

Subject: Re: On-line Viewing for Transcripts of Public Comments
Date: Wednesday, April 20, 2011 7:24:23 AM PT
From: craig.lindsay@comcast.net
To: Mark Stopher

Mark,
Thank you for the clarification.
Craig

----- Original Message -----

From: "Mark Stopher" <MStopher@dfg.ca.gov>
To: "craig lindsay" <craig.lindsay@comcast.net>
Cc: "Scott Harn" <scott@icmj.com>, "Pat Keene" <pat@keeneeng.com>, "Jerry Hobbs" <jerhobbs2@verizon.net>, "Don Robinson" <goldworld@wildblue.net>
Sent: Tuesday, April 19, 2011 9:16:21 PM
Subject: Re: On-line Viewing for Transcripts of Public Comments

Craig

The last public meeting is May 10. I don't have an objection to posting them on our website but I suspect it will be at least a few weeks after that meeting.

The last public meeting will not have a preceeding workshop and our introductory remarks will be shorter. The focus is on obtaining a last round of public comments. I expect we will begin public comments by 0930 and we will conclude no later than noon. We will use the same approach to hearing from speakers using no more than 3 minutes first and then those who wish to speak longer. Depending on attendance, that latter group may also have restrictions on time available.

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

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mstopher@dfg.ca.gov

>>> <craig.lindsay@comcast.net> 4/19/2011 11:46 AM >>>

Mark,

When will the transcripts of the comments of the public meetings be available for review on-line? And will the last meeting on May 10th have the same format for comment as the prior meetings?

Thanks.....Craig

cell 916-813-0104

April 20, 2011

Mr. Mark Stopher
California Department of Fish and Game
601 Locust St.
Redding, CA 96001

RE: Proposed SEIR Suction Dredging

Dear Mr. Stopher:

I am writing to strongly encourage the California Department of Fish and Game to select the **No Program Alternative** as described in the *Draft Subsequent Environmental Impact Report and Draft Proposed Regulations* concerning the Suction Dredge Permit Program currently in hiatus under court order.

As the DSEIR notes, the No Program Alternative is the most environmentally protective alternative. I urge selection of this alternative (i.e., making the moratorium permanent) based on grave concerns with the potential reinstatement of suction dredge operations in the waters of the state. Despite DFG's proposal, in the selected Reduced Intensity Alternative, to make many of the smaller Sierra tributary streams off limits or time-limited for suction dredge mining operations, dredging under all alternatives except the No Program Alternative will lead to:

- ***Deleterious impacts to fish and wildlife***, including populations of salmon and steelhead, and passerine and piscivorous bird species
- ***Diminished water quality*** in the waters of the state
- ***Reintroduction of a use that is incompatible*** with other public trust uses of the waters of the state, such as fishing, swimming, kayaking, and passive recreation
- ***Unjustified net loss of increasingly scarce state funds*** to permit, manage, and enforce this program
- ***Inevitable violations of permit conditions*** due to:
 - The requirement that this program be fee-funded, with statutorily limited and extremely low permit fees
 - The dispersed nature of dredging activity in remote areas
 - Severe staffing limits at DFG and the Department's consequent inability to adequately monitor or enforce either compliance with permit conditions or impacts of reintroduced suction dredging on fish species

I am avid hiker and fly fisherman who spends substantial time on California's rivers and considerable money supporting these activities. I can tell you that the quality of my experience has been substantially diminished by the presence of suction dredge miners. I have fallen in their artificially created holes in the North Yuba River, been subjected to suspicious and menacing stares in several places, and have had the very uncomfortable experience of waking a group of miners and their menacing dogs while walking, unavoidably, through their encampment to do so some early-morning fishing at the beautiful confluence of spring-fed Nelson Creek and the Middle Fork Feather River in Plumas County.

I fish approximately 75 days a year on California's rivers and I rarely see a game warden enforcing basic fishing regulations, *even* in the most heavily fished and easily accessed places. This gives me no confidence that any alternative short of an outright ban can be effectively

enforced and would amount to anything but a “paper solution” to the undesirable environmental consequences of the activity of suction dredge mining and the intimidating atmosphere created by the miners’ presence. Safe access to California’s back-country is already imperiled by a growing number of marijuana growers. By licensing and permitting suction dredge miners to operate, the state would add yet another deterrent to the use of California’s great outdoors by recreationalists who respect the environment and spend a substantial amount of money in pursuit of their recreational hobbies.

For all of the reasons noted above, I strongly recommend you adopt the No Program Alternative.

I appreciate the opportunity to comment on the Draft Subsequent EIR.

Sincerely,

Bob Marshak

DEPT. OF FISH & GAME

THE DRAFT SUPPLEMENTAL ENVIRONMENTAL IMPACT REPORT LOOKS LIKE SOMETHING COBBLED TOGETHER BY A BUNCH OF "TREE-HUGGERS" SMOKING THAT "FUNNY STUFF."

IT HAS NEVER BEEN SHOWN THAT A DREDGER ACTUALLY HARMED A FISH, WHILE THE SPECIFIC INTENT OF FISHERMEN IS TO KILL (TAKE) FISH. HAVING BEEN ON THE AMERICAN RIVERS FOR OVER THIRTY YEARS, I HAVE SEEN A 12" SUCTION DREDGE POWERED BY A FORD V-8, AND A COUPLE OF 10" DREDGES POWERED BY AUTOMOTIVE ENGINES, AS WELL AS MANY SMALLER DREDGES. I DEFY ANYONE TO SHOW ME WHERE THE LARGE DREDGES WORKED. THERE IS NOT A SIGN. MOTHER NATURE HAS ERASED IT ALL. YOUR TIME WOULD BE SPENT FAR BETTER IN CLEANING UP THE POLLUTION IN THE SACRAMENTO DELTA. A SERIES OF ARTICLES WERE RUN IN THE SACRAMENTO BEE (WWW.SACBEE.COM) IN ABOUT APRIL TO JUNE OF 2009, IF MEMORY SERVES ME. IN ONE OF THEM, IT STATED THAT RESEARCHERS HAD FOUND THE WATER IN THE DELTA SO TOXIC THAT IT WAS KILLING THE SHRIMP THAT THE FISH FEED ON. (IT CAN'T BE DOING THE SALMON MUCH GOOD

EITHER AS THEY MIGRATE THROUGH IT.)
 THE RESEARCHERS ALSO STATED THAT THE
 RIVERS ABOVE SACRAMENT WERE CLEAN,
 AND THAT THE POLLUTION WAS RUN-OFF
 FROM THE CITY OF SACRAMENTO ITSELF —
 HERBICIDES, PESTICIDES, AND GENERAL POLLUTION.
 YOUR TIME WOULD BE BETTER SPENT
 ADDRESSING THIS REAL ISSUE RATHER
 THAN HASSLING THE DREDGERS,

SINCERELY,

Michael Parsons



We just received the April 2011 ICMJ's Prospecting and Mining Journal. This is truly packed with a lot of good information. In ICMJ's new issue, Scott Harn, Editor for the ICMJ has written up a ruling that could benefit the suction miners. The following is the article/information that we feel is important to get to everyone.

5TH CIRCUIT RULING MAY BENEFIT MINERS by Scott Harn

In *National Pork Producers Council v. U.S. EPA* (No. 08-61093; 2011), the 5th Circuit Court of Appeals addresses the EPA's authority to require permits for "point source" pollutants when there is no addition of a pollutant to the water. This is the same argument the EPA uses to justify permits for suction gold dredging.

The case involved a 2008 EPA regulation that required pork producers and poultry farms to obtain a permit from the agency regardless of whether or not an actual pollutant will be introduced into a navigable waterway. Petitions for review were filed in the Fifth, Seventh, Eighth, Ninth, Tenth, and D.C. Circuits, and the cases were consolidated in the 5th Circuit Court of Appeals. This is significant because each of the participating courts must abide by the ruling.

In the ruling, the court refers to Concentrated Animal Feeding Operations (CAFOs) and the Clean Water Act (CWA). Writing for the Court, Circuit Judge Carl E. Stewart stated, "The National Pollutant Discharge Elimination System requires a permit for the 'discharge of any pollutant' into the navigable waters of the United States. The triggering statutory term here is not the word 'discharge' alone, but 'discharge of a pollutant,' a phrase made narrower by its specific definition requiring an 'addition' of a pollutant to the water.

Likewise, several circuit courts have held that the scope of the EPA's authority under the CWA is strictly limited to the discharge of pollutants into navigable waters.

"Notably, in the seminal case *Natural Resources Defense Council, Inc. v. Environmental Protection Agency*, 859 F.2d 156 (D.C. Cir.1988), the D.C. Circuit explained more than 20 years ago that the CWA 'does not empower the agency to regulate point sources themselves; rather, the EPA's jurisdiction under the operative statute is limited to regulating the discharge of pollutants.' In *Waterkeeper (1)*, the Second Circuit echoed this interpretation of the CWA and explained that 'unless there is no violation of the Act....' More recently, in *Service Oil, Inc. v. Environmental Protection Agency*, 590 F.3d 545 (8th Cir.2009), the Eighth Circuit reiterated the scope of the EPA's regulatory authority and concluded that 'before any discharge, there is no point source' and the EPA does not have any authority over a CAFO.

"These cases leave no doubt that there must be an actual discharge into navigable waters to trigger the CWA's requirements and the EPA's authority is limited to the regulation of CAFOs that discharge. Any attempt to do otherwise exceeds the EPA's statutory authority. Accordingly, we conclude that the EPA's requirement that CAFOs that 'propose' to discharge apply for an NPDES permit is *ultra vires* and cannot be upheld."

The EPA bases their authority to regulate suction gold dredging and other types of instream mining on the same arguments that were tossed out by the 5th Circuit.

To reiterate, the court ruled that the Clean Water Act. "does not empower the agency to regulate point sources themselves" and "the triggering statutory term here is not the word 'discharge' alone, but 'discharge of a pollutant,' a phrase made narrower by its specific definition requiring an 'addition' of a pollutant to the water.

This ruling comes at an opportune time, just as suction dredge miners are dealing with new proposed regulations in several western states. Be sure to cite this case when you provide comments on the regulations!

(1) *Waterkeeper Alliance Inc. v. Environmental Protection Agency*, 399 F.3d 486 (2d Cir.2005).

Reject Suction Dredge Mining in California Waterways

Terry Raymer [twraymer@hotmail.com]

Sent: Wednesday, April 20, 2011 7:12 PM

To: dfgsuctiondredge@dfg.ca.gov

Dear Mr. Stopher,

As a long time resident of northern California and land owner in southern Oregon, I value water quality, and fish and wildlife habitat in public waterways. I believe suction dredge mining is a costly and destructive use of our rivers. I urge you to adopt the No Action alternative to protect public waterways from needless harm. When I enjoy/visit the rivers, I leave them undisturbed. Not so with dredge mining!

State wildlife agency experts and scientists have testified that suction dredge mining harms our waterways and endangered fish. The mechanized mining process to collect small amounts of gold reintroduces mercury from historic mining and churns up mud and silt that deteriorate water quality. Suction dredge mining also destroys aquatic life harming endangered salmon and impacting the food chain.

In a time of economic crisis eliminating suction dredge mining is even more needed. The state of California historically spends more money processing new suction dredge mining permits than it receives in revenue, wasting valuable taxpayer money on a controversial and harmful program.

At a minimum, the regulations should be revised to prohibit suction dredge mining in all rivers and streams that provide critical habitat and future recovery areas for threatened and endangered fish and wildlife. I support closing all mercury-impaired rivers and streams, Wild & Scenic Rivers, Wild Trout Streams, and National Parks to suction dredge mining to protect water quality, human health, fish and wildlife.

Suction dredge mining destroys our waterways, harms endangered fish and wildlife, and wastes taxpayer money. I urge you put the common interests of all above the gold fever of a few.

Thank you for considering my concerns.

Terry Raymer
1917 Parkside Dr.
1917 Parkside Dr.
Anchorage, AK 99501

Robert T. Suter
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April 20, 2011

Mark Stopher
California Department of Fish and Game
601 Locust Street
Redding, CA 96001
RE: Proposed Suction Dredge Mining Regulations

Dear Mr. Stopher,

Please consider this letter as an official comment on the draft SEIR proposed for the draft amended regulations that have been circulated.

As a private consulting forester I am acutely aware of the stringent regulations affecting any proposed stream crossing associated with the preparation of a State mandated Timber Harvest Plan. I am obligated to determine the affect of any deleterious results of my activities on any watercourse in question and must address the issue of any negative impacts of my activity. While my timber harvest may have little or no impact on the State water system as a whole it may have very significant environmental impact on the particular watercourse in which I am working.

As I understand your draft regulations pertaining to suction dredging, you have determined there will be no significant environmental impacts on the State water system resulting from suction dredge mining. I believe you have failed to consider the impacts of dredge mining on individual watercourses, as you do with Timber Harvest Plans, and the Department of Fish and Game must address suction dredge mining effects on each watercourse that will be impacted.

If I propose any logging activity that requires the crossing of any watercourse, even if the watercourse is dry for nine months of the year, I must obtain a 1600 Stream Alteration Permit for the harvest activity at a cost of \$1200, plus must pay an additional \$112 for each proposed crossing within the harvest area. Additionally, each crossing must be engineered and analyzed for culvert size, slope stability and revegetation. Thus, one watercourse crossing for a Timber Harvest Plan can cost several thousand dollars to insure downstream water quality, wildlife habitat, regulation enforcement and other environmental concerns.

Further, in preparing a Timber Harvest Plan I must survey the entire site for rare and endangered species of plants and animals, particularly along watercourses, and must

minimize my activities to insure the protection of any species identified within the area. Please address the rationale for this level of oversight for a timber harvest while the suction dredge miner does not have to identify, let alone protect, for example, willow fly catcher habitat, spotted owl nesting sites or osprey feeding areas. Your proposed regulations completely fail to address how the estimated 4000 permits will impact this issue. I add that this number of dredging permits is approximately ten times the number of timber harvest plans filed in 2010.

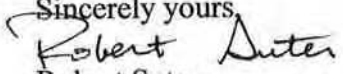
Under your proposed regulations a suction dredge miner will pay only a \$40 fee and has virtually unlimited access to tear up the bottom of any stream of his choice with no regard to the environmental consequences of his actions. This is an unacceptable disparity in fee structure, as \$40 cannot adequately cover Fish and Game's costs to administer and enforce whatever regulations, if any, you impose on this destructive instream activity.

As another example of the utter lack of control and inconsistencies that your proposed regulations may foster, I note a recent Fish and Game interpretation of issues of relating to water diversion and water quality. Ranchers who divert water for irrigation must obtain a permit for gravel mining and annual construction of diversion structures and must obtain a permit to merely open an existing headgate or activate an existing pump in order to irrigate their crops. I believe you must address why this level of control over one water user is so stringent and yet, suction dredge miners, for a mere \$40 fee, would be allowed unlimited access to most watercourses in the State.

I believe that the Department of Fish and Game has failed to adequately address the many adverse environmental consequences of suction dredge mining on the waters of the state and must start over in its attempt to allow this mining activity.

Thank you for the opportunity to comment on this issue.

Sincerely yours,


Robert Suter
RPF No. 479

COMMENTS REGARDING DFG DSEIR FOR SUCTION DREDGING 4/21/11

IMMEDIATE POSSESSION OF DREDGE PERMIT:

A better definition would help, if you are saying on your person or dredge, that's just plain stupid. Water and permits don't go well together, besides you have a limited number of dredgers, just ask for the name and last four of their social security number and make a telephone call. Most law enforcement also carries laptops these days. It's a simple solution to a non-existing problem. We all normally carry it in our vehicles or leave in our campsite.

LIST OF LACTIONS WHERE WE WILL BE DREDGING:

Do you require hunters, fishermen and boaters to list were they will be on the license? Same applies here; we don't necessarily know what area we will be working in. What does it matter as long as we are on legal claims? Just another regulation that accomplishes nothing and puts more burdens on the user and more paperwork for the DFG.

ONSITE INSPECTION OF AREAS FOR DREDGES LARGER THAN FOUR INCH:

You might want to reconsider and establish it at eight inch. How many new staff and support functions are going to be required to meet the needs in a timely manner? Your department and the State are broke with no additional funding forthcoming. How can you justify the additional workload?

MOTORIZED WINCHING:

What is the problem here? Under existing regulations no damage to anything occurs using motorized winches. The rocks are left in stream, thus nothing other than location of the rock is different. What is your scientific justification for this change? Most winches run on a six horse or smaller engine (smaller than most push lawnmowers).

THREE FEET FROM LATTERAL EDGE OF CURRENT WATER LEVEL:

This regulation (which also spawns the no dredging of streams six feet wide) will cause the loss of about 90 percent of all gold bearing streams in California. I see this as an intential bias to bring all dredging to a halt for personal dislike to any mining activity. There is absolutely no reason to do so. In addition the "sneaking in" that includes gravel bars (being a primary source of placer gold) serves no purpose at all. They change every year as a result of spring runoff. If you must, restrict small streams to three inch and under dredging. The old rule of no undercutting the bank served to maintain the existing riparian habitat.

PUMP INTAKE SCREENING:

The reduction of foot valve screens to 3/32 inch is ridiculous. That size may be necessary when sac fry are moving around, however the time limits for dredging preclude any need for the reduction. No healthy fish would dare be sucked up by the small motor intake foot valves. Use is causing additional expense to miner for no reason. Where is your proof that it is necessary? I've been dredging for over ten years and have never seen a fish killed or sucked up by my dredge or any others in the area. HAVE YOU OR ANY OF YOUR STAFF EVER WITNESSED THIS OCCURANCE? New foot valve covers will cost anywhere from fifty to two hundred and fifty dollars.....In addition for no scientific need the smaller holes can clog up quickly and have the possibility of burning up your pump. That would be a major expense to replace or repair.

SUCTION DREDGE PERMIT NUMBER AFFIXED TO THE DREDGE.

You guys are really pushing, lets have hunters and fisherman put their license numbers on their pickups and ATV's. Talk about prejudicial; we have a license or permit, whatever you want to call it. If we are working within the law, it should be none of your business what legal claim we desire to work. Do you plan on having us put numbers on the front, back and sides so you can read them with binoculars and don't have to walk down to dredging area? Another expense and nonsense. In California no number or registration is required for non motorized boats of 12 feet or less.

POSSIBLE SPERATION LIMIT OF DREGES:

If you manage to pass this one, plan on "wrongful death suit" for you, your supervisor and organization. We often dredge right next to each other for safety purposes; insure the possibility of assistance if necessary.

NO MENTION OF THE POSITIVE ASPECT OF DREDGING:

- Removal of lead and mercury from the streambed.
- Providing resting pools during summer heat
- Dislodging concreted material from the bottom, creating new spawning material and significantly increasing aquatic insect habitat for fish.
- Adding new wealth (not paper money)
- Decreasing the reliance of importing precious metals
- Adding new jobs
- Supporting numerous local communities with revenue

Supporting various production companies by purchasing equipment

It is my firm belief that the only reason that the existing regulations are being changed is to appease the environmentalists that continue to plague the harvest of our natural resources. It was even stated at one of the public meeting that the existing regulations sufficiently protected the fish and the environment. The lack of supporting scientific information does not justify even one the changes. For example the frog issue is joke; the DF&G has no clue to the extent of its range. It has no economic value and is going

extinct because it is being eaten by fish and other animals. This has absolutely nothing to do with suction dredging. Leave the old stream classification and open/closure dates as they were.

As mentioned previously, I've seen no discussion of the additional manpower, equipment and support costs associated with this proposal. Prior to bringing to the State for approval I highly suggest that a cost analysis be provided for the additional cost to the State and department that is presently deep in the red.

R.E. DIVINE
1207 N MAYFLOWER CIR
RIDGECREST, CA 93555

Subject: Suction dredge hearing

Date: Thursday, April 21, 2011 10:33:21 AM PT

From: Tom Graham

To: dfgsuctiondredge@dfg.ca.gov

I want to throw my support behind the DFG and efforts to restart suction dredging in California streams. The proposed licensing and restrictions seem reasonable. I would like to see dredge size better scaled to stream size but that may not be politically possible.

Tom Graham
Novato, California

Darrell Griner
61 Mallery ave.
Elgin, IL. 60123

April 21, 2011

Mr. Mark Stopher
California Department of Fish and Game
601 Locust St..
Redding, Ca. 96001

Re: Closure of my claim to dredging. CAMC 0287858

Dear Mr. Stopher,

My name is Darrell Griner and I am originally from Vallejo Ca., but now live in Elgin IL., outside of Chicago. I won't take up your time with a lot of side details, but wanted to express that my mother worked in the ship yards as a welder, building liberty ships during world war two. Her parents were Orda Fields and Josephine Whiterock. My mother was Native American, from Oklahoma. You may guess how it was that she came to be from Oklahoma, even though that side of my family was originally from the North Carolina, Cherokee. We didn't receive tribal role numbers because the family followed the plan of assimilation into the melting pot of America. You could say we were a success story as far as the US government was concerned.

As you know, many Native Americans became workers of metal. From welders to iron workers, many of us moved on, rather than become welfare, and blaming others for all that was wrong. My family had a, "I don't want food stamps; I want a pay check, mentality." I became a certified sheet metal worker, specializing in custom fabrication. (Making a few of, or one of a kind.)

I am not a rich man by any stretch of the imagination. My son in law and I bought our claim for a lot of money.

From sampling the gravels, we've determined that the gold side of our claim is running about one third of an ounce per 5 yards of material and "not" from a pay streak. We we're also obtaining about 5 lbs of black sand per yard of material. The name of our claim is Gold Run. The CAMC number is 0287858. It is 40 acres. Range is 12W. section 26, meridian is Mt. Diablo. UTM is 10483976E - 4554634N (9NAD27). The South Fork of the Salmon River runs through it. We are located between French Creek and St. Clair Creek, on the South Fork.

We obtained our claim prior to the moratorium, and were involved with sampling etc., when the ban was being proposed. I wrote the Governor in protest of SB670. He wrote me back in an email stating he wasn't certain if he was going to sign the bill or not.

I am also a certified diver. In the past, I have worked dredging, in Cobalt Idaho, in Panther Creek, starting out there as an amateur. In the very short time that I actually got to dredge in Panther Creek, I obtained about 100 lbs of black sand. My total dredge time was about 10 hours. Being an amateur, I tossed out the black sand, because we had no room to bring it back home. It was just black sand, which EVERY dredger has to contend

with, by removing, in order to get to the gold. I did save some, wondering if it had real fine gold left in it. One day, I read an article about rare earth, what's in it and where it comes from. Mr. Stopher, I am sure you know what black sand is, but what about what's in it? I made a point to tell you what my mine produces, from our sampling. You may hire an independent to verify. Black sand can contain much rare earth. The metals that are in it can be "exotic" metals. They may contain platinum, palladium, tantalum, iridium, titanium, even rhodium. Iron is usually the high amount, in the mix. The last time I looked, rhodium goes for between 9 and 10 thousand an ounce. After I sent out my black sand from Idaho for spectrograph, I found it contained a little iron ore, as is always the case. It also contained iridium, tantalum and many other trace, exotic minerals. I wanted to make a point for the record that no miner, unless he is only a "rank amateur" throws out his black sand before he knows what it is worth. Gold is only a portion of what's in the sluice.

Miners will never be an open book to you or anyone else, about where or what their finding. I think California knows that and was counting on it. Ever wonder why miners seem to be only breaking even? I watched a show on Gold Fever, where Mr. Tom Massie was finding gold in Colorado, using a little Keene backpack dredge. He was finding very good gold. He said he was going to take a station break but when they came back he would say where he was. Well he came back from the station break and we are still waiting to hear where he was. We already knew he was in Colorado, but that is how he left it! Gold or any of the other really rare metals, need to be reported as income, only when they are sold. I feel California is trying to establish a monetary base line, to use against miners, should legal rights as they have been, are shoved out of the way and things become evaluated from a monetary stand point.

The river section of my mine is being determined to be shut down for stated reason of thermal refugia. I have to admit, I resent not ever being asked if I could help in anyway with habitat concerns for the Chinook, at my mine.

As stated, I am not a member of the Karuk, or the New 49ers club. I do however, as one of the Gold Run mine "owners"; have a great deal at stake.

With regards to my mine, I do request the science or data, used by the CDFG to justify its "new" position. Going from a reasonable 6 inch machine; and a scientifically understandable two and a half month dredging season, to a "no dredging", class A stream, is a totally, greedy, heavy handed, blind leap. There wasn't any need to change a thing with regards to allowing me to dredge my river claim as before. For the record, due to being denied any reasonable way to obtain the minerals from the river bottom of my mine, and because, according to your scientific data, the fish need that portion of my mine, for thermal refugia, I would expect full monetary reparations for my loss. That's a quarter mile of mineral loss, from the river bottom. It has in effect been condemned by California, for the greater good. I have been denied this access. I am sure, for the sake of the fishing industry, California should be very happy, to pay me for my loss. California should be able to get the money from an increase of the fishing license. As far as I am concerned, California can do it with a gold dredge stamp, on their fishing license!

The NOTION that using my one, and only one dredge, is going to impact thermal refugia habitat negatively, on a quarter mile of river, that's one dredge in a quarter mile, is at the least, a charade. Nothing is new, except the red herring science. Mr. Stopher how would my dredging a man made river hole or holes, that DO provide fish habitat and beneficial thermal conditions, effect thermal refugia "negatively" in my quarter mile of river? Its like saying that sinking old ships, that provide "Man Made" fish habitat" via an artificial reef" COULD, MIGHT, PERHAPS, or so many of the other non "scientific descriptive words" used through out the SEIR draft , hurt fish. Why isn't the DSEIR filled with

demonstrative, conclusive, reliable terminology “if” it is a work of new science. Shame on California to do this, while KNOWING that many individual’s lawful right to mine was at stake. California has taken the position that nothing man made, by a miner could ever be fish beneficial, not even a lousy hole underwater. The DSEIR has even hinted that maybe a fisherman could fall in the hole. Why would he be fishing by the hole??? You connect the dots.

Consider this, how many cubic yards of material, are to be released INTO the four scheduled dam removal projects on the Klamath. That being a pet desire of certain individuals, it gets a star, a blessing, from most. (The Karuk etc.) I and we know it WILL be a good thing. Most say, all the millions of tons of dirt, etc., that are going to be released “into” the river, will be no problem. Imagine that! Where is the same reasoning, for that tiny dredge, at Griner’s mine that is being depicted as a sediment “GENERATING”, spewing, killing machine and a potential destroyer, of necessary thermal refugia habitat? When compared to the dam thing, that is “placing” sediment “into” the river, verses my operation that only takes and classifies what’s “already” there, it seems that the small, petty minded, radical, Green Cult has actually somehow taken over the minds of the educated...It is very cult like.

A “small dredge” like Keene manufactures, being regulated under “Federal “environmental law, is a gift to politicians and others to childishly bully miners, because of the name, a dredge. The original scope was for the monster dredges that are used to clear harbors, shipping lanes and such. The sin of the Keene machine? Its name, a dredge. It is a miniature by comparison, a model. I suppose that a flying model airplane needs to be regulated too. It is an airplane. It can and does fly. It COULD, MIGHT, PERHAPS, harm or stress birds that are on the list of animals that need protecting. They certainly might affect birds or even people, negatively. Perhaps they need to be regulated by the CDFG, with restricted flights, landing permits, fees and such. In the mean time, ground them; make them virtually illegal by a moratorium. If you take your miniature, model airplane up in California, get fined! That is really stupid, isn’t it???

I also think that the CDFG used the extreme values of how much material a miniature dredge could move, if one was running sand, from a sand box. I believe this was done just to keep up the pretend, “dangerous guise.” It would have been truthful, if the CDFG could have worked with an under water miner in the field for a week, to establish a base line. That would have been far more factual, at least there by obtaining meaningful, measurable, values. However, using the information from the DSEIR’s own report will help me and others in court, with out objection, when we determine how much miners have given up and lost forever. The time past, gone for ever, times the yardage of material not moved during the moratorium, times its value per yard. That is the baseline. That is reality. That is how much gross, was given up by the miners so far! That is what we should to be reimbursed for. It will be interesting how the state will justify its actions against mine owners. Wiggins could only say that, SB670 was all about fairness??? Think about that reasoning. The miners are out, real money! The fishermen were still allowed out in their boats, to find fish, and then fish for fish. If they had to jump in and use only their hands or use other legal means, besides their poles to catch fish, that would have been fair, not Wiggins fair, but actually fair, fair. By Wiggin fairness, California made it illegal to show up anywhere in the state by water, with a dredge. Using the situation with the salmon, to stop lawful, underwater mining by legislative thuggery was totalitarian. If not, then it puts light on the disdain California has for mining. I would gladly take an additional year of moratorium in order for the courts to resolve this matter. I think about my children and my grand children’s future. The courts need to fix it and make a finding for allowable damages. The reasoning is that legislators will stop

something perfectly legal, for votes. Just as in this case. Or they will allow something that should be stopped, just for votes. In life outside of politics, you know what we call people like that. How can you ever trust, to get the right thing from them? They played their hand. I think the CDFG may have encouraged the Karuk to sue California just to set a stage for this whole business. The reason I say that is because of the Salmon River Restoration Council. The Karuk are on the board of directors and the CDFG donates money to them.

With mining laws becoming more and more restrictive and I am not saying there shouldn't be "fair, truthful" regulations, this specialized group of miners that work in an underwater environment, are viewed as "recreational." That's because the vote getters have started to look at and judge us by what? They legislate fetters for us with restrictions, perhaps even at times justifiably so, than wrongly and un-justly categorizes us as some how less important, being an amateur, a hobbyist and not a professional, not a source for obtaining minerals, basically a nuisance. What a self centered, radical, delusion!

Ever wonder why it's a dangerous course for miners to give up any rights, here and there. If we miners were a male horse, and the government, by an agendized lobby, induce heavy handed policies, and thereby turn us into non producing geldings, which will be our future, a pasture, or the glue factory? Dredging in the river bottom, is the only way, I can work to obtain my minerals from the river bottom, of my claim. Deny me my right to work, makes me inconsequential. California seems to think our activity is about play. Please... show up, come on down, and go to work on the business end of the dredge nozzle for a few days in the field. If none have done it, that also believes it's just fun and games, "would then legislate" against this unique method of mining, then sadly they are in the very least, ignorant.

The Karuk feel that no one should be allowed to do anything because the land is theirs, NOT ours. Their self determination and self government granted them,... seemingly creates a sovereignty UN-TO themselves. They have tribal tradition and principals and are great naturalist. I actually think they should be the only ones, allowed to fish in Siskiyou Co. The reason is the CDFG doesn't have a very good record of managing the well being of the wild life. The CDFG seems to operate their bus from the rear... which means they are being driven, not driving. They have to out source for help, like now. The other reason is fishermen would catch the last pair of a species, than blame someone else for the extinction and why not? He didn't know they would take his lure. Know one said he couldn't fish! Who really knows what fishermen are catching? They aren't being asked to leave an itinerary with the CDFG, every time they are going out to fish. Is the Green Cult flying around in planes looking for fisherman fishing? Not in a million years. They are looking for miners breaking the law, but remember its all about the salmon... The CDFG's, DSEIR's response to, lying allegations about under water miners however, is with a bureaucratic boot on their throat. Fishermen are still in denial, that they had anything to do with the north Atlantic cod being fished to near extinction.

However this whole business isn't just about fish. It's about much more. (The red herring.) I feel the injustice toward the miner is also because; the Karuk feel that my mine is really theirs, it's on their land. The Karuk, the Green Cult radicals, California and others would like to force me and other miners to give up and quit.

In the Karuk tribal news release dated March 3, 2009 Mr. Hillman states that over the last 150 years, MINERS have taken "everything" from the Karuk People. Consider The Karuk Tribe Department of Natural Resources Eco-Cultural Resources Plan that states, with national federal policies relating to "mining" and aggregate development, there is a need to develop "Karuk" soils and MINERALS management practices and principals into

an integrated departmental program. LOCATIONS of “culturally significant minerals” need to be PROTECTED from extensive mining and etc... Mr. Stopher, does protecting minerals sound like fish? Are the Karuk culturally known for their “mining”? Along the lines of their “cultural purity” we know they also want a gambling casino in Yreka, so some of the money will help save the fish, They will then, forever be able to go to the river and catch mercury laden salmon back from the sea. With a dip net they will catch them, and * take them home to feed themselves and their families too.* Mr. Hillmans quoted panacea. If Mr. Hillman wasn't lying when he made that statement, than he needs some loving advocacy.

The Integrated Resource Management Plan, Karuk Tribe of California dated September 2009 states; the constitution of the Karuk Tribe defines the external boundaries of the Karuk Aboriginal Territory as, the concurrent lands administered by the USDA Forest Service's Klamath and Six Rivers National Forests. How many miners are in that area?

I believe the CDFG should not be allowed, to deny me my right to work the river portion of ”my” mine, simply because I may be number 3001 on their dredge application list. They are wishing to manipulate, or circumvent, my right to mine my minerals from my legal mine site, by means of some legislated, dredge permit chicanery. Will there be monetary reparations? Does California restrict ”licensed” drivers, that pollute, kill food sources (insects) for animals , kill animals, kill people etc. by limiting the number of vehicle tags they will issue, for vehicles of people, who legally have a right to drive? I am sure they will get around to that as well, someday. The petty aspect of (insects) is how far the state of California is looking at me and other miners, as a threat to the food chain of the Chinook, in order to use the full authority of its legislature, against our right to mine. It's called Wiggin's fairness.

The “CDFG”, and some Federal agencies allow people, who are (volunteers?) to move rocks and boulders around in the creeks and rivers to open up areas for fish... all the while the DSEIR report and other agencies propose to not allow miners to move boulders and such in that same stream or river. It prevents me from freely harvesting the minerals at “my” mine. The Wiggin's fairness act.

The Salmon River Restoration Council is largely funded by the CDFG, US Fish and Wildlife Service, US Bureau of Reclamation, US Forest Service and “The Karuk Tribe.” As a matter of fact, without these government contributions, the organization would not exist, in its current scope, if at all.

How cozy it all is. “The Karuk, The Kayakers etc. sit on the SRRC board of directors” funded in part by all these different government agencies and groups. It is a non profit organization. It doesn't mean they aren't paying money to people. Their received money is over half a million a year. They are anti mining, logging, etc. With their board of directors, how could they not be? How can this entity be allowed, without prejudice or agenda, to assist in coordination efforts to DEVELOP new suction dredge regulations (mining restrictions on under water miners, working their mines) in California? Its focus will be on “actions” needed for the fish, as stated in their annual work plan.

I wish to address only the aspect of thermal refugia, because that was the only reason listed right now, as to why California would need a large portion of my mine. There wasn't any mention of closure due to mercury. However, in all “50” states there are mercury warnings with regards to salmon and eating fish in general, especially during pregnancy and it's not for young children. Better let Mr. Hillman know. The black sand of my claim showed no mercury from spectrographic analysts.

Don't be using fear mongering against miniature dredging, by some “miners”, to show that California is taking all necessary steps to fix a problem that frankly, is world wide. If

California stayed its course or sent everyone home in the state for a year, would the mercury problem go away and fix itself? California chooses not to allow miners to remove 98% of the mercury. Note also the DSEIR says that the gold areas have been worked several times before, by miners. That is done in an attempt to mislead with, "they really aren't going to find anything in the river anyway", so keep out, be happy we gave you any permits, you can go dredge in the desert, don't complain or you'll have even fewer permits next year. By your facts, wouldn't 98% removal the first time, mean 98% removal of the remaining 2% the second time and so on, by DSEIR calculations? The report makes it look as if the mercury in the spring runoff comes from old and not new sources, when in fact you know much comes here on the Siberian express in winter from Asia, especially China. How many tons of this atomized mercury, come over on the Siberian express and end up a new, in California rivers, either directly or by snow melt? Is there any righteous indignation, which California is famous for, directed at the Asian countries by means of boycotting their products, at least on a state level? Why wouldn't you do that, in order to slow them down over there, to restrict environmental mercury from showing up here? California chooses a deliberate, deceptive course, to demonize the miners as a potential new mercury problem, in order to self justify their proposed actions. Who needs facts when the Green Cult can use allegations and blame miners? It's very effective on the ignorant. The concept worked before, when a nut job burned ancient Rome and then blamed the Christians! Does California want the mercury out of the water, Yes or No? Underwater miners are one excellent source for getting the mercury out of the rivers. Please stop the political games! Use the resource!

There is the old adage that as long as you can keep them writing (venting emotion) they won't be rioting in the streets. My exception to this is... I will use my letter as a methods summary sheet, to keep me on track with what California is doing to me and my right to mine. They propose to condemn the river portion of my mine, for the greater good. They choose to regulate with prejudice. They choose to manipulate, impede by deception of truth, and fetter by extreme rules. California will then be using all the mandated information to establish a baseline, as to when, where, how much, under what conditions, to what extent etc. etc. so California can argue what a miner is or isn't. California makes no statement of monetary reparations, in its thug policy plan. It seems anymore, we have rights but we constantly have to sue to keep them. Government spends the people's tax dollars, to run a new agenda over the people, and then the people have to come up with additional private money to fight for what was rightfully theirs to begin with...

If a kayaker feels that he wants me and my dredge out of his way, so he can go weeeeeee down the river, or as I saw recently one figured he could go over Niagara Falls without a problem, than please remember, respect the dive flag. California or the Federal Government, may decide to start enforcing those (sort of) dive flag laws on YOU! California, while it is obtaining information on how to restrict the miners even more, by what the other states are doing, (from the rear of the bus operation) they need to look at other states, dive flag laws. It is usually that watercraft must stay 50 feet away. Kayakers don't have 50 feet? , than stop, get out and walk around. However, if you feel you can civilly share the water with out the, "hey, hey get out of my way attitude", please proceed with caution, respect the flag.

Even though kayaker's are members of the Salmon River Restoration Community organization board of directors, and if you can believe it, they are also ones helping to give input, to develop new "underwater mining restrictions",... please remember I share the water, I don't own it. Often anymore, the more people are fragmented against each other, the more government uses it to control, by a hostile legislation agenda.

Fact... Was the Keene dredge, the monster, the EPA was planning to regulate? No one challenged them to clarify their selves back then, and here we are today trying to explain it to deaf, blind ones made that way, by the extreme Green Cult that are now sitting in the first row, behind the driver.

This letter has helped me to see; American gold miners need to establish a legal fund. The New 49ers, the GPAA, and all the other gold mining organizations better get busy and start one. Not for profit and certainly, non political. Money, for legal fights, when and where needed. Make it a part of the yearly dues. Use it to preserve our rights, to mine and access them. If a miner can't see the importance of this, than perhaps they are, just looking for a good time and need to go somewhere, where they can drink, litter and fish, like in California. The various mining groups should share funds, by contributing when the need arises, such as California's moratorium. If states are sharing input, to further restrict rights, then miners need to all together, share legal expenses, wherever there is a need.

States need to be challenged, since the hypocritical; Green Cult radicals have reached over the driver and taken hold of the governmental steering wheel. The scene is changing quickly. Consider what happened to Bobby Unser, after he was rescued from being lost in a blizzard, on wilderness land. Miners wake up, "now" is the time before it's too late. The large gold mining organizations needed to be out in front of this thing, from day one. Some were. The Radical Green Cult's desire is to make mining the dead canary in the cage, by whatever it takes. Some get their green cult money donations from big oil, like BP. Here in Chicago it's known as the old neighborhood shake down. If you don't ante up, then plan on being muddied up.

Respectfully,

Darrell Griner

dpg

Copies sent to various state representatives and organizations.

From: "David Kitchen"
To: dfgsuctiondredge@dfg.ca.gov
CC:
Date: 04/21/2011 6:22:25 PM
Subject: Re: comments on DSEIR on suction dredging

From: David Kitchen <auendave@att.net>
To: dfgsuctiondredge@dfgca.gov
Sent: Wed, April 20, 2011 5:59:58 PM

Subject: comments on DSEIR on suction dredging

- Permit limitation of 4000 permits. ES-6, line 26.

There should not be a limit on the number of permits. I dredge with my sons and we need three permits for us all to dredge we use one dredge, so the number of permits does not mean that there are that many dredges in the water. Even if there is a limit set, it should be above 13,200, which is the approximate high number in the statistical average that the report specifies. Why is there a limit set when the number of fishing licenses sold is unlimited? The largest kill of fish in the country occurs by Fisherman. One good Fisherman kills more fish in one year than the entire dredging community is accused of.

Three-foot limit from the bank. ES-7, line 10.

There should not be a limitation set here for multiple reasons. First, the distance to the edge of the stream varies based upon the time of year and the water flow even for a specific hour. Streams vary up and down, and several feet of variance can occur simply by night and day melt of the snow pack. This causes the distance to vary within a given day.

Second We dredge where there is bedrock on both sides of the river and it rises above the water level by several feet unless there is a flood.

Specification of six dredging locations. PA-4, line 25.

This proposed requirement should be eliminated. The dredger should not have to specify locations. This requirement is discriminatory. Does a hunter have to specify what valley and ravine he'll be hunting? Does a fisherman in securing his license have to specify the six places to be fished during the fishing season? Of course not. So why force the dredger to do this? This is simply an effort to place regimental control when it's uncalled for.

