1116) - Upstream of White River Falls	July 1 - February 28	X	-
Nason Creek (45.0888)	July 1 - July 31	X	-
Peshastin Creek (45.0232) - Mouth to Negro Creek	July 16 - August 15	X	-
Ingalls Creek (45.0273) - Mouth to Cascade Creek	Submit Application	-	-
Ingalls Creek (45.0273) - Upstream of Cascade Creek	July 16 - February 28	X	-
Negro Creek (45.0323) - Mouth to falls at stream mile 2.9	Submit Application	-	-
Negro Creek (45.0323) - Upstream of falls at stream mile 2.9	July 16 - February 28	X	-
Ruby Creek (45.0318)	July 16 - February 28	X	-
Peshastin Creek (45.0232) - Upstream of Negro Creek	August 1 - February 28	X	-
Tronson Creek (45.0346)	August 1 - February 28	X	-
Scotty Creek (45.0376)	August 1 - February 28	X	-
Shaser Creek (45.0365)	August 1 - February 28	X	-
Clallam County	July 16 - September 15	X	-
Clallam River (19.0129)	August 1 - August 15	X	-
Dungeness River (18.0018)	Submit Application	-	-
Independent Creek (18.MISC)	August 1 - August 31	X	-
Elwha River (18.0272)	August 1 - August 15	X	X
Hoko River (19.0148)	August 1 - September 15	X	-
Jimmycomelately Creek (17.0285)	August 1 - August 31	X	-
Lake Ozette (20.0046)	Submit Application	-	-
Little Quilcene River (17.0076)	July 16 - August 31	X	-
Lake Ozette tributaries	July 16 - September 15	X	-
Lyre River (19.0031)	August 1 - September 15	X	-
McDonald Creek (18.0160)	August 1 - September 15	X	-
Morse Creek (18.0185)	August 1 - August 15	X	-
Ozette River (20.0046)	July 16 - September 15	X	-
Pysht River (19.0113)	August 1 - September 15	X	-

Washington Counties and State Waters Water Resource Inventory Area (WRIA) in parentheses		Mineral Prospecting Is Allowed Only Between These Dates	State Waters (and tributaries) unless otherwise indicated) in Which You May Use Mineral Prospecting Equipment with a Four and One-Quarter Inch Maximum Suction Intake Nozzle Inside Diameter	State Waters (not including tributaries) in Which You May Use Mineral Prospecting Equipment with a Five and One-Quarter Inch Maximum Suction Intake Nozzle Inside Diameter
Burrish Creek (27.0151)		August 1 - August 31	X	-
Bybee Creek (27.0142)		August 1 - August 31	X	-
Canyon Creek (27.0147)		August 1 - August 31	X	-
Coal Creek (25.0340)		July 16 - September 15	X	-
Clark Creek (25.0371)		August 1 - August 31	X	-
Cowlitz River (26.0002) - Mouth to barrier dam at river mile 49.5		July 16 - August 15	X	X
Cowweman River (26.0003) - Mouth to Baird Creek		August 1 - August 31	X	X
Cowweman River (26.0003) - Upstream of Baird Creek		August 1 - August 31	X	-
Cowlitz River (26.0002) - Tributaries below barrier dam to mouth		July 16 - September 30	X	-
Owl Creek (26.1441)		July 16 - September 15	X	-
Toutle River (26.0227)		July 16 - August 15	X	X
North Fork Toutle River (26.0314) - Mouth to debris dam		July 16 - August 15	X	X
North Fork Toutle River (26.0314) - Upstream of debris dam		July 16 - August 15	X	-
Green River (26.0323) - Mouth to Shultz Creek		July 16 - September 30	X	X
Green River (26.0323) - Upstream of Shultz Creek		July 16 - September 30	X	-
South Fork Toutle (26.0248) - Mouth to Bear Creek		July 16 - September 15	X	X
South Fork Toutle (26.0248) - Upstream of Bear Creek		July 16 - September 15	X	-
Tributaries to Silver Lake		July 16 - September 30	X	-
Germany Creek (25.0313)		July 16 - September 15	X	-
Kalama River (27.0002) - Mouth to Kalama Falls		August 1 - August 15	X	X
Kalama River (27.0002) - Upstream of Kalama Falls		August 1 - August 15	X	-
Lewis River (27.0168) - Mouth to East Fork Lewis River		August 1 - August 15	X	X
North Fork Lewis River (27.0334) - Confluence of East Fork to Merwin Dam		August 1 - August 15	X	X
North Fork Lewis River (27.0334) - Merwin Dam to lower falls		July 16 - August 15	X	X
Mill Creek (25.0284)		July 16 - September 15	X	-
Schoolhouse Creek (27.0139)		August 1 - August 31	X	-
Douglas County		July 1 - September 30	X	-
Columbia River *		See below	-	-
Douglas Creek Canyon (44.0146)		May 16 - January 31	X	-
Foster Creek (50.0065)		August 1 - April 15	X	-
McCartney Creek (44.0002)		July 1 - February 28	X	-
Pine/Corbaley Canyon Creek (44.0779)		September 16 - April 15	X	-
Rock Island Creek (44.0630)		July 1 - September 30	X	-
Ferry County		July 1 - August 31	X	-
Columbia River *		See below	-	-
Kettle River (60.0002)		June 16 - August 31	X	X
Boulder Creek (60.0130) - Mouth to Hodgson Road Bridge		Submit Application	-	-
Boulder Creek (60.0130) - Upstream of Hodgson Road Bridge		June 16 - February 28	X	-
Deadman Creek (60.0008) - Mouth to SR395 crossing		Submit Application	-	-
Deadman Creek (60.0008) - Upstream of SR395 crossing		June 16 - February 28	X	-
Goosmus Creek (60.0254)		June 16 - February 28	X	-
Toroda Creek (60.0410)		July 1 - September 30	X	-

Washington Counties and State Waters Water Resource Inventory Area (WRIA) in parentheses	Mineral Prospecting Is Allowed Only Between These Dates	State Waters (and tributaries, unless otherwise indicated) in Which You May Use Mineral Prospecting Equipment with a Four and One-Quarter Inch Maximum Suction Intake Nozzle Inside Diameter	State Waters (not including tributaries) in Which You May Use Mineral Prospecting Equipment with a Five and One-Quarter Inch Maximum Suction Intake Nozzle Inside Diameter
San Poil River (52.0004) *	June 16 - September 30	X	X
Granite Creek (52.0099) - Mouth to Powerhouse Dam	June 16 - September 30	X	-
Granite Creek (52.0099) - Upstream of Powerhouse Dam	June 16 - February 28	X	-
West Fork San Poil River (52.0192) - Mouth to Deep Creek *	June 16 - September 30	X	X
West Fork San Poil River (52.0192) - Upstream of Deep Creek	June 16 - September 30	X	-
Gold Creek (52.0197) *	June 16 - February 28	X	-
Franklin County	June 1 - September 30	X	-
Columbia River	See below	-	-
Snake River	See below	-	-
Palouse River (34.0003)	July 16 - February 28	X	X
North bank tributaries of the lower Snake River between Palouse River and the mouth of the Snake River	June 16 - October 31	X	-
Garfield County	July 16 - September 30	X	-
Snake River (35.0003)	See below	-	-
Alpowa Creek (35.1440)	July 16 - December 15	X	-
Asotin Creek (35.1716)	July 16 - August 15	X	-
Deadman Creek (35.0688)	July 16 - December 15	X	-
Grande Ronde River tributaries (35.2192)	July 16 - August 15	X	-
Meadow Creek (35.0689)	July 16 - December 15	X	-
Tucannon River (35.0009) - Mouth to Panjab Creek	July 16 - August 15	X	X
Tucannon River (35.0009) - Upstream of Panjab Creek	July 16 - August 15	X	-
Pataha Creek (35.0123) - Mouth to Pataha	January 1 - December 31	X	-
Pataha Creek (35.0123) - Upstream of Pataha	July 16 - December 31	X	-
Grant County	July 1 - October 31	X	-
Columbia River *	See below	-	-
Crab Creek (41.0002)	July 16 - September 15	X	X
Grays Harbor County	July 16 - October 15	X	-
Chehalis River (22.0190/23.0190) - Mouth to Porter Creek	August 1 - August 31	X	X
Chehalis River (22.0190/23.0190) - Porter Creek to Fisk Falls	August 1 - August 15	X	X
Chehalis River (22.0190/23.0190) - Upstream of Fisk Falls	August 1 - August 15	X	-
Cedar Creek (23.0570)	August 1 - September 30	X	-
Cloquallum Creek (22.0501)	August 1 - September 30	X	-
Porter Creek (23.0543)	August 1 - September 30	X	-
Satsop River (22.0360)	August 1 - August 31	X	X
Wishkah River (22.0191)	August 1 - October 15	X	X
Wynoochee River (22.0260)	August 1 - September 30	X	X
Copalis River (21.0767)	August 1 - October 15	X	X
Elk River (22.1333)	July 1 - October 31	X	X
Hoquiam River (22.0137)	August 1 - October 15	X	X
Humtulsips River (22.0004) - Mouth to forks	August 1 - September 30	X	X
Humtulsips River (22.0004) - Upstream of forks	August 1 - September 30	X	-
Johns River (22.1270)	August 1 - September 30	X	X
Moclips River (21.0731)	August 1 - October 15	X	X

Washington Counties and State Waters Water Resource Inventory Area (WRIA) in parentheses	Mineral Prospecting Is Allowed Only Between These Dates	State Waters (and tributaries, unless otherwise indicated) in Which You May Use Mineral Prospecting Equipment with a Four and One-Quarter Inch Maximum Suction Intake Nozzle Inside Diameter	State Waters (not including tributaries) in Which You May Use Mineral Prospecting Equipment with a Five and One-Quarter Inch Maximum Suction Intake Nozzle Inside Diameter
North River (24.0034)	August 1 - September 30	X	X
Queets River (21.0001)	August 1 - August 15	X	X
Quinalt River (21.0398)	August 1 - August 15	X	X
Raft River (21.0337)	August 1 - October 15	X	X
Island County	June 16 - October 15	X	-
Cavalero Creek (06.0065)	June 16 - December 15	X	-
Chapman Creek (06.0070)	June 16 - December 15	X	-
Crescent Creek (06.0002)	June 16 - December 15	X	-
Cultus Creek (06.0026)	June 16 - March 15	X	-
Deer Creek (06.0024)	June 16 - March 15	X	-
Dugalla Creek (06.0001)	June 16 - March 15	X	-
Glendale Creek (06.0025)	June 16 - December 15	X	-
Kristoferson Creek (06.0062-06.0063)	May 1 - December 15	X	-
Maxwelton Creek (06.0029)	June 16 - December 15	X	-
North Bluff Creek (06.0006)	June 16 - March 15	X	-
Old Clinton Creek (06.0023)	June 16 - March 15	X	-
Jefferson County	July 16 - October 31	X	-
Big Quilcene River (17.0012) - Mouth to falls	July 16 - August 31	X	X
Big Quilcene River (17.0012) - Falls to forks	August 1 - February 28	X	X
Big Quilcene River (17.0012) - Upstream of forks	August 1 - February 28	X	-
Bogachiel River (20.0162)	Submit Application	-	-
Chimacum Creek (17.0203)	July 16 - September 15	X	-
Donovan Creek (17.0115)	July 1 - October 15	X	-
Dosewallips River (16.0442)	July 16 - August 15	X	-
Duckabush River (16.0351)	July 16 - August 15	X	-
Dungeness River (18.0018)	August 1 - August 15	X	-
Elwha River (18.0272)	August 1 - August 15	X	X
Goodman Creek (20.0406)	August 1 - September 15	X	-
Hoh River (20.0422)	August 1 - August 15	X	X
Little Quilcene River (17.0076)	July 16 - August 31	X	-
Queets River (21.0001)	August 1 - August 15	X	X
Matheny Creek (21.0165)	August 1 - August 15	X	-
Sams River (21.0205)	August 1 - August 15	X	X
Quinalt River (21.0398)	August 1 - August 15	X	X
Salmon Creek (17.0245)	July 16 - August 31	X	-
Skokomish River (16.0001)	August 1 - August 31	X	X
Snow Creek (17.0219)	July 16 - August 31	X	-
Tarboo Creek (17.0129)	August 1 - September 30	X	-
Thorndyke Creek (17.0170)	August 1 - October 15	X	-
King County	July 16 - September 30	X	-
Cedar River (08.0299) - Mouth to forks	August 1 - August 31	X	X
Cedar River (08.0299) - Upstream of forks	August 1 - August 31	X	-

Washington Counties and State Waters Water Resource Inventory Area (WRIA) in parentheses	Mineral Prospecting Is Allowed Only Between These Dates	State Waters (and tributaries), unless otherwise indicated) in Which You May Use Mineral Prospecting Equipment with a Four and One-Quarter Inch Maximum Suction Intake Nozzle Inside Diameter	State Waters (not including tributaries) in Which You May Use Mineral Prospecting Equipment with a Five and One-Quarter Inch Maximum Suction Intake Nozzle Inside Diameter
Issaquah Creek (08.0178)	August 1 - August 31	X	-
Sammamish River (08.0057)	August 1 - August 31	X	-
Steele Creek (08.0379)	July 16 - February 28	X	-
Green River (Duwamish River) (09.0001) - Mouth to Sawmill Creek	August 1 - August 31	X	X
Green River (Duwamish River) (09.0001) - Upstream of Sawmill Creek	August 1 - August 31	X	-
Lake Washington tributaries (08.LKWA)	August 1 - August 31	X	-
Snoqualmie River (07.0219) - Mouth to Snoqualmie Falls	August 1 - August 15	X	X
Snoqualmie River (07.0219) - Snoqualmie Falls to mouth of South Fork	July 16 - February 28	X	X
Patterson Creek (07.0376)	July 16 - September 30	X	-
Middle Fork Snoqualmie River (07.0219) - Mouth to Taylor Creek	July 16 - February 28	X	X
Middle Fork Snoqualmie River (07.0219) - Upstream of Taylor Creek	July 16 - February 28	X	-
Goat Creek (07.0754)	July 16 - February 28	X	-
North Fork Snoqualmie River (07.0527) - Mouth to Lennox Creek	July 16 - February 28	X	X
North Fork Snoqualmie River (07.0527) - Upstream of Lennox Creek	July 16 - February 28	X	-
Deep Creek (07.0562)	July 16 - February 28	X	-
Illinois Creek (07.0624)	July 16 - February 28	X	-
Lennox Creek (07.0596)	July 16 - February 28	X	-
Bear Creek (07.0606)	July 16 - February 28	X	-
Raging River (07.0384)	August 1 - September 15	X	X
South Fork Skykomish River (07.0012) - Mouth to Sunset Falls	August 1 - August 15	X	X
South Fork Skykomish River (07.0012) - Upstream of Sunset Falls	August 1 - August 15	X	-
Beckler River (07.1413) - Mouth to Boulder Creek	August 1 - August 15	X	X
Beckler River (07.1413) - Upstream of Boulder Creek	July 16 - February 28	X	-
Rapid River (07.1461) - Mouth to Meadow Creek	August 1 - August 31	X	X
Rapid River (07.1461) - Upstream of Meadow Creek	August 1 - February 28	X	-
Index Creek (07.1264) - Mouth to Mud Lake Creek	August 1 - August 31	X	-
Index Creek (07.1264) - Upstream of Mud Lake Creek including Salmon Creek	July 16 - February 28	X	-
Miller River (07.1329) - Mouth to forks	August 1 - August 15	X	X
Miller River (07.1329) - Upstream of forks	August 1 - August 15	X	-
Coney Creek (07.1347)	July 16 - February 28	X	-
East Fork Miller River (07.1329) - Mouth to Great Falls Creek	July 16 - August 15	X	-
East Fork Miller River (07.1329) - Upstream of Great Falls Creek	July 16 - February 28	X	-
West Fork Miller River (07.1335)	July 16 - February 28	X	X
Foss River (07.1562) - Mouth to forks	July 16 - August 31	X	X
East Fork Foss River (07.1562) - Mouth to Burn Creek	July 16 - August 15	X	X
East Fork Foss River (07.1562) - Upstream of Burn Creek	July 16 - February 28	X	-
West Fork Foss River (07.1573) - Mouth to falls at river mile 2.0	July 16 - August 31	X	-
West Fork Foss River (07.1573) - Upstream of falls at river mile 2.0	July 16 - February 28	X	-
Money Creek (07.1300) - Mouth to 0.5 mile upstream of Kimball Creek	August 1 - August 31	X	-
Money Creek (07.1300) - Upstream of 0.5 mile upstream of Kimball Creek	August 1 - February 28	X	-
Kimball Creek (07.1301)	August 1 - August 31	X	-
Tye River (07.0012) - Mouth to Alpine Falls	August 1 - August 31	X	X

