

Appendix A

FISH AND GAME CODE SECTION 5653 ET SEQ.

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. Before any person uses any vacuum or suction dredge equipment in any river, stream, or lake of this state, that person shall submit an application for a permit for a vacuum or suction dredge to the department, specifying the type and size of equipment to be used and other information as the department may require.

(b) Under the regulations adopted pursuant to Section 5653.9, the department shall designate waters or areas wherein vacuum or suction dredges may be used pursuant to a permit, waters or areas closed to those dredges, the maximum size of those dredges that may be used, and the time of year when those dredges may be used. If the department determines, pursuant to the regulations adopted pursuant to Section 5653.9, that the operation will not be deleterious to fish, it shall issue a permit to the applicant. If any person operates any equipment other than that authorized by the permit or conducts the operation in any waters or area or at any time that is not authorized by the permit, or if any person conducts the operation without securing the permit, that person is guilty of a misdemeanor.

(c) The department shall issue a permit upon the payment, in the case of a resident, of a base fee of twenty-five dollars (\$25), as adjusted under Section 713, when an onsite investigation of the project size is not deemed necessary by the department, and a base fee of one hundred thirty dollars (\$130), as adjusted under Section 713, when the department deems that an onsite investigation is necessary. In the case of a nonresident, the base fee shall be one hundred dollars (\$100), as adjusted under Section 713, when an onsite investigation is not deemed necessary, and a base fee of two hundred twenty dollars (\$220), as adjusted under Section 713, when an onsite investigation is deemed necessary.

(d) It is unlawful 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.

5653.1. (a) The issuance of permits to operate vacuum or suction dredge equipment is a project pursuant to the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) and permits may only be issued, and vacuum or suction dredge mining may only occur as authorized by any existing permit, if the department has caused to be prepared, and certified the completion of, an environmental impact report for the project pursuant to the court order and consent judgment entered 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.

(b) Notwithstanding Section 5653, the use of any vacuum or suction dredge equipment in any river, stream, or lake of this state is prohibited until the director certifies to the Secretary of State that all of the following have occurred:

(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.

(2) The department has transmitted for filing with the Secretary of State pursuant to Section 11343 of the Government Code, a certified copy of new regulations adopted, as necessary, pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(3) The new regulations described in paragraph (2) are operative.

(c) The Legislature finds and declares that this section, as added during the 2009-10 Regular Session, applies solely to vacuum and suction dredging activities conducted for instream mining purposes. This section does not expand or provide new authority for the department to close or regulate suction dredging conducted for regular maintenance of energy or water supply management infrastructure, flood control, or navigational purposes governed by other state or federal law.

(d) This section does not prohibit or restrict nonmotorized recreational mining activities, including panning for gold.

5653.3. Any person required to possess a permit pursuant to Section 5653 shall present his or her dredging equipment for inspection upon request of a state or county fish and game warden.

5653.5. For purposes of Section 5653, "river, stream, or lake" means the body of water at the current water level at the time of the dredging.

5653.7. In the event of an unanticipated water level change, when necessary to protect fish and wildlife resources, the department may close areas that were otherwise opened for dredging and for which permits were issued pursuant to Section 5653.

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

5653.9. The department shall adopt regulations to carry out Section 5653 and may adopt regulations to carry out Sections 5653.3, 5653.5, and 5653.7. The regulations shall be adopted in accordance with the requirements of Division 13 (commencing with Section 21000) of the Public Resources Code and Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.