If for any reason, some limitation is set in the final ruling, then the dredger should simply submit a certified letter in writing to Fish and Game specifying additional locations. No review is required and a response is not necessary to proceed.

- Reduced Intensity Alternative. DSEIR 6-12, line 13.

This alternative should be completely eliminated. The requirements in this option specified 1,500 permits annually, a distance of 500 feet between every dredge, a maximum nozzle size of four inches, and limits of 14 days dredging per year with dredging hours of 10:00 AM to 4:00 PM.

None of these requirements are acceptable and don't even make any sense. Our conclusions are this alternative is a 'bait and switch' option put in the SDEIR in order to get miners to see the extremes of this proposal and to therefore accept the Executive Summary position which is less restrictive.

The 500-foot limitation isn't even workable under any circumstances. Dredgers work side by side very effectively, and this restriction severely impacts the recreational industry where the most number of dredge permit are sold. In some cases we've seen five or six dredgers work together in a 400-foot section and not have an environmental siltation problem at all. It depends on the stream velocity flow, it's width, depth, and the material being dredged. The distance between dredges is not a criterion. Common sense is. If there has to be a rule, write 'common sense should be used between dredges and one should not smoke out the other.'

- Eight Use Classifications. PA-17 through PA-70.

There can be as many Use classifications as desired but the major problem is the application of these classifications within the DSEIR report. Time and again rivers and streams are cut off when they shouldn't be. Why? The elimination of many of the streams is based upon the Yellow Legged Frog's suggested habitat. Serious, detailed analysis work has already been submitted to Fish and Game on this issue, showing the SDEIR analysis work done to be arbitrary and grossly embellished in order to encompass territory in which the Frog is not even present. Assumptions are made by the SDEIR that because a Frog is at Point A and found again at Point B two miles away, that a line should be drawn between the two and that territory removed from dredging. There is insufficient data to support this conclusion and only where the Frog is found should decisions be made concerning the habitat and dredging.

I will likely be submitting an additional letter on this subject.

Some of these Use Classifications are not applicable in the high country where cold weather and snow prohibit access and dredging. Considerations should be made for dredging territory that falls within, for example, Class E that goes from September to January.

- Affixing numbers to dredges. PA-13, line 2.

This requirement makes the dredger place his permit number on the dredge in 3-inch high letters. I dredge with my sons so we would have to have three number on our dredge this is non sense. This requirement is discriminatory. Going back to other users, do hunters have to tag the rifle they use with their hunting license number? Does the fisherman have to tag his reel with his license number? Do rafters have to put the license number on their rafts? The answer is NO to all of these so why does a dredger have to place a number on his equipment? This requirement should be eliminated. It's a control mechanism that is uncalled for.

- Nozzle diameter requirements. ES-6, line 30.

Intake hose diameters greater than four inches and eight inches or less should not require special on-site inspections and written approval prior to dredging operations. Rivers and streams already have designations by nozzle size, why add additional paper work and time? Is this an effort by Fish and Game simply to gain additional income by charging dredgers additional fees for on-site inspections and likely additional EIR considerations, including lost dredging time waiting for approval?

- Listing of equipment serial numbers. PA-5, line 2.

This legal requirement specifies the dredger in the permitting process must provide the engine manufacturer and the serial number, plus some additional specifications.

Why is this when the same information is not requested from the hunter or fisherman? Does Fish and Game know the serial number of the rifle and handgun used by the hunter, and does the fisherman provide the manufacturer of the fishing reel? Of course not, so why is the SDEIR requiring similar information from the dredger? Again this is discrimination.

You have included a study on the Mercury in the streams and it was not done in the correct maner and so should be removed entirely from this SDEIR. The sudy was flawed from the start by being in a area where mercury occurs naturally.

Thank you for your time.

David Kitchen

Mark Stopher
Calif. Dept. of Fish and Game
601 Locust St.
Redding, CA. 96001

April 21, 2011

Dear Mr. Stopher,

Please stop the persecution of gold prospectors!

Your new regulations are unnecessary and very wrong. As you sat through the meetings, to listen to our complaints, why do you not see that the vast majority of dredgers are gray haired retired people.

We are incapable of large disturbances of our rivers gravel. We can't work that hard. We just enjoy the search, the effort.

We are primarily hard working people. We have paid their taxes for 30 or 40 years. Now that we are old and slow but have the time, we find our chosen hobby is being **taken away**. For **what reason**? Because the Indians say so! It's just not right!

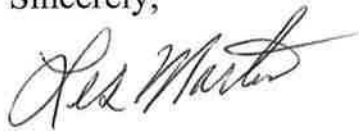
Dredgers are beneficial to the environment! Cleaning the gravels and aerating the water.

The 1994 regulations were a good compromise for a balanced use of the rivers. We where not allowed in spawning creeks at the right end of season dates. **Perfect**. We where not allowed to dredge at the mouths of creeks flowing into the Klamath River. **Perfect**.

Please do not take away my privilege to use a **6 inch dredge**. It was made by my Father in about 1968. It has a very special meaning to me. I can't work as hard as it can, so I have to go slow, but I am proud that I am able to try, with his equipment. Plus I am retired on a very tight budget. **I can't afford a new dredge!**

I am OK with the new 3 foot rule.

Sincerely,

A handwritten signature in cursive script that reads "Les Martin". The signature is written in black ink and is positioned below the word "Sincerely,".

Les Martin
7005 Henley Rd.
Klamath Falls, Or. 97603
541-883-8920

Mark Stopher
Calif. Department Fish and Game
601 Locust Street
Redding, CA. 96001

April 21, 2011

Dear Mr. Stopher

Please consider my following comments regarding the proposed regulations for suction dredging in Calif.

The biggest horror is the proposal **to limit the number** of dredge permits. This must not happen. Anti dredging fanatics will buy up all permits.

No, no no. This is too big of a liability. **Delete this regulation!!!!** Besides, more dredgers that may happen will quickly find out that dredging is very hard work. They will give up very soon. This is the main factor preventing more users.

Next are the dredge noise level concerns. Rafters are only around us for a very limited time. Balanced use. Besides there are roads along the Rivers in most places. You know buses, cars, trucks, delivery vans, your trucks etc. It's not a wilderness area.

Please try to remember that our piddly efforts to move gravel are insignificant at most. If our dredges are harmful from stirring up mud, how the heck do any fish survive the spring and fall rain storms? No sir, tell the environmentalists they are flat out wrong. They are spreading **lies** and the politions don't have a clue their being used.

Last, since your closing most tributaries to the Klamath River, there is no need to restrict us to a 4 inch dredge on the Klamath. A double whammy that is plain wrong. No restrictions or at worst a 6 inch maximum, on the Klamath River.

Sincerely,

Les Martin

Les Martin

7005 Henley Rd.

Klamath Falls, Or. 97603

541-883-8920

NATIVE AMERICAN HERITAGE COMMISSION

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April 21, 2011

Suction Dredge Program Draft SEIR
 601 Locust Street
 Redding, CA

Re: Comments on the Department of Fish and Game Draft Subsequent Environmental Impact Report (SEIR) for the Suction Dredge Permitting Program - SCH # 2005-09-2070

To Whom It May Concern:

Native American Heritage Commission (NAHC) staff has reviewed the above referenced Draft Subsequent Environmental Impact Report (SEIR) for the Suction Dredge Permitting Program. The NAHC has been identified a state *trustee agency*, as determined in the *Environmental Protection Information Center v. Johnson* (1985) 170 Cal App. 3rd 604, for the protection of Native American human remains and associated grave items and traditional cultural places, as identified in Health and Safety Code §7050.5, Public Resources Code (PRC) §5097.98, §5097.94 and §5097.993. For the reasons cited below, the NAHC believes that the protections for *Historical Resources*, *Traditional Cultural Properties*, *Unique Archaeological Resources*, and Native American human remains and associated grave items proposed in the SEIR are inadequate.

Mitigation for Historical Resources and Traditional Cultural Properties Inadequate

As SEIR states “Riverine settings are considered highly sensitive for the existence of significant archaeological resources” (p. 4.5 – 14). The document clearly indicates that suction dredge mining has the potential to impact significant *Historical Resources*, including *Traditional Cultural Properties* (mitigation measure CUL-1, p. 4.5-11), and *Unique Archaeological Resources* (mitigation measure CUL-2, p. 4.5-14) “through riverbed suctioning and screening activities that could disturb or destroy cultural materials which may be located just below the surface of the riverbed or along its banks.” (p. 4.5-14) The SEIR states that these impacts are *Significant and Unavoidable*. According to the SEIR, the level to which these impacts might occur is unknown. Due to the statewide scope of the program, consultation and study to assess the actual impact “were not feasible” (p. 4.5-14). Furthermore, the document states the California Department of Fish & Game (CDF&G) does not have the jurisdictional authority to mitigate impacts to *Historical Resources* (p. 4.5-14) or *Unique Archaeological Resources* (p. 4.5-15), as defined by CEQA. The NAHC also believes that the SEIR does not adequately protect Native American Human remains and associated grave goods (mitigation measure CUL-3, p. 4.5-15).

The Department’s only answer in protecting these one-of-a-kind cultural resources is to provide an “informational packet”, acknowledged to be “advisory”, to suction dredge operators. For *Historical Resources* and *Unique Archaeological Resources* the “packet” will include

measures regarding the identification and avoidance of resources if they are encountered during dredging activities (p. 4.5-13). Information is also to be included regarding the legal obligation to protect Native American human remains and associated grave goods under Health and Safety Code §7050.5 and PRC §5097.98.

Even if suction dredge operators had the will to actively protect *Historical Resources* and *Unique Archaeological Resources* from their activities, they do not have the knowledge and expertise required to do so. In the vast majority of cases, it is far more likely that if these resources are encountered and recognized that they will be subjected to looting. Even in the case of Native American human remains and associated grave items, which are protected by state law, there is no assurance in the SEIR that CDF&G will make any effort to ensure that miners are complying with these state laws.

CEQA requires lead agencies to consider the effects of a project on a *historical resources* and *archaeological resources* as stated Guidelines §15064.5 and mitigate those effects pursuant to Guidelines §15064.5(c). It must also assess the effects of the project on *Unique Archaeological Resources*, as defined in PRC §21083.2(g), and mitigate those effects in pursuant to PRC §21083.2(c). It states that mitigation measures must be “feasible” meaning “capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, legal, social, and technological factors (Guidelines §15364). “ It is clear to the NAHC that the mitigation measures proposed in the SEIR are not in accordance with the intent of CEQA.

Findings for the Protection of Cultural Resources are Not Justified

The SEIR devotes significant detail to “findings regarding the significance of the Proposed Program’s impacts on biological resources” (Chapter 4.3). It has no detail regarding its findings on the Programs impacts on *Cultural Resources*, other than to state that it has no authority to propose specific mitigation measures. To support its decision on actions regarding impacts to *Cultural Resources* a lead agency must prepare written findings of fact for each significant environmental impact identified in the EIR to avoid or substantially reduce the magnitude of the impact with substantial evidence supporting the conclusion and an explanation of how the substantial evidence supports the conclusion. To simply state that it does not have the authority to propose mitigation without explanation is inadequate. CEQA Guidelines §15091(a). *Findings* states:

No public agency shall approve or carry out a project for which an EIR has been certified which identifies one or more significant environmental effects of the project unless the public agency makes one or more written findings for each of those significant effects, accompanied by a brief explanation of the rationale for each finding.

The undefined *findings* regarding Cultural Resources that the CDF&G seem to be referring to in the SEIR appear in subsection (2):

Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency.

If CDF&G does not have authority to mitigate impacts to cultural resources, the NAHC believes that the agency is obligated to identify and consult with the agency that does to mitigate program impacts to *Historical Resources* and *Unique Archaeological Resources*, and to make a reasonable effort to protect Native American human remains and associated grave items. CDF&G certainly did not consult with the NAHC regarding the suction dredge permit program mitigation in preparation of the SEIR. The CDF&G also did not identify any other agency that might have regulatory authority to address program mitigation. In fact no State Agency has specific regulatory authority for the protection of cultural resources, as they are defined in CEQA.

No Statement of Overriding Considerations

The SEIR does not contain a “Statement of Overriding Considerations.” Lead agencies must find that the benefits of the project outweigh the unavoidable adverse environmental effects. When approving a project with unavoidable environmental effects, lead agencies are required to prepare a Statement of Overriding Considerations and must be based on substantial evidence (Guidelines §15093). CEQA requires the decision-making agency to balance, as applicable, the economic, legal, social, technological, or other benefits, including region-wide or statewide environmental benefits, of a proposed project against its unavoidable environmental risks when determining whether to approve the project. If the specific economic, legal, social, technological, or other benefits, including region-wide or statewide environmental benefits, of a proposal project outweigh the unavoidable adverse environmental effects, the adverse environmental effects may be considered “acceptable.” Again, the agency must state in writing the specific reasons to support its action based on the final EIR and/or other information in the record. The statement of overriding considerations must be supported by substantial evidence in the record. It should also be included in the record of the project approval and should be mentioned in the notice of determination.

The NAHC does not believe that the Suction Dredge Permit Program’s benefits outweigh the unavoidable adverse environmental impacts this statewide program will have on *Historical Resources*, *Unique Archaeological Resources* and Native American human remains and associated grave items. If CDF&G believes that permitting the activities of what are essentially hobbyist gold miners is of such *overriding* importance that it is willing to jeopardize the California’s historical and archaeological heritage, CDF&G should justify their rationale in the SEIR.

Cumulative Impacts Not Documented

The SEIR does not address the potential cumulative impacts of this program on *Historical Resources*, *Unique Archaeological Resources* and Native American human remains and associated grave items. CEQA Guidelines §15355 describes *cumulative impacts* as “two or more individual effects, which when considered together, are considerable or which compound or increase other environmental impacts.” CEQA Guidelines §15130(a) states “An EIR shall discuss cumulative impacts of a project when the project’s incremental effects is cumulatively considerable, as defined in section 15065(c). This section addresses *Mandatory Findings of Significance* where the project “has possible environmental effects which are individually limited but cumulatively

considerable.” The SEIR does not describe the cumulative impacts of the program on cultural resources. The NAHC believes, when considered statewide, with individual permits potentially in the thousands, that the cumulative impacts of the Suction Dredging Permit Program will be considerable. As such, this effect must be described and analyzed in the SEIR and is not.

Conclusion

While, as stated above, the NAHC is considered the state *trustee agency* for the protection of Native American human remains, associated grave goods, and traditional places, as identified in Health and Safety Code and Public Resources Code, it has no specified regulatory authority, as does Fish & Game for fisheries and other wildlife. CDF&G did not identify the state agency that has the regulatory responsibility for protecting these resources in the SEIR, stating only that the Agency did not have that authority. In reality, no state agency has regulatory authority needed to protect cultural resources in this case. The NAHC is of the opinion that if the CDF&G cannot protect *Historical Resources, Unique Archaeological Resources* or adequately protect Native American human remains and associated grave items in the face of this statewide program of this magnitude, it is irresponsible for CDF&G to propose the implementation of the Suction Dredge Permit Program. The NAHC unequivocally endorses the No Project Alternative.

Sincerely,



Larry Myers
Office Manager
Native American Heritage Commission

CC: State Clearinghouse

Mark Stopher

California Department of Fish and Game

601 Locust Street

Redding, CA 96001

Fax: (530) 225-2391 E-mail: dfgsuctiondredge@dfg.ca.gov

Dear Sir,

Please consider my following comments regarding the SEIR and Proposed Regulations for suction dredge mining in California:

SEIR Baseline is wrong: I take strong exception to the Department using an arbitrary and misleading baseline within the SEIR in an underhanded attempt to make the impacts from suction dredging appear greater than they really are, and in an attempt to marginalize the serious economic and social impacts to Americans which would result from your proposed regulations. You should use a proper baseline that is based upon existing dredge and small business activity under the 1994 regulations during the season before the moratorium was imposed.

Mercury is not a problem: Your SEIR relies unreasonably upon the unfounded conclusions of Charles Alpers' who has allowed his personal political agenda get in the way of real science. The SEIR does not give enough weight to the discovery by Rick Humphries Report of California Water Resources Control Board that normal gold dredges are effective at recovering at least 98% of the mercury from the bottom of California's waterways.

The SEIR does not acknowledge, based upon your own survey results, that suction dredgers have been removing over 7,000 ounces of mercury or more every year under the 1994 regulations from California's waterways. That amounts to 98,000 ounces during the 14 years we operated under the 1994 regulations! Adoption of the SEIR position would be fundamentally unreasonable in a context where the mercury is inevitably migrating downstream to areas where it is believed to be potentially harmful.

Since California State agencies are doing nothing to remove mercury from California's active waterways, it is grossly irresponsible to point the finger at suction dredgers who are the only ones that are removing the mercury, at no cost to the taxpayers!

Rather than reduce the amount of mercury which we are removing from the ecosystem, the responsible approach for State agencies would be to create a collection system in California which rewards dredge-miners for collecting and turning in mercury.

Identification requirement: The proposed regulations should allow visitors from other countries to use a foreign passport or driver's license as identification so they can apply for nonresident suction dredge permits. Otherwise, California will be discouraging the many visitors which we already receive that like to do their gold prospecting here.

DFG should not limit the number of suction dredging permits: There is no evidence presented in the SEIR that 14 years of dredging under the 1994 regulations ever harmed a single fish, much less threatened the viability of an entire species. What if I want to operate a dredge in some part of California where there would not be a deleterious impact? A limit on permits may prohibit me or someone else from using a suction dredge without a viable reason.

Allowing additional dredge permits after site inspection: In the event that DFG decides to impose (reasonable) limits in a blanket statewide permit program that will allow for most suction dredgers, I do not believe DFG has the authority to declare a wholesale prohibition to dredge mining in the other vast areas which exist on the public lands that would not be covered by the blanket permit. DFG has a site inspection mechanism allowing you to consider more individualized impacts in areas, and during time periods, when and where dredging would not be allowed in a statewide program.

Onsite inspections should be immediately signed off when approved: There should not be a delay in signing off on a site inspection in cases where DFG officials cannot identify a deleterious impact. There should be a time limit in the regulations in which the application will be approved or disapproved. Due process should be allowed if I desire to appeal an application which has been disapproved.

Prior existing rights on permit acquisition: There must be an allowance for prior existing rights on a limited permit program. Otherwise, dredge-miners who have already invested in property and equipment could potentially lose our prior existing right to work our mining claims or other mining opportunities (belonging to an association that provides access to mining property).

Statewide permits, if limited, should be transferable: Permits should be transferable if there is going to be a limit on the number allowed under a statewide program. Otherwise, miners will make the substantial investment into developing a viable mine and then not be able to transfer ownership to someone new who will be able to dredge it, therefore losing some or most of the value.

DFG should not further-limit the size of dredges under the statewide permitting program: I do not believe that DFG has the authority to step onto the public lands and impose a permit restriction upon the productive capacity of my dredge without also coming up with specific reasons why existing capacities under the 1994 regulations are creating a deleterious impact upon fish. Please leave nozzle restriction sizes as they were in the 1994 regulations. The regulations should also allow a wear tolerance factor on nozzle restrictor rings. I suggest 3/8 of an inch (diameter) is reasonable.

Allowing larger-sized nozzles after site inspection: If a dredger wants to operate a dredge having a larger nozzle than is allowed under a statewide permitting scheme, the Department should allow the activity as long as no deleterious impact can be determined through a site inspection.

DFG should not further-limit the places where dredging is allowed: This proposal is just supported by your "precautionary approach." Except for those areas where you can demonstrate that a deleterious impact has been created under the existing regulations, please leave our seasons as they have been since 1994.

Gold miners should be afforded due process, and should be allowed to proceed in areas which are not allowed under a statewide permit, as long as a site inspection cannot turn up evidence of a deleterious impact.

Reduction of our existing dredging seasons is unreasonable: I do not see that the SEIR contains evidence of a deleterious impact upon fish to support the reduction of existing dredging seasons that are in the 1994 regulations. This proposal is only supported by your “precautionary approach.” Except for those time periods where you can demonstrate that a deleterious impact has been created under the existing regulations, you leave our seasons as they have been since 1994.

The proposed 3-foot rule is unreasonable: The SEIR has not presented any real evidence that dredging within three feet of the streambank has ever harmed a single fish. This prohibition would prevent beginners, non-swimmers or children from starting closer to the shore where water is shallower and more safe. Prohibiting dredging within three feet of the edge of the river will eliminate a significant portion of the operational value (perhaps even all of it) on some dredging properties.

It would be more productive to provide better language describing what the “bank” is in relation to dredge mining. For example, is there a “bank” in relationship to a gravel bar out in the waterway that is partially out of the water? What about a bar alongside the waterway that is submerged during the spring, but emerges more and more out of the water as the dry season evolves? Existing language is not clear enough. The proper answer is to clear that up, rather than impose an additional buffer zone which reduces our mining opportunities.

Suction dredge regulations should not impose the requirement of Section 1600 Agreements: Fish & Game Section 5600 already allows a site inspection mechanism for the Department to determine if a dredging program is deleterious to fish. Therefore, also imposing a Section 1600 requirement upon dredgers who wish to mine at a time or location that is otherwise closed, or to use larger nozzle than is allowed under a statewide permit, when there is little or no chance the dredge project will create a substantial impact upon the bed or bank of the waterway, would be an unreasonable imposition upon dredge-miners. Nobody else in California is required to pursue a Section 1600 permit until their activity rises to the level of requiring one. It should not be any different for suction dredgers.

This also applies to the use of power winches, which provide the only safe and efficient means of progressing when some rocks are too heavy to move by hand, or they cannot be rolled over other rocks that are in the way. You should not impose a 1600 Agreement requirement upon a gold dredger unless the surface disturbance rises to the level which triggers Section 1600 of the Fish & Game Code.

Imposition of the 3/32-inch intake requirement on pumps is unreasonable: The 1994 regulations already prohibit dredge operation at times when fish may be too small to swim away from pump intakes as they are already being manufactured.

Most dredges today are being produced using 3/16th inch or 15/64th inch holes for the pump intakes. To avoid conflict, you should adopt something larger than the two hole sizes which are already being used on most dredges in California.

Allowance of permit locations must be more broad: Since existing regulations already set the times and places where dredging is not deleterious to fish, I do not see any practical reason to force dredge-miners to inform DFG exactly where they are dredging – and then hold them to the location unless the permit is amended.

Since I intend to prospect, I will not know the exact locations where I will be dredging at the time I apply for my permit. You should broaden the location requirement in your permit application to naming the waterways where I intend to work. This will allow me some flexibility to move around in search of gold, without having to make an expensive trip to the closest Department license sales office to amend my permit.

The proposed dredge marking system is not workable: There is no practical way of attaching a sign to a small dredge! What does this have to do with preventing a deleterious impact upon fish?

If you must have an identification number on my dredge, you should eliminate the requirement of 3-inch number and allow the numbers to be marked either on the pontoons or the sluice box, but only if it is possible to do so. This would allow smaller numbers in the case of smaller dredges.

Fuel should be allowed within 100 feet of the waterway if kept within a water-tight container or a boat: I question your authority on placing any requirement upon suction dredgers in this matter, other than to prohibit the spillage of fuel. Millions of boaters all over California are allowed to keep fuel safely in their boats. Your proposed regulations would prohibit suction dredgers from doing the very same thing!

There are plenty of effective ways to prevent fuel from leaking into the waterway without making a dredge-miner hike 100 feet up the embankment. At the very least, fuel can be placed inside of a boat, or inside a sealed catch tub of some kind up on the embankment to prevent leakage. These catch tubs are already routinely part of a dredge program to assist with cleanup of concentrates.

Disturbance of mussel beds: It is unreasonable to propose that every suction dredger must now do a survey before dredging to make certain that there is no place within 30 feet downriver where more than 40 muscles per square yard exist before dropping tailings! Some rivers are so inundated with muscles; this imposition would amount to a suction dredge prohibition in a large part of the waterway! And why, since there are so many? How does the protection of mussels from dredge-miners conform to the language of Section 5653? Please drop this silly mussel idea from final regulations.

Returning the site to the pre-mining grade to the greatest extent possible: Since it is impossible to move tailings and rocks upstream against a swift current, the requirement to fill in our holes and level off our tailings is unrealistic.

Ample evidence shows that salmon are less likely to place their redds in a heaped tailing pile, than they are on a pre-mining grade which is inundated with unstable gravel; so your proposal will actually create more harm than good! The dredge holes which I leave behind create cool water refuges where salmon and other fish hold up during the warm summer months. My piled cobbles create protected habitat where fingerlings can hide from predators. It would be better for the fish if we just allow Mother Nature to settle things out in the next storm event.

Dredge mining between one half hour after sunrise to sunset: Your authority is limited to preventing a deleterious impact upon fish. Please drop this from proposed regulations and leave this particular concern to local authorities where it belongs.

Thank you very much for giving careful consideration to my comments and suggestions!

Sincerely,

D. Reed, 38729 Hwy. 96, Klamath River, CA 96050

Name and Address

April 21, 2011

Date

Please do not disallow dredging on creeks where it was o.k. in 1994 regs. Your actions have a major impact on my well being and the local economy. Our state does not need any more negative and hurtful things done to the productive people in our society. P.S. I am a 70 year old veteran. Do what is the right thing!!

Subject: Please stop the Suction Dredging!

Date: Thursday, April 21, 2011 8:48:16 AM PT

From: Lauren Lonsdale

To: mstopher@dfg.ca.gov

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

Regarding: Suction Dredge Program Draft SEIR Comments

Dear Mr. Stopher:

Please consider this letter an official comment letter on the draft SEIR prepared for the draft amended regulations that have been circulated. **I realize this is in part a form letter, but I am completely in agreement with these comments.**

The North Fork American River, like other California rivers and streams, must be protected from the adverse impacts of suction dredge mining. **The proposed regulations do not provide sufficient protection for the fish, wildlife, and water quality of our rivers.** DFG must analyze each individual river, and its tributaries, for adverse impacts from proposed regulations. A statewide basis for evaluation is inadequate and will lead to major adverse impacts on some streams.

Please revise the regulations to prohibit suction dredge mining in all rivers and streams that provide critical habitat and future recovery areas for threatened and endangered fish and wildlife. Please close all mercury-impaired rivers and streams to suction dredge mining to protect water quality, human health, fish, and wildlife.

Please ensure that the extraordinary and outstanding values of the North Fork American, a state and federal Wild & Scenic River and a Wild Trout Stream, are fully protected. Suction Dredge mining is incompatible with such designations and was prohibited in the W&S North Fork American under previous regulations. Mechanized or motorized equipment do not belong in a W & S River. In addition, portions of the North Fork and Middle Fork are proposed Wilderness and their wilderness qualities must not be compromised. You cannot put obstacles in the way of the land managers (Forest Service, BLM) nor add to their enforcement load as a result of your regulations. Rivers and streams should be closed to mining if budget cuts result in insufficient wardens in the field to enforce the new regulations.

Suction dredge mining will harm the North Fork American River's exceptional water quality and clarity, as well as its extraordinary scenic, recreation, and fishery values. In addition, experience shows that the miners bring lots of equipment and supplies down to the river but leave behind piles of trash (including batteries and fuel containers) that leach into the river. Even with a 14 day limit on camping, many miners stay much longer. Due to the narrow canyon, disposal of human waste is a problem; it accumulates in a few spots and leaches into the river. Trash and human waste does impact water quality, the fisheries, and human health.

Recreational and commercial mining is not a legitimate activity in California if it is done at the expense of the state's fish, wildlife, water quality, human health, and state-protected beneficial uses of our rivers and streams. Suction dredge mining is completely inappropriate in the

North Fork American River.

Thank you for your consideration.

Sincerely,

Lauren Spitz
PO Box 321

Subject: Re: Status of Suction Dredge DSEIR public review

Date: Friday, April 22, 2011 2:31:16 PM PT

From: jerry baer

To: mstopher@dfg.ca.gov

My major concern, at this time, is if prior permit holders will have any grandfathered rights to a permit if the number of permits is limited as planned because at today's prices dredging will be even more popular.

--- On **Thu, 4/14/11**, **Mark Stopher** <MStopher@dfg.ca.gov> wrote:

From: Mark Stopher <MStopher@dfg.ca.gov>
 Subject: Status of Suction Dredge DSEIR public review
 To: "Charlie Watson" <cwatson@advancedgeologic.com>, "Kerwin Krause" <kerwin.krause@alaska.gov>, "John" <jeepest@aol.com>, "Joseph McGee" <joni4cats@aol.com>, reddy2ctsp@aol.com, "Curtis Willie" <sbishop1979@aol.com>, "Charles Huss" <smaltoy@aol.com>, "Floyd Vaughan" <vaughan1896@aol.com>, "Bonnie Kriens" <mbkriens@att.net>, "Chuck Johnson" <n6yii@att.net>, "Tom Harris" <THARRIS1950@att.net>, "Ed" <traqngold@att.net>, davemack@attglobal.net, "Gary West" <gwest@ci.vallejo.ca.us>, "Jim Hart" <stanford@citlink.net>, "Gary Swayne" <PapaGary48@comcast.net>, "Dennis Martin" <Dennis.Martin@ejgallo.com>, "Michael Kellett" <mkellett02@fs.fed.us>, filterstone@gmail.com, "Jarod Ruffo" <jr2050@gmail.com>, "Ken and Debbie McMaster" <mcmasterpiece@gmail.com>, "Vince Nelson" <nelsonsrv@gmail.com>, "Eugene Beley" <sfvcgpaa@gmail.com>, new49ers@goldgold.com, "Blake Harmon" <bharmon@goldprospectors.org>, ca-suction-dredge-eir@googlegroups.com, "Rich Linden" <danielhasnoemail@hotmail.com>, "Steve Lintner" <orecar2010@hotmail.com>, sodman77@hotmail.com, "Tom Brenner" <tbrenner@hrblock.com>, "Scott Harn" <scott@icmj.com>, "Herb Miller" <miller@jps.net>, "Pat Keene" <pat@keeneeng.com>, "Jan Sticha" <magyver@magyver.com>, "David Dunham" <dddunham@me.com>, "Lewis Spengler" <educaptor.s@me.com>, "Richard McCarthy" <rmccarthy@mindspring.com>, "Wesley Wright" <wwright@mwconstructionllc.com>, "Heidi Walters" <heidialters@northcoastjournal.com>, "Chris McCord" <k942gadget@pacific.net>, "Richard Brubaker" <brubaker46@peoplepc.com>, "Dave Mack" <dave@promackmining.com>, "Barbara Manganello" <bsman@quiknet.com>, "Cyndi Hillery" <CHillery@rcrcnet.org>, "Mary Pitto" <mpitto@rcrcnet.org>, "Stephen Kulieke" <skulieke@rcrcnet.org>, "D Ray East" <dr.east@sbcglobal.net>, "Bill Fisher" <goldminerbill@sbcglobal.net>, "Scott Fischer" <scottfischer@sbcglobal.net>, "Paul Nasiatka" <scubaflake1@sbcglobal.net>, "Marcia Armstrong" <armstrng@sisqtel.net>, "Ray Stewart" <au1099@sisqtel.net>, "Jim Foley" <jfoley@sisqtel.net>, "Jennifer DeLeon" <Jennifer.DeLeon@slc.ca.gov>, "Wanda Oliver" <mtngutter@sti.net>, "Elleonore Hizon" <elleonore.hizon@thomsonreuters.com>, "CustomerSolutions" <CustomerSolutions@united.com>, "Charles N Alpers" <cnalpers@usgs.gov>, "Gerald Hobbs" <jerhobbs2@verizon.net>, "roaring camp" <roaringcamp@volcano.net>, "Don Robinson" <goldworld@wildblue.net>, "Martin Nielsen" <mnielsen@windjammercable.net>, "James Coker" <jamescoker1954@yahoo.co.uk>, "Michael Adams" <audredger2002@yahoo.com>, "Manuel Figueiredo" <kenainson@yahoo.com>, "Mike Allen" <mallen7711@yahoo.com>, pdic-1916@yahoo.com, "Scott Coykendall" <scottsspot@yahoo.com>, "Jim Madden" <upi.gold@yahoo.com>
 Cc: "John Mattox" <JMattox@dfg.ca.gov>, "Randy Kelly" <RKelly@dfg.ca.gov>, "Michael

SUCTION DREDGE PERMITTING PROGRAM

Draft Subsequent Environmental Impact Report (DSEIR)

Comment Form

Name:	Richard Brandenburg
Mailing Address:	P.O. Box 504
	SALYER, CA. 95563
Telephone No. (optional):	530-623-6362
Email (optional):	

Comments/Issues: these are my comments on the DSEIR. IT WAS A WASTE OF TIME AND MONEY, AND PAPER. I OBJECT TO THE WHOLE STUDY DONE WITHOUT EVEN MONITORING A DREDGE SOUNDS PRETTY ONE SIDED AND ^{D.I.A.S} ~~BIAS~~. DREDGING IS ALL READY OVER REGULATED AND RESTRICTED TO WHEN YOU CAN DREDGE WHERE YOU CAN DREDGE. DREDGING HAS NO IMPACT ON FISH OR THE ENVIRONMENT, THE NATIONAL FOREST AND WILDERNESS AREAS ARE FOR RECREATION BY THE PUBLIC, THE FISH HAVE A LOT OF PROBLEMS, DAM'S, GILL NETS ON THE KLAMATH BY THE INDIANS, OVER FISHING IN THE OCEAN, BUT THE DAM IS THE REAL PROBLEM. 90 PERCENT OF THE TRINITY RIVER IS SENT SOUTH THAT LEAVES 10 PERCENT FOR THE FISH, WHICH IS NOT ENOUGH, THE FISH ARE DYING IN THE RIVER'S FROM LACK OF WATER KLAMATH RIVER FISH KILL. SO I'M SORRY IF I FEEL THE STUDY WAS A WASTE OF TIME AND MONEY AND PAPER. IT'S ABOUT CLOSING MINING NOT SAVING FISH. YOU CAN CLOSE ALL MINING AND IT WON'T SAVE ONE FISH. WHEN THE LAST FISH IS GONE WILL WE BE ABLE TO MINE THEM. EVERY THING WE USE IN THIS WORLD COMES FROM THE GROUND. MOTHER EARTH. THANK YOU

Please use additional sheets if necessary.

SUBMIT WRITTEN COMMENTS (POSTMARKED BY 05/10/11) TO: Next Page

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

Email: dfgsuctiondredge@dfg.ca.gov

Fax: (530) 225-2391

As I said before, Everything we use comes from the ground as being mined or grown it all comes from mother Earth. Food don't come from the grocery store as most people think. It comes from the ground. Minerals don't come out of thin air, they come from the Earth. Using the Endangered Species Act And the Environment as a excuse to shut down mining, growing and all business is not the way to go. Look at California Everything is shut down because of Environment or endangered species. And look at the shape California is in, No jobs, no business no money. So yea Lets shut it ALL down. No body need to work. IF the Department of Fish and Game want's more fish deal with the REAL problems. DAM's, Indians gill nets, Low water in River over fishing in the ocean by trawlers and long nets

I object to the closure of the New River and Tributaries of the Trinity River. I have mining claims on the East Fork of the New River in Trinity County and on Eagle Creek a tributary of Slide Creek. The creeks are small and not good spawning grounds. Both claims are in the wilderness Trinity Alps. And are grandfathered in by Congress and the wilderness act. Because of this I had to get a special dredge permit from the Fish and Game. I objected to the special dredge permits from the start. The Fish and Game had no authorization to make me get a special dredge permit, because it was wilderness. or to close the area I was dredging in because of wilderness. I objected to the permits. I was forced to go thru the special dredge permit process which included more regulations including inspections on my mining claims, by the Fish & Game and biologists. Which I had to pay extra for. Twice I had inspections on my East Fork claims and once on my Eagle Creek claim.

The inspections consisted of on site inspection's the fish and game officers and biologist WALKED the claim on the EAST FORK AND I ASKED them to point out ANY SPAWNING grounds or beds on holding pools they found NO SPAWNING grounds AND ONLY ONE holding pool they ASKED me to STAY out of, AND I SAID NO PROBLEM. THE EAST FORK IS A STEEP CREEK AND MOST ALL BOULDERS, BIG BOULDERS. NOT GOOD SPAWNING ground. NO SALMON AND ONLY A FEW STEELHEAD ARE COUNTED ON THE UPPER SECTION OF EAST FORK. I'VE MINED THIS CLAIM FOR OVER 20 YEARS. I'M A VERY SENSITIVE MINER WHEN IT COMES TO THE ENVIRONMENT, I CARE AND TAKE CARE OF IT. WE HAVE BEEN ONLY ALLOWED TO DREDGE THIS CLAIM 3 MONTHS IN THE SUMMER EACH YEAR, NO FISH ARE SPAWNING AT THIS TIME OR ARE MANY FISH IN THE RIVER. I HAVE PLENTY OF REGULATIONS AND RULES AND I CAN SEE NO ENVIRONMENTAL DAMAGE IN MY OPERATION. I RUN A FIVE INCH SUBSURFACE DREDGE WITH A 8 HONDA ENGINE, THE MATERIAL I RUN SHOOTS OUT THE BACK UNDER WATER. ALL DREDGES HAVE SCREENS ON THERE PUMP INTAKE. NOW I HAVE HAD INSPECTIONS ON BOTH MY MINING CLAIMS AND FOUND MY OPERATION NOT TO BE HARMFUL TO FISH OR ENVIRONMENT. SO I DON'T SEE WHY ONE WOULD CLOSE THE EAST FORK OR EAGLE CREEK. AGAIN I OBJECT TO THE EAST FORK NEW RIVER BEING CLOSED I WISH TO BE GRAND FATHERED INTO THIS CLOSURE. I'M THE ONLY ONE THAT HAS A VALID CLAIM ON THIS RIVER AND I DON'T SEE HOW MY SMALL ONE MAN DREDGING OPERATION IS GOING TO HAVE ANY IMPACT ON ANYTHING. AS I SIT HERE WITH RADIATION FROM THE NUKE PLANT IN JAPAN FALLING FROM THE SKY AND RAINING DOWN ON US. I CAN'T SEE MY OPERATION CAUSING ANY ENVIRONMENTAL IMPACT.

THANK YOU

Richard Brandenburg



STATE OF CALIFORNIA - THE RESOURCES AGENCY
 DEPARTMENT OF FISH AND GAME
 1992 SPECIAL DREDGE PERMIT APPLICATION
 TO OPERATE VACUUM OR SUCTION DREDGE



FEE: \$142.50 for resident or \$241.25 for nonresident if an inspection is required.
 \$27.50 for resident or \$109.75 for nonresident if no inspection is required.
 DO NOT SUBMIT FEE WITH APPLICATION. YOU WILL BE NOTIFIED WHEN FEE IS DETERMINED.

A Special Dredge Permit is required when using dredges with an intake larger than 8 inches in diameter, or any dredge operated in waters otherwise closed to dredging. Special Dredge Permits are issued by the regional office nearest to which the body of water is located. (See reverse side for list of regional offices.)

NAME Rich Brandenburg DATE OF BIRTH 4 / 1 / 58
 ADDRESS Bonsai HGT 6'2" WGT 185
 CITY/STATE/ZIP SALYER, CA, 95563 COLOR OF HAIR BW COLOR OF EYES Blue SEX M
 TELEPHONE () None DRIVER'S LICENSE OR SOCIAL SECURITY NO. (OPTIONAL)

I have resided in California continuously for the last 6 months. (A resident is defined as any person who has resided continuously in California for six months or more immediately before the date of application for a license). Check one: YES NO ()

TYPE OF OPERATION (check one): GOLD MINING SAND & GRAVEL () OTHER ()

Explain "Other," if checked:

Name of stream or river EAST Fork New River Size of dredge 5"

Dates dredging will take place: MAY 23 to SEPT 28 VALID THRU SEPT. 30, 1992

Location where dredging will take place: List range, township and section, any known landmarks and ownership of land (mining claim, privately owned property or public lands). If mining claim, attach copy of legal description.

EAST Fork New River Sec. 8 7N 8E
Next Place I-11

Explain use of Special Dredge Permit: HAVE NO EXPLANATION WHY ONE WOULD NEED A SPECIAL DREDGE PERMIT -> SPECIAL DREDGE PERMIT REQUIRED BECAUSE OPERATION SITE IS WITHIN BOUNDARIES OF WILDERNESS AREA.

I hereby certify that I have read the provisions of the California Fish and Game Code, Section 5653 (see reverse side), and that I understand and agree to be bound by all the terms set forth in the permit issued pursuant to the above named section.

I hereby certify that all information contained on this application and/or submitted to meet the requirements for renewal of subject permit(s) is true and correct. I understand that, in the event that this information is found to be untrue or incorrect, the permit issued will be considered invalid and must be surrendered where purchased and that I will be subject to criminal prosecution.