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Tye River (07.0012) - Upstream of Alpine Falls	July 16 - February 28	X	-
South Fork Snoqualmie River (07.0467)	July 16 - February 28	X	X
Denny Creek (07.0517)	July 16 - February 28	X	-
Tolt River (07.0291) - Mouth to forks	August 1 - August 31	X	X
North Fork Tolt River (07.0291) - Mouth to Yellow Creek	July 16 - September 15	X	X
North Fork Tolt River (07.0291) - Upstream of Yellow Creek	July 16 - February 28	X	-
South Fork Tolt River (07.0302) - Mouth to dam	July 16 - September 15	X	X
South Fork Tolt River (07.0302) - Upstream of Tolt Reservoir	July 16 - February 28	X	-
Yellow Creek (07.0337)	July 16 - February 28	X	-
White River (10.0031)	July 16 - August 15	X	X
Greenwater River (10.0122)	July 16 - August 15	X	X
Kittitas County	July 1 - September 30	X	-
Brushy Creek (40.0612)	July 1 - February 28	X	-
Colockum Creek (40.0760)	July 1 - October 31	X	-
Quilomene Creek (40.0613)	July 1 - October 31	X	-
Stemilt Creek (40.0808) - Upstream of falls	July 1 - February 28	X	-
Tarpiscan Creek (40.0723)	July 1 - February 28	X	-
Tektason Creek (40.0686)	July 1 - February 28	X	-
Whisky Dick Creek (40.0591)	July 1 - February 28	X	-
Yakima River (39.0002) - Roza Dam to Teanaway River	August 1 - August 31	X	X
Naches River (38.0003) - Tieton River to Bumping River	July 1 - August 15	X	X
Little Naches River (38.0852) - Mouth to Matthew Creek	July 16 - August 15	X	X
Little Naches River (38.0852) - Upstream of Matthew Creek	July 16 - August 15	X	-
Pileup Creek (38.0932)	July 16 - August 31	X	-
Gold Creek (38.MISC)	July 16 - February 28	X	-
Swauk Creek (39.1157)	July 16 - September 30	X	-
Baker Creek (39.1157)	July 16 - September 30	X	-
First Creek (39.1157)	July 16 - September 30	X	-
Iron Creek (39.1157)	July 16 - September 30	X	-
Williams Creek (39.1157)	July 16 - September 30	X	-
Boulder Creek (39.1157)	July 16 - February 28	X	-
Cougar Gulch (39.1157)	July 16 - February 28	X	-
Lion Gulch (39.1157)	July 16 - February 28	X	-
Yakima River (39.0002) - Teanaway River to Easton Dam	August 1 - August 31	X	X
Yakima River (39.0002) - Upstream of Easton Dam	August 1 - August 31	X	X
Cle Elum River (39.1434) - Mouth to Dam	July 16 - August 31	X	X
Cle Elum River (39.1434) - Upstream of Cle Elum Dam	Submit Application	-	-
Big Boulder Creek (39.1434MISC)	August 1 - February 28	X	-
Camp Creek (39.1434MISC)	August 1 - February 28	X	-
Fortune Creek (39.1434MISC)	August 1 - August 15	X	-
South Fork Fortune Creek (39.1434MISC)	August 1 - February 28	X	-
Howson Creek (39.1434)	July 16 - February 28	X	-

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Little Salmon Le Sac Creek (39.1482)	August 1 - August 15	X	-
Paris Creek (39.1434MISC)	August 1 - February 28	X	-
Salmon Le Sac Creek (39.1520)	August 1 - February 28	X	-
Kachess River (39.1739) - Upstream of Lake Kachess	Submit Application	-	-
Kachess River (39.1739) - Below dam	July 16 - August 15	X	X
Box Canyon Creek (39.1765)	Submit Application	-	-
Mineral Creek (39.1792)	August 1 - August 15	X	-
Lake Keechelus (39.1842) tributaries	July 16 - August 15	X	-
Gold Creek (Lake Keechelus) (39.1842)	Submit Application	-	-
Manastash Creek (39.0988)	July 16 - September 30	X	-
Naneum Creek (39.0821)	July 16 - September 30	X	-
Taneum Creek (39.1081) - Mouth to I-90	July 16 - August 31	X	-
Taneum Creek (39.1157) - Upstream of I-90	July 16 - September 30	X	-
Teanaway River (39.1236)	July 16 - August 31	X	X
NF Teanaway River (39.1260)	Submit Application	-	-
Umtanum Creek (39.0553)	July 16 - September 30	X	-
Wenas Creek (39.0032) - Below dam	July 16 - October 15	X	-
Wenas Creek (39.0032) - Upstream of Wenas Lake	July 16 - February 28	X	-
Other Yakima River tributaries not listed	July 16 - August 31	X	-
Kitsap County	July 16 - October 15	X	-
Anderson Creek (15.0211)	August 1 - November 15	X	-
Barker Creek (15.0255)	August 1 - September 30	X	-
Big Beef Creek (15.0389)	August 1 - August 15	X	-
Big Scandia Creek (15.0280)	August 1 - September 30	X	-
Blackjack Creek (15.0203)	August 1 - September 30	X	-
Burley Creek (15.0056)	August 1 - September 30	X	-
Chico Creek (15.0229)	August 1 - October 15	X	-
Clear Creek (15.0249)	August 1 - September 30	X	-
Curley Creek (15.0185)	August 1 - September 30	X	-
Dewatto River (15.0420)	August 1 - August 15	X	-
Dogfish Creek (15.0285)	August 1 - September 30	X	-
Gorst Creek (15.0216)	August 1 - August 31	X	-
Grovers Creek (15.0299)	August 1 - September 30	X	-
Johnson Creek (15.0387)	August 1 - October 31	X	-
Ollala Creek (15.0107)	August 1 - September 30	X	-
Ross Creek (15.0209)	August 1 - November 15	X	-
Salmonberry Creek (15.0188)	August 1 - November 30	X	-
Seabeck Creek (15.0400)	August 1 - August 15	X	-
Steele Creek (15.0273)	August 1 - September 30	X	-
Tahuya River (15.0446)	August 1 - August 31	X	X
Union River (15.0503)	August 1 - August 31	X	X
Klickitat County	July 15 - September 30	X	-

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Alder Creek (31.0459)	August 1 - September 30	X	-
Chapman Creek (31.0192)	August 1 - September 30	X	-
Glade Creek (31.0851)	August 1 - September 30	X	-
Juniper Canyon Creek (31.0378)	August 1 - September 30	X	-
Klickitat River (30.0002) - Mouth to Klickitat Hatchery	Submit Application	-	-
Klickitat River (30.0002) - Upstream of Klickitat Hatchery	Submit Application	-	-
Little White Salmon River (29.0131) - Mouth to Cabbage Creek	July 16 - January 31	X	X
Little White Salmon River (29.0131) - Upstream of Cabbage Creek	July 16 - January 31	X	-
Pine Creek (31.0354)	August 1 - September 30	X	-
Rock Creek (31.0014)	August 1 - September 30	X	-
Six Prong Creek (31.0465)	August 1 - September 30	X	-
White Salmon River (29.0160) - Mouth to Cascade Creek	July 16 - August 15	X	X
White Salmon River (29.0160) - Upstream of Cascade Creek	July 16 - August 15	X	-
Wood Gulch Creek (31.0263)	August 1 - September 30	X	-
Lewis County	August 1 - September 30	X	-
Chehalis River (22.0190/23.0190) - Mouth to South Fork Chehalis River	August 1 - August 15	X	X
Chehalis River (22.0190/23.0190) - Upstream of South Fork Chehalis River	August 1 - August 31	X	X
Newaukum River (23.0882) - Mouth to South Fork	August 1 - August 31	X	X
Newaukum River (23.0882) - Upstream of South Fork	August 1 - August 31	X	-
Skookumchuck River (23.0761)	August 1 - August 31	X	X
Cowlitz River (26.0002)	August 1 - August 15	X	X
Cispus River (26.0668) - Mouth to Squaw Creek (26.1010)	August 1 - August 15	X	X
Cispus River (26.0668) - Squaw Creek to Chambers Creek	July 16 - February 28	X	X
Cispus River (26.0668) - Upstream of Chambers Creek	July 16 - February 28	X	-
Yellowjacket Creek (26.0757)	August 1 - August 15	X	-
McCoy Creek (26.0766) - Mouth to lower falls	August 1 - August 15	X	-
McCoy Creek (26.0766) - Upstream of lower falls	July 16 - February 28	X	-
Walupt Creek (26.1010)	Submit Application	-	-
Packwood Lake tributaries	August 16 - September 15	X	-
Tilton River (26.0560) - Mouth to North Fork	August 1 - September 30	X	X
Tilton River (26.0560) - Upsream of North Fork	August 1 - September 30	X	-
Toutle River (26.0227)	August 1 - August 31	X	X
North Fork Toutle River (26.0314)	July 16 - August 15	X	X
Green River (26.0323)	July 16 - September 30	X	X
Deschutes River (13.0028)	July 16 - August 31	X	X
Little Deschutes River (13.0110)	July 16 - February 28	X	-
Nisqually River (11.0008) - Upstream of Alder Lake	July 16 - September 30	X	X
Lincoln County	June 16 - February 28	X	-
Columbia River *	See below	-	-
Hawk Creek (53.0101) - Mouth to falls	June 16 - August 31	X	-
Hawk Creek (53.0101) - Upstream of falls	June 16 - February 28	X	-
Upper Crab Creek (42.0001)	June 16 - February 28	X	-

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Wilson Creek (43.0020)	June 16 - February 28	X	-
Mason County	August 1 - October 15	X	-
Cloquallum Creek (22.0501)	August 1 - September 30	X	-
Coulter Creek (15.0002)	August 1 - August 31	X	-
Dewatto River (15.0420)	August 1 - August 31	X	-
Goldsbrough Creek (14.0035)	August 1 - October 15	X	-
John Creek (16.0253)	August 1 - August 31	X	-
Hamma Hamma River (16.0251) - Mouth to falls	August 1 - August 31	X	-
Johns Creek (14.0049)	August 1 - August 15	X	-
Lilliwaup River (16.0230) - Mouth to falls	August 1 - August 31	X	X
Lilliwaup River (16.0230) - Upstream of falls	August 1 - February 28	X	-
Mill Creek (14.0029)	August 1 - August 15	X	-
Satsop River (22.0360)	August 1 - August 31	X	-
Schaerer Creek (16.0326)	August 1 - August 31	X	-
Sherwood Creek (14.0094)	August 1 - August 15	X	-
Skokomish River (16.0001) - Mouth to forks	August 1 - August 31	X	X
Skokomish River (16.0001) - Upstream of forks	August 1 - August 31	X	-
Tahuva River (15.0446)	August 1 - August 31	X	-
Twanoh Creek (14.0134)	August 1 - October 31	X	-
Union River (15.0503)	August 1 - August 31	X	X
Okanogan County	July 1 - August 15	X	-
Ancas Creek (49.0243) - Mouth to falls	July 16 - August 31	X	-
Ancas Creek (49.0243) - Upstream of falls	July 1 - March 31	X	-
Chewiliken Creek (49.0232) - Mouth to falls	July 16 - August 31	X	-
Chewiliken Creek (49.0232) - Upstream of falls	July 1 - March 31	X	-
Chiliwist Creek (49.0034) - Mouth to falls	July 16 - August 31	X	-
Chiliwist Creek (49.0034) - Upstream of falls	July 1 - March 31	X	-
Foster Creek (50.0065)	July 1 - February 28	X	-
Methow River (48.0007) - Columbia confluence to Twisp River	July 1 - July 31	X	X
Methow River tributaries between Black Canyon Creek and Gold Creek	July 1 - February 28	X	-
Black Canyon Creek (48.0015) - Mouth to Left Fork	Submit Application	-	-
Black Canyon Creek (48.0015) - Upstream of Left Fork	July 1 - February 28	X	-
Gold Creek (48.0104) - Mouth to Foggy Dew Creek	Submit Application	-	-
Foggy Dew Creek (48.0153) - Mouth to Foggy Dew Falls	Submit Application	-	-
Foggy Dew Creek (48.0153) - Upstream of Foggy Dew Falls	July 1 - February 28	X	-
Middle Fork Gold Creek (48.0139)	July 1 - February 28	X	-
North Fork Gold Creek (48.0104)	Submit Application	-	-
Crater Creek (48.0177) - Mouth to Martin Creek	Submit Application	-	-
Crater Creek (48.0177) - Upstream of Martin Creek	July 1 - February 28	X	-
Martin Creek (48.0177)	July 1 - February 28	X	-
South Fork Gold Creek (48.0105) - Mouth to Rainy Creek	Submit Application	-	-
South Fork Gold Creek (48.0105) - Upstream of Rainy Creek	July 1 - February 28	X	-