Signature of Applicant Rich Brandenburg Date of Application MAY 10, 1992

FOR DEPARTMENT OF FISH AND GAME USE ONLY

Recommendation from field personnel:

Approved: An inspection was not required; therefore fee is \$ 142.50

() Disapproved for the following reasons:

Richard L. Elliott
 Signature of Department Representative

Regional Patrol Chief
 Title

Redding
 DFG Office

No 200005-01
 FEE \$142.50
 STATE OF CALIFORNIA
 DEPARTMENT OF FISH AND GAME
 1992 RESIDENT SPECIAL
 SUCTION DREDGE PERMIT
 Expires December 31, 1992

Nonresident Special Dredge Permit
 Expires December 31, 1992
 No. _____
 Date issued _____

White - Licensee Blue - Issuing Office

Renewal



STATE OF CALIFORNIA - THE RESOURCES AGENCY
1993 DEPARTMENT OF FISH AND GAME
SPECIAL DREDGE PERMIT APPLICATION
TO OPERATE VACUUM OR SUCTION DREDGE



FEE: ~~144.50~~ for resident or ~~244.50~~ for nonresident if an inspection is required. 244.50
28.00 for resident or 111.25 for nonresident if no inspection is required.
DO NOT SUBMIT FEE WITH APPLICATION. YOU WILL BE NOTIFIED WHEN FEE IS DETERMINED.

A Special Dredge Permit is required when using dredges with an intake larger than 8 inches in diameter, or any dredge operated in waters otherwise closed to dredging. Special Dredge Permits are issued by the regional office nearest to which the body of water is located. (See reverse side for list of regional offices.)

NAME Richard Brandenburg DATE OF BIRTH 4 / 1 / 51
ADDRESS Box 504 HGT 6'6" WGT 185
CITY/STATE/ZIP Salyer, CA. 95563 COLOR OF HAIR Brown COLOR OF EYES Blue SEX M.
TELEPHONE () None DRIVER'S LICENSE OR SOCIAL SECURITY NO. (OPTIONAL)

I have resided in California continuously for the last 6 months. (A resident is defined as any person who has resided continuously in California for six months or more immediately before the date of application for a license). Check one: YES () NO ()

TYPE OF OPERATION (check one): GOLD MINING () SAND & GRAVEL () OTHER ()
Explain "Other," if checked:

Name of stream or river East Fork New River Size of dredge 5"

Dates dredging will take place: MAY 29, 1993 to Sept 15, 1993

Location where dredging will take place: List range, township and section, any known landmarks and ownership of land (mining claim, privately owned property or public lands). If mining claim, attach copy of legal description.

EAST FORK New River Sec. 8 7N 8E
Next place I & II

Explain use of Special Dredge Permit: Within Boundaries of wilderness

I hereby certify that I have read the provisions of the California Fish and Game Code, Section 5653 (see reverse side), and that I understand and agree to be bound by all the terms set forth in the permit issued pursuant to the above named section.

I hereby certify that all information contained on this application and/or submitted to meet the requirements for renewal of subject permit(s) is true and correct. I understand that, in the event that this information is found to be untrue or incorrect, the permit issued will be considered invalid and must be surrendered where purchased and that I will be subject to criminal prosecution.

Signature of Applicant Richard Brandenburg Date of Application MARCH 9th 1993

FOR DEPARTMENT OF FISH AND GAME USE ONLY

Recommendation from field personnel:

Approved: An inspection was/was not required; therefore fee is \$28.00

() Disapproved for the following reasons:

Morgan Alvin Signature of Department Representative
Patrol Captain Title
Redding DFG Office

№ 000142 -01

FEE ~~144.50~~
1993 CALIFORNIA RESIDENT STANDARD SUCTION DREDGE PERMIT Expires December 31, 1992

Nonresident Special Dredge Permit Expires December 31, 1992
No. _____
Date issued _____

Renewal

1994

SPECIAL DREDGE PERMIT APPLICATION

TO OPERATE VACUUM OR SUCTION DREDGE



Fee information: \$148.25 FEE: [] for resident or [] for nonresident if an inspection is required. \$250.75 for resident or [] for nonresident if no inspection is required. \$114.00. DO NOT SUBMIT FEE WITH APPLICATION. YOU WILL BE NOTIFIED WHEN FEE IS DETERMINED.

A Special Dredge Permit is required when using dredges with an intake larger than 8 inches in diameter, or any dredge operated in waters otherwise closed to dredging. Special Dredge Permits are issued by the regional office nearest to which the body of water is located. (See reverse side for list of regional offices.)

NAME Rick Brandenburg
ADDRESS Box 504
CITY/STATE/ZIP Salyer, CA, 95563
TELEPHONE None

DATE OF BIRTH 4 / 1 / 51
HGT 6'2" WGT 190
COLOR OF HAIR Brn COLOR OF EYES Blue SEX M
DRIVER'S LICENSE OR SOCIAL SECURITY NO. (OPTIONAL)

I have resided in California continuously for the last 6 months. (A resident is defined as any person who has resided continuously in California for six months or more immediately before the date of application for a license). Check one: YES (X) NO ()

TYPE OF OPERATION (check one): GOLD MINING (X) SAND & GRAVEL () OTHER ()

Explain "Other," if checked:

Name of stream or river EAST FORK NEW RIVER Size of dredge 5 inch necked to 5 inch

Dates dredging will take place: MAY 28, 1994 to SEPT 15, 1994

Location where dredging will take place: List range, township and section, any known landmarks and ownership of land (mining claim, privately owned property or public lands). If mining claim, attach copy of legal description.

EAST FORK NEW RIVER SEC 8 7N 8E

Next place one and two

Explain use of Special Dredge Permit: wilderness

I hereby certify that I have read the provisions of the California Fish and Game Code, Section 5653 (see reverse side), and that I understand and agree to be bound by all the terms set forth in the permit issued pursuant to the above named section.

I hereby certify that all information contained on this application and/or submitted to meet the requirements for renewal of subject permit(s) is true and correct. I understand that, in the event that this information is found to be untrue or incorrect, the permit issued will be considered invalid and must be surrendered where purchased and that I will be subject to criminal prosecution.

Signature of Applicant Rick Brandenburg Date of Application MARCH 5, 1994

FOR DEPARTMENT OF FISH AND GAME USE ONLY

Recommendation from field personnel:

() Approved: An inspection was/was not required; therefore fee is \$

() Disapproved for the following reasons:

Morgan Cukin Signature of Department Representative

Patrol Captain Title

R-1 DFG Office

1994 CALIFORNIA RESIDENT STANDARD SUCTION DREDGE PERMIT \$28.75 200101-02 Expires December 31, 1994 Date issued 4/19/94

Nonresident Special Dredge Permit Expires December 31, 1992 No. Date issued



STATE OF CALIFORNIA
 DEPARTMENT OF FISH AND GAME
SPECIAL DREDGE PERMIT APPLICATION
 TO OPERATE VACUUM OR SUCTION DREDGE

THE RESOURCES AGENCY



A Special Dredge Permit is required when using dredges with an intake larger than prescribed in regulation, or any dredge operated in waters otherwise closed to dredging. Special Dredge Permits are issued by the regional office nearest to the body of water. (See reverse side for regional offices.) Read instructions on reverse side before completing application.

NAME Richard Brandenburg DATE OF BIRTH 4 11 51
 ADDRESS Star Route Month Day Year
 CITY/STATE/ZIP Denny, CA 95527 HEIGHT 6'3" WEIGHT 200
 TELEPHONE (916) 629-3977 message phone COLOR OF HAIR BRN COLOR OF EYES Blue SEX M
 DRIVER'S LICENSE OR DMV I.D. NUMBER N/A

I have resided in California continuously for the last six months. (A resident is defined as any person who has resided continuously in California for six months or more immediately before the date of application for a license). Check one: YES NO

TYPE OF OPERATION (check one): GOLD MINING SAND & GRAVEL OTHER

Explain "Other," if checked _____

Name of stream or river Eagle Creek County Tuinity

Dates dredging will take place: MAY 1 to Nov 15

Location where dredging will take place: List range, township and section, any known landmarks and ownership of land (mining claim, privately owned property or public lands). If mining claim, attach copy of legal description.

Sec 13 8N 7E mining claim 125543
From North Fork of Eagle Creek down
Eagle Creek to crossing trail across river heavier metal

Attach vicinity map and site-specific map showing features, boundaries of the proposed dredge site, and access to the site; written verification of mining claim, if applicable; copy of an approved plan of operation or a mining claim location notice, if dredge site is on public land; permission from landowner for the dredging operation and for Department biologists to enter the property for initial and future inspections, if dredge site is on private land; and copy of names and addresses of land owners or land-managing agencies, if dredge site will be within 300 feet of property owned by other persons or agencies. Also include proof of mailing and a copy of a letter informing other owners or land-managing agencies of the type of equipment, location, and dates of operation. This letter must be sent on or before date application is filed with the Department.

Description of dredging equipment to be used, including nozzle size, engine size or horsepower, winching, and other equipment:
5" sub surface dredge small chain saw winch
8 horse power Honda engine

Nothing in this permit shall authorize the permittee to trespass on privately owned land, or to use a dredge in waters passing over private lands without the permission of the landowner. The listing of waters open to dredging does not mean that such waters are open to the public. The permittee shall comply with all applicable federal, state and local laws. Suction or vacuum dredges shall not be used where dredging is prohibited by such laws. This permit does not authorize dredging in any national forest, national park, state park system unit, county park, municipal park or other such area where dredging is prohibited by the agency in control of such areas.

I hereby certify that I have read the provisions of the California Fish and Game Code, Section 5653 (see reverse side and Title 14, CCR, 228 & 228.5), and that I understand and agree to be bound by all the terms set forth in the permit issued pursuant to the above named section. I hereby certify that all information contained on this application and/or submitted to meet the requirements for renewal of subject permit(s) is true and correct. I understand that, in the event that this information is found to be untrue or incorrect, the permit issued will be considered invalid and must be surrendered where purchased and that I will be subject to criminal prosecution. This license or permit may be suspended or revoked by the Fish and Game Commission if you are convicted of, or plead guilty or nolo contendere, to a Fish and Game violation.

SIGNATURE OF APPLICANT Richard Brandenburg DATE OF APPLICATION April 29 1996
 FOR DEPARTMENT OF FISH AND GAME USE ONLY

Recommendation from field personnel (attach justification for approval/disapproval): Approved Disapproved

SPECIAL CONDITIONS/LIMITATIONS:
Conditions Attached

SIGNATURE OF DEPARTMENT REPRESENTATIVE Morgan C... TITLE Patrol Captain August 12, 1996
 DFG OFFICE

RE 1996 CALIFORNIA
 PE RESIDENT SPECIAL
 Nc SUCTION DREDGE PERMIT
 Fee \$156.25
 D: 100014-01
 Expires December 31, 1996
 Date Issued 4-11-96

NONRESIDENT SPECIAL
 DREDGE PERMIT
 No. _____
 Date Issued _____

RECEIVED
 MAY 2
 White - Licensee Pnk - Issuing Office Yellow - WPD
 Dept. of F & G - Region 1

DEPARTMENT OF FISH AND GAME
NORTHERN CALIFORNIA-NORTH COAST REGION

601 LOCUST STREET

REDDING, CA 96001

(530) 225-2300



April 16, 1999

Mr. Richard L. Brandenburg
HCR 65
Burnt Ranch, California 95527

Dear Mr. Brandenburg:

This is to inform you that your special suction dredge permit application for the **Heavier Metal Mining Claim**, Eagle Creek, tributary to Slide Creek, tributary to New River, has been received and reviewed by the Department of Fish and Game (Department). In addition, an on-site inspection of your claim was made on August 8, 1996, by Fish and Game Warden (Warden) Tim Machado of the Department. During that inspection, Warden Machado determined that, under the following conditions, there would be no deleterious effects to the fishery resources and, therefore, your special suction dredge application is approved with the following conditions:

1. Operations are to begin no earlier than June 1, 1999, and are to terminate no later than September 10, 1999.
2. Dredging shall be restricted to that portion of the Heavier Metal Mining Claim on Eagle Creek downstream from the large falls for 150 yards. The large pool at the base of the falls and for 50 feet downstream from the lower end of the pool is excluded from dredging to protect summer holding steelhead.
3. Any dredging above the falls on the upper portion of the claim will require a new inspection.
4. This permit allows only you to operate the intake nozzle of your dredge. If other individuals are planning to operate the intake nozzle, they also are required to obtain a suction dredge permit.

The preceding special conditions are intended to protect salmonids which would be expected to begin spawning in this reach of the stream during the period of October through early June. If you have any questions or need further assistance regarding your special suction dredge permit, please call Associate Fisheries Biologist Bernie Aguilar at (530) 778-0218.

Sincerely,

A handwritten signature in black ink that reads "Gary B. Stacey".

Gary B. Stacey
Fisheries Management Supervisor

Attachment

cc: See attached list.

Mr. Richard L. Brandenburg
April 16, 1999
Page Two

cc: Mr. Bernie Aguilar
Department of Fish and Game
Post Office Box 112
Lewiston, California 96052

Warden Tim Machado
Department of Fish and Game
Post Office Box 640
Willow Creek, California 95573

Fish and Game Patrol Lieutenant Robert Taylor
Department of Fish and Game
HC Route, Box 456
Lewiston, California 96052

Fish and Game Patrol Captain Steve Conger
Department of Fish and Game
619 Second Street
Eureka, California 95501

Mr. Mike Rode
Department of Fish and Game
3 North Old Stage Road
Mt. Shasta, California 96067

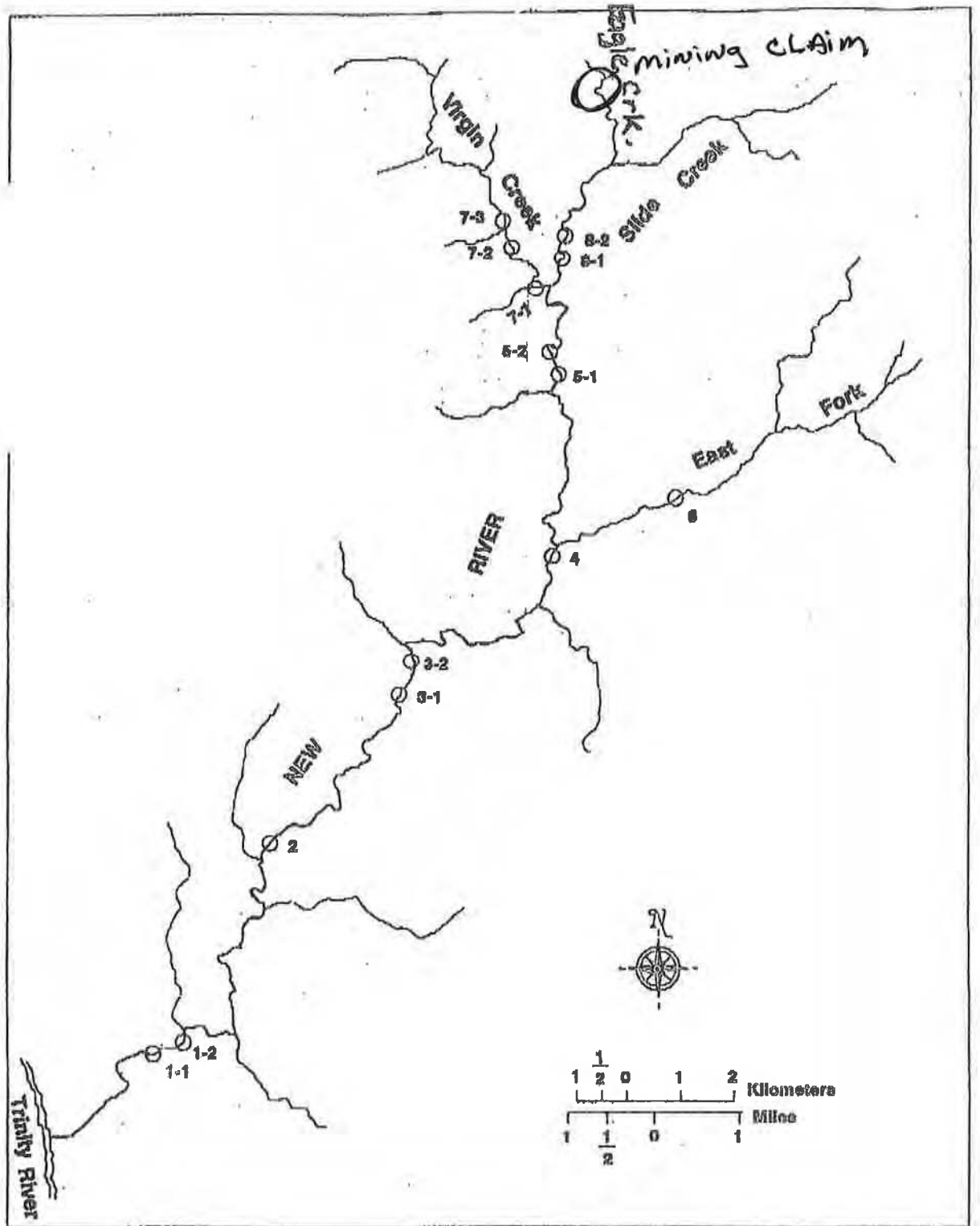


Figure 3. Map of juvenile salmonid index reach locations in New River, CA.



Renewal

SPECIAL DREDGE PERMIT APPLICATION

TO OPERATE VACUUM OR SUCTION DREDGE

SOCIAL SECURITY NUMBER (Mandatory)
398-152-6281

A Special Dredge Permit is required when using dredges with an intake larger than prescribed in regulation, or any dredge operated in waters otherwise closed to dredging. Special Dredge Permits are issued by the regional office nearest to the body of water. (See reverse side for regional offices.)

SEE INSTRUCTIONS ON REVERSE. TYPE OR PRINT CLEARLY

FIRST NAME Richard	M.I. L	LAST NAME Brandenburg	DAY TELEPHONE ()	
MAILING ADDRESS HCR 65			DATE OF BIRTH 4-1-51	
CITY Burnt Ranch	STATE CA	ZIP CODE 95527	HEIGHT 6'3"	WEIGHT 195
DRIVER'S LICENSE NUMBER OR DMV I.D. NUMBER N.A.			HAIR Brn	EYES Blue
			SEX <input checked="" type="checkbox"/> MALE <input type="checkbox"/> FEMALE	

I HAVE RESIDED IN CALIFORNIA CONTINUOUSLY FOR THE LAST SIX MONTHS. (A resident is defined as any person who has resided continuously in California for six months or more immediately before the date of application for the license). YES NO

TYPE OF OPERATION (Check one): GOLD MINING SAND & GRAVEL OTHER

EXPLAIN "OTHER," IF CHECKED

NAME OF WATER Eagle Creek	COUNTY Trinity	PROPOSED DATES DREDGING WILL TAKE PLACE: FROM June 1, 1999 TO Sept 10, 1999
LOCATION WHERE DREDGING WILL TAKE PLACE: LIST RANGE, TOWNSHIP AND SECTION, ANY KNOWN LANDMARKS. Sec 13 SW 7E Mining Claim No 125543		
DIMENSIONS OF INSIDE DIAMETER IN INCHES OF SUCTION DREDGE INTAKE NOZZLE. 5 inch sub surface Dredge		

OWNERSHIP OF LAND:
 PRIVATE: OWNER'S NAME USFS BLM OTHER (Explain) Public Land

Attach vicinity map and site-specific map showing features, boundaries of the proposed dredge site, and access to the site; permission from private landowner(s) for Department biologists to enter or access the property for initial and future inspections if dredge site is on private land.

Attach copy of Approved Plan of Operation (optional-may expedite review process).

Nothing in this permit shall authorize the permittee to trespass on privately owned land, or to use a dredge in waters passing over private lands without the permission of the landowner. The listing of waters open to dredging does not mean that such waters are open to the public. The permittee shall comply with all applicable federal, state and local laws. Suction or vacuum dredges shall not be used where dredging is prohibited by such laws. This permit does not authorize dredging in any national forest, national park, state park system unit, county park, municipal park or other such area where dredging is prohibited by the agency in control of such areas. I hereby certify that I have read the provisions of the California Fish and Game Code, Section 5653 (see reverse side and Title 14, CCR, 228 & 228.5), and that I understand and agree to be bound by all the terms set forth in the permit issued pursuant to the above named section. I hereby certify that all information contained on this application and/or submitted to meet the requirements for renewal of subject permit(s) is true and correct. I understand that, in the event that this information is found to be untrue or incorrect, the permit issued will be considered invalid and must be surrendered where purchased and that I will be subject to criminal prosecution. I understand this license or permit may be suspended or revoked by the Department of Fish and Game pursuant to Section 228, Title 14, CCR.

SIGNATURE X Richard L. Brandenburg	DATE 3-8-99
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FOR DEPARTMENT OF FISH AND GAME ONLY

DISAPPROVED APPROVED with attached conditions

SIGNATURE OF DEPARTMENT REPRESENTATIVE Amy B. Avery	TITLE Fisheries Insp. Supervisor	DFG OFFICE North Coast Region
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1999 CALIFORNIA
RESIDENT STANDARD
SUCTION DREDGE PERMIT
Fee \$34.40
200038-04
Expires December 31, 1999
Date Issued 4-16-99

NONRESIDENT
DREDGE PERMIT
No. _____
Date Issued _____

RESIDENT
INSPECTION
No. _____
Date Issued _____

NONRESIDENT
INSPECTION
No. _____
Date Issued _____

ASSISTANT TO
DISABLED DREDGER
NO FEE



2000 SUCTION DREDGE PERMIT APPLICATION

TO OPERATE VACUUM OR SUCTION DREDGE

SOCIAL SECURITY NUMBER (Mandatory)

39181-1512-16128111

FEE: RESIDENT—\$33.25 (No inspection required) NONRESIDENT—\$131.25 (No inspection required)

SEE INSTRUCTIONS ON REVERSE. TYPE OR PRINT CLEARLY

FIRST NAME Richard	M.I. C	LAST NAME Brandenburg	DAY TELEPHONE (714) 444-XXXX	
MAILING ADDRESS HCR 65			DATE OF BIRTH 4-1-51	
CITY Burnt Ranch	STATE CA	ZIP CODE 95527	HEIGHT 6'2"	WEIGHT 200
DRIVER'S LICENSE NUMBER OR DMV I.D. NUMBER N/A		SEX <input checked="" type="checkbox"/> MALE <input type="checkbox"/> FEMALE	HAIR BRN	EYES Blue

I HAVE RESIDED IN CALIFORNIA CONTINUOUSLY FOR THE LAST SIX MONTHS. (A resident is defined as any person who has resided continuously in California for six months or more immediately before the date of application for the license). YES NO

TYPE OF OPERATION (Check one): GOLD MINING SAND & GRAVEL OTHER

EXPLAIN "OTHER," IF CHECKED

When permit stamp has been affixed below, the applicant is authorized to operate a vacuum or suction dredge in accordance with the attached regulations. Nothing in this permit shall authorize the permittee to trespass on privately owned land, or to use a dredge in waters passing over private lands without the permission of the landowner. The listing of waters open to dredging does not mean that such waters are open to the public. The permittee shall comply with all applicable federal, state and local laws. Suction or vacuum dredges shall not be used where dredging is prohibited by such laws. This permit does not authorize dredging in any national forest, national park, state park system unit, county park, municipal park or other such area where dredging is prohibited by the agency in control of such areas.

I hereby certify that I have read the provisions of the California Fish and Game Code, Section 5653 (see reverse side) and that I understand and agree to be bound by all the terms set forth in the permit issued pursuant to the above named section. I hereby certify that all information contained on this application and/or submitted to meet the requirements for renewal of subject permit(s) is true and correct. I understand that, in the event that this information is found to be untrue or incorrect, the permit issued will be considered invalid and must be surrendered where purchased and that I will be subject to criminal prosecution. I understand this license or permit may be suspended or revoked by the Fish and Game Commission if I am convicted of, or plead guilty or nolo contendere, to a Fish and Game violation.

SIGNATURE: *R. C. Brandenburg* DATE: 4-28-2000

FOR DEPARTMENT OF FISH AND GAME ONLY
SIGNATURE OF DEPARTMENT REPRESENTATIVE: *S. Armstrong* TITLE: *PT* DFG OFFICE: *Reg 1 - Rg.*
trk # 073481

2000 CALIFORNIA RESIDENT STANDARD SUCTION DREDGE PERMIT Fee \$34.90
200394-04
Expires December 31, 2000
Date issued 5/10/00

NONRESIDENT DREDGE STAMP
No. _____
Date issued _____

ASSISTANT TO DISABLED DREDGER
NO FEE

Regs. given 2/23/00



2001 SUCTION DREDGE PERMIT APPLICATION

TO OPERATE VACUUM OR SUCTION DREDGE

FEE: RESIDENT—\$34.75 (No inspection required) **NONRESIDENT—\$136.75** (No inspection required)

SEE INSTRUCTIONS ON REVERSE. TYPE OR PRINT CLEARLY

FIRST NAME Richard	M.I. L	LAST NAME Brandenburg	DAY TELEPHONE (Voluntary) 530 629-4953	
MAILING ADDRESS HCR 65			DATE OF BIRTH 4-1-51	
CITY Quart Ranch	STATE CA	ZIP CODE 95527	HEIGHT 6'2"	WEIGHT 190
DRIVER'S LICENSE NUMBER OR DMV I.D. NUMBER D1242785		SEX <input checked="" type="checkbox"/> MALE <input type="checkbox"/> FEMALE	HAIR Bwn	EYES Blu
I HAVE RESIDED IN CALIFORNIA CONTINUOUSLY FOR THE LAST SIX MONTHS. (A resident is defined as any person who has resided continuously in California for six months or more immediately before the date of application for the license).			<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	
TYPE OF OPERATION (Check one): <input checked="" type="checkbox"/> GOLD MINING <input type="checkbox"/> SAND & GRAVEL <input type="checkbox"/> OTHER				

EXPLAIN "OTHER," IF CHECKED

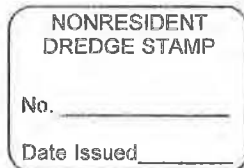
When permit stamp has been affixed below, the applicant is authorized to operate a vacuum or suction dredge in accordance with the attached regulations.

Nothing in this permit shall authorize the permittee to trespass on privately owned land, or to use a dredge in waters passing over private lands without the permission of the landowner. The listing of waters open to dredging does not mean that such waters are open to the public. The permittee shall comply with all applicable federal, state and local laws. Suction or vacuum dredges shall not be used where dredging is prohibited by such laws. This permit does not authorize dredging in any national forest, national park, state park system unit, county park, municipal park or other such area where dredging is prohibited by the agency in control of such areas.

I hereby certify that I have read the provisions of the California Fish and Game Code, Section 5653 (see reverse side) and that I understand and agree to be bound by all the terms set forth in the permit issued pursuant to the above named section. I hereby certify that all information contained on this application and/or submitted to meet the requirements for renewal of subject permit(s) is true and correct. I understand that, in the event that this information is found to be untrue or incorrect, the permit issued will be considered invalid and must be surrendered where purchased and that I will be subject to criminal prosecution. I understand this license or permit may be suspended or revoked by the Fish and Game Commission if I am convicted of, or plead guilty or nolo contendere, to a Fish and Game violation.

SIGNATURE X Richard Brandenburg	DATE June 11-2001
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FOR DEPARTMENT OF FISH AND GAME ONLY		
SIGNATURE OF DEPARTMENT REPRESENTATIVE Emmy Cluehl	TITLE PTI	DFG OFFICE EKA

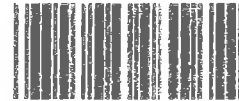




State of California—The Resources Agency
DEPARTMENT OF FISH AND GAME

2002 SUCTION DREDGE PERMIT APPLICATION

TO OPERATE VACUUM OR SUCTION DREDGE



* 1 2 0 *

VALID JANUARY 1, 2002 THROUGH DECEMBER 31, 2002*

(*Subject to the seasonal restrictions in Section 228.5, Title 14, of the California Code of Regulations)

FEES: RESIDENT—\$36.00 (No inspection required) NONRESIDENT—\$141.25 (No inspection required)
RESIDENT—\$183.75 (If inspection is required) NONRESIDENT—\$310.75 (If inspection is required)

CHECK ONE: NEW RENEWAL IF RENEWAL, CHECK HERE IF NEW ADDRESS

YES, I QUALIFY FOR AN ASSISTANT SUCTION DREDGE PERMIT (NO ADDITIONAL FEE)

(Disabled permittee must apply and pay fees for resident or nonresident permit)

SEE INSTRUCTIONS ON REVERSE. TYPE OR PRINT CLEARLY

FIRST NAME RICHARD	MI. L	LAST NAME BRANDENBURG	DAY TELEPHONE (Voluntary) (530) 629-4853	
MAILING ADDRESS HCR 65			DATE OF BIRTH 04/01/1951	
CITY BURNT RANCH	STATE CA	ZIP CODE 95527	HEIGHT 6'2"	WEIGHT 195
DRIVER'S LICENSE NUMBER OR DMV I.D. NUMBER		SEX <input checked="" type="checkbox"/> MALE <input type="checkbox"/> FEMALE	HAIR COLOR Brown	EYE COLOR Blue

I HAVE RESIDED IN CALIFORNIA CONTINUOUSLY FOR THE LAST SIX MONTHS. YES NO
(FGC, Section 70 states "Resident" means any person who has resided continuously in the State of California for six months or more immediately prior to the date of his/her application for a license or permit, or any person on active military duty with the Armed Forces of the United States or auxiliary branch thereof.)

TYPE OF OPERATION (Check one): GOLD MINING SAND & GRAVEL OTHER

EXPLAIN "OTHER," IF CHECKED

TYPE OF EQUIPMENT (i.e., model, horsepower, power source, and other relevant information.)

5 inch dredge with 8 horse power Engine Honda

NOZZLE SIZE **5 inch** PROJECT SIZE (i.e., the size of the area intended to be dredged.) **8 feet by 30 feet**

When a permit stamp has been affixed below, the applicant is authorized to operate a vacuum or suction dredge in accordance with Sections 228 and 228.5, Title 14, of the California Code of Regulations. Nothing in this permit shall authorize the permittee to trespass on privately owned land, or to use a dredge in waters passing over private lands without the permission of the landowner. The listing of waters open to dredging does not mean that such waters are open to the public. The permittee shall comply with all applicable federal, state, and local laws. Suction or vacuum dredges shall not be used where dredging is prohibited by such laws. This permit does not authorize dredging in any national forest, national park, state park system unit, county park, municipal park, or other such area where dredging is prohibited by the agency in control of such areas.

I hereby certify that I have read the provisions of the California Fish and Game Code, Section 5653 and Sections 228 and 228.5, Title 14, of the California Code of Regulations, (see reverse side) and that I understand and agree to be bound by all the terms and restrictions set forth in this permit and in the above named sections. I hereby certify that all information contained on this application and/or submitted to meet the requirements for renewal of subject permit(s) is true and correct. I understand that, in the event that this information is found to be untrue or incorrect, the permit issued will be considered invalid and must be surrendered where purchased and that I will be subject to criminal prosecution. I understand this permit may be suspended or revoked by the Department of Fish and Game pursuant to Section 228(c), Title 14, of the California Code of Regulations.

SIGNATURE **X Richard Brandenburg** DATE **2-20-02**

FOR DEPARTMENT OF FISH AND GAME ONLY

ISSUED BY **EC** DFG OFFICE **EWA** CASH REGISTER TRANSACTION# **062703** DATA ENTRY

2002 CALIFORNIA
RESIDENT STANDARD
SUCTION DREDGE PERMIT
Fee \$37.80
200528-01
Invalid after December 31, 2002
Date Issued **2/20/02**

2002
NONRESIDENT
DREDGE STAMP
No. _____
Date Issued _____
Invalid after December 31, 2002

ASSISTANT SUCTION
DREDGE PERMIT
No. _____
Date Issued _____
Invalid after December 31, 2002

INSPECTION
No. _____
Date Issued _____
Invalid after December 31, 2002

DUPLICATE
No. _____
Date Issued _____
Invalid after December 31, 2002



State of California—The Resources Agency
 DEPARTMENT OF FISH AND GAME
2003 SUCTION DREDGE PERMIT APPLICATION
 TO OPERATE VACUUM OR SUCTION DREDGE



VALID JANUARY 1, 2003 THROUGH DECEMBER 31, 2003*

(*Subject to the seasonal restrictions in Section 228.5, Title 14, of the California Code of Regulations)

FEES: RESIDENT—\$36.25 (No inspection required) NONRESIDENT—\$142.50 (No inspection required)
 RESIDENT—\$149.00 (Additional if inspection is required) NONRESIDENT—\$170.75 (Additional if inspection is required)

CHECK ONE: NEW RENEWAL IF RENEWAL, CHECK HERE IF NEW ADDRESS

YES, I QUALIFY FOR AN ASSISTANT SUCTION DREDGE PERMIT (NO ADDITIONAL FEE)

(Disabled permittee must apply and pay fees for resident or nonresident permit)

SEE INSTRUCTIONS ON REVERSE. TYPE OR PRINT CLEARLY.

FIRST NAME RICHARD	M.I. L	LAST NAME BRANDENBURG	DAY TELEPHONE (Voluntary) (530) 629-4553	
MAILING ADDRESS HCR 65			DATE OF BIRTH 04/01/1951	
CITY BURNT RANCH	STATE CA	ZIP CODE 95527	HEIGHT 6'3"	WEIGHT 190
DRIVER'S LICENSE NUMBER OR DMV I.D. NUMBER D1242785		SEX <input checked="" type="checkbox"/> MALE <input type="checkbox"/> FEMALE	HAIR COLOR BRN.	EYE COLOR Blue

I HAVE RESIDED IN CALIFORNIA CONTINUOUSLY FOR THE LAST SIX MONTHS YES NO

("Resident" means any person who has resided continuously in the State of California for six months or more immediately prior to the date of his/her application for a license or permit, or any person on active military duty with the Armed Forces of the United States or auxiliary branch thereof. (Fish and Game Code Section 70.)

TYPE OF OPERATION (Check one): GOLD MINING SAND & GRAVEL OTHER (If checked, explain)

PROJECT SIZE (i.e., the size of the area to be dredged)
 10 Feet by 30 Feet

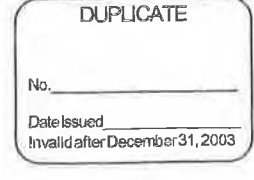
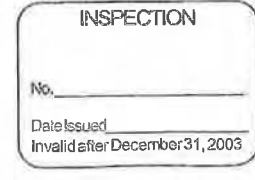
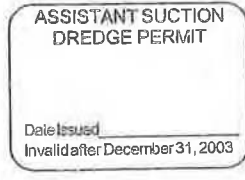
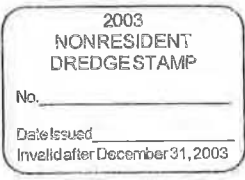
TYPE OF EQUIPMENT		
NAME AND MODEL NUMBER	NAME AND MODEL NUMBER	NAME AND MODEL NUMBER
6" dredge		
NOZZLE SIZE 5"	NOZZLE SIZE	NOZZLE SIZE
HORSEPOWER 8 horse Honda	HORSEPOWER	HORSEPOWER
POWER SOURCE	POWER SOURCE	POWER SOURCE

When a permit stamp has been affixed below, the applicant is authorized to operate a vacuum or suction dredge in accordance with Sections 228 and 228.5, Title 14, of the California Code of Regulations. Nothing in this permit shall authorize the permittee to trespass or to use a dredge in waters passing over private lands without the permission of the landowner. The listing of waters open to dredging does not mean that such waters are open to the public. The permittee shall comply with all applicable federal, state, and local laws. Suction or vacuum dredges shall not be used where dredging is prohibited by such laws. This permit does not authorize dredging in any national forest, national park, state park system unit, county park, municipal park, or other such area where dredging is prohibited by the agency in control of such areas.

I hereby certify that I have read the provisions of California Fish and Game Code Section 5653 and Sections 228 and 228.5, Title 14, of the California Code of Regulations (see reverse side), and that I understand and agree to be bound by all the terms and restrictions set forth in this permit and in the above-named sections. I hereby certify that all information contained on this application and/or submitted to meet the requirements for issuance of subject permit(s) is true and correct. I understand that in the event that this information is found to be untrue or incorrect, the permit issued will be invalid and must be surrendered where purchased and that I may be subject to criminal prosecution. I understand this permit may be suspended or revoked by the Department of Fish and Game pursuant to Section 228(c), Title 14, of the California Code of Regulations.

SIGNATURE X Richard L Brandenburg	DATE 2-19-03
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FOR DEPARTMENT OF FISH AND GAME USE ONLY			
ISSUED BY E	DFG OFFICE EKA	CASH REGISTER TRANSACTION # 069643	DATA ENTRY





State of California—The Resources Agency

DEPARTMENT OF FISH AND GAME

2005 SUCTION DREDGE PERMIT APPLICATION

TO OPERATE VACUUM OR SUCTION DREDGE

VALID JANUARY 1, 2005 THROUGH DECEMBER 31, 2005*

(*Subject to seasonal restrictions in Section 228.5, Title 14, of the California Code of Regulations)

FEES: RESIDENT—\$38.00 (No inspection required)

NONRESIDENT—\$149.50 (No inspection required)

RESIDENT—\$156.50 (Additional if inspection required)

NONRESIDENT—\$179.00 (Additional if inspection is required)

YES, I QUALIFY FOR AN ASSISTANT SUCTION DREDGE PERMIT (NO ADDITIONAL FEE)

(Disabled applicants must apply and pay fees for resident or nonresident permit)

SEE INSTRUCTIONS ON REVERSE. TYPE OR PRINT CLEARLY.

FIRST NAME Richard	M.I. L	LAST NAME Brandenburg	DAY TELEPHONE (Voluntary) (530) 629-4833	
MAILING ADDRESS HCR 65			DATE OF BIRTH 4-1-51	
CITY Burnt Ranch	STATE CA	ZIP CODE 95527	HEIGHT 6'3"	WEIGHT 190
DRIVER'S LICENSE NUMBER OR DMV I.D. NUMBER D1242785	SEX <input checked="" type="checkbox"/> MALE <input type="checkbox"/> FEMALE	HAIR COLOR Brn	EYE COLOR Blue	

I HAVE RESIDED IN CALIFORNIA CONTINUOUSLY FOR THE LAST SIX MONTHS YES NO

("Resident" means any person who has resided continuously in the State of California for six months or more immediately prior to the date of his/her application for a license or permit, or any person on active military duty with the Armed Forces of the United States or auxiliary branch thereof, or any person enrolled in the Job Corps established pursuant to Section 2883 of Title 29 of the United State Code. (Fish & G. Code, § 70.)

TYPE OF OPERATION (Check one): GOLD MINING SAND & GRAVEL OTHER (Explain)

SIZE OF AREA TO BE DREDGED

6 Foot by 20 ft.

TYPE OF EQUIPMENT

NAME AND MODEL NUMBER 5" dredge	NAME AND MODEL NUMBER	NAME AND MODEL NUMBER
NOZZLE SIZE 5"	NOZZLE SIZE	NOZZLE SIZE
HORSEPOWER 8	HORSEPOWER	HORSEPOWER
POWER SOURCE Honda engine	POWER SOURCE	POWER SOURCE

When a permit stamp has been affixed below, the applicant is authorized to operate a vacuum or suction dredge in accordance with Sections 228 and 228.5, Title 14, of the California Code of Regulations. Nothing in this permit shall authorize the permittee to trespass or use a dredge in waters passing over private lands without the permission of the landowner. The listing of waters open to dredging does not mean that such waters are open to the public. The permittee shall comply with all applicable federal, state, and local laws. Suction or vacuum dredges shall not be used where dredging is prohibited by such laws.

I hereby certify that I have read the provisions of California Fish and Game Code Section 5653 and Sections 228 and 228.5, Title 14, of the California Code of Regulations (see reverse side), and that I understand and agree to be bound by all the terms and restrictions set forth in this permit and in the above-named provisions. I hereby certify that all information contained on this application, and/or submitted to meet the requirements for issuance of this permit, is true and correct. I understand that in the event this information is found to be untrue or incorrect, the permit issued will be invalid and must be surrendered where purchased, and that I may be subject to criminal prosecution. I understand the Department of Fish and Game may suspend or revoke this permit pursuant to Section 228(c), Title 14, of the California Code of Regulations.

SIGNATURE X Richard Brandenburg	DATE June 6, 2005
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FOR DEPARTMENT OF FISH AND GAME USE ONLY

ISSUED BY MDM	DFG OFFICE Eureka	CASH REGISTER TRANSACTION # 083738	DATA ENTRY 6.6.05
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2005 CALIFORNIA
RESIDENT STANDARD
SUCTION DREDGE PERMIT
\$38.00
200110-01
Invalid after December 31, 2005
Date issued 6.6.05

2005
NONRESIDENT
DREDGE STAMP
No. _____
Date Issued _____
Invalid after December 31, 2005

ASSISTANT SUCTION
DREDGE PERMIT
Date Issued _____
Invalid after December 31, 2005

2005 INSPECTION
No. _____
Date Issued _____
Invalid after December 31, 2005

2005 DUPLICATE
No. _____
Date Issued _____
Invalid after December 31, 2005



State of California—The Resources Agency
DEPARTMENT OF FISH AND GAME

2006 SUCTION DREDGE PERMIT APPLICATION

TO OPERATE VACUUM OR SUCTION DREDGE

VALID JANUARY 1, 2006 THROUGH DECEMBER 31, 2006*

(*Subject to seasonal restrictions in Section 228.5, Title 14, of the California Code of Regulations)

FEES: RESIDENT—\$40.00 (No inspection required)

NONRESIDENT—\$157.00 (No inspection required)

RESIDENT—\$164.50 (Additional if inspection required)

NONRESIDENT—\$188.00 (Additional if inspection required)

YES, I QUALIFY FOR AN ASSISTANT SUCTION DREDGE PERMIT (NO ADDITIONAL FEE)

(Disabled applicants must apply and pay fees for resident or nonresident permit)

SEE INSTRUCTIONS ON REVERSE. TYPE OR PRINT CLEARLY.

FIRST NAME Richard		M.I. L.	LAST NAME Brandenburg		DAY TELEPHONE (Voluntary) () none	
MAILING ADDRESS PO Box 504				DATE OF BIRTH 4/1/51		
CITY Salyer		STATE CA	ZIP CODE 95563		HEIGHT 6'3"	WEIGHT 185
DRIVER'S LICENSE NUMBER OR DMV I.D. NUMBER D1242785			SEX <input checked="" type="checkbox"/> MALE <input type="checkbox"/> FEMALE	HAIR COLOR Brown	EYE COLOR Blue	
I HAVE RESIDED IN CALIFORNIA CONTINUOUSLY FOR THE LAST SIX MONTHS <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO						
("Resident" means any person who has resided continuously in the State of California for six months or more immediately prior to the date of his/her application for a license or permit, or any person on active military duty with the Armed Forces of the United States or auxiliary branch thereof, or any person enrolled in the Job Corps established pursuant to Section 2883 of Title 29 of the United State Code.) (Fish & G. Code, § 70.)						
TYPE OF OPERATION (Check one): <input checked="" type="checkbox"/> GOLD MINING <input type="checkbox"/> SAND & GRAVEL <input type="checkbox"/> OTHER (Explain)						

SIZE OF AREA TO BE DREDGED (Feet, yards, etc.)

25 feet

TYPE OF EQUIPMENT		
NAME AND MODEL NUMBER	NAME AND MODEL NUMBER	NAME AND MODEL NUMBER
NOZZLE SIZE 5 inch	NOZZLE SIZE	NOZZLE SIZE
HORSEPOWER 8 horse	HORSEPOWER	HORSEPOWER
POWER SOURCE Honda 8 horse	POWER SOURCE	POWER SOURCE

When a permit stamp has been affixed below, the applicant is authorized to operate a vacuum or suction dredge in accordance with Sections 228 and 228.5, Title 14, of the California Code of Regulations. Nothing in this permit shall authorize the permittee to trespass or use a dredge in waters passing over private lands without the permission of the landowner. The listing of waters open to dredging does not mean that such waters are open to the public. The permittee shall comply with all applicable federal, state, and local laws. Suction or vacuum dredges shall not be used where dredging is prohibited by such laws.

I hereby certify that I have read the provisions of California Fish and Game Code Section 5653 and Sections 228 and 228.5, Title 14, of the California Code of Regulations (see reverse side), and that I understand and agree to be bound by all the terms and restrictions set forth in this permit and in the above-named provisions. I hereby certify that all information contained on this application, and/or submitted to meet the requirements for issuance of this permit, is true and correct. I understand that in the event this information is found to be untrue or incorrect, the permit issued will be invalid and must be surrendered where purchased, and that I may be subject to criminal prosecution. I understand the Department of Fish and Game may suspend or revoke this permit pursuant to Section 228(c), Title 14, of the California Code of Regulations.

SIGNATURE X Richard Brandenburg	DATE 6-27-06
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FOR DEPARTMENT OF FISH AND GAME USE ONLY

ISSUED BY [Signature]	DFG OFFICE 109 EKA	CASH REGISTER TRANSACTION # 090564	DATA ENTRY
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2006 CALIFORNIA RESIDENT STANDARD SUCTION DREDGE PERMIT \$40.00
200121-10
Invalid after December 31, 2006
Date Issued 6-27-06

2006 NONRESIDENT DREDGE STAMP
No. _____
Date Issued _____
Invalid after December 31, 2006

ASSISTANT SUCTION DREDGE PERMIT
Date Issued _____
Invalid after December 31, 2006

2006 INSPECTION
No. _____
Date Issued _____
Invalid after December 31, 2006

2006 DUPLICATE
No. _____
Date Issued _____
Invalid after December 31, 2006



State of California—The Resources Agency
 DEPARTMENT OF FISH AND GAME
2007 SUCTION DREDGE PERMIT APPLICATION
 TO OPERATE VACUUM OR SUCTION DREDGE

VALID JANUARY 1, 2007 THROUGH DECEMBER 31, 2007*
 (*Subject to seasonal restrictions in Section 228.5, Title 14, of the California Code of Regulations)

FEES: RESIDENT—\$42.50 (No inspection required) **NONRESIDENT—\$167.25** (No inspection required)
RESIDENT—\$175.25 (Additional if inspection required) **NONRESIDENT—\$200.50** (Additional if inspection required)

YES, I QUALIFY FOR AN ASSISTANT SUCTION DREDGE PERMIT (NO ADDITIONAL FEE)

(Disabled applicants must apply and pay fees for resident or nonresident permit)

SEE INSTRUCTIONS ON REVERSE. TYPE OR PRINT CLEARLY.

FIRST NAME L. J. ...	M.I. ...	LAST NAME Hendersonburg	DAY TELEPHONE (Voluntary) () ...	
MAILING ADDRESS P.O. Box 504			DATE OF BIRTH 4-1-51	
CITY Salzer	STATE CA	ZIP CODE 95563	HEIGHT 6'3"	WEIGHT 170
DRIVER'S LICENSE NUMBER OR DMV I.D. NUMBER D1242785	SEX <input checked="" type="checkbox"/> MALE <input type="checkbox"/> FEMALE	HAIR COLOR Brown	EYE COLOR Blue	

I HAVE RESIDED IN CALIFORNIA CONTINUOUSLY FOR THE LAST SIX MONTHS YES NO

("Resident" means any person who has resided continuously in the State of California for six months or more immediately prior to the date of his/her application for a license or permit, or any person on active military duty with the Armed Forces of the United States or auxiliary branch thereof, or any person enrolled in the Job Corps established pursuant to Section 2883 of Title 29 of the United State Code.) (Fish & G. Code, § 70.)

TYPE OF OPERATION (Check one): GOLD MINING SAND & GRAVEL OTHER (Explain)

SIZE OF AREA TO BE DREDGED (Feet, yards, etc.)

10 feet

TYPE OF EQUIPMENT

NAME AND MODEL NUMBER Suction Dredge	NAME AND MODEL NUMBER	NAME AND MODEL NUMBER
NOZZLE SIZE 5 inch	NOZZLE SIZE	NOZZLE SIZE
HORSEPOWER 2 horse power Honda	HORSEPOWER	HORSEPOWER
POWER SOURCE gasoline	POWER SOURCE	POWER SOURCE

When a permit stamp has been affixed below, the applicant is authorized to operate a vacuum or suction dredge in accordance with Sections 228 and 228.5, Title 14, of the California Code of Regulations. Nothing in this permit shall authorize the permittee to trespass or use a dredge in waters passing over private lands without the permission of the landowner. The listing of waters open to dredging does not mean that such waters are open to the public. The permittee shall comply with all applicable federal, state, and local laws. Suction or vacuum dredges shall not be used where dredging is prohibited by such laws.

I hereby certify that I have read the provisions of California Fish and Game Code Section 5653 and Sections 228 and 228.5, Title 14, of the California Code of Regulations (see reverse side), and that I understand and agree to be bound by all the terms and restrictions set forth in this permit and in the above-named provisions. I hereby certify that all information contained on this application, and/or submitted to meet the requirements for issuance of this permit, is true and correct. I understand that in the event this information is found to be untrue or incorrect, the permit issued will be invalid and must be surrendered where purchased, and that I may be subject to criminal prosecution. I understand the Department of Fish and Game may suspend or revoke this permit pursuant to Section 228(c), Title 14, of the California Code of Regulations.

SIGNATURE X <i>Robert Hendersonburg</i>	DATE 6-14-07
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FOR DEPARTMENT OF FISH AND GAME USE ONLY

ISSUED BY <i>Rm</i>	DFG OFFICE EKA 104	CASH REGISTER TRANSACTION# 0910719	DATA ENTRY
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2007 CALIFORNIA RESIDENT STANDARD SUCTION DREDGE PERMIT \$42.50
200216-07
 Invalid after December 31, 2007
 Date issued 6/14/07

2007 NONRESIDENT DREDGE STAMP
 No. _____
 Date issued _____
 Invalid after December 31, 2007

ASSISTANT SUCTION DREDGE PERMIT
 No. _____
 Date issued _____
 Invalid after December 31, 2007

2007 INSPECTION
 No. _____
 Date issued _____
 Invalid after December 31, 2007

2007 DUPLICATE
 No. _____
 Date issued _____
 Invalid after December 31, 2007



State of California—The Resources Agency
DEPARTMENT OF FISH AND GAME

2008 SUCTION DREDGE PERMIT APPLICATION

TO OPERATE VACUUM OR SUCTION DREDGE

VALID JANUARY 1, 2008 THROUGH DECEMBER 31, 2008*

(*Subject to seasonal restrictions in Section 225.5, Title 14, of the California Code of Regulations)

FEES: RESIDENT—\$44.25 (No inspection required) NONRESIDENT—\$174.50 (No inspection required)
RESIDENT—\$182.75 (Additional if inspection required) NONRESIDENT—\$209.00 (Additional if inspection required)

YES, I QUALIFY FOR AN ASSISTANT SUCTION DREDGE PERMIT (NO ADDITIONAL FEE)

(Disabled applicants must apply and pay fees for resident or nonresident permit)

SEE INSTRUCTIONS ON REVERSE. TYPE OR PRINT CLEARLY.

FIRST NAME <i>Richard</i>	M.I. <i>L.</i>	LAST NAME <i>Brandenburg</i>	DAY TELEPHONE (Voluntary) <i>(530) 629-4710</i>	
MAILING ADDRESS <i>Box 504</i>			DATE OF BIRTH <i>4/1/51</i>	
CITY <i>SALYER</i>	STATE <i>CA</i>	ZIP CODE <i>95563</i>	HEIGHT <i>6'2"</i>	WEIGHT <i>185</i>
DRIVER'S LICENSE OR DMV ID NUMBER/STATE		SEX <input checked="" type="checkbox"/> MALE <input type="checkbox"/> FEMALE	HAIR COLOR <i>Bru</i>	EYE COLOR <i>Blue</i>

I HAVE RESIDED IN CALIFORNIA CONTINUOUSLY FOR THE LAST SIX MONTHS YES NO

("Resident" means any person who has resided continuously in the State of California for six months or more immediately prior to the date of his/her application for a license or permit, or any person on active military duty with the Armed Forces of the United States or auxiliary branch thereof, or any person enrolled in the Job Corps established pursuant to Section 2883 of Title 29 of the United State Code.) (Fish & G. Code, § 70.)

TYPE OF OPERATION (Check one): GOLD MINING SAND & GRAVEL OTHER (Explain)

SIZE OF AREA TO BE DREDGED (Feet, yards, etc.)

6 Feet X 10 feet

TYPE OF EQUIPMENT

NAME AND MODEL NUMBER <i>5 inch dredge</i>	NAME AND MODEL NUMBER	NAME AND MODEL NUMBER
NOZZLE SIZE <i>5 inch</i>	NOZZLE SIZE	NOZZLE SIZE
HORSEPOWER <i>8</i>	HORSEPOWER	HORSEPOWER
POWER SOURCE <i>Honda</i>	POWER SOURCE	POWER SOURCE

When a permit stamp has been affixed below, the applicant is authorized to operate a vacuum or suction dredge in accordance with Sections 228 and 228.5, Title 14, of the California Code of Regulations. Nothing in this permit shall authorize the permittee to trespass or use a dredge in waters passing over private lands without the permission of the landowner. The listing of waters open to dredging does not mean that such waters are open to the public. The permittee shall comply with all applicable federal, state, and local laws. Suction or vacuum dredges shall not be used where dredging is prohibited by such laws.

I hereby certify that I have read the provisions of California Fish and Game Code Section 5653 and Sections 228 and 228.5, Title 14, of the California Code of Regulations (see reverse side), and that I understand and agree to be bound by all the terms and restrictions set forth in this permit and in the above-named provisions. I hereby certify that all information contained on this application, and/or submitted to meet the requirements for issuance of this permit, is true and correct. I understand that in the event this information is found to be untrue or incorrect, the permit issued will be invalid and must be surrendered where purchased, and that I may be subject to criminal prosecution. I understand the Department of Fish and Game may suspend or revoke this permit pursuant to Section 228(c), Title 14, of the California Code of Regulations.

SIGNATURE *X Richard Brandenburg* DATE *MAY 30 2008*

FOR DEPARTMENT OF FISH AND GAME USE ONLY

ISSUED BY <i>DR</i>	DFG OFFICE <i>WY/EA</i>	CASH REGISTER TRANSACTION # <i>099420</i>	DATA ENTRY
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2008 CALIFORNIA
RESIDENT STANDARD
SUCTION DREDGE PERMIT
\$44.25
200332-08
Invalid After December 31, 2008
Date Issued *5/20/08*

2008
NONRESIDENT
DREDGE STAMP
No. _____
Date Issued _____
Invalid after December 31, 2008

ASSISTANT SUCTION
DREDGE PERMIT
Date Issued _____
Invalid after December 31, 2008

2008 INSPECTION
No. _____
Date Issued _____
Invalid after December 31, 2008

2008 DUPLICATE
No. _____
Date Issued _____
Invalid after December 31, 2008



State of California—The Resources Agency
DEPARTMENT OF FISH AND GAME

2009 STANDARD SUCTION DREDGE PERMIT APPLICATION

TO OPERATE VACUUM OR SUCTION DREDGE
VALID JANUARY 1, 2009 THROUGH DECEMBER 31, 2009*
(If issued after January 1, valid on date issued.)
(*Subject to seasonal restrictions in Section 228.5, Title 14, of the California Code of Regulations)

FEES: RESIDENT—\$47.00 (No inspection required) **NONRESIDENT—\$185.25** (No inspection required)
RESIDENT—\$194.00 (Additional if inspection required) **NONRESIDENT—\$222.00** (Additional if inspection required)

YES, I QUALIFY FOR AN ASSISTANT SUCTION DREDGE PERMIT (NO ADDITIONAL FEE)

(Disabled applicants must apply and pay fees for resident or nonresident permit)

SEE INSTRUCTIONS ON REVERSE. TYPE OR PRINT CLEARLY.

FIRST NAME <i>Richard</i>	M.I. <i>L.</i>	LAST NAME <i>Brandenburg</i>	DAY TELEPHONE (Voluntary) <i>(530) 629-4710</i>	
MAILING ADDRESS <i>Box 504</i>			DATE OF BIRTH <i>4/1/51</i>	
CITY <i>SALYER</i>	STATE <i>CA.</i>	ZIP CODE <i>95563</i>	HEIGHT <i>6'30"</i>	WEIGHT <i>185</i>
DRIVER'S LICENSE OR DMV ID NUMBER/STATE <i>31781512162811</i>	SEX <input checked="" type="checkbox"/> MALE <input type="checkbox"/> FEMALE	HAIR COLOR <i>Brown</i>	EYE COLOR <i>Blue</i>	
I HAVE RESIDED IN CALIFORNIA CONTINUOUSLY FOR THE LAST SIX MONTHS <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO				
("Resident" means any person who has resided continuously in the State of California for six months or more immediately prior to the date of his/her application for a license or permit, or any person on active military duty with the Armed Forces of the United States or auxiliary branch thereof, or any person enrolled in the Job Corps established pursuant to Section 2883 of Title 29 of the United State Code.) (Fish & G. Code, § 70.)				
TYPE OF OPERATION (Check one): <input checked="" type="checkbox"/> GOLD MINING <input type="checkbox"/> SAND & GRAVEL <input type="checkbox"/> OTHER (Explain)				

SIZE OF AREA TO BE DREDGED (Feet, yards, etc.) *5 Feet X 10 Feet*

TYPE OF EQUIPMENT <i>Kgene</i>	NAME AND MODEL NUMBER	NAME AND MODEL NUMBER
<i>5 inch Dredge</i>		
NOZZLE SIZE <i>5 inch</i>	NOZZLE SIZE	NOZZLE SIZE
HORSEPOWER <i>8</i>	HORSEPOWER	HORSEPOWER
POWER SOURCE <i>Honda 8 horse</i>	POWER SOURCE	POWER SOURCE

When a permit stamp has been affixed below, the applicant is authorized to operate a vacuum or suction dredge in accordance with Sections 228 and 228.5, Title 14, of the California Code of Regulations. Nothing in this permit shall authorize the permittee to trespass or use a dredge in waters passing over private lands without the permission of the landowner. The listing of waters open to dredging does not mean that such waters are open to the public. The permittee shall comply with all applicable federal, state, and local laws. Suction or vacuum dredges shall not be used where dredging is prohibited by such laws.

I hereby certify that I have read the provisions of California Fish and Game Code Section 5653 and Sections 228 and 228.5, Title 14, of the California Code of Regulations (see reverse side), and that I understand and agree to be bound by all the terms and restrictions set forth in this permit and in the above-named provisions. I hereby certify that all information contained on this application, and/or submitted to meet the requirements for issuance of this permit, is true and correct. I understand that in the event this information is found to be untrue or incorrect, the permit issued will be invalid and must be surrendered where purchased, and that I may be subject to criminal prosecution. I understand the Department of Fish and Game may suspend or revoke this permit pursuant to Section 228(c), Title 14, of the California Code of Regulations.

SIGNATURE DATE
X Richard Brandenburg *June 16, 2009*

FOR DEPARTMENT OF FISH AND GAME USE ONLY			
ISSUED BY <i>[Signature]</i>	DFG OFFICE <i>OKALOY</i>	CASH REGISTER TRANSACTION # <i>110506</i>	DATA ENTRY

2009 CALIFORNIA
RESIDENT SUCTION
DREDGE PERMIT
\$47.00
200334-01
Invalid After December 31, 2009
Date Issued *[Signature]*

2009
NONRESIDENT SUCTION
DREDGE PERMIT
No. *40*
Date Issued _____

ASSISTANT SUCTION
DREDGE PERMIT
Date Issued _____

2009 INSPECTION
No. _____
Date Issued _____

2009 DUPLICATE
No. *000*
Date Issued _____

DEPARTMENT OF FISH AND GAME

601 LOCUST STREET
REDDING, CA 96001
(916) 225-2300



May 19, 1995

Mr. Rick Brandenburg
P. O. Box 504
Salyer, CA 95563

Dear Mr. Brandenburg:

Your 1995 special suction dredge application has been reviewed by our field staff and they recommend that an inspection be completed prior to the issuance of a permit. Please contact Mr. Terry Healey at (916) 225-2370 to arrange for an inspection.

There is a required fee of \$151.50 for the inspection. Please submit a check or money order to this office prior to the inspection date.

Please feel free to call me at (916) 225-2304 if I can be of any assistance.


Morgan Akin
Patrol Captain

cc: Terry Healey
Associate Fishery Biologist

Tim Machado
Fish and Game Warden

DEPARTMENT OF FISH AND GAME

601 LOCUST STREET
REDDING, CA 96001
(916) 225-2300



July 7, 1995

Mr. Rick Brandenburg
P. O. Box 504
Salyer, CA 95563

Dear Mr. Brandenburg:

On May 19, 1995 I sent you a letter requesting an inspection fee of \$151.50 for a special suction dredge application on the East Fork of the New River. So far I have not had a response to that letter. I will hold your application until July 31, 1995. If I have not heard from you on that date I will withdraw your application and place it in the inactive file.

We have a money order in the amount of \$29.50 which you left with your application on February 22, 1995. If your application is withdrawn we will send the money order to you.

Please call me at (916) 225-2304 if I can be of any assistance.


Morgan Akin
Patrol Captain

cc Terry Healey
Associate Fishery Biologist

Tim Machado
Fish and Game Warden

DEPARTMENT OF FISH AND GAME

1416 NINTH STREET
P.O. BOX 944209
SACRAMENTO, CA 94244-2090

(916) 653-6194



May 19, 1995

UPDATE ON PROPOSED SUCTION DREDGING REGULATION CHANGES

Dear Interested Party:

The purpose of this notice is to update you on recent developments concerning the Department of Fish and Game's proposal to amend suction dredge regulations (Sections 228 and 228.5, Title 14, California Code of Regulations).

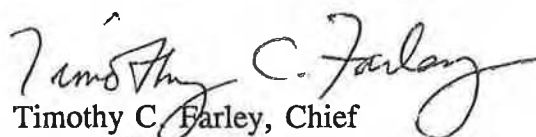
We received many comments since we filed notice of our intent to consider amending these regulations. As a result of those comments, the Department has decided to suspend the formal regulatory process which we started last month. Instead, we will hold a series of informal, public meetings with interested persons to discuss issues identified by various groups, including Department staff, and alternatives for addressing these issues. As part of this process, the Department is exploring ways to more fully notify and gather input from those who would be affected by changes to these regulations.

Consistent with this slower, input-gathering approach, the Department has canceled all previously scheduled public hearings associated with the formal regulatory process. At the conclusion of the informal information gathering phase, the Department may re-initiate formal adoption of amendments to the suction dredging regulations, if necessary. At that time, formal public hearings would be scheduled and appropriate announcements made.

We expect to begin the proposed series of informal meetings in two to three months. You will be notified of these meetings.

If you have any questions or need additional information concerning our new approach, please contact Mr. Steve Taylor, Senior Biologist, or Mr. Gene Fleming, Assistant Chief, of my staff, at the letterhead address and telephone number.

Sincerely,


Timothy C. Farley, Chief
Inland Fisheries Division

cc: Department of Fish and Game
Sacramento, California

Mr. Gene Fleming
Mr. Steve Taylor

DEPARTMENT OF FISH AND GAME

601 LOCUST STREET
REDDING, CA 96001
(916) 225-2300



May 15, 1996

Mr. Richard Brandenburg
Star Route
Denny, California 95527

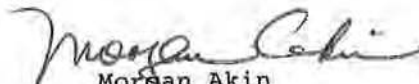
Dear Mr. Brandenburg:

This is to notify you that we received your special suction dredge permit on May 2, 1996, for Eagle Creek, Trinity County. Your application is incomplete as submitted. Please submit the following item(s).

1. A current approved plan of operation. Without a current plan of operation we cannot approve your application as submitted.

If you have any questions or need additional information, please contact me at (916) 225-2304.

Sincerely,


Morgan Akin
Patrol Captain

MA/mrw

DEPARTMENT OF FISH & GAME

601 LOCUST STREET
REDDING, CA 96001
(916) 225-2304
FAX: (916) 225-2381

September 14, 1995

Mr. Rick Brandenburg
P.O. Box 504
Salyer, CA 95563

Dear Mr. Brandenburg:

I am returning your postal money order in the amount of \$29.50. Your special suction dredge application for the New River has been placed in the inactive file since you failed to submit the required fee for a site inspection.

Please feel free to call me if I can be of any further assistance.

Sincerely,


Morgan Akin
Patrol Captain

DEPARTMENT OF FISH AND GAME

601 LOCUST STREET
REDDING, CA 96001
(916) 225-2300



March 20, 1995

Mr. Rick Brandenburg
Post Office Box 504
Salyer, California 95563

Dear Mr. Brandenburg:

Your special suction dredge application was received by our office on March 1, 1995, and reviewed for completeness. During that review some of the application information was found to be missing. The application was promptly returned to you requesting the missing information be furnished to the Department of Fish and Game. On March 9, 1995, you came to our office and met with me concerning this matter. I explained that the Department needed the missing information to properly assess your suction dredge project. It became clear during the meeting that you did not want to hear my explanation. You threw the application on my desk and demanded that I process it without the necessary documentation.

I again explained that we could not accept the application without the proper documentation. Without picking up your application, you hurriedly left my office and replied, "I'll see you in Federal court." It will be extremely difficult to adequately review your application if you are unwilling to cooperate with us on this matter. Therefore, I request that you provide the Department with the following information so we can give your application the attention it deserves.

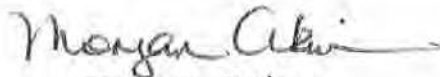
1. Vicinity map.
2. Site-specific map showing features, boundaries of the proposed dredge site and access to the site.
3. If you answer **yes** to any of the following questions, you must attach the appropriate documents to the application.
 - a. Will the proposed dredging occur on a valid mining claim? (You must supply written verification of the mining claim.)
 - b. Is the dredge site on public land? (You must submit a copy of an approved plan of operation or a mining claim location notice, if applicable, or proof of written notification to the land managing agency.)

Mr. Rick Brandenburg
March 20, 1995
Page Two

- c. Is the dredge site on private land? (If the dredge site is on private land, written permission from the landowner is needed as well as written permission for Department biologists to enter the property for the initial and future inspections.)

Please feel free to call me at (916) 225-2304 if I can be of any assistance.

Sincerely,



Morgan Akin
Patrol Captain

cc: Messrs. Richard Elliott
and Jim Barton
Department of Fish and Game
601 Locust Street
Redding, California 96001

MA/mrw

Subject: FW: proposed suction regs
Date: Friday, April 22, 2011 4:01:44 PM PT
From: Dave Cleveland
To: dfgsuctiondredge@dfg.ca.gov

From: dcleveland2011@live.com
To: dgsuctiondredge@dfg.ca.gov
Subject: proposed suction regs
Date: Fri, 22 Apr 2011 15:59:52 -0700

To whom it may concern,
I am a recreational prospector in California and would like to take issue with a couple of the proposed regulations. I'm concerned that requiring site info which would be useful to the DFG, would also be useful to claim jumpers who could access the info through public records. Requiring dredging dates would also allow potential thieves to know when I would be away from my residence for extended periods of time. Imagine what would happen if you made the same requirements of hunters and fisherman.
It would be pandemonium. From the reports I've read by your experts, there seems to be little if any environmental impact in areas that have been dredged. Prospectors as a group (with few exceptions I think) tend to be very environmentally sensitive and strive to leave the areas they prospect as they found them. Fisherman from my experience leave more crap behind when their finished. You are barking up the wrong tree with such restrictive regulations in the case of recreational prospectors, which most of us are.
I appreciate your good intentions, but I believe they are a little misplaced. Why not require equipment inspections at the local DFG office just prior to dredging rather than pre-submitting the info with pre-determined dates of use. Makes more sense to me.

Respectfully,
Dave Cleveland

Subject: suction dredge permits

Date: Friday, April 22, 2011 11:53:23 AM PT

From: merle

To: mstopher@dfg.ca.gov

mark, could you please tell me what the status is on suction dredging in plumas national forest?

thanks for your help and have a great day!

Mark Stopher
 California Department of Fish and Game
 601 Locust Street
 Redding, CA 96001
 April 18, 2011

Dear Mr. Stopher,

After an extensive review of the proposed regulations regarding 'dredging' in the State of California, I have some very significant concerns and ask you to carefully consider my opinions before adoption! I have never, in many years of dredging in California and other States, killed one fish while dredging! Not one fish!

SEIR Baseline is wrong: I take strong exception to the Department using an arbitrary and misleading baseline within the SEIR in an underhanded attempt to make the impacts from suction dredging appear greater than they really are, and in an attempt to marginalize the serious economic and social impacts to Americans which would result from your proposed regulations. You should use a proper baseline that is based upon existing dredge and small business activity under the 1994 regulations during the season before the moratorium was imposed.

Reduction of our existing dredging seasons is unreasonable: I do not see that the SEIR contains evidence of a deleterious impact upon fish to support the reduction of existing dredging seasons that are in the 1994 regulations. This proposal is only supported by your "precautionary approach." Except for those time periods where you can demonstrate that a deleterious impact has been created under the existing regulations, you leave our seasons as they have been since 1994.

The proposed 3-foot rule is unreasonable: The SEIR has not presented any real evidence that dredging within three feet of the streambank has ever harmed a single fish. This prohibition would prevent beginners, non-swimmers or children from starting closer to the shore where water is shallower and more safe. Prohibiting dredging within three feet of the edge of the river will eliminate a significant portion of the operational value (perhaps even all of it) on some dredging properties. It would be more productive to provide better language describing what the "bank" is in relation to dredge mining. For example, is there a "bank" in relationship to a gravel bar out in the waterway that is partially out of the water? What about a bar alongside the waterway that is submerged during the spring, but emerges more and more out of the water as the dry season evolves? Existing language is not clear enough. The proper answer is to clear that up, rather than impose an additional buffer zone which reduces our mining opportunities.

Suction dredge regulations should not impose the requirement of Section 1600 Agreements: Fish &

Game Section 5600 already allows a site inspection mechanism for the Department to determine if a dredging program is deleterious to fish. Therefore, also imposing a Section 1600 requirement upon dredgers who wish to mine at a time or location that is otherwise closed, or to use larger nozzle than is allowed under a statewide permit, when there is little or no chance the dredge project will create a substantial impact upon the bed or bank of the waterway, would be an unreasonable imposition upon dredge-miners. Nobody else in California is required to pursue a Section 1600 permit until their activity rises to the level of requiring one. It should not be any different for suction dredgers.

This also applies to the use of power winches, which provide the only safe and efficient means of progressing when some rocks are too heavy to move by hand, or they cannot be rolled over other rocks that are in the way. You should not impose a 1600 Agreement requirement upon a gold dredger unless the surface disturbance rises to the level which triggers Section 1600 of the Fish & Game Code.

Mercury is not a problem: Your SEIR relies unreasonably upon the unfounded conclusions of Charles Alpers' who has allowed his personal political agenda get in the way of real science. The SEIR does not give enough weight to the discovery by Rick Humphries Report of California Water Resources Control Board that normal gold dredges are effective at recovering at least 98% of the mercury from the bottom of California's waterways.

The SEIR does not acknowledge, based upon your own survey results, that suction dredgers have been removing over 7,000 ounces of mercury or more every year under the 1994 regulations from California's waterways. That amounts to 98,000 ounces during the 14 years we operated under the 1994 regulations! Adoption of the SEIR position would be fundamentally unreasonable in a context where the mercury is inevitably migrating downstream to areas where it is believed to be potentially harmful.

Since California State agencies are doing nothing to remove mercury from California's active waterways, it is grossly irresponsible to point the finger at suction dredgers who are the only ones

that are removing the mercury, at no cost to the taxpayers!

Rather than reduce the amount of mercury which we are removing from the ecosystem, the responsible approach for State agencies would be to create a collection system in California which rewards dredgeminers for collecting and turning in mercury.

Identification requirement: The proposed regulations should allow visitors from other countries to use a foreign passport or driver's license as identification so they can apply for nonresident suction dredge permits. Otherwise, California will be discouraging the many visitors which we already receive that like to do their gold prospecting here.

DFG should not limit the number of suction dredging permits: There is no evidence presented in the

SEIR that 14 years of dredging under the 1994 regulations ever harmed a single fish, much less threatened the viability of an entire species. What if I want to operate a dredge in some part of California where there would not be a deleterious impact? A limit on permits may prohibit me or someone else from using a suction dredge without a viable reason.

Allowing additional dredge permits after site inspection: In the event that DFG decides to impose (reasonable) limits in a blanket statewide permit program that will allow for most suction dredgers, I do not believe DFG has the authority to declare a wholesale prohibition to dredge mining in the other vast areas which exist on the public lands that would not be covered by the blanket permit. DFG has a site inspection mechanism allowing you to consider more individualized impacts in areas, and during time periods, when and where dredging would not be allowed in a statewide program.

Onsite inspections should be immediately signed off when approved: There should not be a delay in

signing off on a site inspection in cases where DFG officials cannot identify a deleterious impact. There should be a time limit in the regulations in which the application will be approved or disapproved. Due process should be allowed if I desire to appeal an application which has been disapproved.

Prior existing rights on permit acquisition: There must be an allowance for prior existing rights on a limited permit program. Otherwise, dredge-miners who have already invested in property and equipment could potentially lose our prior existing right to work our mining claims or other mining opportunities (belonging to an association that provides access to mining property).

Statewide permits, if limited, should be transferable: Permits should be transferable if there is going

to be a limit on the number allowed under a statewide program. Otherwise, miners will make the substantial investment into developing a viable mine and then not be able to transfer ownership to someone new who will be able to dredge it, therefore losing some or most of the value.

DFG should not further-limit the size of dredges under the statewide permitting program: I do not

believe that DFG has the authority to step onto the public lands and impose a permit restriction upon the productive capacity of my dredge without also coming up with specific reasons why existing capacities under the 1994 regulations are creating a deleterious impact upon fish. Please leave nozzle restriction sizes as they were in the 1994 regulations.

The regulations should also allow a wear tolerance factor on nozzle restrictor rings. I suggest 3/8 of an inch (diameter) is reasonable.

Allowing larger-sized nozzles after site inspection: If a dredger wants to operate a dredge having a larger

nozzle than is allowed under a statewide permitting scheme, the Department should allow the activity as long as no deleterious impact can be determined through a site inspection.

DFG should not further-limit the places where dredging is allowed: This proposal is just supported by

your "precautionary approach." Except for those areas where you can demonstrate that a deleterious impact has been created under the existing regulations, please leave our seasons as they have been since 1994.

The proposed dredge marking system is not workable: There is no practical way of attaching a sign to a

small dredge! What does this have to do with preventing a deleterious impact upon fish?

If you must have an identification number on my dredge, you should eliminate the requirement of 3-inch number and allow the numbers to be marked either on the pontoons or the sluice box, but only if it is possible to do so. This would allow smaller numbers in the case of smaller dredges.

Fuel should be allowed within 100 feet of the waterway if kept within a water-tight container or a

boat: I question your authority on placing any requirement upon suction dredgers in this matter, other than to prohibit the spillage of fuel. Millions of boaters all over California are allowed to keep fuel safely in their boats. Your proposed regulations would prohibit suction dredgers from doing the very same thing!

There are plenty of effective ways to prevent fuel from leaking into the waterway without making a dredgeminer

hike 100 feet up the embankment. At the very least, fuel can be placed inside of a boat, or inside a sealed catch tub of some kind up on the embankment to prevent leakage. These catch tubs are already routinely part of a dredge program to assist with cleanup of concentrates.

Disturbance of mussel beds: It is unreasonable to propose that every suction dredger must now do a survey before dredging to make certain that there is no place within 30 feet downriver where more than 40 mussels per square yard exist before dropping tailings! Some rivers are so inundated with mussels; this imposition would amount to a suction dredge prohibition in a large part of the waterway! And why, since there are so many? How does the protection of mussels from dredge-miners conform to the language of Section 5653? Please drop this silly mussel idea from final regulations.

Returning the site to the pre-mining grade to the greatest extent possible: Since it is impossible to

move tailings and rocks upstream against a swift current, the requirement to fill in our holes and level off our tailings is unrealistic.

Ample evidence shows that salmon are less likely to place their redds in a heaped tailing pile, than they are on a pre-mining grade which is inundated with unstable gravel; so your proposal will actually create more harm than good! The dredge holes which I leave behind create cool water refuges where salmon and other

fish hold up during the warm summer months. My piled cobbles create protected habitat where fingerlings can hide from predators. It would be better for the fish if we just allow Mother Nature to settle things out in the next storm event.

Dredge mining between one half hour after sunrise to sunset: Your authority is limited to preventing a deleterious impact upon fish. Please drop this from proposed regulations and leave this particular concern to local authorities where it belongs.

Please give my concerns serious consideration before adopting ANY new regulations beyond the current 1994 EIR adopted regs.

Sincerely,

A handwritten signature in blue ink that reads "Barbara A. Pettigrew". The signature is fluid and cursive, with a long, sweeping horizontal line extending to the right from the end of the name.

Barbara A. Pettigrew
P.O. Box 771 27940 Ten Mile Rd
Gualala, CA 95445
707 882-2645

Proposed Dredging Regulations...!

Mark Stopher

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

Dear Mr. Stopher,

I am writing you to respond to the 'proposed' new regulations regarding dredging in the State of California and ask that you consider my concerns before the final draft is 'imposed' on us miners! I strongly suggest that the 1994 EIR and attendant regulations have done a good job of balancing the Federal rights for miners with the environmental concerns of the State of California. The 1994 EIR addressed all of the current concerns and nothing in scientific review available suggests the 'radical' changes you are proposing based on 'inuendo; or 'personal ' opinions.

SEIR Baseline is wrong: I take strong exception to the Department using an arbitrary and misleading baseline within the SEIR in an underhanded attempt to make the impacts from suction dredging appear greater than they really are, and in an attempt to marginalize the serious economic and social impacts to Americans which would result from your proposed regulations. You should use a proper baseline that is based upon existing dredge and small business activity under the 1994 regulations during the season before the moratorium was imposed.

Reduction of our existing dredging seasons is unreasonable: I do not see that the SEIR contains evidence of a deleterious impact upon fish to support the reduction of existing dredging seasons that are in the 1994 regulations. This proposal is only supported by your "precautionary approach." Except for those time periods where you can demonstrate that a deleterious impact has been created under the existing regulations, you leave our seasons as they have been since 1994.

The proposed 3-foot rule is unreasonable: The SEIR has not presented any real evidence that dredging within three feet of the streambank has ever harmed a single fish. This prohibition would prevent beginners, non-swimmers or children from starting closer to the shore where water is shallower and more safe. Prohibiting dredging within three feet of the edge of the river will eliminate a significant portion of the operational value (perhaps even all of it) on some dredging properties. It would be more productive to provide better language describing what the "bank" is in relation to dredge mining. For example, is there a "bank" in relationship to a gravel bar out in the waterway that is partially out of the water? What about a bar alongside the waterway that is submerged during the spring, but emerges

more and more out of the water as the dry season evolves? Existing language is not clear enough. The proper answer is to clear that up, rather than impose an additional buffer zone which reduces our mining opportunities.

Mercury is not a problem: Your SEIR relies unreasonably upon the unfounded conclusions of Charles Alpers' who has allowed his personal political agenda get in the way of real science. The SEIR does not give enough weight to the discovery by Rick Humphries Report of California Water Resources Control Board that normal gold dredges are effective at recovering at least 98% of the mercury from the bottom of California's waterways.

The SEIR does not acknowledge, based upon your own survey results, that suction dredgers have been removing over 7,000 ounces of mercury or more every year under the 1994 regulations from California's waterways. That amounts to 98,000 ounces during the 14 years we operated under the 1994 regulations!

Adoption of the SEIR position would be fundamentally unreasonable in a context where the mercury is inevitably migrating downstream to areas where it is believed to be potentially harmful.

Since California State agencies are doing nothing to remove mercury from California's active waterways, it is grossly irresponsible to point the finger at suction dredgers who are the only ones

that are removing the mercury, at no cost to the taxpayers!

Rather than reduce the amount of mercury which we are removing from the ecosystem, the responsible

approach for State agencies would be to create a collection system in California which rewards dredgeminers for collecting and turning in mercury.

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Americans which would result from your proposed regulations. You should use a proper baseline that is

based upon existing dredge and small business activity under the 1994 regulations during the season before the moratorium was imposed.

DFG should not limit the number of suction dredging permits: There is no evidence presented in the SEIR that 14 years of dredging under the 1994 regulations ever harmed a single fish, much less threatened the viability of an entire species. What if I want to operate a dredge in some part of California where there would not be a deleterious impact? A limit on permits may prohibit me or someone else from using a suction dredge without a viable reason.

Allowing additional dredge permits after site inspection: In the event that DFG decides to impose (reasonable) limits in a blanket statewide permit program that will allow for most suction dredgers, I do not

believe DFG has the authority to declare a wholesale prohibition to dredge mining in the other vast areas

which exist on the public lands that would not be covered by the blanket permit. DFG has a site in-

spection

mechanism allowing you to consider more individualized impacts in areas, and during time periods, when and where dredging would not be allowed in a statewide program.

DFG should not limit the number of suction dredging permits: There is no evidence presented in the SEIR that 14 years of dredging under the 1994 regulations ever harmed a single fish, much less threatened the viability of an entire species. What if I want to operate a dredge in some part of California where there would not be a deleterious impact? A limit on permits may prohibit me or someone else from using a suction dredge without a viable reason.

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Onsite inspections should be immediately signed off when approved: There should not be a delay in signing off on a site inspection in cases where DFG officials cannot identify a deleterious impact. There should be a time limit in the regulations in which the application will be approved or disapproved. Due process should be allowed if I desire to appeal an application which has been disapproved.

Prior existing rights on permit acquisition: There must be an allowance for prior existing rights on a limited permit program. Otherwise, dredge-miners who have already invested in property and equipment could potentially lose our prior existing right to work our mining claims or other mining opportunities (belonging to an association that provides access to mining property).

Statewide permits, if limited, should be transferable: Permits should be transferable if there is going to be a limit on the number allowed under a statewide program. Otherwise, miners will make the substantial investment into developing a viable mine and then not be able to transfer ownership to someone new who will be able to dredge it, therefore losing some or most of the value.