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Rainy Creek (48.0105)	July 1 - February 28	X	-
McFarland Creek (48.0090) - Mouth to Vinegar Gulch	Submit Application	-	-
McFarland Creek (48.0090) - Upstream of Vinegar Gulch	July 1 - February 28	X	-
Methow River tributaries between Libby Creek and Beaver Creek	July 1 - February 28	X	-
Beaver Creek (48.0307)	Submit Application	-	-
Frazer Creek (48.0309)	July 1 - February 28	X	-
Lightning Creek (48.0361)	July 1 - February 28	X	-
Middle Fork Beaver Creek (48.0307)	July 1 - February 28	X	-
South Fork Beaver Creek (48.0342)	July 1 - February 28	X	-
Libby Creek (48.0203) - Mouth to Hornet Draw Creek	Submit Application	-	-
Libby Creek (48.0203) - Upstream of Hornet Draw Creek	July 1 - February 28	X	-
Methow River (48.0007) - Twisp River to Goat Creek	July 1 - July 31	X	X
Methow River (48.0007) - Upstream of Goat Creek	July 1 - July 31	X	-
Chewuch River (48.0728) - Mouth to Meadow Creek	July 1 - July 31	X	X
Chewuch River (48.0728) - Upstream of Meadow Creek	July 1 - February 28	X	-
Early Winters Creek (48.1408) - Mouth to Silver Star Creek	Submit Application	-	-
Early Winters Creek (48.1408) - Upstream of Silver Star Creek	July 1 - February 28	X	-
Goat Creek (48.1364) - Mouth to 500' upstream of Montana Creek	Submit Application	-	-
Goat Creek (48.1364) - 500' upstream of Montana Creek to Roundup Creek	July 1 - February 28	X	-
Goat Creek (48.1364) - Upstream of Roundup Creek	Submit Application	-	-
Lost River (48.0592)	July 16 - August 15	X	X
Twisp River (48.0374)	July 1 - July 31	X	X
Buttermilk Creek (48.0466)	Submit Application	-	-
North Creek (48.0674)	Submit Application	-	-
North Fork Twisp River (48.0691)	July 1 - February 28	X	-
South Creek (48.0641) - Upstream of Louis Creek	July 1 - February 28	X	-
South Creek (48.0641) - Mouth to Louis Creek	Submit Application	-	-
South Fork Twisp River (48.0698)	July 1 - February 28	X	-
Wolf Creek (48.1300)	Submit Application	-	-
Myers Creek (60.0517)	July 1 - February 28	X	-
Bolster Creek (60.0517)	July 1 - February 28	X	-
Ethel Creek (60.0517)	July 1 - February 28	X	-
Gold Creek (60.0517)	July 1 - February 28	X	-
Mary Ann Creek (60.0517)	July 1 - February 28	X	-
North Fork Mary Ann Creek (60.0517)	July 1 - February 28	X	-
Okanogan River (49.0019) - Mouth to Zosel Dam *	July 1 - August 31	X	X
Antoine Creek (49.0294) - Mouth to velocity gradient at river mile 1.0	July 1 - February 28	X	-
Antoine Creek (49.0294) - Upstream of falls	July 1 - March 31	X	-
Bonaparte Creek (49.0246) - Upstream of falls	July 1 - March 31	X	-
Bonaparte Creek (49.0246) - Mouth to Bonaparte Falls at river mile 1.0	July 1 - February 28	X	-
Loup Loup Creek (49.0048) - Mouth to Loup Loup Falls at river mile 2.4	July 1 - February 28	X	-
Loup Loup Creek (49.0048) - Upstream of Loup Loup Falls at river mile 2.4	July 1 - March 31	X	-

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Mosquito Creek (49.0321) - Mouth to falls	July 1 - August 31	X	-
Mosquito Creek (49.0321) - Upstream of falls	July 1 - March 31	X	-
Nine Mile Creek (49.0516)	July 1 - February 28	X	-
Omak Creek (49.0138) - Mouth to Mission Falls at river mile 5.4 *	July 1 - February 28	X	-
Omak Creek (49.0138) - Upstream of falls *	July 1 - March 31	X	-
Salmon Creek (49.0079) - Mouth to diversion	July 1 - August 31	X	-
Salmon Creek (49.0079) - Upstream of diversion	July 1 - February 28	X	-
Similkameen River (49.0325) - Mouth to Enloe Dam	July 1 - August 31	X	X
Similkameen River (49.0325) - Upstream of Enloe Dam	July 1 - October 31	X	X
Sinlahekin Creek (49.0349) - Mouth to barrier dam at Connors Lake	July 1 - August 31	X	-
Cecile Creek (49.0447)	July 1 - February 28	X	-
Chopaka Creek (49.0357)	July 1 - February 28	X	-
Toats Coulee Creek (49.0368)	July 1 - February 28	X	-
Cougar Creek (49.0368)	July 1 - February 28	X	-
Siwash Creek (49.0284) - Falls to headwaters	July 1 - March 31	X	-
Siwash Creek (49.0284) - Mouth to falls at river mile 1.4	July 1 - February 28	X	-
Tonasket Creek (49.0501) - Mouth to Tonasket Falls at river mile 1.8	July 1 - February 28	X	-
Tonasket Creek (49.0501) - Upstream of Tonasket Falls at river mile 1.8	July 1 - March 31	X	-
Tunk Creek (49.0211) - Mouth to falls	July 1 - February 28	X	-
Tunk Creek (49.0211) - Upstream of falls	July 1 - March 31	X	-
San Poil River (52.0004) *	June 16 - September 30	X	X
West Fork San Poil River (52.0192) *	June 16 - September 30	X	X
Gold Creek (52.0197) *	June 16 - February 28	X	-
Toroda Creek (60.0410)	July 1 - September 30	X	-
Pacific County	August 1 - September 30	X	-
Bear River (24.0689)	August 1 - September 30	X	X
Bone River (24.0405)	August 1 - September 30	X	-
Chehalis River (22.0190/23.0190)	August 1 - August 15	X	X
Columbia River	See below	-	-
Chinook River (24.MISC)	August 1 - September 30	X	X
Grays River (25.0093)	July 16 - September 15	X	X
Naselle River (24.0543)	August 1 - September 15	X	X
Nemah River (24.0460)	August 1 - September 30	X	X
Niawiakum River (24.0417)	August 1 - September 30	X	-
North River (24.0034)	August 1 - September 30	X	X
Palix River (24.0426)	August 1 - September 30	X	-
Willapa River (24.0251)	August 1 - September 30	X	X
Pend Oreille County	July 1 - August 31	X	-
Little Spokane River (55.0003)	August 1 - March 15	X	-
West Branch Little Spokane River (55.0439)	August 1 - March 15	X	-
Harvey Creek (62.0310) - Mouth to Rocky Fork of Harvey Creek	August 1 - August 31	X	-
Harvey Creek (62.0310) - Upstream of Rocky Fork of Harvey Creek	July 16 - February 28	X	-

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Pend Oreille River (62.0002)	Submit Application	-	-
Big Muddy Creek (62.0279)	August 1 - March 15	X	-
Bracket Creek (62.0815)	August 1 - March 15	X	-
Calispel Creek (62.0628)	August 1 - August 31	X	-
Exposure Creek (62.0261)	August 1 - August 31	X	-
Kent Creek (62.0819)	August 1 - March 15	X	-
Le Clerc Creek (62.0415)	August 1 - August 31	X	-
Lime Creek (62.0014)	August 1 - March 15	X	-
Lodge Creek (62.0859)	August 1 - August 31	X	-
Lost Creek (62.0322)	August 1 - March 15	X	-
Marshall Creek (62.0842)	August 1 - March 15	X	-
Pee Wee Creek (62.0007) - Mouth to falls	August 1 - August 31	X	-
Pee Wee Creek (62.0007) - Upstream of falls	August 1 - March 15	X	-
Renshaw Creek (62.0310)	August 1 - March 15	X	-
Sullivan (O'Sullivan) Creek (62.0074)	August 1 - August 31	X	-
North Fork Sullivan Creek (62.0075)	August 1 - August 31	X	-
Tributaries of Deep Creek in Pend Oreille County (61.0195)	July 16 - August 15	X	-
Currant Creek (61.0249)	July 16 - August 15	X	-
Meadow Creek (61.0351)	July 16 - August 15	X	-
Rocky Creek (61.0364)	July 16 - August 15	X	-
Silver Creek (61.0195)	July 16 - August 15	X	-
Smackout Creek (61.0226)	July 16 - August 15	X	-
Pierce County	July 16 - August 31	X	-
Chambers/Clover Creek Watershed (12.MISC)	July 16 - September 30	X	-
Flett Creek (12.0009)	July 16 - October 31	X	-
Leach Creek (12.0008)	July 16 - September 30	X	-
Nisqually River (11.0008) - Mouth to Alder Lake	July 16 - August 31	X	X
Nisqually River (11.0008) - Upstream of Alder Lake	July 16 - September 30	X	X
Mashel River (11.0101) - Mouth to Busy Wild Creek	July 16 - September 30	X	X
Mashel River (11.0101) - Upstream of Busy Wild Creek	July 16 - September 30	X	-
Puyallup River (10.0021) - Mouth to PSE Electron Powerhouse outfall	July 16 - August 31	X	X
Puyallup River (10.0021) - Upstream of PSE Electron Powerhouse outfall	July 16 - August 15	X	X
Carbon River (10.0413)	July 16 - August 15	X	X
Cavada Creek (10.0525) - Mouth to falls about 800 feet upstream	July 16 - August 31	X	-
Cavada Creek (10.0525) - Upstream of the falls	January 1 - December 31	X	-
South Prairie Creek (10.0429)	July 16 - August 15	X	-
Voight Creek (10.0414) - Mouth to falls at river mile 4.0	July 16 - August 31	X	-
Voight Creek (10.0414) - Upstream of falls at river mile 4.0	July 16 - February 28	X	-
White River (10.0031)	July 16 - August 15	X	X
Clearwater River (10.0080)	July 16 - August 15	X	X
Greenwater River (10.0122)	July 16 - August 15	X	X
Huckleberry Creek (10.0253)	July 16 - August 15	X	-

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West Fork White River (10.0186)	July 16 - August 15	X	X
Sequalitchew Creek (12.0019)	July 16 - September 30	X	-
San Juan County	July 1 - August 31	X	-
Cascade Creek (02.0057), Orcas Island - Upstream of lower falls	July 1 - February 28	X	-
Cascade Creek (02.0057), Orcas Island - Buck Bay to falls located approximately 300 feet above mouth	July 1 - October 31	X	-
Doe Creek (02.MISC), San Juan Island - Westcott Bay to falls (approximately 250 feet from mouth)	June 16 - October 15	X	-
False Bay Creek (02.MISC), San Juan Island - Mouth to lake	July 1 - October 31	X	-
Glenwood Springs, Orcas Island - Direct tributary to Eastsound Bay	July 1 - October 15	X	-
Moran Creek (02.MISC), Orcas Island - From Cascade Lake delta upstream 1/4 mile	July 1 - October 15	X	-
Unnamed Creek (02.0041), San Juan Island - Mouth to lake	July 1 - October 15	X	-
Skagit County	August 1 - September 15	X	-
Granite Creek (04.2313) - Upstream of East Creek	July 16 - February 28	X	-
North Fork Stillaguamish River (05.0135) - Mouth to Squire Creek	August 1 - August 15	X	X
North Fork Stillaguamish River (05.0135) - Squire Creek to Cascade Creek	August 1 - August 15	X	-
North Fork Stillaguamish River (05.0135) - Upstream of Cascade Creek	July 16 - February 28	X	-
Samish River (03.0005)	August 1 - September 15	X	-
Skagit River (03.0176/04.0176)	Submit Application	-	-
Baker River (04.0435) - Mouth to Baker Dam	Submit Application	-	-
Cascade River (04.1411)	Submit Application	-	-
Lookout Creek (04.1447)	July 16 - February 28	X	-
Sibley Creek (04.1481)	July 16 - February 28	X	-
Day Creek (03.1435)	July 16 - February 28	X	-
Day Creek (03.0299) - Mouth to Rocky Creek	Submit Application	-	-
Day Creek (03.0299) - Upstream of Rocky Creek	August 1 - February 28	X	-
Finney Creek (04.0392) - Mouth to Big Fir Creek	Submit Application	-	-
Finney Creek (04.0392) - Upstream of Big Fir Creek	July 16 - February 28	X	-
Illabot Creek (04.1346)	Submit Application	-	-
Sauk River (04.0673) - Mouth to forks	Submit Application	-	-
Sauk River (04.0673) - Upstream of forks	August 1 - August 15	X	-
Suiattle River (04.0710)	August 1 - August 15	X	X
Wiseman Creek (03.0280) - Mouth to SR20	Submit Application	-	-
Wiseman Creek (03.0280) - Upstream of SR20	July 16 - February 28	X	-
South Fork Nooksack River (01.0246) - Mouth to falls at river mile 30	August 1 - August 15	X	X
South Fork Nooksack River (01.0246) - Falls at river mile 30 to Wanlick Creek	July 16 - August 15	X	X
South Fork Nooksack River (01.0246) - Upstream of Wanlick Creek	July 16 - August 15	X	-
Skamania County	July 15 - September 15	X	-
Columbia River	See below	-	-
Cispus River (26.0668)	August 1 - August 15	X	X
Cispus River (26.0668) tributaries located in Skamania County	August 1 - October 31	X	-
East Fork Lewis River (27.0173) - Lucia Falls to Sunset Falls	August 1 - February 28	X	X
East Fork Lewis River (27.0173) - Upstream of Sunset Falls	August 1 - February 28	X	-

Washington Counties and State Waters Water Resource Inventory Area (WRIA) in parentheses	Mineral Prospecting Is Allowed Only Between These Dates	State Waters (and tributaries) unless otherwise indicated) in Which You May Use Mineral Prospecting Equipment with a Four and One-Quarter Inch Maximum Suction Intake Nozzle Inside Diameter	State Waters (not including tributaries) in Which You May Use Mineral Prospecting Equipment with a Five and One-Quarter Inch Maximum Suction Intake Nozzle Inside Diameter
Green River (26.0323) (Tributary of North Fork Toutle River)	July 16 - September 30	X	X
Hamilton Creek (28.0303)	August 1 - August 31	X	-
Hardy Creek (28.0303)	August 1 - August 31	X	-
Little White Salmon River (29.0131) - Mouth to hatchery	July 16 - August 15	X	X
Little White Salmon River (29.0131) - Hatchery to Cabbage Creek	July 16 - January 31	X	X
Little White Salmon River (29.0131) - Upstream of Cabbage Creek	July 16 - January 31	X	-
North Fork Lewis River (27.0168) - Merwin Dam to lower falls	July 16 - August 15	X	X
Canyon Creek (27.0442)	July 16 - February 28	X	-
North Fork Lewis River (27.0168) - Upstream of lower falls	July 16 - February 28	X	X
Washougal River (28.0159) - Mouth to Stebbins Creek	August 1 - August 31	X	X
Washougal River (28.0159) - Upstream of Stebbins Creek	August 1 - August 31	X	-
White Salmon River (29.0160) - Mouth to Cascade Creek	July 16 - August 15	X	X
White Salmon River (29.0160) - Upstream of Cascade Creek	July 16 - August 15	X	-
Wind River (29.0023)	August 1 - August 15	X	X
Woodward Creek (28.0298)	August 1 - August 31	X	-
Snohomish County	July 16 - September 15	X	-
Lake Washington tributaries	August 1 - August 15	X	-
Sauk River (04.0673) - Mouth to forks	August 1 - August 15	X	X
Sauk River (04.0673) - Upstream of forks	August 1 - August 15	X	-
Suiattle River (04.0710)	August 1 - August 15	X	X
Snohomish River (07.0012) - Mouth to Highway 9	August 1 - October 31	X	X
Snohomish River (07.0012) - Upstream of Highway 9	August 1 - August 15	X	X
Pilchuck River (07.0125) - Mouth to City of Snohomish diversion dam	August 1 - August 31	X	X
Pilchuck River (07.0125) - City of Snohomish diversion dam to Boulder Creek	August 1 - September 15	X	X
Pilchuck River (07.0125) - Upstream of Boulder Creek	August 1 - September 15	X	-
Skykomish River (07.0012) - Mouth to forks	August 1 - August 15	X	X
Deer Creek (05.0173) - Mouth to stream mile 0.5	August 1 - August 31	X	-
Deer Creek (05.0173) - Upstream of stream mile 0.5	August 1 - February 28	X	-
North Fork Skykomish River (07.0982) - Mouth to Bear Creek Falls	August 1 - August 31	X	X
North Fork Skykomish River (07.0982) - Bear Creek Falls to Deer Falls	August 1 - August 31	X	X
North Fork Skykomish River (07.0982) - Deer Falls to West Cady Creek	August 1 - February 28	X	X
North Fork Skykomish River (07.0982) - Upstream of West Cady Creek	August 1 - February 28	X	-
Howard Creek (07.1042)	July 16 - February 28	X	-
Silver Creek (07.1053) - Mouth to Lake Gulch	August 1 - August 31	X	-
Silver Creek (07.1053) - Upstream of Lake Gulch	August 1 - February 28	X	-
Troublesome Creek (07.1085)	August 1 - February 28	X	-
West Fork Troublesome Creek (07.1092)	August 1 - August 31	X	-
South Fork Skykomish River (07.0012) - Mouth to Sunset Falls	August 1 - August 15	X	X
Beckler River (07.1413) - Mouth to Boulder Creek	August 1 - August 15	X	X
Beckler River (07.1413) - Upstream of Boulder Creek	July 16 - February 28	X	-
Rapid River (07.1461) - Mouth to Meadow Creek	August 1 - August 31	X	X
Rapid River (07.1461) - Upstream of Meadow Creek	August 1 - February 28	X	X

Washington Counties and State Waters Water Resource Inventory Area (WRIA) in parentheses	Mineral Prospecting Is Allowed Only Between These Dates	State Waters (and tributaries, unless otherwise indicated) in Which You May Use Mineral Prospecting Equipment with a Four and One-Quarter Inch Maximum Suction Intake Nozzle Inside Diameter	State Waters (not including tributaries) in Which You May Use Mineral Prospecting Equipment with a Five and One-Quarter Inch Maximum Suction Intake Nozzle Inside Diameter
Sultan River (07.0881) - Mouth to diversion dam at river mile 9.4	August 1 - August 15	X	X
Sultan River (07.0881) - Diversion dam to Elk Creek	July 16 - February 28	X	X
Sultan River (07.0881) - Upstream of Elk Creek	July 16 - February 28	X	-
Wallace River (07.0940) - Mouth to Wallace Falls	August 1 - August 31	X	X
Wallace River (07.0940) - Upstream of Wallace Falls	August 1 - February 28	X	-
Olney Creek (07.0946) - Mouth to Olney Falls	August 1 - August 31	X	-
Olney Creek (07.0946) - Upstream of Olney Falls	August 1 - February 28	X	-
Snoqualmie River (07.0219) - Mouth to falls	August 1 - August 15	X	X
All other Snohomish River tributaries	August 1 - August 31	X	-
Stillaguamish River (05.0001) - Mouth to forks	August 1 - August 31	X	X
North Fork Stillaguamish River (05.0135) - Mouth to Squire Creek	August 1 - August 15	X	X
North Fork Stillaguamish River (05.0135) - Squire Creek to Cascade Creek	August 1 - August 15	X	-
North Fork Stillaguamish River (05.0135) - Upstream of Cascade Creek	July 16 - February 28	X	-
South Fork Stillaguamish River (05.0001) - Mouth to Deer Creek	August 1 - August 15	X	X
South Fork Stillaguamish River (05.0001) - Upstream of Deer Creek	August 1 - August 15	X	-
Spokane County	June 16 - August 31	X	-
Latah Creek (56.0003)	June 16 - August 31	X	-
Little Spokane River (55.0600) - Mouth to Deer Creek	June 16 - August 31	X	X
Little Spokane River (55.0600) - Upstream of Deer Creek	June 16 - August 31	X	-
Spokane River (57.0001)	June 16 - August 31	X	X
Stevens County	July 16 - August 31	X	-
Columbia River	See below	-	-
Big Sheep Creek (61.0150)	July 16 - August 15	X	-
Colville River (59.0002) - Mouth to the falls	July 16 - September 30	X	X
Colville River (59.0002) - Upstream of the falls	July 16 - September 30	X	X
Deep Creek (61.0195)	July 16 - August 15	X	-
Onion Creek (61.0098)	July 16 - August 15	X	-
Sheep Creek (59.0861)	July 16 - September 30	X	-
Lake Roosevelt tributaries from the mouth of the Spokane River to mouth of the Colville River	July 16 - February 28	X	-
Lake Roosevelt tributaries from the mouth of the Colville River north to the B.C. Border	July 16 - February 28	X	-
Tributaries of Little Spokane River (55.0600)	June 16 - August 31	X	-
Calispel Creek (62.0628)	August 1 - August 31	X	-
Other tributaries to the Pend Oreille River in Stevens County	July 1 - August 31	X	-
Thurston County	July 16 - September 15	X	-
Cedar Creek (23.0570)	August 1 - September 30	X	-
Chehalis River (22.0190/23.0190) - Upstream of Porter Creek	August 1 - August 15	X	X
Skookumchuck River (23.0761) - Mouth to Skookumchuck Reservoir	August 1 - August 31	X	X
Skookumchuck River (23.0761) - Upstream of Skookumchuck Reservoir	August 1 - August 31	X	-
Deschutes River (13.0028) - Mouth to Deschutes Falls	July 16 - August 31	X	X
Deschutes River (13.0028) - Upstream of Deschutes Falls	July 16 - August 31	X	-
Ellis Creek (13.0022)	May 16 - September 30	X	-
Little Deschutes River (13.0110)	July 16 - February 28	X	-

Washington Counties and State Waters Water Resource Inventory Area (WRIA) in parentheses		Mineral Prospecting Is Allowed Only Between These Dates	State Waters (and tributaries, unless otherwise indicated) in Which You May Use Mineral Prospecting Equipment with a Four and One-Quarter Inch Maximum Suction Intake Nozzle Inside Diameter	State Waters (not including tributaries) in Which You May Use Mineral Prospecting Equipment with a Five and One-Quarter Inch Maximum Suction Intake Nozzle Inside Diameter
McLane Creek (13.0138)		August 1 - October 31	X	-
Percival Creek (13.0029)		July 16 - August 31	X	-
Nisqually River (11.0008)		July 16 - August 31	X	X
Tributaries of Nisqually River (11.0008)		July 16 - August 31	X	-
Porter Creek (23.0543)		August 1 - September 30	X	-
Schneider Creek (14.0009)		August 1 - October 31	X	-
Waddell Creek (23.0677)		August 1 - September 30	X	-
Woodard Creek (13.0012)		July 16 - August 31	X	-
Woodland Creek (13.0006)		July 16 - September 30	X	-
Wahkiakum County		July 16 - September 15	X	-
Columbia River		See below	-	-
Abernathy Creek (25.0297)		July 16 - September 15	X	-
Deep River (25.0011)		July 16 - September 15	X	X
Elochoman River (25.0236)		July 16 - September 15	X	X
Grays River (25.0093)		July 16 - September 15	X	X
Mill Creek (25.0284)		July 16 - September 15	X	-
Naselle River (24.0543)		July 16 - September 15	X	X
Skamokawa Creek (25.0194)		July 16 - September 15	X	-
Walla Walla County		July 16 - September 30	X	-
Walla Walla River (32.0008) - Mouth to Oregon state line		July 16 - September 15	X	X
Mill Creek (32.1436) - Mouth to Oregon state line		August 1 - August 15	X	-
Touchet River (32.0097) - Mouth to forks		August 1 - August 15	X	X
North Fork Touchet/Wolf Fork (32.0761)		Submit Application	-	-
South Fork Touchet (32.0708)		Submit Application	-	-
Whatcom County		July 16 - August 15	X	-
Damfino Creek (00.0032)		July 16 - August 31	X	-
Nooksack River (01.0120)		July 16 - August 15	X	X
Cascade Creek (02.0057) - Mouth to FR 37		Submit Application	-	-
Cascade Creek (02.0057) - Upstream of FR 37		July 16 - February 28	X	-
Middle Fork Nooksack River (01.0339) - Mouth to City of Bellingham diversion dam		July 16 - August 15	X	X
Middle Fork Nooksack River (01.0339) - Upstream of City of Bellingham diversion dam		Submit Application	-	-
North Fork Nooksack River (01.0120) - Mouth to Nooksack Falls		July 16 - August 15	X	X
North Fork Nooksack River (01.0120) - Upstream of Nooksack Falls		Submit Application	-	-
Barometer Creek (01.0513)		July 16 - February 28	X	-
Ruth Creek (01.0531)		July 16 - February 28	X	-
Swamp Creek (01.0518)		July 16 - February 28	X	-
Wells Creek (02.0057)		Submit Application	-	-
Bar Creek (01.0500)		July 16 - February 28	X	-
South Fork Nooksack (01.0246) - Mouth to Wanlick Creek		August 1 - August 15	X	X
South Fork Nooksack (01.0246) - Upstream of Wanlick Creek		August 1 - August 15	X	-
Samish River (03.0005)		July 16 - August 15	X	-
Skagit River (03.0176/04.0176)		Submit Application	-	-

Washington Counties and State Waters Water Resource Inventory Area (WRIA) in parentheses	Mineral Prospecting Is Allowed Only Between These Dates	State Waters (and tributaries, unless otherwise indicated) in Which You May Use Mineral Prospecting Equipment with a Four and One-Quarter Inch Maximum Suction Intake Nozzle Inside Diameter	State Waters (not including tributaries) in Which You May Use Mineral Prospecting Equipment with a Five and One-Quarter Inch Maximum Suction Intake Nozzle Inside Diameter
Baker River (04.0435) - Mouth to Baker Lake Dam	Submit Application	-	-
Baker River (04.0435) - Baker Lake to national park boundary	Submit Application	-	-
Boulder Creek (04.0499)	July 16 - February 28	X	-
Park Creek (04.0506) - Mouth to fish passage barrier at river mile 1.6	Submit Application	-	-
Park Creek (04.0506) - Upstream of river mile 1.6	July 16 - February 28	X	-
Swift Creek (04.0509) - Mouth to Rainbow Creek	Submit Application	-	-
Swift Creek (04.0509) - Upstream of Rainbow Creek	July 16 - February 28	X	-
Ross Lake (03.0176/04.0176) tributaries	Submit Application	-	-
Ruby Creek (04.2199)	Submit Application	-	-
Canyon Creek (04.2458) - Mouth to Barron Creek	Submit Application	-	-
Canyon Creek (04.2458) - Upstream of Barron Creek and tributaries	October 1 - February 28	X	-
Barron Creek (04.2591)	October 1 - February 28	X	-
Boulder Creek (04.2478) - Mouth to 300 feet upstream	Submit Application	-	-
Boulder Creek (04.2478) - 300 feet upstream of mouth to headwaters	October 1 - February 28	X	-
Friday Creek (04.2549) - Mouth to 300 feet upstream	Submit Application	-	-
Friday Creek (04.2549) - 300 feet upstream of mouth to headwaters	October 1 - February 28	X	-
Holmes Creek (04.2473) - Mouth to 300 feet upstream	Submit Application	-	-
Holmes Creek (04.2473) - 300 feet upstream of mouth to headwaters	October 1 - February 28	X	-
Mill Creek (04.2504) - Mouth to 300 feet upstream	Submit Application	-	-
Mill Creek (04.2504) - 300 feet upstream of mouth to headwaters	October 1 - February 28	X	-
Nickol Creek (04.2476) - Mouth to 300 feet upstream	Submit Application	-	-
Nickol Creek (04.2476) - 300 feet upstream of mouth to headwaters	October 1 - February 28	X	-
North Fork Canyon Creek (04.2583) - Mouth to Elk Creek	Submit Application	-	-
Cascade Creek (04.2584)	October 1 - February 28	X	-
North Fork Canyon Creek (04.2583) - Upstream of Elk Creek	October 1 - February 28	X	-
Slate Creek (04.2557) - Mouth to falls at river mile 0.6	Submit Application	-	-
Slate Creek (04.2557) - Upstream of falls at river mile 0.6	October 1 - February 28	X	-
Granite Creek (04.2313) - Mouth to East Creek	Submit Application	-	-
Granite Creek (04.2313) - Upstream of East Creek and tributaries	October 1 - February 28	X	-
Saar Creek (00.0003)	August 1 - September 30	X	-
Silesia Creek (00.0042) - Canadian Border to Middle Fork	July 16 - August 15	X	-
Silesia Creek (00.0042) - Middle Fork to national park boundary	July 16 - February 28	X	-
Rapid Creek (00.0048)	July 16 - February 28	X	-
West Fork Silesia Creek (00.0044)	July 16 - February 28	X	-
Winchester Creek (00.0045)	July 16 - February 28	X	-
Whitman County	July 16 - December 15	X	-
Snake River (35.0002)	See below	-	-
Alkali Flats Creek (35.0570)	July 16 - December 15	X	-
Almota Creek (35.1017)	July 16 - December 15	X	-
Little Almota Creek (35.1018)	July 16 - December 15	X	-
Palouse River (34.0003) - Mouth to Palouse Falls	July 16 - September 30	X	X
Palouse River (34.0003) - Upstream of Palouse Falls	July 16 - February 28	X	X

Washington Counties and State Waters Water Resource Inventory Area (WRIA) in parentheses	Mineral Prospecting Is Allowed Only Between These Dates	State Waters (and tributaries, unless otherwise indicated) in Which You May Use Mineral Prospecting Equipment with a Four and One-Quarter Inch Maximum Suction Intake Nozzle Inside Diameter	State Waters (not including tributaries) in Which You May Use Mineral Prospecting Equipment with a Five and One-Quarter Inch Maximum Suction Intake Nozzle Inside Diameter
Penewawa Creek (35.0916)	July 16 - December 15	X	-
Wawawi Canyon Creek (35.1165)	July 16 - December 15	X	-
Yakima County	June 1 - September 15	X	-
Glade Creek (31.0851)	August 1 - September 30	X	-
Klickitat River (30.0002)	Submit Application	-	-
Yakima River (37.0002/38.0002/39.0002) - Mouth to Roza Dam	June 1 - September 15	X	X
Ahtanum Creek (37.1382)	June 16 - September 30	X	-
North Fork Ahtanum Creek (37.1382)	Submit Application	-	-
South Fork Ahtanum Creek (37.1382)	Submit Application	-	-
Naches River (38.0003) - Mouth to Tieton River	July 1 - October 15	X	X
Naches River (38.0003) - Upstream of mouth of Tieton River to Bumping River	July 1 - August 15	X	X
Bumping River (38.0998)	July 16 - August 15	X	X
American River (38.1000)	Submit Application	-	-
Gold Creek (38.MISC)	July 16 - February 28	X	-
Kettle Creek (38.1033)	Submit Application	-	-
Miner Creek (38.1027)	July 16 - February 28	X	-
Morse Creek (38.1072) - Mouth to SR410 crossing	August 1 - August 15	X	-
Morse Creek (38.1072) - Upstream of SR410 crossing	August 1 - February 28	X	-
Rock Creek (38.MISC)	July 16 - February 28	X	-
Timber Creek (38.1062)	August 1 - August 15	X	-
Union Creek (38.1045) - Upstream of 500 feet above falls	August 1 - February 28	X	-
Union Creek (38.1045) - Mouth to 500 feet above falls	Submit Application	-	-
Other American River tributaries not listed	August 1 - February 28	X	-
Deep Creek (38.MISC)	Submit Application	-	-
Copper Creek (38.MISC)	August 1 - August 15	X	-
Cowiche Creek (38.0005) - Mouth to South Fork Cowiche Creek	July 1 - September 30	X	-
North Fork Cowiche Creek (38.0008)	July 1 - February 28	X	-
South Fork Cowiche Creek (38.0031) - Mouth to Reynolds Creek	July 1 - September 30	X	-
South Fork Cowiche Creek (38.0031) - Upstream of Reynolds Creek	July 16 - October 31	X	-
Granite Creek (38.MISC)	August 1 - August 15	X	-
Little Naches River (38.0852) - Mouth to Matthews Creek	July 16 - August 15	X	X
Little Naches River (38.0852) - Upstream of Matthews Creek	July 16 - August 15	X	-
Crow Creek (38.0858)	July 16 - August 15	X	-
Nile Creek (38.0692)	July 16 - October 15	X	-
Rattlesnake Creek (38.0518)	July 16 - August 15	X	-
Tieton River (38.0166) - Mouth to Rimrock Dam	July 1 - August 31	X	X
North Fork Tieton River (38.0291) - Below Clear Lake Dam	Submit Application	-	-
North Fork Tieton River (38.0291) - Upstream of Clear Lake	July 1 - August 15	X	-
Clear Creek (38.0317)	July 16 - February 28	X	-
South Fork Tieton River (38.0374) - Below South Fork Falls	Submit Application	-	-
South Fork Tieton River (38.0374) - Upstream of South Fork Falls	July 16 - February 28	X	-
Indian Creek (38.0302)	Submit Application	-	-