DFG should not further-limit the size of dredges under the statewide permitting program: I do not believe that DFG has the authority to step onto the public lands and impose a permit restriction upon the productive capacity of my dredge without also coming up with specific reasons why existing capacities under the 1994 regulations are creating a deleterious impact upon fish. Please leave nozzle restriction sizes as they were in the 1994 regulations.

The regulations should also allow a wear tolerance factor on nozzle restrictor rings. I suggest 3/8 of an inch (diameter) is reasonable.

Allowing larger-sized nozzles after site inspection: If a dredger wants to operate a dredge having a

larger nozzle than is allowed under a statewide permitting scheme, the Department should allow the activity as long as no deleterious impact can be determined through a site inspection.

DFG should not further-limit the places where dredging is allowed: This proposal is just supported by your “precautionary approach.” Except for those areas where you can demonstrate that a deleterious impact has been created under the existing regulations, please leave our seasons as they have been since 1994.

Gold miners should be afforded due process, and should be allowed to proceed in areas which are not allowed under a statewide permit, as long as a site inspection cannot turn up evidence of a deleterious impact.

Reduction of our existing dredging seasons is unreasonable: I do not see that the SEIR contains evidence of a deleterious impact upon fish to support the reduction of existing dredging seasons that are in the 1994 regulations. This proposal is only supported by your “precautionary approach.” Except for those time periods where you can demonstrate that a deleterious impact has been created under the existing regulations, you leave our seasons as they have been since 1994.

The proposed 3-foot rule is unreasonable: The SEIR has not presented any real evidence that dredging within three feet of the streambank has ever harmed a single fish. This prohibition would prevent beginners, non-swimmers or children from starting closer to the shore where water is shallower and more safe. Prohibiting dredging within three feet of the edge of the river will eliminate a significant portion of the operational value (perhaps even all of it) on some dredging properties. It would be more productive to provide better language describing what the “bank” is in relation to dredge mining. For example, is there a “bank” in relationship to a gravel bar out in the waterway that is partially out of the water? What about a bar alongside the waterway that is submerged during the spring, but emerges more and more out of the water as the dry season evolves? Existing language is not clear enough. The proper answer is to clear that up, rather than impose an additional buffer zone which reduces our mining opportunities.

Suction dredge regulations should not impose the requirement of Section 1600 Agreements: Fish & Game Section 5600 already allows a site inspection mechanism for the Department to determine if a dredging program is deleterious to fish. Therefore, also imposing a Section 1600 requirement upon dredgers who wish to mine at a time or location that is otherwise closed, or to use larger nozzle than is allowed under a statewide permit, when there is little or no chance the dredge project will create a substantial impact upon the bed or bank of the waterway, would be an unreasonable imposition upon dredge-miners. Nobody else in California is required to pursue a Section 1600 permit until their activity rises to the level of requiring one. It should not be any different for suction dredgers. This also applies to the use of power winches, which provide the only safe and efficient means of progressing when some rocks are too heavy to move by hand, or they cannot be rolled over other rocks that are in the way. You should not impose a 1600 Agreement requirement upon a gold dredger unless the surface disturbance rises to the level which triggers Section 1600 of the Fish & Game Code.

Imposition of the 3/32-inch intake requirement on pumps is unreasonable: The 1994 regulations already prohibit dredge operation at times when fish may be too small to swim away from pump intakes as they are already being manufactured.

Most dredges today are being produced using 3/16th inch or 15/64th inch holes for the pump intakes. To

avoid conflict, you should adopt something larger than the two hole sizes which are already being used on

most dredges in California.

Allowance of permit locations must be more broad: Since existing regulations already set the times and

places where dredging is not deleterious to fish, I do not see any practical reason to force dredge-miners to

inform DFG exactly where they are dredging – and then hold them to the location unless the permit is amended.

Since I intend to prospect, I will not know the exact locations where I will be dredging at the time I apply for

my permit. You should broaden the location requirement in your permit application to naming the waterways where I intend to work. This will allow me some flexibility to move around in search of gold without having to make an expensive trip to the closest Department license sales office to amend my permit.

The proposed dredge marking system is not workable: There is no practical way of attaching a sign to a

small dredge! What does this have to do with preventing a deleterious impact upon fish?

If you must have an identification number on my dredge, you should eliminate the requirement of 3-inch

number and allow the numbers to be marked either on the pontoons or the sluice box, but only if it is possible to do so. This would allow smaller numbers in the case of smaller dredges.

Fuel should be allowed within 100 feet of the waterway if kept within a water-tight container or a boat: I question your authority on placing any requirement upon suction dredgers in this matter, other than

to prohibit the spillage of fuel. Millions of boaters all over California are allowed to keep fuel safely in their boats. Your proposed regulations would prohibit suction dredgers from doing the very same thing!

There are plenty of effective ways to prevent fuel from leaking into the waterway without making a dredgeminer

hike 100 feet up the embankment. At the very least, fuel can be placed inside of a boat, or inside a sealed catch tub of some kind up on the embankment to prevent leakage. These catch tubs are already

routinely part of a dredge program to assist with cleanup of concentrates.

Disturbance of mussel beds: It is unreasonable to propose that every suction dredger must now do a survey before dredging to make certain that there is no place within 30 feet downriver where more than 40

muscles per square yard exist before dropping tailings! Some rivers are so inundated with muscles; this

imposition would amount to a suction dredge prohibition in a large part of the waterway! And why, since

there are so many? How does the protection of mussels from dredge-miners conform to the language of

Section 5653? Please drop this silly mussel idea from final regulations.

Returning the site to the pre-mining grade to the greatest extent possible: Since it is impossible to move tailings and rocks upstream against a swift current, the requirement to fill in our holes and level off

our tailings is unrealistic.

Ample evidence shows that salmon are less likely to place their redds in a heaped tailing pile, than they are on a pre-mining grade which is inundated with unstable gravel; so your proposal will actually create more harm than good! The dredge holes which I leave behind create cool water refuges where salmon and other fish hold up during the warm summer months. My piled cobbles create protected habitat where fingerlings can hide from predators. It would be better for the fish if we just allow Mother Nature to settle things out in the next storm event.

Dredge mining between one half hour after sunrise to sunset: Your authority is limited to preventing a deleterious impact upon fish. Please drop this from proposed regulations and leave this particular concern to local authorities where it belongs.

I would ask that you carefully consider my comments regarding suction dredging in California!

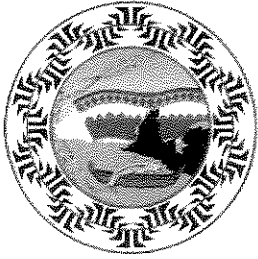
Best regards,

A handwritten signature in cursive script that reads "William L. Pettigrew". The signature is written in black ink and is positioned to the right of the typed name.

William L. Pettigrew
27940 Ten Mile Road
P.O. Box 771
Gualala, Ca 95445
707 882-2645

YUROK TRIBE

190 Klamath Boulevard • Post Office Box 1027 • Klamath, CA 95548
Phone: (707) 482-1350 • Fax: (707) 482-1377



April 22, 2011

Suction Dredge Program
Draft SEIR Comments
Department of Fish and Game,
601 Locust Street, Redding, CA 96001

To Whom It May Concern:

The Yurok Tribe has reviewed the Proposed Suction Dredge Regulations and the Draft Subsequent Environmental Impact Report (DSEIR) that has been prepared by the California Department of Fish and Game (CDFG) and provides the following comments to be entered into the record.

Since the California Environmental Quality Act (CEQA) analysis found that significant environmental effects could occur as a result of the Proposed Program (and several of the Program alternatives), specifically in the areas of water quality and toxicology, noise, and cultural resources the Yurok Tribe is expressing support and highly recommends that CDFG select the No Program Alternative. Furthermore, in the event these regulations are approved and implemented the Yurok Tribe firmly opposes any issuance of suction dredge permits to persons applying to engage in suction dredge mining activities within the Yurok Reservation boundaries. The Bureau of Indian Affairs holds in trust all mineral resources within the Yurok Reservation boundaries and must approve or disprove any extraction of mineral resources in Indian Country.

Suction dredge mining activities will impact cultural beneficial and recreational uses by creating physical, sensory interference and reduced aesthetic qualities of the Klamath River, resulting in substantial community-wide nuisance conditions during Yurok spiritual and ceremonial activities. Suction dredge mining increases the risk for potentially significant adverse effects, interfering and affecting the enjoyment of life, religion, and property of the entire Yurok Tribe, targeting the Yurok people inhabiting the Yurok Reservation and surrounding areas.

In addition, the Yurok Tribe provides the following comments on the technical aspects of the DSEIR and proposed suction dredge regulations.

COMMENT # 1: CDFG MUST ASSURE THAT AN APPROPRIATE CEQA ANALYSIS OCCURS WHEN ISSUING PERMITS AND PERMITS SHOULD BE GRANTED ONLY WHEN CDFG CAN AFFIRMATIVELY PROVE THAT ANY SUCTION DREDGE MINING WILL NOT CAUSE DELETERIOUS IMPACTS TO FISH

Reasoning

This comment was made in response to the Initial Study as was not addressed in the DSEIR or proposed regulations. We want to reiterate our assertion that compliance with Fish and Game Code §§5653, 5653.9 and CEQA require two discretionary acts: (1) the adoption of regulations that comply with CEQA and the APA, and (2) a determination upon the issuance of each permit that the permitted activity will not cause deleterious impacts to fish.

In other words, the DSEIR and regulations must be explicit in requiring CEQA review for each individual permit issued under the new regulations for the suction dredge mining program. A blanket permit which describes impacts at the state-wide, regional, or in most cases watershed level, fails to meet this standard.

Recommendation

The Amended Regulations and DSEIR must make clear that each individual permit is subject to separate CEQA review in order to analyze the potentially significant impacts of CDFG's issuance of a permit and to assure that "the operation will not be deleterious to fish."

As an initial matter, we believe the following rivers should be excluded from the suction dredge mining program because dredging is particularly likely to result in deleterious effects:

1. All river segments with historical gold mining activities in which mercury was utilized;
2. River segments listed as impaired under 303(d) of the Clean Water Act due to turbidity, water temperature, sediment, or mercury;
3. All river or stream segments designated as components of the National Wild and Scenic Rivers System or deemed eligible for protection by federal agencies. Federal rivers are to be managed to protect their specific outstandingly remarkable scenic, recreation, historical/cultural, fish/wildlife, ecological, geological, and other values. In addition, water quality on federally protected rivers must meet or exceed federal criteria or federally approved state standards for aesthetics, fish and wildlife propagation, and primary contact recreation. (Commenters note that the Initial Study contains an incomplete list of State and Federal Wild and Scenic Rivers on page 7);

¹ Public Resources Code, Chapter 1.4 (commencing with Section 5093.50) of Division 5.

4. All rivers protected pursuant to provisions of the California Wild and Scenic Rivers Act (Chapter 1.4 (commencing with Section 5093.50) of Division 5 of the Public Resources Code). DFG has a responsibility in its permitting process to protect the free flowing character and extraordinary values of state designated rivers;²
5. All river or stream segments designated by the Fish and Game Commission as Wild Trout Waters or Heritage Trout Waters, or deemed suitable for designation pursuant to Section 1727 of the Fish and Game Code;
6. All river segments that provide critical, potential, and historical habitat for federally or state listed threatened species or endangered species, “Special Animals” (e.g. species at risk, special status species, species of special concern) and candidate/proposed species;
7. Rivers in Key Watersheds as identified by the Northwest Forest Plan;
8. All stretches of rivers in which miners’ off-river activities (hauling supplies, camping, taking dredges on or off river, refueling, emptying sluices, sorting concentrates, etc.) will likely cause negative impacts to the immediate environment because it results in activities such as trampling of sensitive or culturally significant plants, fuel spillages, or handling of hazardous materials.

In addition, CDFG’s regulations must clearly state that CDFG has the right to revoke, suspend, or refuse to renew a permit should it discover evidence showing that deleterious impacts will occur to fish.

COMMENT # 2 CDFG SHOULD INCLUDE AN ANTIDegradation ANALYSIS AS PART OF THE DSEIR

Since the CEQA review includes a review of water quality issues (and, particularly because the State Water Resources Control Board is likely to use the findings for its own permitting program), we believe that CDFG should conduct an anti-degradation analysis. This would require a river-by-river analysis of the baseline water quality, a study of the impacts from suction dredge mining, and the requisite analysis to determine whether any degradation will occur to water quality from suction dredging activity. If the answer is in the affirmative, suction dredge mining cannot be allowed. The point of this analysis is determine *beforehand* whether suction dredging in a particular area will degrade water quality – rather than have it occur and try to fix it later.

² Public Resources Code Section 5093.61.

COMMENT # 3: THE INITIAL PLAN FAILS TO DESCRIBE HOW CDFG WILL LIMIT THE SUCTION DREDGE PROGRAM BASED ON FINANCIAL CONSTRAINTS ON ENFORCEMENT AND MANAGEMENT

Reasoning

CDFG should evaluate whether or not it has the capacity to enforce the proposed regulations under existing fee structure and budget. Although CDFG asserts that it has no flexibility to alter fees without legislative consent, we note that Fish and Game Code 5653 (c) states:

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 (emphasis added).

Section 713 (f) states:

The department shall, at least every five years, analyze all fees for licenses, stamps, permits, tags, and other entitlements issued by it to ensure the appropriate fee amount is charged. Where appropriate, the department shall recommend to the Legislature or the commission that fees established by the commission or the Legislature be adjusted to ensure that those fees are appropriate (emphasis added).

To our knowledge CDFG has never made such an adjustment to address budget constraints associated with implementing the suction dredge program, but now may be an appropriate time to do so.

Recommendation

CDFG should limit the scope of its suction dredge program if implemented on the basis of what its finances allow under the current fee structure or else propose a fee increase to allow for implementation of the proposed regulations. In other words, it should limit the program to what it can honestly and pragmatically enforce and manage or else charge more for permits. Otherwise CDFG cannot assure that its obligation to regulate and monitor suction dredge mining activities to prevent a deleterious impact can be met.

The current DSEIR fails to evaluate how CDFG, with existing budgetary constraints, can possibly check 4,000 dredge operations for compliance with detailed regulations regarding distances to stream banks, presence of mussel beds, and presence of spawning salmonids in real time. We suggest that this analysis be undertaken as the FSEIR is developed.

COMMENT #4: THE DSEIR MUST COMPLY WITH CDFG'S DUTY UNDER CEQA TO INFORM THE PUBLIC OF HOW THE PROPOSED ACTION CONFLICTS WITH EXISTING LAWS AND THE FACILITATION OF OTHER PERMITTING PROGRAMS

Reasoning

The DSEIR must fully disclose and analyze the Project's potential conflicts with all existing laws and regulatory programs including those that apply on Indian lands. A DSEIR is required to be an informational document from which the public can properly weigh any adverse effects presented by a project.³

Although the DSEIR does conclude that the proposed action would indeed have significant and unavoidable impacts on water quality and cultural sites, it fails to describe how the proposed action conflicts with existing Tribal, state and federal laws.

CEQA requires the DSEIR to analyze whether the Project will “[v]iolate any water quality standards or waste discharge requirements.”⁴ These standards promulgated under the Clean Water Act and administered by the State Water Resources Control Board for waters outside federally established Indian Reservation exterior boundaries are crucial for a determination of the Project's impacts on hydrology and water quality. For example, we note in comment #5 below inconsistencies with the Klamath TMDL. In addition, the Public Trust and Business professional code obligates CDFG to comply with existing state and federal laws.

The DSEIR does not inform the public how the proposed action conflicts with existing laws that have been enacted by the Yurok Tribal Council. For waters within federally established Indian Reservations, including the Yurok Reservation, the USEPA and Yurok Tribe has jurisdiction and the authority to protect water quality. There is no reference to the Yurok Tribe Water Pollution Control Ordinance and Water Quality Control Plan for the Yurok Indian Reservation that was approved by Resolution of the Yurok Tribal Council 04-46 on August 25, 2004. In addition, any person engaging in ground disturbance activities within the Yurok Reservation boundaries is required to comply with the Yurok Tribe Cultural Resources Protection Ordinance that was approved by the Yurok Tribal Council September 9, 2009. The DSEIR does not mention any of the Tribal laws that apply on the Yurok Reservation, or any other Indian owned lands in California.

Recommendation

We assert that the DSEIR must analyze any potential conflicts with the achievement of Clean Water Act standards under §§ 303(d), 401, 402, 404; the Porter-Cologne Act, The Yurok Tribe Water Pollution Control Ordinance, Water Quality Control Plan for the Yurok Indian Reservation, the Yurok Tribe Cultural Resources Protection Ordinance and any other relevant

³ Pub. Res. Code §§ 21061; 21005(a) states that, “noncompliance with the information disclosure provisions of this division which precludes relevant information from being presented” violates CEQA.

⁴ Appendix G § VIII, relied upon in the Initial Study at p. 70.

provisions of applicable law such as the California Endangered Species Act and the national Endangered Species Act. In addition, the DSEIR should describe what additional permits may be required consistent with other applicable laws, including Yurok Tribal laws mentioned above.

COMMENT # 5: PROPOSED REGULATIONS VIOLATE KLAMATH BASIN PLAN AND EXISTING STATE LAW

Reasoning

In many salmonid bearing streams, migrating fish, both out-migrating juveniles and returning adults, rely heavily on thermal refugia to survive. Thermal refugia are river zones characterized by water temperatures measurably lower than the main channel or surrounding area. The lower temperature of the refugial area results from inflow from a colder tributary or an underwater spring.

Although CDFG did propose significant restrictions in Klamath River cold water refugia, it failed to propose restrictions wholly consistent with the restrictions mandated by the Klamath TMDLs. The Porter-Cologne Act requires State Agencies to comply with State Water Quality standards:

§ 13146. State agency compliance

State offices, departments and boards, in carrying out activities which affect water quality, shall comply with state policy for water quality control unless otherwise directed or authorized by statute, in which case they shall indicate to the state board in writing their authority for not complying with such policy.

Specifically, the refugial areas identified in the TMDL not identified in CDFG's proposed regulations are:

- Canyon Creek (Siskiyou county)
- Cottonwood (Siskiyou county)
- Little Horse Creek (Siskiyou county)
- West Grider Creek (Siskiyou county)

The following creeks have a 1500 foot thermal protection zone in TMDLs but only 500 foot protection zone in proposed Regulations:

- Aubry Creek (Siskiyou County)
- Clear Creek (Siskiyou County)
- Dillon Creek (Siskiyou County)
- Elk Creek (Siskiyou County)
- Grider Creek (Siskiyou County)
- Horse Creek (Siskiyou County)
- Indian Creek (Siskiyou County)

- Rock Creek (Siskiyou County)
- Swillup Creek (Siskiyou County)
- Ukonom Creek (Siskiyou County)

Additional Creeks have additional in stream restrictions on dredging described in the TMDLs that are not reflected in proposed CDFG regulations. A full comparison between proposed CDFG regulations and restrictions on dredging included in the TMDLs can be seen in the following list:

Klamath River Tributaries	Refugia Protection proposed by DFG	Refugia Protection Provided by TMDL
Aubrey Creek	500 ft radius	1500 ft radius + 3000 feet up the Creek
Beaver Creek	500 ft radius	1500 + 3000 feet up the Creek
Canyon Creek	0	500 ft radius
Cottonwood Creek	0	500 ft radius
Clear Creek	500 ft radius	1500 ft radius + 3000 feet up the Creek
Dillon Creek	500 ft radius	1500 ft radius + 3000 feet up the Creek
Elk Creek	500 ft radius	1500 ft radius + 3000 feet up the Creek
Empire Creek	500 ft radius	500 ft radius + 3000 feet up the creek
Fort Goff Creek	500 ft radius	500 ft radius + 3000 feet up the creek
Grider Creek	500 ft radius	1500 ft radius + 3000 feet up the Creek
Horse Creek	500 ft radius	1500 ft radius + 3000 feet up the Creek
Indian Creek	500 ft radius	1500 ft radius + 3000 feet up the Creek
Jenny Creek	0	500 ft radius
King Creek	500 ft radius	500 ft radius + 3000 feet up the creek
Little Horse Creek	0	500 ft radius + 3000 feet up the creek
Little Humbug Creek	500 ft radius	500 ft radius + 3000 feet up the creek
Mill Creek	500 ft radius	500 ft radius + 3000 feet up the creek
Nantucket Creek	500 ft radius	500 ft radius + 3000 feet up the creek
O'Neil Creek	500 ft radius	500 ft radius + 3000 feet up the creek
Portuguese Creek	500 ft radius	500 ft radius + 3000 feet up the creek
Reynolds Creek	500 ft radius	500 ft radius + 3000 feet up the creek
Rock Creek	500 ft radius	500 ft radius + 3000 feet up the creek
Sandy Bar Creek	500 ft radius	500 ft radius + 3000 feet up the creek
Seiad Creek	500 ft radius	500 ft radius + 3000 feet up the creek
Stanshaw Creek	500 ft radius	500 ft radius + 3000 feet up the creek
Swillup Creek	500 ft radius	1500 ft radius + 3000 feet up the Creek
Ti Creek	500 ft radius	500 ft radius + 3000 feet up the creek
Titus Creek	500 ft radius	500 ft radius + 3000 feet up the creek
Ukonom Creek	500 ft radius	1500 ft radius
West Grider Creek	0	500 ft radius
Scott River Tributaries		
Boulder Creek	none	500 ft radius
Canyon Creek	none	500 ft radius
Kelsey Creek	none	500 ft radius

Recommendation

The proposed suction dredge mining regulations should be consistent with California water quality laws such as the Klamath Basin Plan, as well as any other state or federal river management plans.

COMMENT # 6: THE DSEIR INAPPROPRIATELY DEFINES “DELETERIOUS EFFECT.”

The DSEIR Page 2-5 states:

Generally, CDFG concludes that an effect which is deleterious to Fish, for purposes of section 5653, is one which manifests at the community or population level and persists for longer than one reproductive or migration cycle. The approach is also consistent with the legislative history of section 5653. The history establishes that, in enacting section 5653, the Legislature was focused principally on protecting specific fish species from suction dredging during particularly vulnerable times of those species’ spawning life cycle.

CDFG’s assertion that this extreme definition of ‘deleterious’ (note Webster defines it as *harmful often in a subtle or unexpected way*) is consistent with the legislative history of Fish and Game Code 5653 is unreferenced and, we believe, patently false.

In fact, primary references and a summary of the documented legislative history of 5653 dating back to 1873 was provided to CDFG in a March 10, 2010 by Friends of the North Fork. In their letter, Friends of the North Fork pointed out that:

- In 1961, "deleterious to fish" found its way into the first California statute regulating suction dredge mining, Fish and Game Code Section 5653, in Assembly Bill 1459 (Arnold). In his letter to the governor requesting a signature on the bill, Assemblyman Arnold used terms like "damage" and "disturb." He said dredging should be done so as not to cause anything other than "minimal damage" to fish, from which he specifically excluded disturbing eggs, disturbing fish food organisms and stirring up silt to cause an "aesthetic problem" and cover eggs.
- The intent was clear. Any “damage” from dredging activities must be “minimal.” Clearly, the author’s view was that disturbing eggs, disturbing fish food organisms and stirring up silt to cause an "aesthetic problem" and cover eggs is more than minimal, and thus is “deleterious to fish.”
- In an analysis of AB 1459 provided to members of the Legislature in 1961, the Legislative Analyst’s Office said that, under the bill, “the department must then

determine whether the operation will be safe for fish life and if so it will issue a permit to the applicant.” So, in that view of the intent of “not deleterious to fish,” legislators were informed that it meant the activity is “safe for fish life.”

- In a letter to the Governor requesting his signature on AB 1459, the Department of Fish and Game said, “The department shall issue a permit if it is judged that no damage will occur to fish, aquatic life, and the aquatic environment.” So in information on which the Governor based his decision to sign AB 1459 into law, “not deleterious to fish” meant “no damage” to “fish, aquatic life and the aquatic environment.”
- In the handful of bills since 1961 affecting this section, no legislation has ever used a term other than "deleterious to fish" nor offered any other interpretation of its meaning.

Thus we assert that CDFG has failed to justify its claim that the definition of ‘deleterious effect’ used in the DSEIR, that is *one which manifests at the community or population level and persists for longer than one reproductive or migration cycle* is consistent with the legislative history.

Recommendation

Adopt a definition for phrase ‘deleterious effect’ that is consistent with the legally acceptable dictionary definition of the word ‘deleterious.’ We suggest the following language be included in the Fish and Game Code:

A vacuum or suction dredge operation and activities associated with its operation are deleterious to fish, mollusks, crustaceans, invertebrates, or amphibians if either (1) it deposits, alters, flours or re-suspends any substance or material in the river, stream or lake that has a harmful effect on any life stage of “fish” or (2) alters the behavior of “fish” so as to have a harmful effect or (3) results in the modification or alteration of instream or riparian habitats in a way that has a harmful effect on the ability of “fish” to successfully feed, reproduce or evade predators.

COMMENT # 7: THE HYDROLOGY AND WATER QUALITY SECTION FAILS TO ADEQUATELY EVALUATE DELETERIOUS EFFECTS OF RESUSPENDED MERCURY ON FISH AND IMPACTS TO PUBLIC HEALTH

Reasoning

Mercury is of primary concern because it not only poses an unacceptable toxicological risk to humans, fish, and wildlife but also because of its occurrence in the very aquatic sediments where suction dredging typically target- known streams and rivers where historic gold mining took place using methods that resulted in extensive areas of mercury enriched channel sediments. Furthermore, suction dredge mining has a high probability to increase the percent of methyl mercury (MeHg) that is more bioavailable and therefore more easily entered and assimilated

toxic constituent into the bioaccumulating foodchain of aquatic invertebrates, organisms, and terrestrial Hg-contaminated fish. This substantially increases the health risks to wildlife, fish, and humans consuming any of aquatic organisms exposed to the environment effected by section dredging.

The finding of the DSEIR concerning the human health risk cannot be overstressed and is quoted below.

Dietary MeHg is almost completely absorbed into the blood and is distributed to all tissues including the brain. In pregnant women, it also readily passes through the placenta to the fetus and fetal brain. MeHg is a highly toxic substance with a number of adverse health effects associated with its exposure in humans and animals. High dose human exposure results in mental retardation, cerebral palsy, deafness, blindness, and dysarthria in utero and in sensory and motor impairment in adults. Additional data on toxicity from low dose MeHg exposure (U.S. EPA, 2001) implicates cardiovascular and immunological effects.

Mercury levels immediately downstream of dredging sites will increase the transport of fine, colloidal material for distances downstream and contribute to additional mercury risk and adverse human health outcomes. While DSEIR indicates changes to instream resuspension of sediments and related sediment-derived contaminants will produce localized effects limited to the area immediately downstream of the dredging activity, it fails to consider that via exposure from the deposited dredge material a second community of benthic organisms is exposed to the mercury in the redistributed sediments; extending and broadening the extent of possible toxic impact areas. This in effect brings the mercury, other trace metals, and associated toxins to entirely new and previously unexposed benthic communities. At every location where suction dredging is to occur, one population has been historically exposed and if any current suction dredging is allowed to proceed, completely new communities that lie downstream will be exposed. Although these are local, they are nevertheless important, far reaching impacts in the environment of smaller rivers and tributaries. Results of transport and transformation of mercury will **increase the number of individuals and communities** downstream that are affected when sediment is discharged from suction dredging and **increasing the chance of human exposure**.

The DSEIR also fails to adequately address these same impacts of mercury carrying sediments in the mainstem of larger rivers such as the Klamath. Also, additional effects can only be expected from the settling of any resuspended toxins along the mainstem. Here, sediments laden with mercury will fall out in back eddies and slow moving coves that correspond to traditional and current fishing holes, thereby increasing mercury exposure on the system, and organisms already burdened by mercury levels and allowing increased risk to public health. Both freshwater mussels/clams and sturgeon are principal benthic subsistence food for the Yurok. The macroinvertebrates that the various salmon and steelhead feed on will also be impacted and can be expected to have an increased burden in mercury and toxin levels, which will be moved into these larger fish that are a mainstay to tribal Members diet and cultural continuance.

Based on the information discussed above, suction dredging has the potential to contribute substantially to: (1) watershed mercury loading to downstream reaches within the same

waterbody and an increase in impacted area, individuals, and communities (2) increased mercury bioaccumulation in aquatic organisms (including fish) in these downstream reaches and (3) thereby increased human health risks to people and wildlife that eat these organisms.

COMMENT # 8: THE DSEIR SHOULD INCLUDE A SECTION ON ENVIRONMENTAL JUSTICE

The Cultural Beneficial uses are described and documented in some detail in Chapter 2 of the North-coast Regional Water Quality Control Board's *Staff Report for the Klamath River Total Maximum Daily Loads (TMDLs) and Action Plan Addressing Temperature, Dissolved Oxygen, Nutrient, and Microcystin Impairments in California*.⁵ The affect the Program would have on these uses were not evaluated.

Reasoning

Several California laws require that state agencies, and California EPA in particular, to consider how rules and regulations affect minority communities. These laws include SB 828, AB 1360, SB 89, and more.

Environmental justice (EJ) is defined in California law as "*the fair treatment of people of all races, cultures, and incomes with respect to the development, adoption, implementation, and enforcement of environmental laws and policies.*"⁶

In addition, on December 16, 2010, the United States officially endorsed the United Nations Declaration on the Rights of Indigenous People (DRIP).

Article 19 of the DRIP states:

States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them.

It is our view that suction dredge mining under terms of the proposed regulations poses significant threats to water resources, subsistence resources, and leads to negative social and cultural impacts to indigenous groups.

Article 25 of the DRIP states:

Indigenous peoples have the right to the lands, territories, and resources which they have

⁵ http://www.swrcb.ca.gov/northcoast/water_issues/programs/tmdls/klamath_river/090619/Ch_2_PS_090619.pdf

⁶ Government Code section 65040.12

traditionally owned, occupied, or otherwise used or acquired...States shall give legal recognition and protection to these lands, territories, and resources...

Articles within the DRIP are subject to review based on the Human Rights Charter which is supported, endorsed, and enforced by the United States.

Recommendation

We urge CDFG to thoroughly describe the impacts suction dredging has on the cultural beneficial uses of the Klamath River as identified by the Yurok Tribe as well as the cultural beneficial uses identified by other Indian Tribes and affected communities in other watersheds. Note that these affected beneficial uses pertain not only to anadromous fish, but to mussels, various riparian plants, mollusks, and more. In general, the DSEIR should fully evaluate whether the proposed actions are consistent with California's stated commit to the principles of environmental justice.

In addition, CDFG should evaluate the consistency of proposed regulation with the United Nations Declaration on the Rights of Indigenous People.

COMMENT # 9: GOLD DREDGE PERMITTING PROGRAM MUST TAKE INTO ACCOUNT CUMULATIVE EFFECTS TO FISHERIES

Although individual gold dredges may have less than significant effects to fish, the sum total of multiple, densely occupied dredging areas will have cumulative effects that are significant. Although the draft regulations do call for dredgers to move tailings back into pits "to the extent possible", multiple dredges operating in an area would still leave the entire area at risk of geomorphic destabilization and associated mortality of Chinook and coho and steelhead eggs. Furthermore, large amounts of human activities in watersheds during periods with relatively warm water temperatures and holding adult fish (e.g. the Salmon River and spring Chinook salmon) can cause mortality or decreased reproductive success in these fish already stressed from high water temperatures. Because the 4,000 permit limit applies to the entire state, it is possible that a large number of permits could be issued for a small watershed, such as the Salmon River. There are no spatial limitations on permitting, hence our concern.

We strongly suggest limiting number of dredges by drainage, or by reach within a drainage, so as to disperse the effect of the dredges. This will also assure fair participation by geographically diverse gold mining operations, including the Sierras as well as the Klamath Mountains.

COMMENT # 9a: CEQA FAILS TO PROPERLY ADDRESS IMPACT OF HUMAN ENCAMPMENTS ON RIVER HABITAT

The CEQA document assigns a "not significant" risk due to human encampments near the streambed, under the assumption that regulations prohibiting the discharge of human waste or chemicals are not permitted under the program, and therefore will not occur to any significant extent. We believe that CDFG should institute a monitoring system to ensure that this is the

case, and add the cost of this to the permits themselves as a whole. Many of these watersheds are in relatively pristine condition, and even a small amount of human waste can impact these systems.

Gasoline, nitric acid, and other chemicals are also brought into close contact with stream beds, and the draft regulations have only the requirement that a “containment system” be employed in the event that it is not feasible to store such chemicals away from the water. Suggest clarifying when containment systems are or are not required, and in certain more sensitive watersheds, requiring that the gasoline and other chemicals be away from the water, or no dredging is permitted at all.

COMMENT # 10: DSEIR FAILS TO EVALUATE IMPACTS TO PLANTS WITH CULTURAL AND MEDICINAL USES.

Reasoning

It is of note that the word ‘plant’ does not appear in the cultural resources section. The Yurok Tribe, as well as many California Tribes, traditionally and contemporarily harvest and utilize a variety of riparian and upland plants for use in traditional basket making as well as for medicinal and other cultural uses. CEQA requires that impacts to these cultural resources be evaluated.

Recommendation

Direct impacts to these specific plant species as well as access to these species by cultural practitioners should be evaluated in the DSEIR.

COMMENT #11: EVALUATION OF AESTHETIC IMPACTS LACK QUANTATIVE DATA

Reasoning

CDFG judges impacts to aesthetic values to be less than significant given the limited time frame that dredging could take place, limited number of dredges statewide (4,000), and assertion that most dredges are hidden from view sheds. The reality of the situation reveals that dredges tend to be concentrated in key areas that serve a larger community of hikers, recreational and commercial rafters and kayakers,

CDFG states in the DSEIR, “the relatively short percentage of the year that dredging activities would be occurring, adverse visual effects are not considered substantial in the statewide context of the Proposed Program.”

However, it should be noted that the relatively short time of year that dredging would be occurring is also the relatively short time of year that most people hike, bike, raft, and swim, i.e. summer.

Recommendation

Use quantitative metrics such as user surveys to actually study the aesthetics issue.

The Yurok Tribe looks forward to working with you on this important issue. The point of contact at the Yurok Tribe regarding these matters is Ken Fetcho. Please contact him at (707) 954-1523 or at kfetcho@yuroktribe.nsn.us if you have any questions or concerns.

Sincerely,

A handwritten signature in black ink, appearing to read "Thomas O'Rourke Sr.", written in a cursive style.

Thomas O'Rourke Sr.
Tribal Chairman
Yurok Tribal Council

cc: Rick Humphreys, SWRCB
Jason Brush, USEPA
Jane Hicks, ACOE
Dale Morris, BIA

April 23, 2011
California Department of Fish and Game
Suction Dredge Program Draft SEIR Comments
601 Locust Street
Redding, CA 96001

As Siskiyou County Supervisor for District 5, I represent the mid-Klamath River, Scott River and Salmon River areas. I have served on the Klamath Basin Fisheries Task Force, the Klamath Province Advisory Council, Five County Salmonid Conservation Committee and the Seven County North Coast Integrated Regional Water Management Planning Council. I have been involved in salmon and related water quality issues since 1990.

These comments are submitted in addition to and associated with those of Siskiyou County. Several restrictions should be eliminated from the proposal. These include:

- The “three foot rule.” This would essentially exclude most small streams from suction dredge mining and effectively “take” private property in many mining claims by rendering them non-minable. The restriction is far in excess of the proportionate impact that mining would have on riparian areas.
- The proposed 4 inch ring restriction. This size nozzle is not suitable for commercial mineral extraction. It is used for hobbyists and for sampling. The effect of this restriction is to categorically prohibit commercial suction dredge mining in California as it renders commercial extraction non-viable. Commercial miners would be unable to move enough material to cover the costs of permits and inputs into the enterprise. This is an unreasonable regulation of industry. Regulation was never intended to destroy an industry.
- Site visit requirements for gas-powered winching. Mining can be a dangerous enterprise. Winching of rocks is some times necessary as a safety measure to prevent crushing or dangerous mining conditions. It is not known ahead of time when winching will be necessary until the miner is presented with the need to move a rock to follow a gold-bearing fracture. In addition, although some younger miners might possess the strength capable of hand winching, most miners do have such strength. Will this create a halt of mining while an appointment for an inspection is arranged? Will there be a fee for such an inspection? Does an inspection need to happen each time a winch is used? This seems unreasonable and impractical.
- Change in season of use is unnecessary. Current restrictions have effectively limited suction dredge mining down to a small window of activity to protect the environment. Further restriction is unreasonable.
- The 3/32 Screen on Intake is unreasonable and unwarranted. There is absolutely no evidence of proximate cause that suction dredging has ever

- entrained fish or aquatic life. The diameter of the hole would constantly clog with floating debris and defeat the functionality of a suction dredge.
- Arbitrary state limit of 4,000 permits. There is no legitimate justification for such a limit. There is also no safeguard to prevent permits from being purchased by those without true intention to dredge in order to make them unavailable to legitimate miners. This also fails to take into account that the federal Mining Act allows for public mineral discovery and development. The state can not arbitrarily restrict a federal statute or a miner's right to perfect his claim in such a way.
 - Gas can restriction – this is impractical and impossible in many locations. The prior 1994 regulations recognized this and found that the impacts of fuel and oil by miners were less than significant.

*

According to Public Resource Code sections 21002 and 21002.1, “no public agency shall approve or carry out a project for which an environmental impact report has been certified which identifies one or more significant effects on the environment that would occur if the project is approved or carried out unless both of the following occur:

(a) The public agency makes one or more of the following findings with respect to each significant effect:

- (1) Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment.
- (2) Those changes or alterations are within the responsibility and jurisdiction of another public agency and have been, or can and should be, adopted by that other agency.
- (3) Specific economic, legal, social, technological, or other considerations, including considerations for the provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or alternatives identified in the environmental impact report.

(b) With respect to significant effects which were subject to a finding under paragraph (3) of subdivision (a), the public agency finds that specific overriding economic, legal, social, technological, or other benefits of the project outweigh the significant effects on the environment.”

I submit that the substantial negative impacts of the proposed regulation to private property, commercial business, social fabric and the economy of Siskiyou County, in addition to the paucity of real scientific data to substantiate alleged injury to salmonids from suction dredging, override any perceived benefits that might be realized by imposing the proposed regulations. The proposed regulation should be discarded, defaulting to the prior regulations adopted as result of the 1994 EIR.

Further, there is no rational justification for the extreme regulation and restriction of suction dredge mining proposed in this rulemaking when scientific evidence of substantial negative impacts is completely absent and while other activities with

direct, glaring impacts on fish – such as fishing, are allowed to continue. Is not the killing of fish through fishing “deleterious” to fish? In fact, under the federal Magnuson-Stevens Fishery Conservation and Management Act, fishermen can kill all the Chinook salmon they can catch above the 35,000 minimum threshold for natural spawners. They even are allowed some “by-catch” of threatened coho salmon. Even when they don’t reach their minimum “escapement” threshold for chinook, Amendment 15 allows for catching 25% of the natural spawners under the 35,000 minimum. The Yurok tribe is even catching/killing four percent of the entire listed, threatened coho return for the Klamath River Basin.

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CONSULTATION

The Public Resources Code 21153 indicates that (a) “**Prior to completing an environmental impact report, every local lead agency shall consult with, and obtain comments from,** each responsible agency, trustee agency, any public agency that has jurisdiction by law with respect to the project...” (b) “the lead agency may provide for early consultation to identify the range of actions, alternatives, mitigation measures, and significant effects to be analyzed in depth in the environmental impact report. At the request of the lead agency, the Office of Planning and Research shall ensure that each responsible agency, and any public agency that has jurisdiction by law with respect to the project, is notified regarding any early consultation.”

Siskiyou County has General Land Planning authority and police powers to protect public health and safety within the County. Each year the CDFG is formally notified of our desire to coordinate on regulatory issues, such as the present proposed “project” on suction dredge mining. We were never consulted PRIOR to the completion of this report. Here is our longstanding ordinance to that effect: CHAPTER 12. of Siskiyou County Code COUNTY PARTICIPATION IN STATE AND FEDERAL AGENCIES LAND TRANSACTIONS, which reads as follows:

Sec. 10-12.01. Findings.

The Board finds:

- (a) Actions of state and federal agencies to plan, adopt rules or regulations, acquire land or interest in land, in fee or through easements, promulgation of programs, land adjustments, and other activities of these agencies can have significant effects on the customs, culture, economy, resources, and environment of the County of Siskiyou and its citizens.
- (b) In order to protect the customs, culture, economy, resources, and environment of the County of Siskiyou, it is critical that federal and state agencies recognize and address the effects of any actions proposed within the County which may affect matters, including, but not limited to, economic growth, public health, safety and welfare, land use, the environment, conservation of natural

resources, such as timber, water, fish, wildlife, mineral resources, agriculture, grazing, and recreational opportunities.

(c) The coordination and consideration of the County's interest is required by law, such as in those requirements set forth in the National Environmental Protection Act, the National Forest Management Act, the Intergovernmental Cooperation Act, the Federal Land Policy and Management Act, the Federal Administrative Procedures Act, the State of California Public Resources Code, the California Environmental Quality Act, and numerous other federal and state statutes and administrative procedures.

(d) These various state and federal laws provide for participation by Siskiyou County and the public through opportunities for comment on proposed projects and actions.

(e) There is general County concern that, in the past, the legally required process of notification, referral, and coordination of activities described above may not have been consistently followed by state and federal agencies, which has led to concerns by the County and its residents that uncoordinated actions may have been adopted contrary to the requirements of law and potentially detrimental to the customs, culture, economy, resources, and environment of the County of Siskiyou.

(f) There is a clear need to establish an effective and consistent joint procedure for advance notification, referral, coordination, and participation to be followed by all state and federal agencies when undertaking activities or actions affecting the public health, safety, land use, customs, culture, economy, conservation of natural resources and environment of the County of Siskiyou, which procedure provides for a timely advance notice of opportunities for participation which are essential to the integrity of the decisionmaking processes of these state and federal agencies.

(g) In order for this coordination and consultation to be meaningful, the said notice and opportunity for input shall be given at the earliest possible stage of the federal and/or state governments' contemplation or consideration of a particular course of action with regard to land use plans, actions, or decisions affecting land use in Siskiyou County and such notice shall be given with sufficient specificity and prior to any psychological momentum having been developed with regard to the particular plan, action, or decision.

(§ I(part), Ord. 99-08, eff. May 4, 1999)

Sec. 10-12.02. Notification, referral, and consultation procedures.

In order to permit timely advance notification, referral, consultation, coordination, and participation in proposed actions of state and federal agencies:

(a) All federal and state agencies shall inform the County of Siskiyou, or its designee, of all pending, contemplated or proposed actions affecting local communities, citizens, or affecting County policy, and shall, if requested by the County, coordinate the planning and implementation of those actions with the County or its designee(s). Such notification shall include a detailed description of the proposed plan, procedure, rule, guideline, or amendment sufficient to fully

inform lay persons of its intent and effects, including the effects on the resources, environment, customs, culture, and economic stability of the County of Siskiyou.

(b) The Siskiyou County Board of Supervisors shall be consulted in accordance with the laws and regulations of the State of California and the United States regarding any pending, contemplated, or proposed actions affecting local communities and citizens.

(c) All federal and state agencies shall, to the fullest extent permissible by law, comply with all applicable procedures, policies, and practices issued by the County of Siskiyou.

(d) When required by law or when requested by the County of Siskiyou, all federal and state agencies proposing actions that may impact citizens of the County of Siskiyou shall prepare and submit in writing, and in a timely manner as soon as is practicable, report(s) on the purposes, objectives and estimated impacts of such actions, including environmental, health, social, customs, cultural and economic impacts, to the County of Siskiyou. Those reports shall be provided to the County of Siskiyou for review and coordination with sufficient time to prepare a meaningful response for consideration by the federal or state agency.

(e) Before federal and state agencies can alter land use(s), environmental review of the proposed action shall be conducted by the lead agency and mitigation measures adopted in accordance with policies, practices, and procedures applicable to the proposed action and in accordance with all applicable federal, state, and local laws. Impact studies shall, as needed, address the effects on community and economic resources, the environment, local customs and public health, safety, and welfare, culture, grazing rights, flood prone areas and access and any other relevant impacts.

(f) For the purposes of this ordinance, each federal and state agency shall, unless specifically authorized otherwise, give the required notices) to the County of Siskiyou and the Board of Supervisors, via certified mail, as follows:

Siskiyou County Board of Supervisors

P.O. Box 338

Yreka, CA 96097

Siskiyou County Planning Director

P.O. Box 1085

Yreka, CA 96097

Siskiyou County Assessor

County Courthouse, Rm. 108

Yreka, CA 96097

(g) Not less than five (5) complete copies of the written documents supporting the proposed action shall be provided to the Clerk of the Board of Supervisors at the above referenced address in such a timely manner so that there can be meaningful review and input sufficiently in advance of the action.

(h) Notification of the availability of related documents shall be available for the minimum time set forth by the federal and state statute for such review or, if none is established by law, for a period of not less than forty-five (45) days prior to the proposed date of action, adoption or approval. This time is necessary to ensure adequate local opportunity for consideration and response.

(§ I(part), Ord. 99-08, eff. May 4, 1999)

In addition, it is stated County policy that the CA DFG coordinate on regulatory issues such as suction dredge mining: (Copy of resolution submitted by reference: <http://users.sisqtel.net/armstrng/Coordination%20with%20State%20and%20Federal%20Agencies%202008%20RES.pdf>) The CA Department of Fish and Game has failed to come before the Siskiyou County Board of Supervisors in a formal consultation/coordination process. Siskiyou County is a government, not an agency, not an interested public. The law requires early government to government consultation between the Board of Supervisors as a whole and the state agency. This was never done.

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CUMULATIVE SOCIAL AND ECONOMIC IMPACT

In addition to Public Resource Code sections 21002 and 21002.1, “no public agency shall approve or carry out a project for which an environmental impact report has been certified which identifies one or more significant effects on the environment that would occur if the project is approved or carried out unless both of the following occur:

(b) With respect to significant effects which were subject to a finding under paragraph (3) of subdivision (a), the public agency finds that specific overriding economic, legal, social, technological, or other benefits of the project outweigh the significant effects on the environment.”

According to Public Resources Code (CEQA) 21083 (b)(2) the proposed regulation or “project” should be “cumulatively considerable.” (This “means that the incremental effects of an individual project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.”) According to PRC 21083 (3) Effects must also be examined because they will ‘cause substantial adverse effects on human beings, either directly or indirectly.” In light of this, the proposed “project” would be considered having a “significant effect on the environment.” PRC 21156 reiterates that it is the intent of the legislature for the EIR to evaluate cumulative impacts. The EIR must give adequate examination of these effects.

PRC 21001 (e) indicates that state policy is to: “Create and maintain conditions under which man and nature can exist in productive harmony to fulfill the social and economic requirements of present and future generations.” Section (g) indicates that state agencies should “consider qualitative factors as well as economic and technical factors and long-term benefits and costs, in addition to short-term benefits and costs and to consider alternatives to proposed actions affecting the environment.”

CEQA requires that the EIR consider social and economic factors in determining the impact that the proposed regulations (“project”) will have. This consideration

must include the overall context of the cumulative social and economic impact of past and future projects. Recently, Siskiyou County submitted a 20 year data compilation and reference citations regarding social and economic studies and statistics establishing “cumulative impact” to the CA Department of Fish and Game in the matter of proposed dam removal on the Klamath. I again submit these documents by reference into the record.

<http://users.sisqtel.net/armstrng/regulatory%20impacts.htm> Of particular note is the document which provides a chronology of most of the cumulative environmental regulations that have effected Siskiyou County during the past twenty years. <http://users.sisqtel.net/armstrng/dam%20comment%20july21.htm> Note the links to original sources substantiating social and economic impacts may also be found at :

http://users.sisqtel.net/armstrng/social_and_economic_information.htm

The 20 year span of the study was selected because of the impact of significant federal and state actions, such as: the Pacific Northwest Forest Plan and Aquatic Conservation Strategy; listing of the northern spotted owl and marbled murrelet; Survey and Manage; the Surface Mining and Reclamation Act; Acquisition of the Shasta Valley Wildlife Area and Horse Shoe Ranch; listing of Mt. Shasta as a National Historic Landmark; listing of the Lost River and shortnose sucker fish; pesticide regulations on the Klamath Refuge lands; various changes in pesticide use regulations; listing of the coho salmon- federal and state; Rangeland Reform; California Board of Forestry regulations; 2001 water shut off to farmers of the Klamath Project; TMDLS – Scott, Shasta, Klamath; various increases in electrical costs; 1602 regulations; coho ITPs; SB 670 Suction Dredge Moratorium; potential designation of the Siskiyou Crest National Monument; and potential expansion of the Siskiyou Cascade National Monument. Findings were as follows:

The following is significant social and economic information that should be taken into consideration in your analysis and decision:

The monitoring document entitled the Northwest Forest Plan—The First 10 Years (1994–2003): Socioeconomic Monitoring of the Klamath National Forest and Three Local Communities touches on the impact of inclusion of Siskiyou County, and in particular the Klamath River corridor under the Northwest Forest Plan and Aquatic Conservation Strategy. Also, recently, the Siskiyou County Board of Supervisors did a twenty year analysis of statistical changes in the declining social and economic health of Siskiyou County communities from 1990 through 2008 largely due to various endangered species listings, including SONC coho salmon and the northern spotted owl:

Demographic Trends – Age distribution: The census indicates that between 1990 and 2008, Siskiyou County experienced a 25% loss in the population of children under the age of 18. The County saw a 45% increase in the population age 45-64 and an 18% increase of those age 65 and older. This shows that our population is aging dramatically, and younger family wage earners are migrating elsewhere.

Income Trends; The BEA (Bureau of Economic Analysis) indicates that in 1987, the average wage for jobs in Siskiyou County were 73% of the California average. There was a steady decline down to as low as 57% in the year 2000, then the percentage stabilized at 61 % with an increase to 63% in 2008. This shows that our wages are depressed, not keeping pace with inflation and the rest of the state.

Unemployment – The EDD statistics indicate that from 1990-2009, the highest rates of unemployment occurred in individual months in 1991-1993 (19.3-21.1%). The average rate of unemployment for 1991 was 13.2, for 1992 – 15.8 and for 1993 -15.6. This high rate likely reflects the closure of the four timber mills in Siskiyou County between 1989-1999. The rate of unemployment then very gradually decreased each year until it plateaued around 2001 -2007 at 8-9.5% It climbed to an average of 10.2% in 2008 and was at 15.8% average in 2009. It is currently 21%.

Median Household Income The census (SAIPE) reports that in 1989, the median household income of Siskiyou County residents was \$22,077. This was 66% of the California median, (down \$11,000 from the CA median.) In 2008, the Siskiyou County median was \$36,823. It had decreased to 60% of the California median, (down \$24,000 from the CA median household income.) Siskiyou County ranks 51 out of 58 California Counties in median income.

Poverty Rates – The census (SAIPE) reports that in 1989, 14.4% of Siskiyou County residents lived below the poverty line. This was 1.7% higher than the poverty rate for California in general. In 1989, 23.5% of children under 18 in Siskiyou County lived in poverty. This was 2.2% higher than the California rate. In 2008, 16.4% of all residents in Siskiyou County lived in poverty. This is a 2 percent increase in the rate over that of 1989 and is 3.1% higher than the California rate. In 2008, 25.4% of children under the age of 18 in Siskiyou County lived in poverty. That is a 2 percent increase in the rate over that of 1989 and is 6.9% greater than the California rate.

Welfare/CalWorks – The CA Department of Social Services reports that between 2002 – 2009, the percentage of residents receiving welfare benefits has been steady between 3.9 and 5 %. (Statistics prior to 2002 reflect a program prior to welfare to work revisions.) This is about 1% higher than the rate for the State of California as a whole. In 2010, the economic impact of County government jobs at Human Services and entitlement benefits to County residents was \$71,581,874. This includes: \$11.6 million in annual “assistance costs” (CalWorks/welfare, Foster Care;) \$8.8 million in annual food stamps; \$4.7 million in In-Home-Support-Services for the elderly and disabled; and \$36.7 million in Medical Assistance/Medi-Cal. This makes entitlements the third largest sector of our local economy following government and agriculture.

SUMMARY Demographic Trends:: Siskiyou County is an aging county. A large percentage of children in the county live in poverty and this is getting worse.

Average wages are poor compared to the rest of California and getting worse. The household median income in the County has historically lagged far behind that of California and is getting worse. Unemployment has always been substantially higher than California in general. After stabilizing from high employment in the aftermath of mill closures and Forest Service layoffs, unemployment has substantially increased in the past two years and is climbing. It is currently 15.6% (May 2010.) The well-being of a substantial number of Siskiyou County residents is depressed and trending downward.

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Siskiyou County Business Characteristics and Growth – Growth: According to the census/censtats, from 1998 – 2007, Siskiyou County has seen a modest growth of 16 establishments (+1%) and 604 employees (+6.4%).

Number of Establishments by Employment Class Size – As reported by census/censtats, in 2007, 61% of the establishments in Siskiyou County had less than 4 employees; 82% had less than 10 employees and 93% had less than 20..

Detail on Large Sector Growth in Siskiyou County – The largest sector employers in Siskiyou County include retail trade; health care/social assistance; accommodations/food service, manufacturing and construction. From 1998-2007 there were fewer retail trade, accommodations/food service, and manufacturing employers. However, retail trade employees increased by 6.2%; accommodations/food service employees increased by 15%; an manufacturing employees increased by 9%. After spiking in 2002, health care/social assistance employers returned to about the same level as 1998, however, health care/social assistance employees increased by 11 %. Construction employers has increased 13%, but employs 14% fewer people than in 1998.

Major Employers in Siskiyou County – Cal EDD reports that the largest employers include federal, state and local government, including schools. Two of the larger employers are plywood veneer mills. (We no longer have a sawmill in the county.) Two of the largest employers identified by the EDD are closing or have partially closed. (CCDA Waters is closing and Mercy Medical Center has closed its Care Center operation of 50 employees. Nor-Cal Products has just recently been sold and it is unknown whether it will remain.)

SUMMARY COMMENT Business Growth: The vast majority of businesses in Siskiyou County are small, with 61% qualifying as microenterprise and 93% with less than 20 employees. The larger employers are federal, state and local government. There has been a modest growth in the number of employees in most of the larger categories of employers. Two of the 13 largest private employers are closing or partially closing. According to the SBA report, The Impact of Regulatory Costs on Small Firms, (

<http://www.sba.gov/advo/research/rs264tot.pdf>) small businesses are particularly sensitive to the impact of regulations:

“On a per employee basis, it costs about \$2,400, or 45 percent, more for small firms to comply than their larger counterparts. The 2001 study, using a slightly different methodology, concluded that the disproportionality rate was higher—nearly 60 percent.”

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Timber Industry: Timber Harvest Levels on the major national Forests in Siskiyou County Comparisons from pre –Pacific Northwest Forest Plan volume of timber sold (1978-1989) is dramatic from sales in 180-250 MMBF median range down to the 20 MMBF range. Failure to meet budgeted target sales is also noted.

Timber Harvest Relationship to Jobs – This illustration converting the value of timber harvest level to jobs uses Klamath National Forest harvest levels times a direct job factor of 11 jobs per MMBF and a 2.35 indirect job multiplier. This illustrates the substantial loss in timber jobs corresponding with the decrease in federal timber sales.

Siskiyou County Mill Jobs (Wood Products Manufacturing) This table was created by a local survey. It shows a decrease in mill jobs from 920 in 1990 to 380 in 2007.

Siskiyou County Wood Products Manufacturing According to Censtats/Census, there has been a drop in wood products manufacturing establishments from, 13 in 1993 to 6 in 2007

Logging, Forestry and Support Establishments. According to Censtats/Census, there has been a drop in logging, forestry and support establishments from 53 in 1993 to 38 in 2007 (-28%.)

Siskiyou County’s share of harvest and timber value in California. This information from the Board of Equalization shows that increased harvest from private lands in Siskiyou County have slightly offset the substantial loss of federal timber harvest.

SUMMARY COMMENT: There is no question that the reduced timber harvest on federal lands was a factor in the reduction of traditional jobs in the woods and in the mills from 1990 – 2008. This was the result of restrictions under the Pacific Northwest Forest Plan, aquatic conservation strategy, survey and manage and set asides for various species and protected status under the National Forest Land and Resource Management Plans, budget and staff cuts, as well as project appeals. This was a huge blow to the economy of Siskiyou County. It

severely affected communities along the Klamath River which have never recovered.

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Farm and Ranch Impacts: Farm/Non-Farm Proprietors According to the BEA, there are 3,065 more non farm proprietors in 2008 than in 1987. There are 72 fewer farm proprietors (non-corporate employers.)

Farm Income, Expenses and Profit According to the BEA, in 1987 82% of farm income was used for production expenses and 15% was net profit. In 2008, 87% of farm income was used for production expenses and 12% was net profit.

Ag Census Trends – Acreage: According to the USDA Ag Census, in 1992, Siskiyou County had 647,446 acres in farms. By 2007, this had been reduced to 597,534. There were 689 farms in 1992 and 846 in 2007 (+23%.) In 1992, there were 37 farms of 1-9 acres, this more than doubled to 80 in 2007. The number of farms 10-49 acres increased 59% from 144 in 1992 to 229 in 2007. There were 179 farms 50-179 acres in 1992. This had increased 27% to 228 farms by 2007. The farms 180-449 acres and 500-999 acres remained appreciably the same. There was a 19% reduction in farms 1,000 acres or more from 124 in 1992 to 100 in 2007. It is likely, from these figures, that many of these larger farms were subdivided.

Irrigated Farms: There were 520 irrigated farms totaling 105,419 acres in 1992. This increased to 546 irrigated farms totaling 144,112 acres. (According to a presentation by Tito Cervantes of CA DWR, there has been an increase in well drilling in areas where ranchettes have been created in the Shasta Valley north of Mt. Shasta.)

Farm Sales: From 1992 to 2007, farms selling less than \$2,500 increased from 175 to 359 (+105%.) Farms selling \$2,500-9,999 stayed about the same. Farms selling \$10-\$24,999 decreased from 105 to 95. Farms selling \$25,000-\$49,999 decreased from 73-60. Farms selling \$50,000 to \$99,999 decreased from 80 to 44 and farms selling more than \$100,000 increased from 107 to 137 (+28%.)

Production Ranches: There were 81 fewer production ranches in 2007 than in 1992 (312 v. 393 – an 21% decrease.) There were 20,882 fewer cattle and calves in inventory over this period of time (77,417 to 56,535, or -27%) and sales dropped from 41,668 to 33,683.

Alfalfa Farms: Alfalfa farms increased from 324 in 1992 to 350 in 2007. Acreage in alfalfa went from 53,083 to 89,068 or +68%.)

SUMMARY COMMENT: The margins of profit for farming are not large and are on a decreasing trend. The cost of inputs is substantial. To some extent,

this represents circulating dollars within the community. There are fewer acres of land in Siskiyou County in farms than in 1992, however, there are more irrigated acres. The trend appears to be the breaking up of several large farms, with a dramatic increase in small ranchettes under ten acres and substantial increases in farms under 179 acres. Farms selling less than \$2,500 and farms selling more than \$100,000 increased substantially, while those in between declined. The number of cattle ranches decreased by 21% and cattle inventories in Siskiyou County dropped (27%) from 77,417 to 56,535. However, acreage in alfalfa increased 68% from 1992 to 2007.

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The Klamath River Corridor: A Socioeconomic Monitoring of the Klamath National Forest and Three Local Communities found at http://www.fs.fed.us/pnw/pubs/pnw_gtr764.pdf (Northwest Forest Plan- The First 10 Years (1994 -2003) analyzes the severe impact of the Pacific Northwest Forest Plan on the timber-dependent communities of the Klamath River corridor in Siskiyou County. The data amplifies the same trends in this region that were shown above for the entirety of Siskiyou County. This particular area is also the one hardest hit by the proposed regulatory “project” for suction dredge mining.

There is a Current moratorium on Suction Dredge Mining, proposed restrictive rules under the CA Department of Fish and Game and Klamath TMDL which will render dredging which will prohibit or render most dredging economically non- in the Klamath River and its tributaries. An excerpt from Chapter 4.6.2 of CA DFG’s prior CEQA document describes the local economic impact of suction dredge miners. This quotes from a 1993 survey which indicates that the average investment in suction dredge equipment was approximately \$6,000; that suction dredgers spent about \$6,250 on expenses per year, including groceries, restaurants, motels, camp fees and other living expenses. It is further calculated that an average of 35 days per year was spent on dredging, equaling about \$179 expenditure per day per miner. In addition, dredgers spend about \$3,000 on gas, oil, maintenance and repair.

In an e-mail dated July 6, 2010 from Trista Parry of Parry’s market Ms. Parry provides figures from her small grocery business in Happy Camp that reflect the impact of the loss of suction dredge miners since the moratorium of SB 670 was passed by the CA legislature last year. It shows a decrease of \$11,467 in receipts for May 2010 and a loss of \$58,739.42 for June of 2010. This is contrasted with the April 2010 receipts which show a modest increase in receipts of about \$3,0000 to show that this is not due to the economic downturn.

SUMMARY COMMENT: Suction dredge mining occurs in the small, economically depressed communities of the Klamath River. The small business dynamic for the grocery stores, convenience stores, cardlock gas, camp grounds and motels is to use summer tourist income to sustain the business in the rest of

the season. The year-round local clientele is very small. The loss of dredge miners may result in the closing of vital local service stores along the Klamath. This would likely require residents to travel to Yreka to shop. In the case of the cardlock station, it is the only one on the Klamath River in Siskiyou County. The 1994 EIR indicated a total statewide economic impact of \$ 200 million for each year that dredgers did not mine. In Siskiyou County, when considered in the context of cumulative social and economic impacts to the County and to the fragile socio-economic fabric of a distressed area such as the Klamath River, the negative impact is both considerable and alarming.

Supportive documentation:

http://users.sisqtel.net/armstrng/social_and_economic_information.htm

Siskiyou County Assessment Tax Base

- **Demographics – Aging trends**
- **Senior demographic** among towns of the Klamath River Basin in Siskiyou Co. <http://users.sisqtel.net/armstrng/sr%20demographic%20no%20siskiyou.htm>
- **Siskiyou County Business Characteristics and Growth 1998-2007** [http://users.sisqtel.net/armstrng/business_growth .htm](http://users.sisqtel.net/armstrng/business_growth.htm)
- **Major Employers in Siskiyou County (EDD)** <http://users.sisqtel.net/armstrng/major%20employers.htm>
- **Unemployment history 1990 – 2009**
- **History of Income in Siskiyou County 1987-2008**
- **Poverty in Siskiyou County 1989-2008**
- **Number of Farm/nonfarm proprietors in Siskiyou County 1987-2008**
- http://users.sisqtel.net/armstrng/number_of_farm_proprietors.htm
- **Agricultural Profit 1987-2008**
- **Trends in AG Census Data**
- **Timber jobs 1988-2009**
- **On Timber Job Loss in Western Siskiyou County** <http://www.klamathbasincrisis.org/forestsandlogging/2010/timberjoblossWaddell102610.htm>
- **Timber Harvest Levels in the National Forests of Siskiyou Co.**
- **Harvest levels to jobs**
- **County Share of CA Timber Harvest and Value –Public and Private Lands**
- **Timber Appeals 1998-2008**
- **Economic impacts of suction dredge mining**
- **Northwest Forest Plan – the First Ten Years (1994-2003)** Socio-economic monitoring of the Klamath National Forest and Three Local Communities (Cumulative effects) http://www.fs.fed.us/pnw/pubs/pnw_gtr764.pdf
- **Siskiyou County Economic Forecast**
- **Well-being Assessment of Communities in the Klamath Region** (Prep. For USFS) <http://www.inforain.org/klamath/>
- Water Allocation in the Klamath Reclamation Project 2001: **An Assessment of Natural Resource, Economic, Social and Institutional Issues with a Focus on**

the Upper Klamath Basin

<http://extension.oregonstate.edu/catalog/html/sr/sr1037-e/report.pdf>

Economic stressors have exacerbated social problems in Siskiyou County:

- **Indicators of Alcohol and Other Drug Risk and Consequences for California Counties** – Siskiyou County 2007 http://www.ca-cpi.org/Publications/Community_Indicators/County_Data_Files/Siskiyou_07.pdf
- **Child Abuse Statistics in Siskiyou County.**
- **Elder Abuse Statistics**
- **Siskiyou County Child Welfare Statistical Summary**
- **California County Child Data Book 2007**
- **A Review of Intimate Partner Violence In Siskiyou County**
- **Crime in Siskiyou County**
- **Crimes Reported 2000**
- **Siskiyou County Housing Element** (see Appendix A- starts at pg 42) <http://www.co.siskiyou.ca.us/BOS/DOCS/agenda/2010/Questys/MG3803/AS3813/AI6401/DO6863/Document.htm>
- **The Impact of First 5** in California's Northwest Region <http://www.first5siskiyou.org/First5NorthwestRegionImpactReport.pdf>
- **Siskiyou County: A Profile of Poverty, Hunger & Food Assistance 2002**
- **Data Book 2003 on seniors 65 and older** (Lassen Modoc Siskiyou and Trinity)
- **2008 California County Scorecard** on Children's well-being – Siskiyou
- **Kids Count Profile Siskiyou;** <http://datacenter.kidscount.org/data/bystate/stateprofile.aspx?fips=06093&state=CA&cat=240#429>
- **Children Now County Scorecard**
- **Siskiyou County Child Care Planning Council Needs Assessment 2010**
- **Siskiyou County Human Services Child Welfare Plan**
- **Child Welfare Reports**
- Siskiyou County CalWorks (Welfare) **Plan 1999**; 2007 **Addendum**
- **CalWorks Program 2009**
- Siskiyou County **Asset Poverty Index** <http://www.assetpolicy.org/lapi.php?query=one&county=Siskiyou>

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ACTUAL FIELD SCIENCE SHOWS DE MINIMUS IMPACT FROM SUCTION DREDGE MINING ACTIVITIES ON SALMONIDS

It is glaringly apparent that the Department has intentionally disregarded all the pro-dredging scientific reports that were presented at the PAC meeting. There is absolutely no discussion of this information leading one to believe that this process has been completely tainted with bias and an anti-dredging agenda. I have reviewed some of the literature on the water quality impacts of small-scale suction dredge mining on the environment. The overwhelming preponderance of

scientific study appears to conclude that there is a *de minimus* impact of suction dredging on water quality. **Impacts to turbidity, water temperature and suspension of heavy metals have been found to be less than significant, highly localized and temporary.**

According to the Army Corps of Engineers, turbidity produced from \leq 6-inch suction dredges is *de minimus*. Scientific studies establish the localized, short-lived and insignificant nature of impacts of suction dredge mining, such as the California Department of Fish and Game – 1997 and Oregon Siskiyou National Forest Dredge Study -2001.) One study concluded that “*Water quality was typically temporally and spatially restricted to the time and immediate vicinity of the dredge*” (North, P.A. - 1993).

SEDIMENT

The 1997 California study established that suction dredge mining may re-suspended streambed sediment and that there is a possibility of spilling of gas and oil used to operate suction dredges. The study found that effects on turbidity varied considerably depending upon the amount and type of fine sediment in the substrate, the size and number of suction dredges relative to stream flow and reach of stream, and background turbidities. However, the study concluded that “Effects from elevated levels of turbidity and suspended sediment normally associated with suction dredging as regulated in the past in California appear to be less than significant with regard to impacts to fish and other river resources because of the level of turbidity created and the short distance downstream of a suction dredge where turbidity levels return to normal” (CDFG, 1997).

Another study specifically established the minimal impact of operations on sediment and turbidity (Cooley -1995.) Others measured special impact in the limited plumes produced from suction dredging activity (Harvey -1986; Somer and Hassler - 1992; Thomas - 1985; Lewis - 1962; Griffith and Andrews – 1981; Wanty, R.B., B. Wang, and J. Vohden. 1997).

USGS study in Alaska’s Fortymile River). Several studies also determined that the operation of multiple dredges in a watershed fails to have a cumulative impact on turbidity (Harvey, B.C., K. McCleneghan, J.D. Linn, and C.L. Langley - 1982; Harvey, B.C. - 1986; Huber and Blanchet – 1992.)

Several studies have been done on the temporal impacts to sediment. Harvey (1982) established the “...generally rapid recovery to control levels in both turbidity and settleable solids occurred below dredging activity.” Hassler (1986) noted “...water quality was impacted only during the actual operation of the dredge...since a full day of mining by most Canyon Creek operators included only 2 to 4 hours of dredge running time, water quality was impacted for a short time.”

TEMPERATURE

Shade and channel width to depth ration are contributing factors to stream temperature. According to the study done by the Siskiyou National Forest in 2001, suction dredge operations are confined to the existing stream channel and do not affect riparian vegetation/ stream shade or stream width. Operations may alter pool dimensions by excavation and deposition of tailings, however, this may actually benefit fish by providing additional coldwater habitat for salmonids living in streams with elevated temperatures. The study concluded that suction dredging resulted in no measurable increase in stream temperature.

In additional studies, Hassler found that dredge mining had little, if any, impact on water temperature (Hassler, T.J., W.L. Somer and G.R. Stern, 1986). The California Department of Fish and Game concluded in their 1997 study that “current regulations restrict the maximum nozzle size to 6 inches on most rivers and streams which, in conjunction with riparian habitat protective measures, results in a less than significant impact to channel morphology.”

WATER CHEMISTRY

In 1997, USGS and the State of Alaska studied the impacts of suction dredge mining on the Fortymile River and found no measurable effect in pH, turbidity, electrical conductivity and trace metals in comparison with natural stream chemistry (Wanty, R.B., B. Wang, and J. Vohden. 1997).

A final report from an EPA contract for analysis of the effects on mining in the Fortymile River, Alaska stated, “At Site 1, dredge operation had no discernable effect on alkalinity, hardness, or specific conductance of water in the Fortymile. Of the factors we measured, the primary effects of suction dredging on water chemistry of the Fortymile River were increased turbidity, total filterable solids, and copper and zinc concentrations downstream of the dredge. These variables returned to upstream levels within 80-160 m downstream of the dredge. The results from this sampling revealed a relatively intense, but localized, decline in water clarity during the time the dredge was operating” (Prussian, A.M., T.V. Royer and G.W. Minshall, 1999). ...“The data collected for this study help establish regional background geochemical values for the waters in the Fortymile River system. As seen in the chemical and turbidity data any variations in water quality due to the suction dredging activity fall within the natural variations in water quality” (Prussian, A.M., T.V. Royer and G.W. Minshall, 1999).

It is my opinion that the scientific literature clearly indicates that the impact of small scale suction dredge mining is less than significant, highly localized and temporary. There is even evidence to show that these mining activities have beneficial effects on cold water habitat creation and mercury removal. Field studies clearly show that there is no indication of impacts that would justify the proposed heavy-handed regulations, bringing into question whether this is an arbitrary and capricious use of regulatory authority.

*

PROXIMATE CAUSE

Regulations are governed by rules of “proximate cause.” There must be a substantial foreseeability or predictability that specific actions would cause injury or harm within an uninterrupted period of time. There is also a quality of direct causation – no intervening causes between the original act and the resultant injury. In addition, the act itself must be voluntary. It must be the primary act from which an injury results as a natural, direct, uninterrupted consequence and without which the injury would not have occurred. The action is not the cause of the injury if the injury would have occurred without the action.

The injury or harm caused by an activity being regulated is also held to a standard of “substantial,” significant, serious or appreciable injury as well as being a substantial factor or contributor to the injury. (The action must have been a significant factor enough to have independently caused the injury by itself.) This would be contrasted with injuries/damage that are “de minimis” or of minimum importance – something that causes an impact that is so little, small or insignificant that the law will not consider it.

If one can point to evidence of a direct cause and effect relationship between a specific activity and alleged pollution, then it is a point source condition which can be regulated. The question arises whether imposing “basin-wide” or “watershed-wide” regulatory conditions on activities in tributaries to address alleged pollution miles away in the Klamath River or vague cumulative effects in a system can stand up to scrutiny under standards of proximate cause, proof of substantial injury and substantial factor analysis, particularly when such pollution has not been identified as an immediate local problem. There is also a question as to whether regulating most human activities attributed as the source of non-point source pollution would stand up to scrutiny and burdens of proof under these standards, or whether it would be more appropriate to improve overall conditions through voluntary incentive-based programs.

*

ESSENTIAL NEXUS AND ROUGH PROPORTIONALITY

The proposed regulations fail to meet the standards of “essential nexus” and “rough proportionality” set forth in Nollan v. California Coastal Commission, 483 U.S. 825 (1987) and Dolan v. City of Tigard, 512 U.S. 374 (1994). In these decisions, the Supreme Court of the United States indicated that the conditions/mitigations/exactions required of an individual must be specifically related to an identified injurious activity and roughly proportionate to that impact. In addition, as stated in Dolan: “Under the well-settled doctrine of

‘unconstitutional conditions’, the government may not require a person to give up a constitutional right—here the right to receive just compensation when property (under the 1872 Mining Act) is taken for a public use—in exchange for a discretionary benefit conferred by the government where the property sought has little or no relationship to the benefit. See Perry v. Sindermann, 408 U. S. 593 (1972); Pickering v. Board of Ed. Of Township High School Dist., 391 U. S. 563, 568 (1968).”

*

REASONABLENESS

The proposed regulations imposed by the “project” fail to meet standards of “reasonableness.” It is a well-known adage that the power to regulate is not the power to destroy. I submit that the proposed regulation will destroy the commercial gold dredge mining industry in Siskiyou County and California and is both arbitrary and capricious. The regulations fail to take into consideration and balance impacts on local community well-being, local economies, the needs and continued viability of other existing uses.

It is undisputed that in the United States an individual has an inherent right to engage in a lawful business or trade. Regulation or restraint of a business activity does not contemplate its destruction, but rather places operation within certain bounds. An state agency may impose reasonable restrictions upon the conduct of such activities so long as the regulations have a reasonable relation to a legitimate public purpose; are reasonably exercised, (within constitutional limitations, not arbitrarily, and not in such a manner as to restrain trade or to unfairly discriminate.) Under the guise of protecting the public, the regulation may not arbitrarily interfere with, or unnecessarily restrict, a lawful business or occupation (e.g. arbitrary and capricious.)

*

ENVIRONMENTAL JUSTICE:

California law defines Environmental Justice as “the fair treatment of people of all races, cultures and income with respect to the development, adoption, implementation, and enforcement of environmental laws, regulations, and policies” (Government Code Section 65040.12 and Public Resources Code Section 72000).

The California Resources Agency Environmental Justice Policy http://resources.ca.gov/environmental_justice_policy_20031030.pdf identifies low-income communities for protection from the “disparate implementation of

environmental regulations, requirements, practices and activities in their communities.” All Departments, Boards, Commissions, Conservancies and Special Programs of the Resources Agency must consider environmental justice in their planning, decision-making, development and implementation of all Resources Agency programs, policies and activities.

It is quite clear that the proposed regulatory “project” effecting suction dredge gold mining has significant, cumulative and disproportionate regulatory impacts on the economic activities and property use of people in Siskiyou County, (particularly impoverished Klamath River communities,) which would appear contrary to the State’s Environmental Justice Policy.

*

REGULATORY TAKING OF PRIVATE PROPERTY RIGHTS:

The power and property right of the Mining Act

Mining claims acquired under the Mining Act of 1872 are property rights protected under the Fifth and fourteenth Amendment of the Constitution of the United States and Article 1, Sections 1 and 19 of the California Constitution. I submit that the regulations being proposed are so onerous as to constitute a compensable taking of valuable private property. As stated by Justice Holmes in *Pennsylvania Coal Co. v. Mahon* 260 U. S. 393 (1922):

“It is our opinion that the act cannot be sustained as an exercise of the police power, so far as it affects the mining of coal under streets or cities in places where the right to mine such coal has been reserved. As said in a Pennsylvania case, "For practical purposes, the right to coal consists in the right to mine it." *Commonwealth v. Clearview Coal Co.*, 256 Pa.St. 328, 331. What makes the right to mine coal valuable is that it can be exercised with profit. To make it commercially impracticable to mine certain coal has very nearly the same effect for constitutional purposes as appropriating or destroying it. This we think that we are warranted in assuming that the statute does.”

The general rule, at least, is that, while property may be regulated to a certain extent, if regulation goes too far, it will be recognized as a taking.

In certain instances (such as the 3 foot rule,) the proposed regulations denies the owner all economical use of the mineral property and are a fully compensable taking of property. Other portions of this regulation also constitute a compensable property taking where, although they fall short of eliminating all economically beneficial use, they have rendered mining

non-viable by interfering with the reasonable investment-backed expectations of the miners and rendering working the claim no longer economically viable. [Penn Central Transportation Co., 438 U. S., at 125.]

Sincerely,

Marcia H. Armstrong
Supervisor District 5
Siskiyou County
P.O. Box 750
Yreka, CA 96097

FOOTHILLS ANGLER COALITION

Comments on Suction Dredge Permitting
Program Draft Supplemental
Environmental Impact Report



Healthy Watershed, Healthy
Fishery, Healthy Fish



Foothills Angler Coalition
8860 Industrial Blvd.
Roseville California 95678

April 23, 2011

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

Re: Comments on Draft SEIR (Suction Dredge Permitting Program)

Dear Mr. Stopher:

The comments set forth in this letter are filed on behalf of **Foothills Angler Coalition, a California Non-profit Corporation ("FAC")**. Attached (Attachment "A") is a list of FAC supporting organizations, businesses, and individuals. These comments are also filed on behalf of **myself**, as an individual and a long-time fly fishing guide and angler; on behalf of the **North Fork American River Alliance ("NFARA")** and on behalf of the **Upper American River Foundation, a California Non-profit Corporation**.

Our comments are divided into two broad groupings: (i) General or structural issues relating to the DSEIR; and (ii) Specific comments on discrete issues presented by specific sections of the DSEIR, as they relate to the North Fork of the American River and its drainage and tributaries, the Upper Middle Fork of the American River and its drainage and tributaries above Oxbow Dam, and the North Fork of the Yuba River. We will also be a signatory to comment letters that have been prepared by other organizations.

A. General and Structural Comments

1. **Analytical approach to impact analysis.** We believe that the novel analytical approach taken by DFG in assessing the severity of identified adverse impacts is legally unsupportable under CEQA and the applicable sections of the CEQA Guidelines.

a. The approach taken in the DSEIR is to assess the severity of the impact on a "statewide" basis, rather than on a stream-by-stream basis. We believe that this approach is legally unsound and renders the draft SEIR inadequate to inform decision-makers, and that there is no rational basis for such an approach. While it is true that the suction dredge permitting program is a statewide program, the same can be said of other programs that are managed by DFG such as F & G Code section 1602 Streambed Alteration Permits for logging operations, or other types of commercial operations that can adversely affect a particular stream. In the context of such other statewide programs, individual potentially adverse stream impacts are the subject of the CEQA analysis, which is entirely appropriate from both a legal and intellectual perspective. In effect, the "statewide" approach would sacrifice an individual creek, stream, or river by allowing it to be trashed by suction dredging, as long as on a statewide basis there is a "less than significant" adverse impact. That leaves local communities that rely upon the pristine nature of their local resources for recreation and other beneficial uses, at the mercy suction dredgers who often are not local residents.

b. Recommended Solution:

(i) Each stream that is listed as open to suction dredge mining should be studied individually for potential adverse impacts that would occur if suction dredging is allowed. Each creek, stream, and river is different in its drainage area, its geomorphology, and its individual beneficial uses. This approach would allow local land use agencies to decide whether, under their land use and zoning authority, the creeks, rivers, and streams within their jurisdiction should be open to dredging or not. Additionally, it would provide the necessary information to the Director of the Department of Fish & Game to make an informed decision on whether particular water bodies are appropriate for suction dredging or not. The statewide approach to impact assessment is inadequate to provide that type of baseline information; and

(ii) Ban suction dredge mining on each stream that is the subject of individual analysis until the studies are complete, the draft SEIR is amended to include the study results, the proposed regulations are revised accordingly, and the regulations are implemented following completion of the CEQA process.

2. The draft SEIR is legally and fatally inadequate in that it fails to take into account the reasonably foreseeable effects of planned reintroduction of anadromous salmonids to the American River above Folsom Lake.

a. It is widely believed, based on scientific studies that have been published, that certain of the rainbow trout populations in the North and Middle Forks of the American River are remnant Central Valley steelhead from the period before Folsom Dam was constructed. That species is an endangered species that (along with Chinook Salmon) is the subject of a Biological Opinion and Recovery Plan issued by the National Marine Fisheries Service. The Opinion and Plan specify that Central Valley Steelhead and Chinook Salmon are to be reintroduced to the American River above Folsom Lake in early 2012 (both the North and Middle Forks are listed as reintroduction streams). Also, the North Yuba River is listed as a reintroduction stream for Chinook Salmon and Central Valley Steelhead. Allowing suction dredging in streams that will be host to reintroduced endangered anadromous fish would be wasteful and in conflict with the policies underlying the reintroduction program.

The draft SEIR fails to take this existing program into consideration, rendering the document legally inadequate. Relevant excerpts from "Section V. Fish Passage Program" of the Biological Opinion and Recovery Plan are set forth below:

"Therefore, NMFS believes it is necessary for Reclamation, in cooperation with NMFS, other fisheries agencies, and DWR, to undertake a program to provide fish passage above currently impassable artificial barriers for Sacramento River winter-run, spring-run, and CV steelhead, and to reintroduce these fish to historical habitats above Shasta and Folsom Dams. Substantial areas of high quality habitat exist above these dams: there are approximately 60 main stem miles above Lake Shasta **and 50 main stem miles above Lake Folsom**. These high-elevation areas of suitable habitat will provide a refuge for cold water fish in the face of climate change. [Emphasis added]The NMFS Biological Opinion states in part: From January 2012 through 2015, Reclamation shall begin to implement the Pilot Reintroduction Program (see specific actions below). The Pilot Program will, in a phased approach, provide for pilot reintroduction of winter-run and spring-run to habitat above Shasta Dam in the Sacramento River, and CV steelhead above Folsom Dam in the American River. By March 2012, Reclamation shall implement upstream fish passage for adults via "trap and transport" facilities while it conducts studies to develop and assess long-term upstream and downstream volitional fish passage alternatives.²⁸Under Fish Passage Actions, the NMFS Biological Opinion states that NMFS plans to build an American River Fish Collection Facility, due to become operational no later than March 2012."