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Tributaries of Tieton River below Rimrock Dam		July 16 - February 28	X	-
Umtanum Creek (39.0553)		July 16 - September 30	X	-
Wenas Creek (39.0032)		July 16 - October 15	X	-
Other Yakima River tributaries		July 16 - August 31	X	-
Columbia River		-	-	-
Mouth to the I-205 Bridge		August 1 - March 31	X	X
I-205 Bridge to Bonneville Dam		July 16 - September 15	X	X
Bonneville Dam to Snake River		July 16 - February 28	X	X
Snake River to Priest Rapids Dam		July 16 - September 30	X	X
Priest Rapids Dam to mouth of Crab Creek		July 16 - February 28	X	X
Mouth of Crab Creek to Wanapum Dam		July 16 - September 30	X	X
Wanapum Dam to the SR 285 bridge in South Wenatchee		July 16 - February 28	X	X
SR 285 bridge in South Wenatchee to the SR 2 bridge		July 16 - September 30	X	X
SR 2 bridge to one mile downstream of the Chelan River		July 16 - February 28	X	X
From one mile downstream of the Chelan River to the SR 97 bridge		July 16 - September 30	X	X
From SR 97 bridge to Chief Joseph Dam		July 16 - February 28	X	X
Chief Joseph Dam to Grand Coulee Dam		June 16 - March 31	X	X
Grand Coulee Dam to Canadian border		Submit Application	-	-
All Columbia River tributaries		See county listings	-	-
Snake River		-	X	-
Mouth to Ice Harbor Dam		July 16 - September 30	X	X
Ice Harbor Dam to mouth of Clearwater River		July 16 - March 31	X	X
Mouth of Clearwater River to State Line		August 1 - August 31	X	X
All Snake River tributaries		See county listings	-	-
Lakes		Submit Application	-	-
Salt water		Submit Application	-	-
All waters within Indian tribal reservation, national park, state park, or wilderness boundaries		Submit Application	-	-

* Waters partially or entirely within the Colville Tribal Reservation Lands require written authorization from the Colville Tribe.



Penalties

Under Washington state law (RCW 77.15.300), it is a gross misdemeanor to conduct mineral prospecting activities when a Hydraulic Project Approval (HPA) is required without first having obtained one from the Washington Department of Fish and Wildlife (WDFW). It is also a gross misdemeanor to violate any requirements or conditions of the HPA. The maximum penalty for a gross misdemeanor is imprisonment for one year in jail and a \$5,000 fine.

Under RCW 77.55.291, failure to comply with the provisions of the Gold and Fish pamphlet or the rules it contains could result in a civil penalty of up to an additional \$100 per day. WDFW will impose the civil penalty with an order in writing delivered by certified mail or personal service to the person who is penalized. The notice will describe the violation, identify the amount of the penalty and how to pay the penalty, and identify informal and formal appeal rights for the person penalized. If the violation is an ongoing violation, the penalty shall accrue for each additional day of violation. For ongoing violations, the civil penalty may continue to accrue during any appeal process unless the accrual is stayed in writing by WDFW.

The civil penalty order will be final and unappealable unless it is appealed in a timely manner as described in WAC 220-110-340 or 220-110-350. If appealed, the civil penalty becomes final upon issuance of a final order not subject to any further administrative appeal. When a civil penalty order becomes final, it is due and payable. If the civil penalty is not paid within thirty days after it becomes due and payable, WDFW may seek enforcement of the order under RCW 77.55.291 and 34.05.578.



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Phil Anderson, interim director, Washington Department of Fish and Wildlife. Miranda Wecker, chair, Washington Fish and Wildlife Commission.

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From: "James Buchal" <jbuchal@mbllp.com>
To: <dfgsuctiondredge@dfg.ca.gov>
Date: 12/3/2009 2:27 PM
Subject: Suction Dredge Program Comments
Attachments: Letter Stropher 12-3-09.pdf; CEQA [Additional Comments of The New 49ers].pdf

Comments of The New 49ers, Inc.

From: Carole Caldwell
Sent: Thursday, December 03, 2009 12:09 PM
To: James Buchal
Subject: Suction Dredge Program Comments

Attached as requested.

Carole A. Caldwell

Murphy & Buchal LLP

Attorneys at Law

2000 SW First Avenue, Suite 420

Portland, OR 97201

Tel: 503-227-1011x3

Fax: 503-227-1034

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Murphy & Buchal LLP

2000 S.W. First Avenue, Suite 420
Portland, Oregon 97201

James L. Buchal

telephone: 503-227-1011
fax: 503-227-1034
e-mail: jbuchal@mbllp.com

December 3, 2009

BY FIRST CLASS MAIL AND E-MAIL (dfgsuctiondredge@dfg.ca.gov)

California Department of Fish and Game
Attn: Mark Strother
Suction Dredge Program Comments
601 Locust Street
Redding, CA 96001

Re: *Suction Dredge Program Comments*

Dear Mr. Strother:

Enclosed please find "Additional Comments of The New 49'ers, Inc." pertaining to the scope of the SEIR. We look forward to continuing to work with you to develop a sound CEQA document and environmentally-sound suction dredging program.

Sincerely,

A handwritten signature in black ink, appearing to be 'J. Buchal', written in a cursive style.

James L. Buchal
Counsel to The New 49'ers, Inc.

ADDITIONAL COMMENTS OF THE NEW 49'ERS, INC.

The Fundamental Nature of the Document

The entire premise of the additional CEQA review, as established in the consent decree, was that “new information” had become available as to the significance of the ongoing activities. We strongly suggest that the proper focus of the SEIS should be to assess the significance of the “new information,” not to start from scratch to re-do the 1994 FEIS.

As we have previously noted, we do not believe that any full-blown supplemental EIR is required at all, insofar as the listing of coho salmon species, while arguably “new information,” is not associated with any real-world changes in environmental impact beyond those previously evaluated in 1994. Moreover, there is no additional “new information” of which we are aware meeting the standards in Guideline § 15162 to justify a supplemental EIR, as opposed to an addendum. In particular, we have yet to find evidence of any significant effects which were not discussed in the previous EIR, evidence of substantially more severe effects, or newly-available mitigation measures. To us, the NOP appears as if you have decided to re-evaluate all of the information which was already settled during the earlier EIR, rather than assess the impact of new data.

The 1994 FEIR provides ample consideration of the ongoing impacts of suction dredge mining under the existing regulations; the scope of the SEIS need only consider the “new information” since 1994, and the environmental impacts of any proposed changes to the regulations. As the California courts have explained, even a supplemental EIR is “not an occasion to revisit environmental concerns laid to rest in the original analysis”. *Save our Neighborhood v. Lishman* (2006) 140 Cal. App.4th 1288, 45 Cal. Rptr.3d 306.

The presence of the existing FEIR distinguishes this case from cases such as *Azusa Land Reclamation Co. v. Main San Gabriel Basin Watermaster* (1997) 51 Cal. App.4th 1165, 61 Cal. Rptr.2d 447, in which the absence of an existing EIR provided a rationale for additional environmental analyses even for existing facilities.

We do not believe that the Superior Court and Legislative Assembly’s actions with respect to suction dredge mining, arising by reason of the Department’s failure to complete CEQA processes sooner, have any bearing on the appropriate scope of the environmental analysis required. (*Cf.* NOP at 21.) Rather, we believe that the Department needs to tightly focus this CEQA upon genuinely new information which was not previously considered in the 1994 EIR. A \$60 million industry relies upon the foundations established in the 1994 EIR, which ought not to be disturbed absent any genuine reason to revisit environmental concerns which were exhaustively ventilated in the prior CEQA process.

Issues Concerning the Environmental Baseline

Section 15125 of the CEQA Guidelines sets forth the general rule that environmental conditions existing at the time environmental analysis is commenced “normally” constitute the baseline for purposes of determining whether an impact is significant. Indeed, pursuant to Public Resources Code § 21060.5, the “environment” means “the physical conditions which exist within the area which will be affected by a proposed project”.

Here the Department proposes to adopt a “conservative” approach of using an environmental baseline which assumes no suction dredging in California. We believe this is inconsistent with the definition of the proposed project: “continued implementation of the permitting program, and, if necessary, proposed amendments to the Department’s existing regulations . . .”. (NOP at 2.) A proper baseline approach would assume continued dredging operations at recent permit issuance levels. From that baseline, the Department might appropriately assess impacts of any alternative from no further permits (not legally feasible) to substantial increases in the number of permits.

A large body of law supports the notion that in the context of ongoing and longstanding activities such as suction dredge mining, the baseline analysis should ordinarily evaluate the significance of incremental impacts of any changes in such activity that might result from project changes, *not* the significance of the baseline level of activity. *Cf., e.g., Lighthouse Field Beach Rescue v. City of Santa Cruz* (2005) 131 Cal. App.4th 1170, 31 Cal. Rptr.3d 901 (“the physical impacts of established levels of a particular use have been considered part of the existing environmental baseline”); *Fat v. County of Sacramento* (2002), 97 Cal. App.4th 11270, 119 Cal. Rptr.2d 402 (affirming negative declaration with baseline of existing airport usage); *Save our Peninsula Committee v. Monterey County Board of Supervisors* (2001), 87 Cal. App.4th 99, 104 Cal. Rptr.2d 326 (appropriate to use baseline of existing water usage); *Fairview Neighbors v. County of Ventura*, 70 Cal. App.4th 238, 82 Cal. Rptr.2d 436 (using baseline traffic impacts from “ongoing mining operation”); *Committee for a Progressive Gilroy v. State Water Resources Control Board* (1987) 192 Cal. App.3d 847, 237 Cal. Rptr. 723 (applying “existing facility” categorical exemption).

Where, as here, the question concerns review of a private activity conducted pursuant to private property rights, we believe it would be much more appropriate for the Department to consider the impacts of changes to the activity and new information, not to waste public resources through a “fresh look” from the beginning. For example, in *Bloom v. McGurk* (1994) 26 Cal. App.4th 1307, 31 Cal. Rptr.2d 914, the question concerned “ongoing operation of a medical waste treatment facility under a new regulatory scheme”, and the Court of Appeals rejected attempts to nullify the applicability of a categorical exemption on the basis of the absence of prior environmental documentation.

The choice of an appropriate baseline recognizing ongoing dredging is especially important because the present environmental conditions include the proven positive impacts of suction dredge mining for many years under the existing regulations, and whatever adverse impacts are imagined to arise from many years of suction dredge mining under the existing regulations. Indeed, all or substantially all of the data available to the Department will consist of studies and evaluations of the environmental conditions under ongoing suction dredge mining.

In substance, the Department is proposing to adopt an artificial baseline as to which no real-world data concerning environmental conditions is available. But “[a]n EIR must focus on impacts to the existing environment, not hypothetical situations”. *County of Amador v. El Dorado County Water Agency* (1999) 76 Cal. App.4th 931, 91 Cal. Rptr.2d 66; *see also Riverwatch v. County of San Diego* (1999), 76 Cal. App.4th 1428, 91 Cal. Rptr.2d 322 (trial court “abused its discretion by requiring that the EIR account for prior illegal activity by using an early baseline from which impacts could be measured”).

To the extent that the Department proposes to go forward by imagining a hypothetic set of non-existent physical conditions associated with “no dredging,” it will be especially important to reconstruct those conditions inimical to the salmonid species that are a focal point of the SEIR, and the listing of which provided the legal predicate for the “new information” finding in the Consent Decree. In particular, the Department will be required to assemble historical data concerning the natural, concretized state of the Lower Salmon and other California rivers prior to years of suction dredging, during which time large stretches of the Klamath and other river systems in California contained little or not suitable spawning habitat for salmon species because of the concretized nature of the river bed.¹ The Department should also consider how hypothesized global climate changes would tend to reduce the hydraulic energy available for natural reconditioning of spawning beds, making the adverse impacts of the “no project” condition even more significant.

We do understand that the Guidelines (§ 15125(a)) refer to the physical conditions “at the time the notice of preparation is published”—here October 26, 2009. But the Guidelines also recognize that “[t]his environmental setting will *normally* constitute the baseline physical conditions by which a lead agency determines whether an impact is significant” (*id.*; emphasis added), affording discretion to use common sense to adopt a baseline appropriate to the circumstances. We believe it would be unreasonable for the Department to utilize an environmental baseline premised on a single instant in time, a time of year during which many California rivers and streams are closed to suction dredging. The Department has discretion to adopt a common sense approach based on consideration of baseline suction dredging activity during the dredging season. The

¹ The Department describes suction dredge mining’s impact of loosening spawning gravel only in terms of a potential initial effect of creating unstable spawning areas. There is no empirical evidence whatsoever of any incremental risk of scouring from spawning in suction dredge mining tailings, and any instability from elevated piles (not attractive to the fish in any event), would vanish after the first year, leaving behind useful spawning habitat for many years. (*Cf.* NOP at 39.)

reasonable direction would be to use a baseline which reflects recent suction dredging activity supported by the regulations which are in question.

While we doubt the Department has enough discretion to attempt to re-create imaginary conditions absent ongoing suction dredging, the Department has not articulated, and cannot articulate, any explanation that would support such a deviation. The action of the Superior Court and Legislative Assembly to impose a temporary moratorium on suction dredge mining during the CEQA analysis was plainly not intended to affect the scope of that analysis by creating an entirely distinct environmental baseline. Moreover, the positive impacts of suction dredging will clearly persist through the moratorium, as it takes many years for stream beds to become “concretized” through sedimentation.

The Miners understand that the Department believes its “baseline” approach will provide a “‘fresh look’ at the impacts of suction dredge mining on the environment generally,” but the Department is confusing the question of the environmental baseline with the scope of the project. The Department might properly include a “no project” alternative in the SEIR, but analyze the environmental impacts of such an alternative against the real, existing environmental baseline with ongoing suction dredging.

We are concerned that adoption of an improper baseline imagining no ongoing dredging may lead to improper findings of “significant effects,” which may then require the Department to issue some statement of overriding considerations to outweigh such effects (Public Resources Code § 21081). The Department will have to make special efforts to support such overriding considerations, which will presumably include invaluable assistance to distressed rural economies, with substantial evidence in the record.

We note that the Department proposes to rely upon Appendix G guidelines for ascertaining significance, and note that Appendix G ascribes significance to the “loss of availability of a known mineral resource that would be of value to the region and the residents of the state.” The Department should find that restrictions on suction dredging would give rise to such significant and adverse effect that should outweigh other, lesser factors. It is troubling to see that the Department has not identified “mineral resources” as among the environmental factors potentially affected by the project decisionmaking. (NOP at 28; *see also id.* at 78 (dismissing effects as “less than significant”).) Insofar as there is a very wide range of permit issuance within the scope of the broadly defined “project”—presumably all the way down to no permit issuance—the effects of the loss of ability to mine the last commercially-significant deposits of placer gold cannot be dismissed as insignificant.

Issues Concerning “Deleterious Effect”

The Department correctly recognizes “the common sense meaning of the word deleterious such that deleterious effect generally means a wide-ranging or long-lasting consequence for a fish population that extends beyond the temporal or spatial context of a

specific direct impact”. (NOP at 7.) Here, however, it is important to recognize that the project involves no specific direct impact on any fish species of any practical importance, with direct impacts only upon benthic invertebrates. The Department should reject the notion that a “deleterious impact” might involve any impact whatsoever upon species listed under the state or federal Endangered Species Act, insofar as those statutes merely impose a duty upon the State to avoid jeopardizing the continued existence of the listed species. Rather, the Department should require, consistent with regulatory guidance issued under those statutes, that “deleterious effects” mean an appreciable and negative impact on populations of listed species, similar to the language proposed for non-listed fish species: “a substantial reduction in the range of any species, and/or extirpation of a population”. In focusing upon population-level effects, the Department should not address effects on units of protected species which are any smaller than the management units defined for purposes of the state or federal Endangered Species Act.

Issues Concerning Land Use and Planning

Other commentators have provided the Department with substantial information concerning the federal regulatory scheme for mining on federal land, which describes most suction dredge mining in California. The Appendix G Guidelines ask, among other things, whether the project would “conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project . . .”. The present claim of no conflict with such regulations (NOP at 76) does not appear to take account of federal land management agencies and their mining regulations.

Scope of Literature Reviewed

We understand that the CEQA documents at this stage might necessarily contain more speculative, subjective and qualitative information, to be refined in the course of the study. However, in assessing the significance of asserted impacts, it will be important to have a *quantitative* sense of whether or not suction dredge mining has appreciable impacts on fish populations.

The U.S. Forest Service commissioned such as study, engaging Professor Peter B. Bayley, of the Department of Fish & Wildlife at Oregon State University, to conduct a comprehensive study to assess asserted cumulative impacts on fish populations in the Siskiyou National Forest. His Final Report was issued in April 2003, and represents the only scientific study of which we are presently aware that has attempted to *measure* the asserted cumulative impacts of suction dredge mining (as opposed to merely speculating about possible effects in a qualitative manner). He concluded:

“Localized, short-term effects of suction dredge mining have been documented in a qualitative sense. However, on the scales occupied by fish populations such local disturbances would need a strong cumulative intensity of many operations to have a measurable effect. Local information reveals that most suction dredge miners adhere more or less to guidelines that have recently been formalized by the Forest Service and generally in . . . Oregon, but there are

individual cases where egregious mismanagement of the immediate environment has occurred, particularly with respect to damaging river banks in various ways. This analysis cannot account for individual transgressions, and a study to do so at the appropriate scale would be very expensive if feasible.

“Given that this analysis could not detect an effect averaged over good and bad miners and that a more powerful study would be very expensive, it would seem that public money would be better spent on encouraging compliance with current guidelines than on further study”.

This study corroborated the findings of numerous prior cumulative impact studies, all of which have previously been submitted to the Department in response to its October 2007 request for information. We trust that by the time the draft SEIR is issued, the Bayley study and other submitted materials will find their place above the more speculative references presently cited by the Department. *Cf., e.g.*, NOP at 95 (referencing “invertebrate productivity in subtropical black-water rivers”), 101 (fish behavior on “tropical reef”).

California Department of Fish and Game

DFG 11/26,02

601 Locust Street

Redding Ca 96001

Attn: Mark Stopher

My name is James Lambert. I have been prospecting and mining for Gold since 1969. I have several mining claims in California and have prospected in the American River, Yuba River and Feather River basins.

Thank you for the opportunity to provide input to this important issue regarding the future of suction dredge mining in California.

Existing DFG regulations and permitting processes regarding suction dredge mining provide strict guidelines regarding the use of suction dredges. These guidelines describe locations, time of use, methods, dredge size limitations and other valuable information designed to protect the natural habitat. Along with the DFG dredge permitting process, the US Forest Service requires a Notice of Operation to be submitted by miners describing their operation, environmental impacts and mitigation measures for any mining operation. If the aforementioned regulations are followed it would seem there already adequate measures in place to protect the environment.

Regarding suction dredge mining impacts on the environment, I offer the following comments.

1. Having mined for 40 years primarily on one creek, I have observed firsthand the positive benefits that dredging can have:

a. Holes dredged out during the summer become refuge for trout and other aquatic life in the fall when the water is low and warm. The holes are usually dredged in compacted gravel where the water is too shallow to provide fish haven. The dredge holes provide cooler water, safe haven and a nurturing environment for the fish.

b. Dredging not only collects gold for me, it also pulls up lead, mercury, and other metals not native to the creek. Over the years I have collect in excess of 40 pounds of lead and at least a pound of mercury along with other metals. All of these items have been disposed of in an environmentally safe manner.

Thank you

c. As mining claims do not prohibit others from hiking, fishing or camping on the property, I also do the cleanup behind the people who leave their trash behind. Over the years I have removed hundreds of pounds of trash from my claims. I have also extinguished campfires that careless campers left smoldering. These instances are documented with the Forest Service.

d. On my mining claims you cannot tell that any mining was done. The creek is clean and pristine with no evidence of my footprint.

2. My comments regarding future regulations.

a. My claim is on a tributary of the Middle Fork of the American river. Downstream of my claim is Inner bay dam and reservoir then the Ox Bow reservoir behind Ralston Dam. Below these are Folsom Lake behind Folsom Dam and Nimbus Lake behind Nimbus Dam. No anadromous fish species make it past Nimbus Dam. How can suction dredging 40 miles upstream have any impact on migratory fishes below these four dams?

b. During the high water events of 2006, in excess of 100,000 cfs were flowing into Folsom lake. I had an opportunity on the day of the peak flows to drive up to my claim and see the creek. On the way I crossed the American river several times. My observations as follows: On my claim the creek was flowing approximately 15 feet above normal summer flow and the roaring of the water could be heard a half mile away. The water was chocolate brown and filled with whole trees with root balls attached. The sound of huge boulders rolling along the bottom of the creek was awe inspiring. Along the American river it was the same scene, river chocolate brown, full of trees and roaring like a freight train. In the spring when I returned to my claim the changes were astounding. Huge boulders that had been in place for years were several hundred yards downstream from their original positions. Trees were laying across the creek in a 'pickup sticks' haphazard fashion. Existing gravel bars were gone and new ones formed. As you know these high water events do not occur every year, but in my years on my claim I have witnessed similar events many, many times. How can the impact caused by a suction dredge even begin to compare with the power of Mother Nature?

c. Future regulations need to take a closer look at the nozzle size allowed on dredges, the particular creek or river being worked and the time frame in which dredging is allowed. Obviously all creeks and rivers are not the same.

d. You may want to review the study completed by the Washington Department of Ecology titled: " Effects of Small-Scale Gold Dredging on Arsenic, Copper, Lead and Zinc Concentrations in the Similkameen River. " Based on analyzing 14 effluents and 27 plume samples, it appears that small-scale gold dredges have little or no potential to cause exceedances of aquatic life criteria in the Similkameen River."

I look forward to the opportunity to review the draft EIR.

Please send a copy to me at:

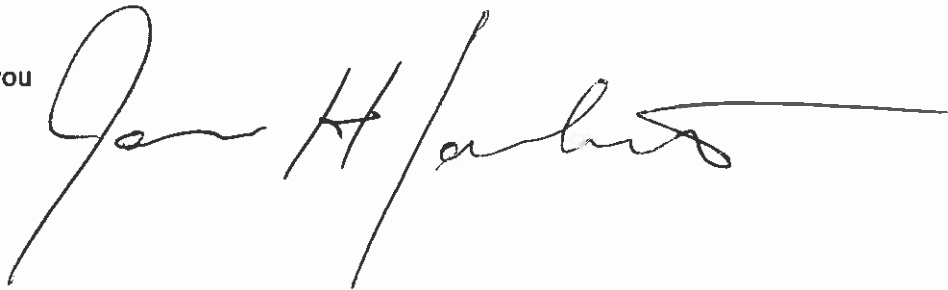
James H. Lambert

Lambert Dredge Mining Company

6215 Happy Pines Dr.

Foresthill Ca. 95631

Thank you

A handwritten signature in black ink, appearing to read "Jan H. [unclear]". The signature is written in a cursive style with a long horizontal stroke extending to the right.

SUCTION DREDGE PERMITTING PROGRAM
Subsequent EIR - CEQA Scoping Comment Form

Name:	James M Doyle
Mailing Address:	HC4 Box 905
	Forks of Salmon, CA 94031
Telephone No. (optional):	530 462-4485
Email (optional):	n/a

Comments/Issues:	<p>we dredged 5 oz's of gold prior to the shutdown and feel we could have done better during the closed part of the season.</p> <p>as we own Cecilville (Doyle's Camp) we had a dramatic loss of revenue from our Trailer park, Bar, Restaurant and Grocery store. This should have been a major part of our yearly income as we are open 6 months a year.</p> <p>I have mined on and off since the early 60's in Calif. and Oregon and seeing the price of gold up, invested a substantial amount in equip. and gold claims.</p> <p>I feel we are being persecuted by unknowable people pursuing their own goals.</p> <p align="right"><i>James M Doyle</i></p>
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Please use additional sheets if necessary.

SUBMIT WRITTEN COMMENTS (POSTMARKED BY 12/03/09) TO:

Mail: Mark Stopher
California Department of Fish and Game
601 Locust Street
Redding, CA 96001

Email: dfgsuctiondredge@dfg.ca.gov

Website: www.dfg.ca.gov/suctiondredge

Questions? Please call us at (530) 225-2275

In regards to sections and tables in the 2009 EIR **California Department of Fish and Game SUCTION DREDGE PERMITTING PROGRAM**

Literature Review on the Impacts of Suction Dredge Mining in California I have found items that need clarification.

I have been a recreational gold miner for 35 years (meaning I worked a full time job as a engineer and prospected for gold on weekends and vacations).

Currently retired, I spend my time mining, inventing, researching and educating in the mining arena.

I have currently read part of the way through the document and found some areas in need of work or explanation.

During the reading, I noted that in the body of the text it stated that references were made from the SWRCB workshop in 2007. I have read almost all of the roughly 199 papers submitted from the workshop. Some important documentation from several of those papers are not included in this report. I will be covering those aspects with the documents originators so they may submit current information.

I wanted to break this down in small quantities of data that would be more manageable. Trying to comment on 122 pages or so of documentation would be far too extensive to digest and some important data could be lost or mixed up inadvertently.

Other recommendations will be covered later. I will keep them brief and the numbers few.

All of my dredging experience is with dredges 2" through 5". Also, as a fact check, I consulted with experienced miners who operate dredges 6" and larger. They concurred with my findings as the figures scale up in proportion to the nozzle size.

Table 2.1 and section 2.1.2 are my starting points.

Table 2.1

In regards to dredge capacity the cubic yards per hour given as specifications by the dredge manufacturer and listed on said charts were originally developed as tools to sell dredges.

If one were to dredge what would be called flow sand, where all the particles are of a uniform size, you could expect to attain close to the results listed per the manufacturer's specifications.

Flow sand would be where a very large quantity of uniform sand is deposited in an area. Paying quantities of gold is not found in flow sand.

If each grain were the size of a grain of rice, corn, or a pea, one would expect to meet the manufacturer's specifications of cubic yards per hour.

In reality, and as I stated previously, in the 1990 ERA studies the specified measurements are far from accurate.

If one were to dredge a hole 3' x 3' x 3' deep with a 2" dredge the amount of uniform particles the size of a pea or less would only compromise a very small portion of the volume. On average there would be a wide mixture of various sized material removed from the hole, mostly larger than the recommended nozzle size.

One would expect to see about a gallon of material small enough to be consumed by the 2" dredge nozzle. Materials larger than 1 7/8" would clog the nozzle. Note all dredge nozzle's have a hose that has a taper or ring at the input that restricts material size to reduce, but not eliminate clogging.

The bulk of the material in the 3' x 3' x 3' hole would be composed of material larger than the nozzle limits. The majority of the material will be cobble 2.5 to 10" and boulders 10.1" and larger per the Phi scale.

These are all averages as one cannot perceive what is waiting in the mix of streambed materials. Occasionally larger boulders 3' to 5' in diameter are encountered requiring considerable time to remove all of the rocks that are pinning it by dredging and hand removal.

On average with my 2" dredge I spend about 20 to 35 % of the time actually dredging while the rest of the time is spent manually moving oversized materials. No matter what size dredge one is running, there are many hours spent during the day not sucking up sediment.

The averages are true of my 5" dredge. A majority of the rocks in the bed are larger than the 4" welded restriction ring. While you can move more material through this nozzle, the 2 through 10 cubic yards per hour is greatly exaggerated in real time dredging activity.

Yes, you will move a lot of material 4" and smaller, but you also end up with more hose and nozzle plug ups when 2 or more rocks wedge together blocking the flow. Clearing these blockages usually requires reducing the engine speed or shutting down the dredge to free the rocks. One may spend from 3 to 10 minutes locating and clearing a blockage before returning to dredging. With a 5 inch dredge plug ups can happen several times or more an hour. Mostly these plug ups happen because of the increased flow in the hose, cobble collides faster and jams easier. Many novice dredgers try to run their engines at full speed, this condition adds to the number of rock jams in the hose. An experienced dredger will run the engine at 60 to 70 percent capacity. This reduces the flow rate in the

suction hose but also reduces the number of plug ups. By running the engine at reduced speed production is cut down considerably from the manufacturer's specifications. Also, this dredger will consume less energy than the one running the engine at full speed.

A small portion of the cobbles will fit into the 4" ring in the dredge nozzle but once again the majority of the material will be larger cobbles and boulders which all will need to be manually moved via human exertion or winching. Due to the weight of the boulders one may spend from 20 minutes up to several hours a day moving a significant size boulder. All of this activity takes time away from the cubic yards per hour that the dredge is rated as.

A dredge manufacturer in order to stay competitive with others utilizes flow sand or uniform particle size to show what the maximum capacity their equipment is capable of in perfect conditions.

You can compare this to the automotive industry that utilize specific road, wind and speed conditions to determine the maximum MPG of their vehicles. In real time these vehicles never encounter the exact parameters used and mileage varies to the negative side of their specs. Nor do the specifications for dredges meet real world conditions.

The 6" and larger dredges are not generally used by recreational miners due to cost, size, weight, and difficulty moving them into a dredging area.

Dredges of that size are transported into and assembled onsite in a dredging area which may take days to accomplish depending on the difficulty of access. These dredges will stay in place for extended periods of time up to an entire dredging season.

Recreational and small time professional dredgers tend to dredge from one day up to 2 weeks in an area and a 6" or greater dredge would make this venture economically impossible. Most of the miner's vacation or allotted time for dredging would be taken up by the transport, assembly, disassembly and removal of the dredge. This would limit the actual time where the dredging activity could be preformed.

Section 2.1.2 states: "The commercial availability of suction dredges makes it possible to excavate tons of sediment per hour from a river or stream in a recreational quest for gold."

This statement links back to table 2.1, dredge capacity. It might have some possibility of truth for a commercial dredging operation who utilize a 6" or larger dredge, but for the recreational miner at which that statement was directed, there is no possible way that a 5" or smaller dredge would be capable of moving TONS of sediment per hour.