The following is a brief excerpt from the Biological Opinion, at pages 663-664 of the latest Operations, Criteria and Plan document for the Central Valley Project and the State Water Project:

"NF 3. Development of Fish Passage Pilot Plan

Action: From January 2010 through January, 2011, Reclamation, with assistance from the Steering Committee, shall complete a 3-year plan for the Fish Passage Pilot program. The plan shall include: **(1) a schedule for implementing a 3-year Pilot Passage program on the American River above Nimbus and Folsom dams**, and on the Sacramento River above Keswick and Shasta dams; and **(2) a plan for funding the passage program**. 28 NMFS Biological and Conference Opinion on the Long-Term Operations of the CVP and SWP, June 4, 2009; Section 11.2.2 V. "Fish Passage Program", p. 659. NMFS Biological and Conference Opinion on the Long-Term Operations of the CVP and SWP, June 4, 2009;Section 11.2.2 V. "Fish Passage Program", p. 665.This plan and its annual revisions shall be implemented upon concurrence by NMFS that it is in compliance with ESA requirements. [Emphasis added]

Rationale: The Fish Passage Pilot Plan is a critical link between measures in the Proposed Action and this RPA and the long-term fish passage program. The plan will provide a blueprint for obtaining critical information about the chances of successful reintroduction of fish to historical habitats and increasing the spatial distribution of the affected populations.

NF 4. Implementation of Pilot Reintroduction Program

Objective: To implement short-term fish passage actions that will inform the planning for long-term passage actions.

Actions: *From January 2012 through 2015*, Reclamation shall begin to implement the Pilot Reintroduction Program (see specific actions below). The Pilot Program will, in a phased approach, **provide for pilot reintroduction of winter-run and spring-run to habitat above Shasta Dam in the Sacramento River, and CV steelhead above Folsom Dam in the American River.** [Emphasis added] This interim program will be scalable depending on source population abundance, and will not impede the future installation of permanent facilities, which require less oversight and could be more beneficial to fish. This program is not intended to achieve passage of all anadromous fish that arrive at collection points, but rather to phase in passage as experience with the passage facilities and their benefits is gained.

Rationale: The extent to which habitats above Central Valley dams can be successfully utilized for the survival and production of anadromous fish is currently unknown. A pilot reintroduction program will allow fishery managers to incrementally evaluate adult reintroduction locations, techniques, survival, distribution, spawning, and production, and juvenile rearing, migration. The pilot program also will test juvenile collection facilities. This action requires facility improvements or replacements, as needed, and establishes dates to complete work and begin operation. In some cases, work could be initiated sooner than listed above, and NMFS expects Reclamation and partner agencies to make these improvements as soon as possible. Because these facilities will be used in lieu of volitional fish passage to provide access to historical habitat above the dams, this measure is an essential first step toward addressing low population numbers caused by decreased spatial distribution, which is a key limiting factor for Chinook salmon and CV steelhead. Upstream fish passage is the initial step toward restoring productivity of listed fish by using large reaches of good quality habitat above project dams. Restriction to degraded habitat below the dams has significantly impaired reproductive success and caused steep declines in abundance.”

Because this program is lawfully established and in place, and is therefore a foreseeable project directly related to the American River, the failure of the draft SEIR to take it into account in the analysis renders the document legally and fatally inadequate.

b. **Recommended Solution.** We recommend that:

(i) DFG conduct a study of this issue to determine whether and to what extent the planned project consisting of reintroduction of anadromous salmonids to the North and Middle Forks of the American River, and the North Yuba River, would be adversely affected by suction dredge mining in those particular streams, and if so, what mitigation measures would be appropriate to reduce the impacts to a less than significant level;

(ii) Include the study and its result in a revised draft SEIR;

(iii) Pending completion of that study and implementation of appropriate mitigation measures, institute a total ban on dredging in these streams; and

(iv) Continue the ban until the actual reintroduction occurs and performance determinations are made by the appropriate federal agencies, and until NMFS or other federal agency with jurisdiction to do so, determines after engaging in the appropriate procedures that use of suction dredges in these rivers will not adversely affect the success of the reintroduction project.

3. The draft SEIR is legally inadequate and fatally flawed by virtue of its failure to address the potential adverse impacts of allowing transfer of permits from individuals to organizations such as mining clubs and related entities.

a. In the past, claims and associated dredging permits have been transferred with impunity by individuals to mining clubs and similar entities. The result of this has been a geometrical increase in the impacts to specific areas within an individual stream. This has occurred on the North Fork of the Yuba in particular, and in other areas. In areas where only one or two dredges were located within a stream reach of a half mile, once the transfer occurred there were numerous dredges, often to the point where another user (angler or otherwise) was totally precluded from access to the stream. Obviously, the impacts to the stream reach where this occurs are magnified and multiplied; this has the effect of discrediting the analysis of the effects dealt with in Chapters 4.1, 4.2, and 4.3. In those chapters, assumptions are made (for example) as to the distance downstream that a sediment plume would travel; that analysis was based on a single dredge, and no consideration was given to the proliferation of dredges that is caused when permit/claim transfers occur.

b. Should DFG take the position that it has no authority to address this issue, we would disagree with that conclusion. DFG has included within its proposed regulations a requirement for an application that elicits personal information regarding the applicant. Presumably, solicitation of that information has a logical purpose, which would seem to be to allow DFG enforcement personnel to identify the permittee, and for related interests. Virtually all public agency permitting systems include transfer controls designed to preserve the integrity of the application and permit issuance process. Yet the proposed regulations stop short of such a procedure, for no apparent logical reason. If it is important to know the identity of, and personal information about the applicant at the outset, why is it unimportant to know who the successor to the permittee is?

c. Failure to address or even consider this problem and its associated adverse effects is a serious error, and results in a gross understatement of the magnitude of the associated impacts, rendering the document flawed and inadequate.

c. **Recommended Solution.** In order to cure this legal defect, DFG should:

(i) Implement a study to determine the appropriate methodology to regulate permit transfers, and to prohibit transfer of a permit from an individual to a group of individuals, an entity, or other organization where the potential number of dredges would increase within a claim area, and include the study and its results in a revised draft SEIR;

(ii) Implement a study to determine the potential adverse impacts that would be associated with transfers from an individual to a group of individuals, an entity, or other organization where the potential number of dredges would increase within a claim area, and include the study and its results in a revised draft SEIR, and appropriate mitigation measures designed to reduce those impacts to a less than significant level; and

(iii) Pending completion of that study and implementation of appropriate mitigation measures, and pending revision of the proposed regulations, institute a total ban on dredging to last until the CEQA process is complete and the proposed regulations become effective.

4. The draft SEIR fails to adequately address the potential adverse effects of allowing dredging in designated Wild and Scenic Rivers, including the North Fork of the American River.

a. California Fish & Game Code Section 5093.61, which is part of the California law regarding designated wild and scenic rivers, reads as follows: "All departments and agencies of the state shall exercise their powers granted under any other provision of law in a manner that protects the free-flowing state of each component of the system and the extraordinary values for which each component was included in the system. All local government agencies shall exercise their powers granted under any other provision of law in a manner consistent with the policy and provisions of this chapter."

Under the proposed regulations, DFG may grant mining permits on the private inholdings on designated wild and scenic rivers, such as the North Fork of the American River. But under section 5093.81, the process for approval must contain provisions for the protection of the river's extraordinary wild trout fishery, water quality and clarity, scenic, and recreation values (thus mandating a study of the specific river, instead of on a statewide basis). The proposed regulations clearly fail to meet this requirement, as they have no identifiable process for making those determinations, and no provisions for public participation in making such important and potentially damaging decisions.

There is also a federal wild and scenic rivers management plan for the North Fork, put into place in 1979, that prohibits issuance by DFG of permits for suction dredge mining on National Forest and BLM lands. While this provision

would not disallow permits associated with certain private inholdings, it is illogical for DFG to issue dredging permits for lands where federal law actually prohibits that action. Although the proposed regulations state that a DFG dredging permit does not relieve the a permittee from compliance with other federal, state, and local laws, that provision does not excuse issuance of a permit where dredging is banned by external law.

b. When taken together with the fundamental flaw outlined in comment 1 above (failure to address potential adverse impacts to particular streams), there appears to be no viable rationale that would support issuance of permits that would otherwise be prohibited by federal laws, rules, or regulations. Beyond that, issuance of a permit that would allow dredging on a designated wild and scenic river such as the North Fork without a proper analysis of the potential adverse effects of implementation of the permit on the extraordinary values that were the basis for the designation, renders the draft SEIR inadequate to support permit issuance.

c. In the context of a river, such as the North Fork, which has multiple special status designations, it is inconceivable that DFG would take the position that the impacts on this stream by virtue of suction dredging should be measured in terms of severity on a statewide basis. We contend, of course, that the "statewide" analytical approach is fundamentally flawed in any event; still, when that approach is applied to the North Fork, the river serves as a poster child illustrative of the illogic of such an approach.

d. On April 27, 2011 the Placer County Fish & Game Commission, by resolution, recommended to the Placer County Board of Supervisors that the Board direct a comment letter to DFG opposing the regulations, along with the following specific issues: **(i)** Dredging should be prohibited in the designated wild and scenic area upstream of Iowa Hill Bridge; **(ii)** Dredging should be prohibited in any stream that is designated as a wild trout stream; **(iii)** Eight inch suction dredge nozzles should be prohibited on the American River. On May 3, 2011, the Board of Supervisors, by resolution, adopted the recommendations of the commission. In effect, this resolution is now established land use policy in Placer County. This presents clear evidence that the people of the County of Placer desire to limit dredging within the county, as specified in the Board's resolution; DFG should respect that position in the proposed regulations.

e. **Recommended solution.** To remedy the legal inadequacies pointed out in this comment, DFG should:

(i) Implement a properly constructed study to analyze the potential adverse impacts to the extraordinary values that were the basis for the designation of the North Fork of the American River as a wild and scenic river under state and federal law, and develop appropriate mitigation measures designed to reduce identified adverse impacts to a less than significant level;

(ii) Pending completion of that study and implementation of appropriate mitigation measures, and pending revision of the proposed regulations, institute a total ban on dredging to last until the CEQA process is complete and the proposed regulations become effective.

(iii) DFG should revise the proposed regulations to reflect the land use policies expressed in the resolution enacted by the Board of Supervisors.

5. The draft SEIR is legally inadequate due to its failure to address California's adopted Anti-Degradation Policy as it applies to waters that would qualify as Outstanding National Resource Waters under applicable federal law.

a. California's Anti-degradation Policy (State Water Board Resolution 68-16) reads in part as follows:

" WHEREAS the California Legislature has declared that it is the policy of the State that the granting of permits and licenses for unappropriated water and the disposal of wastes into the waters of the State shall be so regulated as to achieve highest water quality consistent with maximum benefit to the people of the State and shall be controlled so as to promote the peace, health, safety and welfare of the people of the State; and

WHEREAS water quality control policies have been and are being adopted for waters of the State; and

WHEREAS the quality of some waters of the State is higher than that established by the adopted policies and it is the intent and purpose of this Board that such higher quality shall be maintained to the maximum extent possible consistent with the declaration of the Legislature;

NOW, THEREFORE, BE IT RESOLVED:

1. Whenever the existing quality of water is better than the quality established in policies as of the date on which such policies become effective, such existing high quality will be maintained until it has been demonstrated to the State that any change will be consistent with maximum benefit to the people of the State, will not unreasonably affect present and anticipated beneficial use of such water and will not result in water quality less than that prescribed in the policies.
2. Any activity which produces or may produce a waste or increased volume or concentration of waste and which discharges or proposes to discharge to existing high quality waters will be required to meet waste discharge requirements which will result in the best practicable treatment or control of the discharge necessary to assure that (a) a pollution or nuisance will not occur and (b) the highest water quality consistent with maximum benefit to the people of the State will be maintained.
3. In implementing this policy, the Secretary of the Interior will be kept advised and will be provided with such information as he will need to discharge his responsibilities under the Federal Water Pollution Control Act."

This policy appears to apply to suction dredging in waters that would qualify as Outstanding National Resource Waters, as that term is defined in 40 CFR 35.1550(e)(2). It also appears, based on the proposed regulations, that DFG intends to defer to the State Water Board or the Regional Boards on all issues relating to water quality. Commenting on the interpretation of its policy, the State Water Board has specified in an official memorandum that: "Even if no formal designation [as an "Outstanding National Resource Water"] has been made, individual permit decisions should not allow any lowering of water quality for waters which, because of the exceptional recreational and ecological significance, should be given the special protection assigned to Outstanding National Resource Waters.... [C]andidates for designation as Outstanding National Resource Waters **include state and federally designated wild and scenic rivers**, and the waters of state and federal wilderness areas, parks, and wildlife refuges." California State Water Resources Board Memorandum to Regional Board Executive Officers, October 7, 1987, page 15. [Emphasis added].

b. The North Fork of the American River, as a designated federal and state wild and scenic river, is clearly covered by the Anti-degradation Policy as interpreted by the State Water Board. As such, "individual permit decisions" cannot be made without a finding that water quality will not be "lowered" as defined in the Policy. This issue was not addressed in the draft SEIR, and no such findings have been made by DFG.

c. Failure to address these issues renders the document legally inadequate under CEQA. In effect, DFG missed a major issue that has been posed under both federal and state laws, rules, and regulations.

d. **Recommended Solution.** In order to address this defect in the draft SEIR, DFG should:

(i) Implement a properly constructed study to analyze: the potential adverse impacts to the extraordinary values that were the basis for the designation of the North Fork of the American River as a wild and scenic river; the nature and extent that water quality may be degraded as a result of allowing suction dredge mining in that river; whether the findings required by the Anti-degradation Policy can in fact be made for the North Fork; and appropriate mitigation measures designed to reduce identified adverse impacts to a less than significant level;

(ii) Pending completion of that study as well as determinations as to whether the required findings can be made, and implementation of appropriate mitigation measures, and pending revision of the proposed regulations, institute a total ban on dredging to last until the CEQA process is complete and the proposed regulations become effective.

6. The draft SEIR is inadequate for its failure to address the beneficial results of the moratorium on the fisheries affected by suction dredging. As a guide on the North Yuba River for many years, and as a FAC board member, I have witnessed the decimation of the fishery by virtue of far too many dredges being allowed on this little stream. This has been especially true for the portion of the river between Ladies Canyon Creek and Sierra City, a wild trout stream, where the flows are significantly lower than they are below Downieville. During the dredging moratorium, we have noticed an increase in the number and size of rainbow trout in the upper part of the river. As one example, during the summer of 2010 I guided many clients on a portion of the Wild Trout section of the river near road mileage marker 27.9. Prior to the moratorium the number of dredges in this area had increased drastically due to transfer of permits/claims from individuals to mining clubs; this, in turn, resulted in a near collapse of the fishery in this once-

prolific area—only a few small fish remained. After two-plus years of dredge-free respite, the fishery in 2010 exploded with large numbers of very healthy, stout rainbows, some reaching sizes in excess of 12". My more skilled angler clients were catching and releasing 40+ fish during a day. While this information is anecdotal, it is important to decision-makers because it demonstrates, in a reverse manner, what the effects of dredging are on a fishery. Those of us who are on the water daily see this; biologists who visit a stream one or two times during a study don't have the same perspective. This type of information, which I provided to DFG during the time that the draft SEIR was being prepared (but which was apparently not included in the document) is vital to decision-makers and needs to be included in the draft SEIR. **Suggested Solution:** Include a discussion in the draft SEIR on the post-moratorium dredge free interval on trout and BMI populations.

7. The "Best Management Practices" pamphlet cannot be used as a mitigation measure upon which to base conclusions regarding the severity of any particular potential adverse impact. Throughout the draft SEIR, the "BMP" pamphlet is used as a means of assuring readers that dredgers will be given instructions as to how to avoid creating undue adverse impacts during the course of their operations on the river. It is important to understand that the BMPs are precatory, not mandatory—i.e., they are voluntary measures and not mandatory conditions of the permit. Nevertheless, DFG appears to be utilizing the BMP pamphlet as a means of demonstrating that certain potentially adverse impacts will be less than significant (aside from the main error of using a statewide approach on that issue, which error is compounded by having the BMPs voluntary)—in other words, as a surrogate "mitigation measure" which, of course, is not permissible under CEQA. The fact is that dredgers will simply ignore the document—because they can. In a regulatory environment, such an illusory document actually has a perverse effect in that it accomplishes the exact reverse of its purported intent: It provides incentive to do the opposite of what is recommended because it is not illegal to do so. This is a subtle, but important and very practical point that is totally missed by DFG. **Suggested Solution:** The solution to this problem is quite simple: Make the BMPs actual permit conditions that are mandatory. Otherwise, why have the document?

8. The "findings" set forth in the draft SEIR are defective, *inter alia*, by virtue of the failure to bridge the gap between the evidence that is specified in connection with each finding, and the finding itself (*Topanga Association for a Scenic Community v. County of Los Angeles* (1974) 11 Cal.3d 506).

In the *Topanga* case, the California Supreme Court defined findings, explained their purposes, and showed when they are needed. The Court defined findings as legally relevant subconclusions which expose the agency's mode of analysis of facts, regulations, and policies, and which bridge the analytical gap between raw data and ultimate decision. (*Topanga, supra* at pp. 515 and 516.) In other words, findings are the legal footprints local administrators and officials leave to explain how they progressed from the facts through established policies to the decision.

The *Topanga* Court also outlined five purposes for making findings, two relevant mainly to the decision making process, two relevant to judicial functions, and the last relevant to public relations. Findings should:

- a. Provide a framework for making principled decisions, enhancing the integrity of the administrative process;
 - b. Help make analysis orderly and reduce the likelihood that the agency will randomly leap from evidence to conclusions;
 - c. Enable the parties to determine whether and on what basis they should seek judicial review and remedy;
 - d. Apprise a reviewing court of the basis for the agency's action; and,
 - e. Serve a public relations function by helping to persuade the parties that administrative decision making is careful, reasoned, and equitable.
- (*Topanga*, at pp. 514, 516, fn. 14, and 517.)

The draft SEIR fails to meet the requirement that the findings bridge the gap between the raw evidence and the findings themselves. This point is made in all of the specific comments set forth below, and is applicable to each and every specific comment, whether actually articulated there or not.

9. The Regulations and the draft SEIR are fatally flawed for their failure to require applicants to obtain a NPDES permit under the Federal Clean Water Act, Section 402, as a condition of issuance of a suction dredge mining permit.

The Clean Water Act (CWA) establishes the basic structure for regulating discharges of pollutants into the waters of the United States and regulating quality standards for surface waters. The basis of the CWA was enacted in 1948 and was called the Federal Water Pollution Control Act, but the Act was significantly reorganized and expanded in 1972. "Clean Water Act" became the Act's common name with amendments in 1977.

Under the 1972 revisions to the Clean Water Act there is direct federal regulation of the discharge of pollutants from point sources. *Pronsolino v. Nastro*, 291 F.3d 1123, 1126 (9th Cir. 2002). "[P]oint sources of pollution are those [where the pollutant flows] from a discrete conveyance, such as a pipe or tunnel. Nonpoint sources of pollution are non-discrete sources" and are the responsibility of the states, with certain federal oversight. *Id.* at 1125-27. An example of a nondiscrete source is runoff from a farmland or timber harvesting.

The CWA generally prohibits the "discharge of any pollutants" unless the discharge is permitted under one of the CWA's permitting schemes and complies with substantive requirements of the CWA. 33 U.S.C. § 1311(a). Section 402 of the CWA establishes the National Pollutant Discharge Elimination System (NPDES) permitting scheme for discharges of point source pollutants, and thus establishes the framework under which discharges of pollutants from suction dredge mining operations are regulated. 33 U.S.C. § 1342.

Any NPDES permit authorizing discharges of pollutants must insure that the applicable water quality standard will be met. 33 U.S.C. §§ 1342(b)(1), 1311(b)(1)(C). Federal regulations also make clear that each NPDES permit must insure compliance with the CWA. 40 C.F.R. § 122.4(d) prohibits the issuance of any permit when the "imposition of conditions cannot ensure compliance with the applicable water quality requirements of all affected States." The regulations also prohibit the issuance of any permit to a new source or new discharger that will "cause or contribute to the violation of water quality standards." 40 C.F.R. § 122.4(i).

Small suction dredge mining is a point source discharge, and as such is regulated under the CWA Section 402 NPDES permitting program in the states of Oregon, Alaska, and Idaho. To comport with the CWA, small suction dredge mining in California must also be regulated under the 402 NPDES permitting program. Failure to regulate small suction dredge mining in California under the Section 402 NPDES permitting program will violate the CWA. No suction dredge mining permit should be issued by DFG without the applicant having previously applied for and received a Section 402 NPDES permit. The EPA's report on this subject is attached hereto as **Attachment "B"** and incorporated by this reference.

In addition, under the Ninth Circuit decision in *Friends of Pinto Creek, et al. v United States E.P.A* (2006) 504 F.3d 1007 (9th Cir. 2007), the Court determined that Federal Clean Water Act permits that would allow a discharge of pollutants into waters that are "impaired" without the completion of the process for establishing a TMDL for that particular pollutant, violated the provisions of the Act. Therefore, since the American River (including both the Middle and North Forks) has been determined to be impaired for mercury, neither a suction dredge permit nor a NPDES permit can be issued until the process for completion of the mercury TMDL has been completed. An analysis of this decision can be found at the following link:

http://www.elawreview.org/summaries/environmental_quality/clean_water_act/friends_of_pinto_creek_v_unite.html

The text of the court's opinion, in the form of a .pdf document, can be found at the following link:

<http://www.ca9.uscourts.gov/datastore/opinions/2007/10/03/0570785.pdf>

B. Comments on specific sections of the proposed regulations and the draft SEIR.

1. Chapter 2.

a. **Section 2.2.2. Definition of "Deleterious."** In this section, DFG adopts the following definition: *"Generally, CDFG concludes that an effect which is deleterious to Fish, for purposes of section 5653, is one which manifests at the community or population level and persists for longer than one reproductive or migration cycle. The approach is also consistent with the legislative history of section 5653. The history establishes that, in enacting section 5653, the Legislature was focused principally on protecting specific fish species from suction dredging during particularly vulnerable times of those species' spawning life cycle."*

The issue of what the meaning of “deleterious” is pivotal because Fish & Game Code Section 5653 provides that “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.” [Emphasis added].

DFG’s assertion regarding legislative history is incorrect and lacks any basis in logic or in the available history of the legislation that created the term. In fact, primary references and a summary of the documented legislative history of 5653 dating back to 1873 was provided to DFG in a March 10, 2010 letter by Friends of the North Fork. In that letter, Friends of the North Fork pointed out that:

- In 1961, "deleterious to fish" found its way into the first California statute regulating suction dredge mining, Fish and Game Code Section 5653, in Assembly Bill 1459 (Arnold). In his letter to the governor requesting a signature on the bill, Assemblyman Arnold used terms like "damage" and "disturb." He said dredging should be done so as not to cause anything other than "minimal damage" to fish, from which he specifically excluded disturbing eggs, disturbing fish food organisms and stirring up silt to cause an "aesthetic problem" and cover eggs.
- The intent was clear. Any “damage” from dredging activities must be “minimal.” Clearly, the author’s view was that disturbing eggs, disturbing fish food organisms and stirring up silt to cause an "aesthetic problem" and cover eggs is more than minimal, and thus is “deleterious to fish.”
- In an analysis of AB 1459 provided to members of the Legislature in 1961, the Legislative Analyst’s Office said that, under the bill, “the department must then determine whether the operation will be safe for fish life and if so it will issue a permit to the applicant.” So, in that view of the intent of “not deleterious to fish,” legislators were informed that it meant the activity is “safe for fish life.”
- In a letter to the Governor requesting his signature on AB 1459, the Department of Fish and Game said, “The department shall issue a permit if it is judged that no damage will occur to fish, aquatic life, and the aquatic environment.” So in information on which the Governor based his decision to sign AB 1459 into law, “not deleterious to fish” meant “no damage” to “fish, aquatic life and the aquatic environment.”
- In the handful of bills since 1961 affecting this section, no legislation has ever used a term other than "deleterious to fish" nor offered any other interpretation of its meaning. Thus, we are left with the actual history which assigns “minimal” or “no” damage to fish as the criteria for determinations as to whether there is a “deleterious” effect.

Viewed through the lens of the available actual legislative history, there is simply no rational basis for DFG’s interpretation of the meaning of “deleterious.”

Suggested Solution. DFG should correct its unsupported definition of “deleterious” so that it comports with the legislative history. Alternatively, Webster’s International Dictionary defines that term as “*harmful often in a subtle or unexpected way.*” Although this definition can be viewed as somewhat vague, it carries virtually the same meaning as that provided by the actual legislative history.

b. Section 2.2.4 Draft Proposed Regulations.

1. Section 228(b) Permit Requirement. The term “person” in this section is not defined. It seems clear that the Fish & Game Code Section 67 definition of that term (“Person” means any natural person or any partnership, corporation, limited liability company, trust, or other type of association.) was not meant to apply to the proposed regulations because of the use of the words “his/her” in line 21 on page 2-8 of the DEIR. This is an important issue because, *inter alia*, of the issue specified in Comment 3 above relating to transfers. Indeed, it would be inappropriate to issue a dredging permit to anyone other than a natural person because of the nature of the regulatory provisions of the proposed regulations (e.g., the person holding the nozzle needs to have a permit). **Suggested Solution:** DFG should revise the proposed regulations to include a definition of “person” that is clearly tied to individual natural persons.

2. Section 228(h) Permit Revocation or Suspension. This section should be revised to include a provision for public notice of hearings; for special notice to those citizens who have requested notice and agenda documents; and for publication of the hearing agenda. It is often the case that private citizens have pertinent information (e.g., photographs) as to abuses and violations committed by individual miners; unless there is a provision

for public notice and special notice to those who have made such a request, the hearing officer could be denied access to such valuable information. **Suggested Solution:** DFG should revise the proposed regulations to include a provision for public and special notice of hearings on revocation and suspension, and a hearing process that allows for public testimony.

3. Section 228(j)(1) Equipment requirements (Nozzle restrictions). This section deals with the allowable intake nozzles, with a general rule that the inside diameter of the intake nozzle cannot exceed 4". There are provisions for allowance of larger nozzles, up to 8". The main problem with this section lies in the latter provisions, which specify certain rivers where 8" nozzles can be allowed, including the "American" River. Presumably this includes the North and Middle Forks, as well as their tributaries (unless there are specific closures under other sections of the proposed regulations). The issues presented are: **(i)** There is no provision for public and/or special notice of applications for enlarged nozzles; this should be included so that local residents can appear and voice their comments regarding whether or not the increased nozzle size should be allowed. Such input from knowledgeable citizens can be cogent and relevant, and should not be overlooked. **(ii)** DFG can issue permits for 8" nozzles "...at the Department's discretion." There are no defined standards governing that discretion, which is otherwise unfettered. That paradigm is inappropriate, and will lead to routine issuance of 8" nozzle permits, even where upon a reasonable investigation with proper notice, such a permit could be found to be inappropriate. **(iii)** There is no provision for CEQA analysis unless section 1602 would require it; this is inappropriate because, especially in smaller streams such as the North Yuba River (a listed allowable stream), the damage can be extreme. **(iv)** The American River system, because of its long mining history, has significant deposits of mercury buried in its sediments and substrate. Eight inch nozzles merely exacerbate the problems identified in the water quality analysis portion of the draft SEIR. The American River should be totally excluded from the enlarged nozzle permitting process for that reason, and because of the resolution of the Placer County Board of Supervisors, mentioned above, which specifically deals with the 8" nozzle issue.

Suggested Solution: The American River should be excluded from the listed rivers on page 2-18 of the draft SDEIR. Alternatively, the proposed regulations should be revised to include appropriate public and special notice provisions; a hearing procedure where citizens can express their comments; an absolute requirement that the applicant for an 8" nozzle permit provide adequate CEQA review for the permit; and a set of well-defined standards that would govern the discretion of DFG in issuing 8" nozzle permits, so that citizens (and applicants) are fully apprised of the decision criteria that govern these important decisions.

4. Section 228(k)(1), (2). Subsection (1) generally prohibits motorized winching except under the specified conditions. Although it is not entirely clear, it appears that no specific permit is required for this activity. As is the case with enlarged nozzles, there should be a permit process for motorized winching because of the damage that can be caused by moving very large rocks from their normal position in the stream. Large obstacles provide refugia in the form of shade, safety from predators, and food interception lies, for fish and aquatic insects. Removing these from the streambed permanently damages available habitat. Subsection (2)(E) allows moving of rocks and other material with winches tied to streamside trees as long as the trees are protected. This precaution is virtually unenforceable, because miners will move an obstacle without the protection specified, damage the tree, quickly remove the line, and then deny that the damage was caused by them. In the past, however, miners have left cables attached, where they eventually girdle the life from the tree. **Suggested Solution:** These provisions should be revised to: (i) Prohibit use of motorized winches entirely, or alternatively be allowed only with a special permit that would require the applicant to comply with CEQA and agree to a stringent set of written restrictions in the form of permit conditions; (ii) The permit process should include provisions for public and special notice so that members of the public can provide comments on the application; (iii) Prohibit the use of live trees to attach winch cables or ropes.

5. Section 228(K)(7). This subsection would prohibit the construction of a dam or weir or otherwise concentrate flow, except under the specified conditions. Creation of "mini-lakes" within the stream by damming up a section of the stream should be prohibited in all cases. This type of action virtually destroys the dynamics of flow in a moving body of water, and creates fish passage barriers. While some claim that it provides deep holes for fish habitat, that can be charitably only be called wrong thinking. Fish, during the times of heaviest feeding during the year, do not seek out deep holes; rather, they lie in feeding lanes and positions to intercept food flowing with the current. When those dynamics are removed by unnatural obstacles such as small dams and weirs, food consumption is interfered with to the detriment of trout. As in the case of enlarged hose nozzles, there should be a requirement for a specific advance permit to create a dam or weir, if total prohibition is not feasible. All of the

requirements specified in the above comments regarding issuance of permits for enlarged nozzles should be included in the proposed regulations. **Suggested Solution:** The proposed regulations should be revised to: (i) Prohibit creation of a dam or weir, or otherwise concentrate flow; (ii) Alternatively, a special permit process similar to that specified in the comments above relating to enlarged nozzles, should be included.

6. Section 228(K)(14), (16), (17). Subsection 14 requires use of “reasonable care” to avoid siltation/turbidity. The term “reasonable care” as used in subsection 14 is unenforceable. A strict standard should replace this murky provision, in the form of a prohibition on creating silt and turbidity. In subsection 16, the danger of damage to redds is far too serious to allow dredging during rainbow and/or brown trout spawning periods. In subsection 17, the word “willful” renders this restriction completely unenforceable. The defense, which would be virtually impossible to rebut, would always be a lack of “willfulness.” By virtue of the criminal burden of proof, no enforcement would ever occur. **Suggested Solution:** (i) Prohibit the creation of silt and turbidity. (ii) Prohibit dredging during normal rainbow and brown trout spawning periods. (iii) Delete the word “willful” in subsection 17.

7. Section 228(m). This section requires permittee compliance with all other laws. **Other provisions should be added here, as permit conditions:** (i) A restriction should be added to prohibit a permittee from interfering in any manner with other river users, including anglers, hikers, and other recreationists. There have been many incidents where suction dredgers claim that no person can walk across their camping area, or on the shore near their claim, or be in the water. It should be made express in the regulations that such conduct is prohibited. (ii) A restriction should be added to require miners to remove each and every piece of equipment and other items when their dredging season closes. Debris, equipment, trash, and other items have routinely been left to be washed into the winter flows, including gas and oil filled engines and other equipment containing toxic materials.

8. Section 228.5(b)(9)—Dredging seasons. (i) Middle Fork Tributaries above Oxbow Dam. This subsection would allow dredging in Middle Fork tributaries above the confluence and up to Oxbow Dam from September 1 through January 31. These tributaries should be closed entirely to dredging because it has been demonstrated by the scientific studies done in connection with the PCWA hydropower facilities relicensing process that virtually all spawning in the Middle Fork in this reach occurs in the tributaries; none occurs in the main stem of the river due to the daily peaking. There are adult brown trout in the main stem that travel up the tributaries to spawn during the open period (i.e., during the fall). Because these streams are the “nursery” for the main stem, it is entirely inappropriate to allow dredging, which will inevitably cause damage to spawning trout habitat as well as live redds and young of the year. (ii) **Rubicon River (Placer County).** The closure is upstream from the Placer/Eldorado County line. This is vague and confusing because the two counties meet along a linear border for some distance. This definition should be made clear by a reference such as coordinates or an existing natural land mark. Additionally, the lower three miles of the Rubicon should be entirely closed in order to protect Foothill Yellow Legged Frogs (FYLF). In the PCWA relicensing process, DFG and USFS have rightly taken the very firm, consistent position that this section is one of the best FYLF habitats remaining, and needs to be protected. Cold water flow restrictions in this section have been established in the relicensing process for protection of FYLF. In order to be internally consistent, DFG needs to protect this area from dredging during the egg-laying, spawning, and rearing periods for FYLF. Additionally, this stream is a designated wild trout stream (see discussion above on that issue), and the Placer County Board of Supervisors’ resolution demands banning of dredges in designated streams. (iii) **Middle Fork—main stem just below Oxbow Dam:** In the PCWA relicensing process, tentative agreements have been reached on creation of a spawning area immediately below Oxbow Dam, in a stretch of the river that is approximately .53 miles in length. This is an important component of an overall settlement between federal and state agencies (including DFG), NGOs (including Foothills Angler Coalition), and PCWA. It is imperative that suction dredge mining be prohibited in this reach in order to preserve the benefit of the plan to achieve natural spawning in the main stem of the Middle fork, which is virtually non-existent at present due to peaking.

9. Section 2.28(b)(31)—Dredging seasons. (i) Middle Fork main stem above Oxbow. This tiny stream has been given designation “D” which would allow dredging from July 1 through January 31. This is inappropriate because the July period is the rearing period for young of the year rainbows. Also, the lower section above the Ralston Picnic Area upstream for approximately 1.5 miles to the waterfall is FYLF habitat and should be protected in the same manner as the Rubicon, as set forth above. Additionally, there are brown trout in this same reach that spawn in the fall; this reach should be closed to dredging during those periods to protect the FYLF, spawning fish, the redds, the eggs, and the young of the year. (ii) **North Fork American River.** See all of the general comments listed

above, which are specifically included here by reference. In addition, there are other issues that pertain to the novel allowance of dredging on the pristine waters of this river: **(a)** The regulations are confusing as to what the dredging season actually is. It is unclear whether the North Fork downstream of Clementine Dam is in the Placer County category of “all rivers and streams unless otherwise noted,” in which case it would be in category H (open year round), or in the “streams west of Placer Hills Drive and Interstate 80,” in which case it is in Class C (open June 1 through September 30). For Eldorado County, the same segment is classified as category C, which makes the proposed regulations contradictory. **(b)** The regulations fail to protect the North Fork’s wild trout fishery, even though it is designated as a Wild Trout Stream under California’s Heritage and Wild Trout Program. The draft SEIR, clearly states that there is a population of rainbows in the North Fork that are genetically identical with CV Steelhead that were anadromous prior to construction of Folsom Dam (Chapter 4.3, Table 4.3-1, pp 8-9). The season specified for the segment between Iowa Hill Bridge and Big Valley Canyon is category G, which is supposed to protect the spawning period of these fish; still, the regulations fail to protect them and their habitat (e.g., deep pool refugia) during the rest of the year, which is inconsistent. **(c)** The “normal” suction dredge intake nozzle size is 4”; on page 2-18 of the draft SEIR, the regulations would allow a nozzle on the North Fork of 8” in size, to be permitted “at the Department’s discretion.” As set forth above, there is no public input process for this exception, and there are no stated standards that would govern DFG’s discretion. We have witnessed the devastation that is caused by 8” nozzles—the impact is severe on the stream’s values, including benthic macroinvertebrates, fish, vegetation, and geomorphology—and, of course, its trout populations. Additionally, as mentioned above, the Placer County Board of Supervisors adopted a resolution that specifies banning of 8” nozzles on this river. **(d)** Because the North Fork is a designated Wild & Scenic River under both state law (1972) and federal law (1978), DFG is required to protect its extraordinary wild trout fishery, water quality, and clarity; the regulations simply fail to address these issues. Additionally, the USFS management plan for this river prohibits motorized suction dredging. It seems inconceivable that DFG would, in the face of these facts, allow permits to be issued for suction dredging in this river. It is submitted that by doing so, DFG appears to have abandoned its responsibilities to the people of the State of California as a “trustee agency” under California law, and to have lost sight of its own mission statement. **(iii) Middle Fork tributaries below Oxbow (North Fork of the Middle Fork).** These streams are assigned to the “E” category which allows dredging from September 1 through January 1. This would include the North Fork of the Middle Fork of the American River from its confluence with the Middle Fork below Oxbow, to its headwaters in the Deadwood Ridge area. This stream should be entirely closed to dredging because of its unique, unusual, and excellent values. The reasoning for this conclusion is set forth below.

The North Fork of the Middle Fork of the American River (“NFMF”) originates high up on the Forest Hill Divide in the Deadwood Ridge area. Winding for many miles through a scenic, steep canyon, it terminates at its confluence with the Middle Fork American River a short distance below Oxbow Dam. Set forth below is a partial, brief list of some of the values that characterize this stream:

a. The NFMF is unobstructed--i.e., it is free flowing from its headwaters to its confluence with the Middle Fork below Ralston Afterbay (Oxbow Lake).

b. The NFMF is characterized by a continuous series of waterfalls, pools, riffles, and runs that hold wild rainbows, and a smaller population of browns. These pristine conditions would be decimated by dredging where all fines and rubble are removed, and the entire stream ecology is altered.

c. Fish have not been planted in this stream. All of the fish are wild, healthy, and brightly colored and spotted. I have a lot of pictures of fish caught and released over the years.

d. The NFMF flows through a remote, forested canyon, with a canopy that provides summer shade and good trout refuge during periods of high water temperatures. This canopy would be decimated in areas where dredging would occur.

e. The NFMF serves as a nursery for fish production for the main Middle Fork; MF fish migrate up this stream to spawn. I have seen this in the spring (rainbows), and to a lesser extent in the fall when the browns move up. There is virtually no spawning activity in the Middle Fork itself, according to the scientific studies conducted during the PCWA relicensing process, where I have for years been a participant and stakeholder for myself and for a broad coalition of conservation and related organizations. Virtually all MF spawning takes place in its tributaries, and

the NFMF is (aside from the Rubicon) the largest of those tributaries. Suction dredging would clearly cause siltation, substrate depletion, and other adverse conditions that would have a bad effect on spawning and rearing of rainbow and brown trout populations. In turn, this would have an adverse effect on the Middle Fork main stem.

f. The fish population varies depending on location. Certain areas of the stream are remote and/or unknown to the general public. I am one of the few people who know where all of the trails are, and where to access the river for the best fishing. These areas tend to hold the healthiest and largest fish specimens, and dredging would have an enormous impact on the fishery and the food supply in these areas.

g. The BMI population is probably average for an "infertile" stream, which category covers virtually all of the Middle Fork streams. Still, there are good populations of Pteronarcys and Golden Stoneflies, as well as mayflies and caddis. The adverse effects of dredging on benthic macroinvertebrates are well documented. Infertile streams suffer greatly and exponentially more because their BMI populations are limited by the stream's geomorphology.

h. Streamside vegetation is, in most places, entirely intact and, because the stream is uncontrolled, the spring hydrograph normally includes periodic high flows that both clean the streambed and control streamside vegetation reproduction. This situation would be impacted adversely by dredging, which rearranges the natural flow patterns in affected stretches.

For all of these reasons, dredging should be disallowed *in toto* in this stream. The problem is compounded by its small size, and by the following provisions of the proposed regulations:

- (i) The "normal" suction dredge intake nozzle size is 4"; on page 2-18 of the draft SEIR, the regulations would allow a nozzle on the NFMF of 8" in size, to be permitted "at the Department's discretion." As set forth above, there is no public input process for this exception, and there are no stated standards that would govern DFG's discretion. I have witnessed the devastation that is caused by 8" nozzles—the impact is severe on the stream's values, including benthic macroinvertebrates, fish, vegetation, and geomorphology. The NFMF is a tiny stream compared to others in the area, thus magnifying the adverse effects of dredging. See also discussion above on the Placer County Board of Supervisors' resolution regarding 8" nozzles.
- (ii) The NFMF is placed into category "E" by the proposed regulations, which means that it would be open to dredging from September 1 through January 31. The spawning period for brown trout falls squarely within this period, and no dredging should be allowed during that period.