As a gold miner for the last 35 years, operating dredges ranging from 2" to 5" I have never encountered a situation were I was capable of moving TONS of sediments.

I am a member of 4 mining clubs and have an association with miners in many states including Alaska. In no instance have I ever observed nor heard of someone with a 5" or smaller dredge moving TONS of sediment.

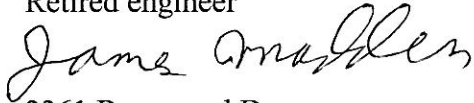
Sections 2.2 and 2.1.2 of the Draft EIR should be amended to reflect actual data from real world production figures and eliminate the manufacturers specifications as the information in their tables are bent to the high side in order to compete with other manufacturers.

And finally one additional point/

In the draft EIR hydraulic mining is talked about and data used therein. This type of mining was banned and for good reason. It should not be used to illustrate or utilize data from its operations with regard to suction dredging. The two practices stand independent of each other and no factual data pertaining to suction dredging can thereby be derived from studies on hydraulic mining.

I request that any references to hydraulic mining be eliminated from this study. The inclusion of this data confuses the reader into thinking that hydraulic mining and suction dredging are similar in nature.

James Madden
Retired engineer

A handwritten signature in cursive script that reads "James Madden".

2361 Rosewood Dr.
San Bruno, CA 94066
650 589 8081

From: "Jim and Carol Mangels" <jcmangels@comcast.net>
To: <dfgsuctiondredge@dfg.ca.gov>
Date: 11/10/2009 12:36 PM
Subject: Comments to the proposal

Dear Sirs:

I wish to add my comments to the proposal on the Subsequent Environmental Impact Report as part of the legislation of SB670, involving suction dredge mining in California.

I believe it is imperative that current scientific studies are performed on the impacted stream beds as a result of suction dredge mining, prior to drafting a Subsequent Environmental Impact Report. This data should be included in the SEIR report. Unless, the SEIR includes scientific studies which assesses the impact of suction dredge mining on the stream bed, and thus, to the fishery of California, the report will be incomplete and not valid.

The SEIR should include data that measures or monitors changes in the amount of algae, changes in the amount of plant life, changes in aquatic insect life, and changes in various physical characteristics in water, ie., pH, dissolved oxygen levels, total nitrogen, total phosphorus, that may or may not occur during suction dredge mining. These are indicators of stream bed health, and to the health of the fishery.

The fishery and the health of the impacted stream beds in California depend on a accurate and valid SEIR report--not an expedient report that only uses "available" information.

Thank you,

James Mangels
2311 Tucker Court
Santa Rosa, CA 95403

For DEQ Use Only
Date Permit Issued
File No.



State of Oregon
Department of Environmental Quality
 811 SW 6th Avenue, Portland, OR 97204
 General Information: (503) 229-5696
 Toll-free within Oregon: (800) 452-4011
 Fax: (503) 229-6124

For DEQ Use Only
Date
Amount Received
Check No.

APPLICATION FORM

Oregon DEQ 700-PM General Permit

The applicant must provide all requested information for this application to be considered complete. An application that is incomplete or unsigned will be returned to the applicant to complete. Application submittal and permit issuance information is provided on page 2.

Applicant Name: _____

Mailing Address: _____

Street Address _____

City _____ State _____ Zip Code _____

Contact Information: _____

Telephone _____ Alternate Telephone/Mobile _____

Email Address _____

Suction Dredge Information: _____

If you have more than one dredge, list the largest inside hose diameter and horsepower rating)

Suction hose inside diameter: _____ inches

Engine rating: _____ horsepower

Signature _____

Signature _____ Date _____

Important!

A separate Recreational/Small Scale Placer Mining *General Authorization* or a Removal/Fill *Permit* is required from the Oregon Department of State Lands for Recreational/Small Scale Placer Mining within Essential Salmon Habitat. Please contact DSL at (503) 986-5200 or <http://www.statelandsonline.com> for information regarding suction dredge requirements in Essential Salmon Habitat waterbodies.

Permit Fees: SEND CHECK OR MONEY ORDER PAYABLE TO DEQ WITH SIGNED APPLICATION

Amount Enclosed: ☐ Annual Fee: \$25 per year

Send Completed Application and Annual Permit Fee to:
 Oregon Department of Environmental Quality
 Attn: Business Office
 811 SW Sixth Avenue, Portland OR 97204
 (503) 229-6114 | (800) 452-4011

Print Form

Permit Number: 700-PM
Expiration Date: June 30, 2010
Page 1 of 10

GENERAL DISCHARGE PERMIT

Department of Environmental Quality
811 SW Sixth Avenue
Portland, OR 97204
Telephone: (503) 229-5279

Issued pursuant to ORS 468B.050 and section 402 of The Federal Clean Water Act

ISSUED TO:**SOURCES COVERED BY THIS PERMIT:**

This permit covers suction dredges not to exceed 30 horsepower with an inside diameter suction hose no greater than 6 inches that are used for recovering precious metals or minerals from stream bottom sediments.

Lauri Aunan, Administrator
Water Quality Division

Date

SCOPE OF PERMITTED ACTIVITIES

This 700-PM General Discharge Permit replaces 700-J issued in 1999, and the Mutual Agreement and Order Number WQ/I-ER-02-114. Until this permit expires or is modified or revoked, the registrant of this permit is authorized to operate a suction dredge in waters of the state in accordance with all the requirements, limitations, and conditions set forth in the attached schedules as follows:

	<u>Page</u>
Schedule A - Discharge Limitations.	4
Schedule B - Monitoring Requirements.	4
Schedule C - Special Conditions.	5-8
Schedule D - General Conditions.	8-10

DEFINITIONS

1. *Background Turbidity* means turbidity that represents the ambient, undisturbed turbidity as measured or observed at least 10 feet upstream from the suction dredge operation at the time dredging occurs.
2. *Visible Turbidity* means turbidity that is distinctly visible when compared to background turbidity.
3. *DEQ* or *Department* means Oregon Department of Environmental Quality.
4. *Gravel Bar* means a transitional gravel deposit that lacks any rooted vegetation, located either between the stream banks and the wet perimeter of the stream or entirely within the wet perimeter of the stream..
5. *OAR* means Oregon Administrative Rule.
6. *ODFW* means Oregon Department of Fish and Wildlife.
7. *Stream bank* means a slope of land adjoining and confining a stream channel.
8. *Wet perimeter* means the area of the stream that is underwater, or is exposed as a non-vegetated dry gravel bar island surrounded on all sides by actively moving water at the time suction dredging occurs.

HOW TO APPLY FOR COVERAGE UNDER THIS GENERAL PERMIT

Persons Seeking Coverage Under This 700-PM General Permit (2005-2010)

1. Suction dredge operators can obtain coverage under this General Permit by the following steps:
 - a. Obtain a DEQ application form by:
 - i. Mail or in person from the DEQ regional offices provided in Schedule C, or
 - ii. Downloading the application from the DEQ website.
 - b. Submit a completed application to DEQ or other DEQ agent, requesting coverage under this permit at least thirty days prior to the planned activity. The Department may accept applications filed less than thirty days from the planned activity on a case by case basis.
 - c. Submit all applicable fees with the application. DEQ or another DEQ agent will review the application information and will take one of the following actions:
 - i. Issue written notice of approval.
 - ii. Request additional information.
 - iii. Deny coverage under this permit. The applicant will be notified if the applicant's operation cannot be approved for coverage under the General Permit, and that the applicant may need to obtain an individual permit.

Persons Seeking Coverage to Renew This 700-PM General Permit After 2010

1. Assignment under this General Permit is valid until the expiration date provided on the cover page (unless terminated or extended under Other Applicable Conditions below). Suction dredge operators requiring renewal of this General Permit must renew coverage by the following steps:
 - a. Submit a complete renewal application form to DEQ or a DEQ agent no later than February 1, 2010, 180 days prior to the expiration date of this permit indicated on the cover page. The DEQ Director may grant permission to submit the application less than 180 days in advance but no later than the permit expiration date.
 - b. Submit all applicable fees with the permit renewal application.
2. DEQ or another DEQ agent will review the application and will take one of the following actions:
 - a. Issue written notice of approval.
 - b. Request additional information.
 - c. Deny coverage under this permit. The applicant will be notified if the applicant's operation cannot be approved for coverage under the General Permit, and that the applicant may need to obtain an individual permit.

Other Application Conditions

1. Coverage under this permit will continue for a permittee after the expiration date if the permittee submits a complete renewal application and fee as described above.
2. Any person not wishing to be covered or limited by this general permit may apply for an individual permit in accordance with the procedures in OAR 340-045-0030. The Department will review the application information and will either request additional information in writing or will notify the applicant by mail to operate under the conditions of the new individual permit.
3. During the term of this permit, the Department may make arrangements with the Oregon Department of State Lands or other state agency to assign coverage, conduct inspections, or compile information regarding this General Permit on behalf of DEQ.

SCHEDULE A

DISCHARGE LIMITATIONS

1. Suction dredge operation in Oregon is allowed for the person assigned to this General Permit. Persons assigned to this permit may only operate one dredge at a time. Other persons not assigned to this permit may operate that dredge under the supervision of the person assigned to this permit if all conditions of this permit are met.
2. Suction dredge activities covered by this permit may not discharge except in compliance with this General Permit. This permit does not authorize mining of stream banks (highbanking) or upland areas. Such out-of-stream mining requires a General Permit WPCF 600 or an individual WPCF permit from the Department of Environmental Quality.
3. Except as restricted in Oregon Scenic Waterways or Essential Salmon Habitat, dredging is allowed into gravel bars up to 10 feet outside the wet perimeter of the stream. In no case is dredging of stream banks allowed.
4. Suction dredges with suction hoses that have an inside diameter of 4 inches or greater must not create visible turbidity beyond 300 feet downstream from a working dredge.
5. A single operating suction dredge equipped with a suction hose with an inside diameter less than 4 inches has no turbidity discharge limitation.
6. Two or more dredges, each equipped with a suction hose with an inside diameter less than 4 inches that operate at the same time, must not create visible turbidity beyond 300 feet downstream from the combined dredge operations.
7. Suction dredge operation is prohibited during non-daylight hours.
8. No wastes may be discharged and no activities may be conducted that will violate Water Quality Standards as adopted in OAR Chapter 340, Division 41.

SCHEDULE B

MONITORING REQUIREMENTS

1. Suction dredges with suction hoses that have an inside diameter of 4 inches or greater must visually monitor each day of operation to assure turbidity is not visible beyond 300 feet downstream at any time.
2. Suction dredges with suction hoses that have an inside diameter less than 4 inches do not have to monitor for turbidity.
3. Visual monitoring is required during daylight hours to determine compliance with the turbidity limits in Schedule A.

SCHEDULE C

SPECIAL CONDITIONS

BEST MANAGEMENT PRACTICES

1. Harassment of fish in the stream is prohibited as required in ORS 498.006.
2. Except where the Oregon Department of Fish and Wildlife (ODFW) has given expressed written authorization, suction dredging is not allowed outside the periods set out in the attached in-water work schedule (*Timing of In-Water Work To Protect Fish and Wildlife Resources*). A copy of that written ODFW approval must be in the possession of the operator or readily available during dredging activities.
3. The permittee must provide a safe passage for fish around and through the active mining area if the stream was historically or is currently inhabited by native migratory fish .
4. Moving boulders, logs, or other natural stream infrastructure within the stream channel as described in Schedule A3 is allowed. However, in no case may this infrastructure be removed entirely from the stream channel. Removal of infrastructure that extends into the stream channel from the stream bank is also prohibited.
5. Dredging stream banks is not allowed under this permit. Undercutting or eroding stream banks and removal or disturbance of boulders, rooted vegetation, or embedded woody plants from stream banks is prohibited. Boulders include cobbles and larger rocks that protect and prevent erosion of the banks from spring run runoff and storm event stream flow. Woody plants include living or dead trees and shrubs. Vegetation includes grasses, wildflowers, weeds, and other vegetation that stabilizes the stream banks or provides cover for fish or provides shade.
6. Creating areas of pooled water is allowed within the stream boundaries provided in A3. However, construction of dams that prevent fish passage is prohibited.
7. Suction dredge activity must not result in the formation of organic or inorganic deposits that are harmful to fish or other aquatic life as required in OAR 340-041-0007(13).
8. The suction dredge equipment must be properly maintained and petroleum products managed as follows:
 - a. Discharging oil, grease and fuel from suction dredge activity is prohibited.
 - b. Equipment used for suction dredging must not release petroleum products. Equipment surfaces must be free of oils and grease, and must be checked for fuel and oil leaks prior to start of operation on a daily basis.

- c. A polypropylene pad or other appropriate spill protection and a funnel or spill-proof spout must be used when refueling to prevent possible contamination of surface waters or groundwater.
- d. All fuel and oil must be stored in an impermeable container and must be located at least 25 feet from the wet perimeter of the stream. For dredge locations where a 25 foot buffer is not possible, addition precaution must be taken to ensure that petroleum products cannot spill or otherwise enter the stream.
- e. In the event a spill occurs, suction dredge operators must contain, remove and mitigate such spills immediately. All waste oil or other clean up materials contaminated with petroleum products must be disposed off-site.

CONDITIONS TO PROTECT OREGON SCENIC WATERWAYS AND ESSENTIAL SALMON HABITAT

1. Suction dredging is prohibited in the portions of the Clackamas River, McKenzie River, and North Santiam River subbasins that have been designated as Oregon Scenic Waterways, as provided in OAR 340-041-0350.
2. Suction dredging in other Oregon Scenic Waterways must follow the applicable requirements provided in ORS 390.835
3. Suction dredging in Oregon Scenic Waterways is restricted to recreational placer mining, and is not allowed outside the wet perimeter of the stream. Recreational placer mining as defined in Oregon Revised Statutes (ORS) 390.835(17)(b) includes the use of a motorized surface dredge having an intake of four inches or less and a motor no larger than sixteen horsepower.
4. Except when allowed by the applicable federal land management agency, suction dredging on Oregon Scenic Waterways that are located on federal lands is prohibited as provided in ORS 390.835.
5. Recreational placer mining in essential salmon habitat is restricted to the wet perimeter of the stream.
6. Until an agreement is made between DEQ and DSL to administer this permit through one agency, suction dredging in Oregon Scenic Waterways and Essential Salmon Habitat streams requires an additional, separate authorization from the DSL.
 - a. Maps and lists of scenic waterways and essential salmon habitat streams are available at the following web sites:

<http://www.oregonstatelands.us/essshabitat.htm>

<http://www.oregonstatelands.us/scenicwaterways.htm>

b. This information can also be obtained from the following Division of State Lands (DSL) offices:

Division of State Lands
Salem Office
775 Summer St. NE
Salem, OR 97310
Telephone: (503) 378-3805

Division of State Lands
Bend Office
20300 Empire Avenue
Bend, OR 97701
Telephone: (541) 388-6112

CONDITIONS FOR DREDGING ON WATER QUALITY LIMITED STREAMS

1. Until a total maximum daily load (TMDL) has been completed, suction dredging is prohibited in streams that are both listed as water quality limited for sediments, turbidity or toxics on the State 303(d) list under OAR 340-041-0046, and were not placer mined under the 700-J permit after May 3, 1999.

a. Once a TMDL has been completed, mining in these streams may be authorized as indicated in the water quality management plan in the TMDL.

b. The 303(d) list of water quality limited streams is available on the DEQ website or at the following Department offices:

i. Northwest Region
2020 SW 4th Avenue, Suite 400
Portland, OR 97201
Tel. No. (503) 229-5263

ii. Western Region
750 Front Street NE, #120
Salem, OR 97301-1039
Tel. No. (503) 378-8240

iii. Eastern Region
700 SE Emigrant, #330
Pendleton, OR 97801
Tel. No. (541) 276-4063

iv. DEQ Headquarters
811 SW 6th Avenue 7th floor
Portland, OR 97204-1390
Tel No. (503) 229-5185
Tel No. (800) 452-4011 (x5029)

OTHER APPLICABLE DSL FILL AND REMOVAL REQUIREMENTS

A Removal-Fill Permit is required by DSL for any placer mining operation that alters, removes or fills more than fifty (50) cubic yards of material per year in any waterway. Furthermore, a Removal-Fill permit may be required by the DSL for operations involving less than fifty cubic yards per year. Suction dredging that meets the requirements for DSL fill and removal permit may also require coverage under an individual or other general permit from the DEQ. The permittee must contact the DSL and/or DEQ for additional information.

DETERMINING COMPLIANCE WITH THIS PERMIT

1. As allowed by state law, other Oregon state agencies may enter into agreement with DEQ to act as an agent to determine compliance with the limits, terms, and conditions of this General Permit.
2. DEQ may require information be submitted from permittees regarding the locations of the previous three years of suction dredge activities in Oregon.
3. This permit does not authorize the permit holder to prevent or restrict the legitimate use of the waterway by other persons.
4. During dredge activities, persons covered by this general permit must have a copy of the permit in their possession or readily available for inspection at the dredge location.

FEES

1. To obtain and maintain coverage under this permit, the applicable fees provided in OAR 340-045-0075 must be received by the Department.
2. Permittees may, but are not required to prepay multiple years of coverage in advance.
3. Failure to pay applicable fees may result in termination of coverage under this permit. Coverage may be restored upon payment of the fee.

SCHEDULE D

GENERAL CONDITIONS

The following General Conditions are federal requirements to inform the person assigned to this General Discharge Permit of their legally binding compliance responsibilities. In the event of an enforcement action by DEQ, the procedures outlined in Oregon Administrative Rule 340 Division 12 will be followed.

SECTION A. STANDARD CONDITIONS

1. Duty to Comply

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of Oregon Revised Statutes (ORS) 468B.025 and is grounds for enforcement action; for permit termination, suspension, or modification; or for denial of a permit renewal application.

2. Penalties for Water Pollution and Permit Condition Violations

ORS 468.140 allows the Director to impose civil penalties up to \$10,000 per day for violation of a term, condition, or requirement of a permit.

Under ORS 468.943, unlawful water pollution, if committed by a person with criminal negligence, is punishable by a fine of up to \$25,000 imprisonment for not more than one year, or both. Each day on which a violation occurs or continues is a separately punishable offense.

Under ORS 468.946, a person who knowingly discharges, places, or causes to be placed any waste into the waters of the state or in a location where the waste is likely to escape into the waters of the state is subject to a Class B felony punishable by a fine not to exceed \$200,000 and up to 10 years in prison.

3. **Duty to Mitigate**

The permittee must take all reasonable steps to minimize or prevent any discharge in violation of this permit that has a reasonable likelihood of adversely affecting human health or the environment. In addition, upon request of the Department, the permittee must correct any adverse impact on the environment or human health resulting from noncompliance with this permit, including such accelerated or additional monitoring as necessary to determine the nature and impact of the noncomplying discharge.

4. **Duty to Reapply**

If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee must apply for and have the permit renewed. The application must be submitted at least 180 days before the expiration date of this permit.

The Director may grant permission to submit an application less than 180 days in advance but no later than the permit expiration date.

5. **Permit Actions**

Coverage under this permit may be suspended, revoked and reissued, or terminated for cause including, but not limited to, in response to any of the following:

- a. Violation of any term, condition, or requirement of this permit, a rule, or a statute;
- b. Obtaining this permit by misrepresentation or failure to disclose fully all material facts; or
- c. A change in any condition that requires either a temporary or permanent reduction or elimination of the authorized discharge.
- d. The permittee is identified as a Designated Management Agency or allocated a wasteload in a water quality management plan in a Total Maximum Daily Load.

6. **Property Rights**

Coverage under this permit does not convey any property rights of any sort, or any exclusive privilege.

SECTION B. MONITORING AND RECORDS

1. **Representative Sampling**

Sampling and measurements must be taken as required in Schedule B.

2. **Monitoring Procedures**

Turbidimeters must be calibrated prior to their use.

3. **Penalties for Tampering and Falsification**

Persons who falsify, tamper with, or knowingly render inaccurate a turbidimeter used to determine compliance with this permit may, upon conviction, be punished by a fine of not more than \$10,000 per violation, imprisonment for not more than two years, or both.

4. **Retention of Records**

The permittee must retain records of all monitoring information, including all calibration and maintenance records for this permit for a period of at least 3 years from the date of the sampling or measurement

5. **Inspection and Entry**

The permittee must allow the Director or an authorized representative upon the presentation of credentials to:

- a. Enter upon the permittee's premises where suction dredging occurs, or where records are kept under the conditions of this permit;
- b. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;
- c. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit, and
- d. Sample or monitor at reasonable times, for the purpose of assuring permit compliance or as otherwise authorized by state law, any substances or parameters at any location.

SECTION C. REPORTING REQUIREMENTS

1. **Twenty-Four Hour Reporting**

The permittee **must** report any noncompliance **that** may endanger health or the environment. Any information must be provided orally (by telephone) within 24 hours, unless otherwise specified in this permit, from the time the permittee becomes aware of the circumstances. During normal business hours, the Department's Regional office must be called. Outside of normal business hours, the Department **must** be contacted at 1-800-452-0311 (Oregon Emergency Response System).

A **written** submission **must** also be provided within 5 days of the time the permittee becomes aware of the circumstances. Pursuant to ORS 468.959 (3) (a), if the permittee is establishing an affirmative defense of upset or bypass to any offense under ORS 468.922 to 468.946, delivered written notice **must** be made to the Department or other agency with regulatory jurisdiction within 4 (four) calendar days of the time the permittee becomes aware of the circumstances. The written submission must contain:

- a. A description of the noncompliance and its cause;
- b. The period of noncompliance, including exact dates and times;
- c. The estimated time noncompliance is expected to continue if it has not been corrected;
- d. Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance; and

The following must be included as information that must be reported within 24 hours under this paragraph:

- a. Any upset that exceeds any effluent limitation in this permit.
- b. Violation of maximum daily discharge limitation for any of the pollutants listed by the Director in this permit.

The Department may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.

2. **Duty to Provide Information**

The permittee must furnish to the Department within a reasonable time any information that the Department may request to determine compliance with this permit. The permittee **must** also furnish to the Department, upon request, copies of records required to be kept by this permit.

3. **Spill Reports**

The permittee must notify the Department of any spills of petroleum products into waters of the State.

**ATTENTION APPLICANT: YOU MUST FOLLOW THESE INSTRUCTIONS
TO ENSURE THAT YOUR AUTHORIZATION REMAINS VALID.**

By signature of the Department of State Lands' (DSL) authority on the front of this application, you are authorized to conduct placer mining activities throughout the State of Oregon within the terms and conditions described in the General Authorization for Recreational and Small Scale Placer Mining within Essential Salmon Habitat (OAR 141-089-0245 to 0275).

1. In order to protect aquatic resources, you may conduct placer mining only within the Oregon Department of Fish and Wildlife (ODFW) approved in-water work timelines for each waterway, as noted on the enclosed list. If you have questions about the in-water timelines, contact ODFW or access their website at <http://www.dfw.state.or.us>.
2. Do not conduct placer mining in those waterways that the Federal Government has closed to placer mining activities. See the enclosed memo for additional information.
3. This authorizes only the named person(s) on the application to conduct recreational placer mining activities. Immediate family members may be listed as applicants on the application if they reside at the address stated on the application and will be using the same equipment. Keep a copy of your authorization on-site at all times during operation.
4. You may conduct placer mining only within the wet perimeter of the stream or on dry gravel islands within the confines of the channel banks as provided in OAR 141-085-0010 and in accordance with 141-089-0250 (eligibility requirements) and 141-089-0265 (conditions of issuance). Work on channel side banks (sluicing, etc.) is not allowed under this authorization.
5. **Year End Report Required:** Complete a report at the end of the each in-water work period and send it to DSL prior to January 31 of each year that the General Authorization is valid. Use one of the enclosed report forms and mail it to:

Department of State Lands
775 Summer Street NE, Suite 100
Salem, Oregon 97301-1279

Send us this report even if you did not conduct placer mining at any time during the previous year—for the amount of material excavated, write "0".

**NOTE: FAILURE TO COMPLY WITH ANY OF THESE CONDITIONS MAY RESULT IN
CANCELLATION OF YOUR AUTHORIZATION.**

Other Agency Requirements and Contact Information:

You will also need a Department of Environmental Quality 700-PM permit if you are working in any waterway. Please contact the Oregon Department of Environmental Quality at:

Department of Environmental Quality
Attn: Business Office
811 SW 6th Avenue
Portland, OR 97204
(503) 229-5696
<http://www.oregon.gov/DEQ>

You must comply with all applicable local, state, and federal laws and regulations. Prior to initiating recreational and small-scale placer mining, you should consult with affected local land use planning agencies and public land managing agencies.

This General Authorization permits only the activity described in the application and will remain in effect until January 1, 2012. If you have any questions regarding this General Authorization, please call the Department at (503) 378-3805. For copies of this form and other placer mining information, visit our website at <http://www.oregon.gov/DSL> and click on the Placer Mining link.

**ATTENTION APPLICANT: YOU MUST FOLLOW THESE INSTRUCTIONS
TO ENSURE THAT YOUR AUTHORIZATION REMAINS VALID.**

By signature of the Department of State Lands' (DSL) authority on the front of this application, you are authorized to conduct placer mining activities throughout the State of Oregon within the terms and conditions described in the General Authorization for Recreational and Small Scale Placer Mining within Essential Salmon Habitat (OAR 141-089-0245 to 0275).

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Attn: Business Office
811 SW 6th Avenue
Portland, OR 97204
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This General Authorization permits only the activity described in the application and will remain in effect until January 1, 2012. If you have any questions regarding this General Authorization, please call the Department at (503) 378-3805. For copies of this form and other placer mining information, visit our website at <http://www.oregon.gov/DSL> and click on the Placer Mining link.

65870 E Desert Moon Dr.
Tucson, AZ 85739
November 30, 2009

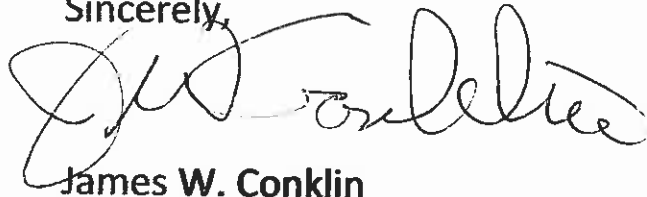
Dear Mr. Stopher

I am an out-of-state prospector that spends my time (and money) in CA in the summer. I had purchased a dredge permit last year, only to have it become nullified without any refund. This is equivalent to confiscation of funds, which should be illegal. If we were to do the equivalent to state funds or resources, we would be put in jail.

I would like to state that I have never seen a fish harmed by suction dredging. In fact, it creates holes where the fish can hide and causes nutrients to be brought up from the bottom to be circulated in the water. Many fish come right up to the area where I work to eat the nutrients that are brought from the bottom.

Please reinstate CA suction dredging. Scheduled river closings are already in place to protect the fish eggs and spawning grounds. Prospectors are entitled to the same recreational rights as fisherman. Please see that our rights are protected.

Sincerely,

A handwritten signature in black ink, appearing to read 'James W. Conklin', written over a horizontal line.

James W. Conklin

From: "Janis Cooke" <jcooke@waterboards.ca.gov>
To: <dfgsuctiondredge@dfg.ca.gov>
CC: "Patrick Morris" <pmorris@waterboards.ca.gov>, "Rick Humphreys" <rhumphr...>
Date: 12/3/2009 12:15 PM
Subject: Suction Dredge Program Comments
Attachments: SuctionDredgComment12_09.doc

Mr. Stopher,
Thank you for the opportunity to comment. The original of this letter will follow in US Mail.
Janis

Janis Cooke, Ph. D.
Central Valley Regional Water Quality Control Board
10200 Sun Center Drive, Suite 200
Rancho Cordova, CA 95670
T (916) 464-4672
F (916) 464-4780
jcooke@waterboards.ca.gov



Linda S. Adams
Secretary for
Environmental
Protection

California Regional Water Quality Control Board Central Valley Region

Karl E. Longley, ScD, P.E., Chair

11020 Sun Center Drive #200, Rancho Cordova, California 95670-6114
Phone (916) 464-3291 • FAX (916) 464-4645
<http://www.waterboards.ca.gov/centralvalley>



**Arnold
Schwarzenegger**
Governor

3 December 2009

Mr. Mark Stopher
California Department of Fish and Game, Suction Dredge Program
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SUCTION DREDGE PROGRAM COMMENTS

Thank you for providing us the opportunity to provide some comments on the suction dredge program. We strongly support the Department's decision to prepare a full Subsequent Environmental Impact Report (EIR) for permitting of suction dredge operations. We believe that the resuspension and release of mercury during suction dredging is a potentially significant adverse impact that should be thoroughly evaluated in the EIR.

The Central Valley Water Board, with the State Water Resources Control Board and the US Environmental Protection Agency, has identified at least 23 water bodies in the Central Valley portion of the Project area as impaired by mercury on the 2006 Clean Water Act Section 303(d) List. These water bodies include the Feather, Bear, and Stanislaus Rivers, and reservoirs in the gold mining area of the Sierra Nevada Mountains. The Central Valley Water Board has proposed the listing of more than 40 additional water bodies in the Project area as impaired by mercury. Other Regional Water Boards have also listed water bodies in gold mine areas as impaired by mercury, including the East Fork Trinity River.

Concentrations of mercury in fish in impaired water bodies pose a health risk to people and wildlife species that eat the fish. Mercury in the Project area comes primarily from inactive gold mines and from resuspension of contaminated material in stream beds and banks downstream of the mines. Methylmercury, the most toxic form of mercury in the environment, concentrates in successive levels of the food chain. US Geological Survey scientists have reported elevated levels of methylmercury in water and fish within reservoirs and river reaches in the Project area (data was collected in the Yuba and Bear River watersheds).

For the impaired water bodies, the Central Valley Water Board will develop control programs to reduce mercury pollution and restore the beneficial use of safe fish consumption. The control programs, commonly called Total Maximum Daily Loads (TMDLs), will determine mercury and methylmercury loads and assign reductions to sources in the watershed. We

have not yet estimated mercury loads coming from suction dredging; however, it is possible that suction dredging operations may be contributing to mercury problems in some waterways in the project area. In the development of our control program, we will need to evaluate what kinds of controls would be appropriate for suction dredging operations, such as controlling the amount of mercury that is resuspended during dredging operations. Although not specifically a topic for the EIR, the Central Valley Water Board would like to coordinate with the Department of Fish and Game regarding potential suction dredge permit requirements for mercury-impaired water bodies.

Thank you for the opportunity to comment on the Suction Dredge Permitting Program Initial Study. If you would like information about listings of mercury-impaired water bodies or have any questions, please contact Patrick Morris at 916 464-4621 or by email at pmorris@waterboards.ca.gov.

/s/

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CC: Rick Humphreys, State Water Resources Control Board