In addition to those issues, all of the comments above regarding the draft SEIR's "statewide" approach to impact analysis (instead of a stream-by-stream analysis); the current presence of remnant Central Valley Steelhead populations; the mandated reintroduction of Central Valley Steelhead and Chinook Salmon above Folsom Lake (those fish would have direct access to this stream); and the presence of mercury, all apply with equal force to the NFMF (See general comments 1, 2, 5 above, all of which are incorporated here). **(iv) Middle Fork tributaries above Oxbow (Rubicon River—Eldorado County).** The same provisions apply to the Placer County portions of the Rubicon as apply in Eldorado County. The issues here are the same as those specified above for the Rubicon River within Eldorado County, and those comments are incorporated here.

10. Section 2.28(b)(46). North Yuba River above Ladies Canyon Creek. Because there is no special season specified for this section of the North Yuba River, it is apparently subject to year-round dredging under category "H." This is inappropriate. The reasons for that statement are several: (i) This is the smallest, most fragile portion of the river. There is no apparent reason for allowing year-round dredging on the tiniest part of this small stream, while having a defined season on the larger part below Ladies Canyon Creek. (ii) The portion of the stream from Ladies Canyon Creek east to the westerly boundary of Sierra City is designated as a Wild Trout Stream where no fish planting occurs. The year-round dredging season clearly interferes with rainbow and brown trout spawning, BMI production during the heavy feeding season for fish, and available trout refugia during the summer months when the water warms due to high ambient air temperatures. Above Sierra City the stream is even smaller, and is open to the sun for the entire day, causing significant warming and consequent stress to the resident fish. These already-stressed fish

should not be subjected to all of the damaging effects of suction dredging. In addition, general comments 1, 2, 3, and 5 apply to this river, and are incorporated here. Finally, this stream has been subjected to heavy suction dredging for many years. There is miners' trash everywhere, and dredgers have dug deep holes, constructed dams and weirs, and committed many other violations of the existing regulations. There has been virtually no enforcement here, despite repeated attempts to obtain DFG cooperation in remedying violations. Miners are aggressive toward other users, and have engaged in threats and active violence, most likely because they are fully aware that there will be no consequences. In summary, this river is a poster child for why dredging should be disallowed entirely on small, pristine streams.

2. Chapter 4. Environmental Impacts.

a. Chapter 4.1 Hydrology and Geomorphology.

1. Section 4.1.4 Environmental Impacts (Impact Geo-1). A significant portion of this section is devoted to the controversial subject of geomorphic recovery. As is the case with the rest of this document, there has been no independent investigation done by DFG; rather, all that is done is a review of the available literature, which is diverse in its conclusions. This discussion fails to take into account the fact that, while the physical structure of the stream may recover following succeeding winter flows sufficient to initiate gravel motion, the damage to the biota in the area of disturbance does not recover—i.e., the interim damage to the fish (eggs, alevins, young of the year, and adults) and the BMIs, does not “bounce back.” Again, those of us who are on the rivers constantly see this problem, which is intimately related to the disturbing cycle of dredge-scour-recovery; yet, the draft SEIR fails to recognize this symbiotic relationship by treating the two issues separately. Because the biological recovery cycle is slower than the geomorphic recovery cycle, the net result is a continuous downward spiral of the biological resources. The faulty nature of this entire discussion is highlighted by the last several sentences of the recovery section on page 4.1.16 of the draft SEIR, where two factors supposedly reduce the impact to a less than significant level: (i) the provisions of the proposed regulations that require restoration by the dredger; and (ii) the precatory BMPs. The former will simply not be done, as there will be no enforcement or follow-up by DFG's own admission, because of a self-imposed dearth of funding; and the latter is an illusory measure (see discussion under general comment 7 above). When viewed through the lens of the fundamental error of assessing impacts on a statewide, rather than an individual stream basis, the document's discussion of geomorphic recovery is flawed and not helpful.

The discussion on “depositional processes” is also problematic because it fails to take into account the exponential effects of individual-to-club (or other multi-person entity) transfer of permits and claims. (See discussion of this issue under general comment 3 above). In other words, there are assumptions that in some cases are not valid, in the draft SEIR regarding the number of dredges in a particular location; obviously, if the assumptions in that regard are incorrect, that will affect the amount and degree of turbidity created, and the length of time/distance that it takes to dissipate.

Findings. The findings identify a number of potentially significant impacts, and then declare them to be “LTS” based on three criteria: (i) Regulations requiring restoration; (ii) the BMPs; and (iii) the unstated assumption that the proper viewpoint is statewide rather than local. As mentioned above, dredgers will not comply with either the regulation or the BMPs, there will be no enforcement, and the statewide viewpoint is erroneous and impermissible under CEQA. Thus, the findings are without substantial evidence and therefore arbitrary.

2. Section 4.1.4 Environmental Impacts (Impact Geo-2). In the findings on this impact (destabilization of banks), DFG admits that notwithstanding the mentioned regulations “...it is likely that some illegal activity will continue to occur that will cause bank erosion and instability.” Then, notwithstanding the potentially adverse impacts of erosion DFG concludes that on a statewide basis the impact is LTS. This finding is, for the reasons mentioned in general comment 1, without substantial evidence and therefore arbitrary.

3. Section 4.1.4 Environmental Impacts (Impact Geo-3). This section discusses the adverse effects of dredging on streambed forms such as riffles and bars, and reaches another LTS determination. Once again, the findings are faulty because: (i) the “1 to 3 years” reset of the channel morphology is a much shorter recovery period than that for the biological resources, resulting in a continuous downward biological spiral; (ii) the regulations cited as a form of mitigation will not be enforced (there will be 4,000 permits scattered over the state and no enforcement resources to monitor performance); (iii) the BMPs are illusory as “guidance;” and the statewide approach (“form and function of rivers and streams at the statewide scale”—lines 35-36, p. 4.1-23, is legally impermissible.

4. Section 4.1.4 Environmental Impacts (Impact Geo-4). Here the discussion centers on channel profile disturbance, which can result in effects such as “knickpoints,” which can cause redistribution of silt and other materials, and other identified adverse effects. Yet, the findings reach another “LTS” conclusion based on certain regulation provisions, and based on a statewide viewpoint. Once again, these findings are faulty for the same reasons mentioned above, and lacking in substantial evidence, they are arbitrary.

5. Section 4.1.4 Environmental Impacts (Impact Geo-5). This section discusses the adverse effects of channelization, flow concentration and similar activities of dredgers. The findings reach yet another LTS determination based on the same erroneous paradigm consisting of regulations (not enforced), guidance (illusory), the recovery period (out of cycle with biological recovery), and the erroneous statewide approach.

b. Chapter 4.2 Water Quality and Toxicology.

1. Section 4.2.2 Regulatory Setting. One of the important statements in this section reads as follows: “The discharge of the spoil from a suction dredging sluice box has been determined by the courts to constitute a discharge that may be regulated with permits issued pursuant to Section 402 of the CWA. As such, the SWRCB or the Regional Water Quality Control Boards (RWQCBs) may require suction dredge operators to obtain NPDES permits in order to ensure that they are in compliance with the CWA and California’s water quality standards.” (SEIR, p 4.2-2, LL 30-35). The discussion also cites the federal and state anti-degradation policies (see general comment 5 above). Principal among the constituents of concern that relate to dredging are elemental and suspended forms of mercury: “Mercury (Hg) is the constituent that poses the greatest toxicological risk to humans and fish and wildlife in areas where suction dredging activity might occur.” (SEIR, p. 4.2-14, LL 31-32). “The major pathway for human and wildlife exposure to methylmercury (MeHg) is consumption of Hg-contaminated fish. Dietary MeHg is almost completely absorbed into the blood and is distributed to all tissues, including the brain...MeHg is a highly toxic substance with a number of adverse health effects associated with its exposure in humans and animals.” (SEIR, p.4.2-15, LL 7-12). **Suggested Solution:** In order to properly address the impacts that follow this discussion, DFG should require as a condition of issuance of a suction dredge permit that each applicant provide evidence of having procured an NPDES permit from the RWQCB. If no such permit is produced, no permit should be issued.

2. Section 4.2.4 Impact Analysis (General and introductory comments). Others with far more technical expertise in water quality/toxicology issues will present comments on the issues presented by this chapter of the SEIR. However, from the local standpoint, the draft SEIR fails to include the most recent studies on the American River, and in fact the list of impaired water bodies with consumption advisories appears to be in error. In connection with the PCWA relicensing process, empirical and literature review water quality studies were done. The study results are summarized in the report, which is part of the draft and final license applications to the Federal Energy Regulatory Commission (we can provide a copy of the entire document, including the actual detailed study protocols and results, if desired):

“PCWA conducted a screening level assessment of methylmercury concentration in sport fish muscle tissue at French Meadows Reservoir, Hell Hole Reservoir, Middle Fork Interbay, and the Middle Fork American River at Otter Creek in 2007 as part of the MFP relicensing studies (PCWA 2010a; SD B). The field handling procedures used were consistent with those outlined by the California Environmental Protection Agency (Cal/EPA) (2005) and those used at the Department of Fish and Game Marine Pollution Studies Laboratory at Moss Landing (Method # MPSTL-102a). Muscle tissue from individual fish (fillet with skin off and homogenized) and crayfish (tail only) was analyzed for concentrations of methylmercury in accordance with the General Protocol for Sport Fish Sampling and Analysis developed by the Cal/EPA (2005) and with methods comparable to those used at the Department of Fish and Game Marine Pollution Studies Laboratory at Moss Landing (MPSTL 2005). Methylmercury concentrations in the sampled fish and crayfish were compared to the California’s (sic) OEHHA screening guidelines for methylmercury of 0.08 milligram per kilogram (mg/kg) (AQ 11-contingency TSR [PCWA 2010a; SD B). **Numerous fish tissue samples analyzed in 2007 exceeded this criterion** (AQ 11 TSR) (PCWA 2010a; SD B). [Emphasis added].

“Methylmercury concentrations in at least one fish and crayfish from each location exceeded the OEHHA screening value of 0.08 mg/kg. In addition, approximately 55% of the fish analyzed had methylmercury concentrations that exceeded the screening value. The highest concentrations (up to 2.31 mg/kg) were measured in fish from Hell Hole Reservoir, where the largest fish were caught and 75% of the sampled fish weighted between one and five pounds. The lowest concentrations were found in rainbow trout from Ralston

Afterbay. In general, the larger fish had higher methylmercury concentrations compared to the smaller fish. The results of the fish analyses are summarized by location in Table 7.4-6.

“Fifteen of the 24 crayfish analyzed from Hell Hole and French Meadows reservoirs exceeded the screening value of 0.08 mg/kg. The highest concentrations were from Hell Hole Reservoir (up to 0.264 mg/kg). The results of the crayfish analyses are summarized in Table 7.4-6.

“The Central Valley Regional Water Quality Control Board, Clean Water Act Section 305(b) and 303(d) Integrated Report for the Central Valley Region, includes the North Fork American river, Hell Hole Reservoir, and Oxbow Reservoir (Ralston Afterbay) on the 303(d) list of impaired waters for mercury (RWQCB 2009).”

The upshot of these studies is that both the North and Middle Forks of the American River are impaired for mercury, under existing and accepted standards. The draft SEIR does not include this information, which is critical to the impact analyses, and does not appear to contain any empirical study information done in connection with DFG’s proposed regulations project. The draft SEIR does mention the fact that the American River TMDL for mercury is in development (draft SEIR, p. 4.2-22, LL37-38). It is clear that no individual river assessments were prepared by DFG; rather, it relies on studies of certain rivers that it deems comparable as a surrogate for individualized determinations. (See, e.g., draft SEIR, p 4.2-23, LL 1-19). For all of the following impacts, it is our position that the findings lack supporting substantial evidence and therefore are arbitrary. Additionally, water quality impact comments prepared by others are incorporated into this document by reference for all purposes.

a. Section 4.2.5 Environmental Impacts (Impact WQ-1). As is the case in all of the water quality impacts in the draft SEIR, there is no analysis of individual rivers; as a surrogate DFG appears to be using (without explicitly so stating) a statewide analysis (see general impact 1 above). Impact WQ-1 relates to the effect of encampments used by dredgers at or near the river. DFG states that human waste, chemicals (including hydrocarbons), large trash deposits, and other contaminants are found regularly by wardens at or near the encampments. These contaminants and materials can (and do, based on personal observation) enter the river either during the dredging season or during high flows in the winter. DFG admits that it does not “...monitor or record the type or amount of camping activities of those that have obtained dredging permits in the past.” Instead it relies on a self-serving survey of dredgers for data as to where and when they camp. In its findings, DFG denies jurisdiction to police or regulate encampments, deferring to applicable USFS and BLM jurisdiction. DFG also refers to the illusory BMP guidelines that contain cleanliness suggestions. This type of approach evidences DFG’s intent to not enforce the law. The permit conditions could easily require permittees to comply with all USFS and/or BLM rules regarding encampments, and could easily make the guidelines mandatory. Reaching a conclusion of LTS based on such statements is inappropriate under CEQA, without substantial evidence, and therefore arbitrary.

b. Section 4.2.5 Environmental Impacts (Impact WQ-2). The same structural problems exist with this impact, which relates to gasoline and other hydrocarbons used by dredgers. As mentioned above, others with far more expertise in this area will deal with the internal inconsistencies, faulty analysis, and other problems with this impact analysis, but based on personal observations it is not true that dredgers use responsible practices regarding gasoline containers and the tanks on their dredges. There are pictures appended to these comments that demonstrate this point, as well as other illegal and destructive practices used by dredgers in the Upper American River area, and the North Yuba area.

c. Section 4.2.5 Environmental Impacts (Impact WQ-3). While problems and legal issues inherent in the analysis here are common to all of the water quality impacts in this chapter of the draft SEIR, one issue bears specific mention: The lack of discussion regarding the proliferation of dredges resulting from individual-to-group permit/claim transfers. (See general impact 3 above). Specifically, the analysis, in addition to its other defects, fails to take such transfers into account when determining the amount of sediment and other contaminants that will enter the water column in any given affected area. Another issue that is not discussed is the difference in impact where the stream is small. Treating all streams the same is not realistic. There is no individualized discussion of sedimentation effects on individual streams; at the very least, the discussion should consider the cumulative effects of additional siltation on streams that are impaired for mercury concentrations.

d. Section 4.2.5 Environmental Impacts (Impact WQ-4). This impact relates to resuspension of mercury in fines, resulting in MeHg concentration increases. The draft SEIR concludes that the impact is significant and unavoidable. Among potential mitigation measures (draft SEIR p. 4.2-53, LL 42 et seq.) is the identification of watersheds or sub-watersheds where there are high levels of elemental Hg and close those areas to dredging. Claiming no data exist, DFG mentions (but does not commit to) a study on the issue. Because such data do exist on the North and Middle Forks of the American River, closure is appropriate under the language of the draft SEIR, and that should be implemented immediately. Other purported mitigation measures are mentioned, but there is no commitment to any of them. This type of analysis is impermissible under CEQA, which require implementation of all available and feasible mitigation measures. **Suggested Solution:** Close the Middle Fork and North Fork of the American River to all dredging because of their high mercury impairment status, as demonstrated by the most recent studies.

e. Section 4.2.5 Environmental Impacts (Impact WQ-5). This impact relates to resuspension and discharge of other constituents, as listed in table 4.2-6 on page 4.2-56 of the draft SEIR. The same problems and legal issues inhere in this discussion as are present in the discussion of the other water quality impacts, especially impact no WQ-4.

c. Chapter 4.3 Biological Resources

1. Section 4.3.2 Regulatory Setting. On page 4.3-3, lines 31-33, DFG states: “While the Proposed Program assessed in this EIR is not seeking a Section 10(a)(1)(B) permit, it is possible this section of the ESA is applicable to individual suction dredgers if their activities have the potential for take of federally listed species.” This interpretation is misguided. Where a state or local agency is proposing to implement a project that could result in take of a federally protected species, an incidental take permit and habitat conservation plan are indeed required—and it is the permitting agency that needs to seek the permit and create the HCP, not the potential individual permittees. Therefore, to the extent that dredging could result in a take of a protected species, the incidental take permit/HCP requirement exists and DFG cannot avoid it. A good example would be the endangered anadromous species that will be reintroduced into the American River pursuant to the provisions specified in general comment 2 above. In order to issue permits within the American River drainage in areas where the reintroduced species will occur, DFG must comply with federal ESA section 10(a)(1)(B). Additionally, DFG makes the same error in this chapter regarding the method of analysis, ignoring its CEQA duty to assess impacts on a stream-by-stream basis instead of on a statewide basis. (See draft SEIR, p. 4.3-22, LL 26-32).

2. Section 4.3.5 Environmental Impacts (Impact BIO-FISH-1). This impact relates to spawning fish and the effects of dredging on them. The text identifies a host of impacts to spawning fish that can be caused by dredging, including disturbance and reduction of spawning gravels, crushing and intake of eggs, and damage to young of the year. The text states that for fish “action” species there are temporal and spatial restrictions that would prevent the harm to fish. For unprotected fish species such as rainbow and brown trout, however, the finding is conclusory and without substantial evidence: “Impacts of dredging to other Fish species (i.e., those listed in Table 4.3-2, as well as more common or widespread native and non-native Fishes) are also not likely to result in impacts that would be considered significant.” There is not a shred of evidence in the document to support this conclusion. Once again, use of the “statewide” criterion for measuring the impact’s significance would allow the complete trashing of a stream with spawning common rainbow and brown trout, their eggs, and their fry as long as the population statewide is satisfactory. There is no support in the applicable law (CEQA and the CEQA Guidelines) for such an illogical approach.

3. Section 4.3.5 Environmental Impacts (Impact BIO-FISH-2). This impact relates to direct entrainment, displacement or burial of eggs, larvae and mollusks. The studies cited by DFG identify major adverse impacts to fish, including entrainment, which kill larvae and eggs, as well as young of the year. The same study results apply to amphibians, and specifically FYLF. The findings as they relate to fish are once again superficial and

arbitrary with no substantial evidence supporting them. For FYLF, the conclusion is that although there are adverse impacts, there is not a significant impact on the species “as a whole.” In other words, specific populations can be sacrificed. This position is entirely contrary to the position taken by DFG in the PCWA MFA relicensing process, where the department has taken a very protective stance as to this species. The cited regulation sections do not ensure that entrainment will not occur for fish and amphibians, and do not directly address the problem.

4. Section 4.3.5 Environmental Impacts (Impact BIO-FISH-3). This impact relates to effects of silt and other fines that can cause clogging of interstitial spaces among the substrate in spawning grounds, which adversely affects developing eggs, emergent fry. In making its findings, DFG relies on the regulations which contain various restrictions that supposedly have the effect of reducing the severity of the impact. Unfortunately, the myopic “statewide” view undermines the findings. There is no substantial evidence in the record from which to draw the conclusions that DFG has made, rendering the finding of LTS arbitrary.

5. Section 4.3.5 Environmental Impacts (Impact BIO-FISH-4). This impact relates to direct entrainment of juvenile and adult fish. The text correctly points out the vulnerabilities of small fish to being entrained, crushed, or injured by dredger nozzles. Having done that, the findings reach some startling conclusions, including the following passage: “If left unrestricted, direct entrainment of juvenile and adult fish by suction dredging would be potentially significant with respect to Significance Criteria A and D. This impact would only be significant for those species who are not able to escape velocities at the dredge intake, and whose populations are severely limited in size or distribution. Streams within the state that provide habitat for species that are very limited in number and distribution are proposed to be closed to suction dredging (Class A), thus avoiding potential for impacts.” **In other words, if fish that are not limited in number and/or distribution are killed or injured, it doesn’t matter.** Once again the myopic “statewide” approach allows dredgers to trash any individual stream and its biota as long as on a statewide basis the population is satisfactory. Following that line of reasoning to its logical conclusion, we don’t need to protect any fish that is not listed as threatened, endangered, or of special concern. It is submitted that such an approach is clearly not sustainable under CEQA, and such findings are without substantial evidence. The screening mesh is of no help in this regard; fish will still be crushed as they are sucked against the screen and the dredge operator pushes the nozzle against the substrate.

6. Section 4.3.5 Environmental Impacts (Impact BIO-FISH-5). This impact relates to changes in genetically imprinted behavioral patterns of juvenile or adult fish. The text summarizes these effects: “Silt deposition as a result of mechanized activities, such as suction dredging, can have adverse effects on invertebrates and fish, including clogging of respiratory structures, reduced feeding rates, increased invertebrate drift, disruption of courtship displays and spawning behavior, and reduced hatching rates in fish....Suction dredging dislocates and can kill aquatic insects used as a food source by a variety of fish species in a variety of life stages. If animals avoid a refuge area as a result of disturbance or perceived predation, these animals may experience greater predation by other predators. If forced to relocate to new feeding areas, fish may experience increased stress due to predation, exposure to sub-optimal conditions, and increased competition with other fish for food and space, as well as stress from agonistic behavior (i.e., contests for dominance).” The findings on this impact are illogical. The admitted adverse impacts described above are made less than significant, according to the text, by a proposed regulation that “requires dredgers to avoid the disturbance of fish.” Such a regulation is clearly not enforceable, and is entirely illusory. In no way can it be considered to be a measure that would reduce the impact to any given stream, and is most certainly not a mitigation measure. The finding of LTS on this impact lacks any substantial evidence, and is therefore arbitrary.

7. Section 4.3.5 Environmental Impacts (Impact BIO-FISH-6). This impact relates to disturbance of fish migration and/or movement, and the adverse effects that exist when movement/migration are interfered with. Six adverse effects to fish are listed in the text. Regarding amphibians, there are similar effects noted. In the findings, the same problems analytical reoccur, with DFG endeavoring to minimize impacts with unenforceable

proposed regulation provisions, together with its ubiquitous “statewide” error. In addition, it is stated in the findings that where there is habitat for species that are limited in number and/or distribution, those streams are closed under category A. This is erroneous as it relates to the lower Rubicon River, where another branch of DFG is insisting on protection of FYLF because that species has a good population in the lower three miles. This position has been taken by DFG in the PCWA relicensing process. Thus, in addition to lacking substantial evidence, the findings contain a clear internal inconsistency.

8. Section 4.3.5 Environmental Impacts (Impact BIO-FISH-7). This impact relates to adverse impacts to benthic macroinvertebrate (“BMI”) populations caused by dredging. The text states that it has been demonstrated that there are statistically significant reductions in BMIs within 10 meters of dredges, and that values returned to upstream composition within 80 to 100 meters. Several factors undermine the clearly marginal validity of that conclusion: **(i)** If, as is the case, dredging occurs daily over protracted time periods, even if BMIs reproduce themselves the young will be damaged, killed, or relocated on a daily basis; that means that there will, during the dredging season, be no adults for fish food, and/or for reproduction; and **(ii)** Where, as is the case on certain streams such as the North Yuba River, mining clubs or other organizations place numerous dredges in certain portions of the river, with the result that the return to normalcy (even if that was a correct statement in the text) is pushed significantly farther downstream. In other words, both of these problems point out the cumulative impact to BMIs—a factor that is not taken into account in the text, except for a few paltry statements such as “Invertebrate species richness and density were reduced as disturbance frequency increased.” The balance of the text contains a discussion of the conflicting conclusions reached in available literature. It also parrots an argument that unsophisticated dredgers are often heard to voice: The mobilization of BMIs caused by dredging brings fish to the area to feed; comments such as “The fish are all around my dredge” are common. The fact is that this scenario is completely out of synch with the natural cycle of drift and feeding, and is ultimately a factor in both BMI and fish population decline. This observation is based on many years of personal experience on rivers. The findings, once again, minimize the adverse effects and term them “short term and localized.” As pointed out above, this is simply not true; in fact, the text discussion belies such a conclusion. The cited regulation provisions do not address the issue, and it is inappropriate to consider this impact LTS using the “statewide” approach.

9. Section 4.3.5 Environmental Impacts (Impact BIO-FISH-8). This impact relates to artificial creation of deep pools and/or alteration of natural pools by dredging operations. The text identifies some of the adverse effects of artificial creation or alteration of pools within a stream. The effects are numerous and significant as they relate to individual streams. The text itself points out the need for individual stream analysis in several places: **(i)** “However, the authors of this study found, overall, that the creation of a pool at the dredged site led to no net loss of pool habitat *in the stream.*” (See p. 4.3-41, LL 6-7) (Emphasis added). In other words, for the particular stream involved, no overall damage occurred. That conclusion may or may not be correct for that stream, but at least the geographic scope of the analysis is correct. **(ii)** “Where pools form, their size and how they are maintained is dictated by gradient, sediment source, substrate size, channel width, flow and the presence of forcing features (e.g., bedrock outcropping, boulders, wood material). These factors are rarely, if ever, considered by suction dredgers when creating pools.”(See p. 4.3-41, LL 9-13). In other words, individual streams are affected differently based on local factors. Therefore, it is inconceivable, based on the document’s own statements, that such effects can properly be measured on a “statewide” basis. The cited regulation provisions do not even come close to addressing the issues. The findings are unsupported by substantial evidence, and are therefore arbitrary.

10. Section 4.3.5 Environmental Impacts (Impact BIO-FISH-9). This impact relates to removal or destabilization of coarse woody debris (“CWD”), alteration of riffles, and removal of large boulders, and the adverse effects created by dredgers who engage in such conduct. The text and all of the cited studies extol the beneficial virtues of CWD, large boulders, and riffles for BMIs and fish, their habitat, and the overall health of the

stream itself. As before, DFG cites the same regulation provisions claiming that they reduce the impacts to LTS. Such circular and superficial reasoning is inappropriate for a CEQA analysis. One major defect—and this defect permeates all of the previous impact findings—is the lack of an intellectual bridge between the cited regulation sections and the findings. In other words, how does each of the cited regulations cause the impact to be reduced to LTS? The reader is left with no understanding of the critical nexus between regulations and findings. The probable explanation for this failure is that **there simply is no nexus**. Again, the geographical scope of the analysis is inappropriate; each stream is different, and requires its own analysis. The findings are therefore without substantial evidence and thus are arbitrary.

11. Section 4.3.5 Environmental Impacts (Impact BIO-FISH-10). This impact relates to stream bank destabilization by dredgers, and the biological effects of such actions. The text can be summarized with the following quote: “Stream bank erosion is one of the primary non-point sources of sediment in a watershed. While stream bank erosion is a natural process, excessive erosion caused by human activity can substantially degrade aquatic habit downstream of the erosion site.” (See p. 4.3-45, LL 20-22). The findings, based on the text, are baffling in concluding that the regulations would reduce the adverse impact to a LTS level. One cited regulation requires notification to DFG as to dredging location—all that means is that 4000 permittees, each of whom can have 6 sites, tells DFG where they will operate. Potentially, that means 24,000 sites would have to be monitored. The fact is that DFG does no monitoring whatsoever, lacking funding and manpower to do so. Additionally, there is no bridge between the evidence and the finding, as to how the regulation would improve the situation. Amazingly, the findings admit that there is (and will be) a lack of enforcement: “...it has been observed that some illegal activity occurred that caused bank erosion and instability; this is likely to occur under the Proposed Program.” (See p. 4.3-46, LL 6-8). From there the analysis totally breaks down for lack of any substantial evidence: “The potential for bank erosion and instability as an outcome of suction dredge activities is considered a departure from the current baseline condition whereby no suction dredging occurs because it is prohibited by statute and court order. It is anticipated that with the Proposed Program regulations in place, the extent of bank destabilization caused by dredging activity would be minimal and would not substantially degrade the biological function of rivers and streams of the state.” (See p. 4.3-46, LL 8-15). This is a classic case of internal inconsistency: Just a few sentences earlier it is stated that under current regulations which are substantially the same, illegal activity occurred (presumably causing excessive erosion); with the proposed regulations, which are the same, illegal activity will continue to occur, and thus excessive erosion; how, then, does the proposed regulation address the problem? Where is the nexus? How can it be used as a means of reducing the severity of the impact to LTS?

12. Section 4.3.5 Environmental Impacts (Impact BIO-FISH-11). This impact relates to the effects of dewatering, damming, or diversion of flows. This is a situation that we have observed repeatedly in the canyons of the upper American River, and on the North Yuba River, in the Wild Trout section. Contrary to what is stated in the text, the effects are extremely damaging, and despite us having reported cases of this to DFG, nothing was ever done, the claim being that it is “not illegal.” Pictures of this type of action are appended to these comments. What in fact occurs is that the entire flow dynamic of the stream is changed; the silt that is dredged out to make the pool and dam is deposited downstream in other prime trout habitat and remains there for at least a year, and in many situations longer; because the stream is altered significantly, anglers and other users are prevented from fishing or otherwise using the area that has been damaged. It is well that the regulations will prohibit this activity unless the dredger has a Section 1602 agreement; however, that is not a transparent process; rather, it has no mechanism for input from affected users and the general public interested in preserving stream integrity. The cited regulations may help, but they certainly do not, in and of themselves, reduce the adverse impacts to individual streams to a LTS level. Therefore, there is no substantial evidence to support the findings, and they are therefore arbitrary.

d. Chapter 4.4 Hazards and Hazardous Materials

1. Section 4.4.4 Environmental Impacts (Impact Haz-4). This impact relates to human wastes associated with miners' camps. Based on personal observation, the problem is far more extensive and damaging than depicted by the text. The measure expressed by DFG for addressing this problem is their precatory BMP pamphlet, along with a statement that such problems are outside its jurisdiction to remedy. That is patently wrong. Instead of having "guidelines," DFG could attach conditions to its permits regarding health and cleanliness—i.e., make their "suggestions" mandatory. Still, enforcement is a problem. There is no substantial evidence in the record that would provide a basis for the LTS finding on this impact.

Foothills Angler Coalition, a California Non-profit Corporation

By: _____

(Bill Carnazzo, Vice President and Board Member)

North Fork American River Alliance, a California Non-profit Corporation

By: _____

(Jim Ricker, President)

Upper American River Foundation, a California Non-profit Corporation

By: _____

(Bill Carnazzo, President)

Spring Creek Flyfishing Guide Service

By: _____

(Bill Carnazzo, Owner)



Illegal dam on a small stream, with illegal movement of boulders.

Note complete diversion of stream channel. North Yuba River.



Large illegal deep lake on small stream. North Yuba River.



Dredge effluent into illegal lake. North Yuba River.



Trash heap next to river (North Fork of the Middle Fork).



North Fork American. Large dredge.



Same location on North Fork American—silt plume extending far downstream.



Illegal hose used for washing soil from a high bank next to the river.

North Fork of Middle Fork.



Pick, shovel, and other equipment used to dig soil from high bank
prior to washing it down into sluice and into river. North Fork of Middle Fork.



Area where soil was washed with hose, from high bank next to river. North Fork of Middle Fork.



Hoses used to wash soil from high bank. North Fork of Middle Fork.



Trailhead to site of next few pictures.



Trash left by suction dredge miners. North Fork of Middle Fork.



More trash. North Fork of Middle Fork.



Showing proximity to stream; winter flows pass through this point.

North Fork of Middle Fork.



Silt load from suction dredge downstream from dredge site.

Rubicon river, approximately 1 mile above Ralston Afterbay (Oxbow Lake).



“Mining club” situation. Two of six dredges located in a small section of the river. Substrate nearly completely removed. No room for anglers to fish. Note cable stretched across stream.

ATTACHMENT “A”

List of Foothills Angler Coalition Supporting Organizations

National and Regional Organizations

- Federation of Fly Fishers, a national and international organization
- Northern California Council, Federation of Fly Fishers
- California Trout (“Cal Trout”)
- Sacramento-Sierra Chapter, Trout Unlimited
- Trout Unlimited, national organization
- Upper American River Foundation
- North Fork American River Alliance (“NFARA”)
- North Area Sportsmen’s Association

Fly Fishing Clubs

- Granite Bay Flycasters
- California Fly Fishers Unlimited
- Gold Country Fly Fishers
- Auburn Flycasters
- Peninsula Fly Fishers
- Chico Fly Fishers
- Fly Fishers of Davis
- Flycasters of San Jose
- Ladybugs Fly Fishing Club
- Golden Gate Angling and Casting Club
- Tracy Fly Fishers
- Golden West Women Flyfishers

Private Companies

- American Fly Fishing Company
- Fly Fishing Specialties
- Sportsman’s Warehouse
- The Orvis Company
- Rio Line Company
- Sage Rod Company
- Redington Company
- C & F Design Company
- Fishpond Company
- The Fly Shop, Redding

ATTACHMENT "B"

EPA Fact Sheet on Suction Dredge Mining Permits

The United States Environmental Protection Agency (EPA) Plans To Issue A National Pollutant Discharge Elimination System (NPDES) General Permit To:

Small Suction Dredge Miners in Idaho

Technical Contact

Name: Cindi Godsey Phone: (907) 271-6561 Email: godsey.cindi@epa.gov

EPA Proposes NPDES Permit Issuance

EPA proposes to issue a National Pollutant Discharge Elimination System (NPDES) General Permit to placer mining operations in Idaho for small suction dredges (intake nozzle size of 5 inches in diameter or less and with equipment rated at 15 horsepower or less). The draft permit sets conditions on the discharge - or release - of pollutants from these operations into waters of the United States.

This Fact Sheet includes:

- Information on public comment, public hearings, and appeal procedures
 - a description of the industry
 - a description of draft permit conditions

- background information supporting the conditions in the draft general permit

The State of Idaho Clean Water Act (CWA) § 401 Certification

EPA has requested that the Idaho Department of Environmental Quality (IDEQ) certify the NPDES permit for this operation under CWA § 401.

Persons wishing to comment on State Certification should submit written comments by the public notice expiration date to Johnna Sandow, Idaho Department of Environmental Quality, 1410 N. Hilton Boise, Idaho 83706. Ms. Sandow may be reached by phone at (208) 3730163 or by e-mail at johnna.sandow@deq.idaho.gov. IDG-37-0000

EPA invites comments on the draft permit

EPA will consider all substantive comments before issuing a final permit. Those wishing to comment on the draft permit or request a public hearing may do so in writing by the public notice expiration date. Please submit comments to the Director, Office of Water and Watersheds, USEPA-Region 10, 1200 Sixth Avenue, Suite 900, OWW-130, Seattle, Washington 98101. Comments may be submitted by e-mail to godsey.cindi@epa.gov or faxed to (206) 553-0165.

All comments should include name, address, phone number, a concise statement of basis for the comment and relevant facts upon which it is based. A request for public hearing must state the nature of the issues to be raised as well as the requester's name, address and telephone number. EPA has scheduled four information workshops in the locations below. Persons wishing to learn about the NPDES permit process, the conditions of this GP, and for an opportunity to provide written comments are encourage to attend one of these workshops.

The workshops are as follows:

City Grangeville Boise Salmon Idaho Falls	2 pm – 5 pm Wednesday, February 24
Location NezPerce National Forest 104 Airport Road (park in front)	4 pm – 7 pm Thursday, February 25
IDEQ Conference Room C	3 pm – 6 pm
1410 N. Hilton Salmon-Challis National Forest 1206 S. Challis Street	
ID Department of Fish & Game 4279 Commerce Circle	
Date & Time Monday, February 22	
4 pm to 7 pm (PST) Tuesday, February 23	

Documents are available for review

The draft NPDES permit and fact sheet can be reviewed at EPA's Regional Office in Seattle between 8:30 a.m. and 4:00 p.m., Monday through Friday. This material is also available for inspection and copying at the following locations in Idaho:

EPA Idaho Operations Office Idaho Department of Environmental Quality 1435 North Orchard Street State Office Boise, Idaho 83706 1410 North Hilton
(208) 378-5746 Boise, Idaho 83706

(208) 373-0502

Idaho Department of Environmental Quality Idaho Department of Environmental Quality Twin Falls Regional Office Boise Regional Office 1363 Fillmore Street 1445 North Orchard Twin Falls, Idaho 83301 Boise, Idaho 83706
(208) 736-2190 (800) 270-1663 (208) 373-0550 (888) 800-3480 IDG-37-0000

Idaho Department of Environmental Quality Lewiston
Regional Office 1118 F Street Lewiston, Idaho 83501
(208) 799-4370 (877) 541-3304

Idaho Department of Environmental Quality Idaho Falls
Regional Office 900 N. Skyline Suite B Idaho Falls, Idaho
83402

(208) 528-2650 (800) 232-4635

Idaho Department of Environmental Quality Pocatello
Regional Office 444 Hospital Way, #300 Pocatello, Idaho
83201

(208) 236-6160 (888) 655-6160

Idaho Department of Environmental Quality Coeur d'Alene
Regional Office 2110 Ironwood Pkwy Coeur d'Alene, Idaho
83814

(208) 769-1422 (877) 370-0017

Copies of the draft permit and fact sheet can be found on the EPA, Region 10 website at <http://www.epa.gov/r10earth/waterpermits.htm> (click on 'Current public comment opportunities'). IDG-37-0000

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LIST OF ACRONYMS

AR Annual Report

BE Biological Evaluation BLM Bureau of Land Management BMP Best Management Practices

CFR Code of Federal Regulations CSU Conservation System Unit CWA Clean Water Act

EFH Essential Fish Habitat EPA Environmental Protection Agency ESA Endangered Species Act

FR Federal Register

GP General Permit

IDEQ Idaho Department of Environmental Quality IDWR Idaho Department of Water Resources

NOAA National Oceanic and Atmospheric Administration NMFS National Marine Fisheries Service NOI Notice of Intent NPDES National Pollutant Discharge Elimination System NTU Nephelometric Turbidity Unit

SPPC Spill Prevention Control and Countermeasure

T&E Threatened and Endangered

USFS United States Forest Service USFWS United States Fish & Wildlife Service USGS United States Geological Survey

WQS Water Quality Standard IDG-37-0000 Fact Sheet Page 6 of 40

I. BACKGROUND ON GENERAL PERMITS

Section 301(a) of the Clean Water Act (CWA) prohibits most point source discharges of pollutants to waters of the U.S. unless they are authorized by a National Pollutant Discharge Elimination System (NPDES) permit. NPDES permits authorize the discharge under certain conditions described in the permit. Such permits are usually issued to individual dischargers, i.e., an individual discharger receives its own individual permit. However, the NPDES regulations also authorize the issuance of "general permits" to categories of discharges. Issuance of a general permit allows EPA to authorize discharges from a number of dischargers at one time.

EPA's implementing regulations that authorize the issuance of general NPDES permits are under Title 40 of the Code of Federal Regulations (CFR), Part 122, Section 28 (40 CFR 122.28). EPA may issue a general NPDES permit if there are a number of point sources operating in a geographic area that: 1) involve the same or substantially similar types of operations; 2) discharge the same types of wastes; 3) require the same effluent limitations or operating conditions; 4) require the same or similar monitoring requirements; and 5) in the opinion of the Director, are more appropriately controlled under a general permit than under individual NPDES permits.

EPA Region 10 has determined that issuance of a general permit to authorize discharges from small suction dredge miners in Idaho is appropriate due to the similarity of operations, pollutants discharged, management practices, and need for similar limitations and monitoring requirements.

II. OPERATIONS AND RECEIVING WATERS COVERED BY THIS GENERAL PERMIT (GP)

A. Industry Description

Placer mining involves the mining and extraction of gold or other heavy metals and minerals primarily from alluvial deposits. These deposits may be in existing stream beds or ancient, often buried, stream deposits, i.e., paleo or fossil placers.

Many placer deposits consist of unconsolidated clay, sand, gravel, cobble and boulders that contain very small amounts of native gold or other precious metals. Most are stream deposits that occur along present stream valleys or on benches or terraces above existing streams. Areas for locating gold are around boulders near the upstream end of pools where the current first starts to slow, in seams and pickets in exposed bedrock around midstream boulders, or on the inside of a river bend at or near the head of a gravel bar where larger materials have accumulated.

Dredging systems are classified as hydraulic or mechanical (including bucket dredging), depending on the methods of digging. Suction dredges, the most common hydraulic dredging system, are popular with small and recreational gold placer miners. Suction dredges consist of a supporting hull with a mining control system, excavating and lifting mechanism, gold recovery circuit, and waste disposal system. All floating dredges are designed to work as a unit to dig, classify, beneficiate ores and dispose of waste. Because suction dredges work the

stream bed rather than stream banks, the discharges from suction dredges consist of stream water and bed material.

The primary pollutant of concern in the discharges from a suction dredge is suspended solids. The suspended solids in the effluent discharged from suction dredge outlets result from the agitation of stream water and stream bed material in the dredge. The discharged suspended solids result in a turbidity plume, or cloudiness, in the receiving water.

Mercury may be encountered and collected from historic activities. The discharge of mercury is prohibited under this GP.

B. Operations Covered by the GP

EPA is proposing to issue a GP that would authorize discharges from placer mining by small suction dredges (defined as having intake nozzle diameters of less than or equal to 5 inches and a rating of 15 HP or less). This is the first issuance of a GP for placer mining activities in Idaho.

Suction dredges with nozzle intakes larger than 5 inches and mechanical dredge activities are not authorized to discharge under this permit. Operations not covered by this GP need to submit an individual permit application to EPA. EPA will evaluate the possible need for other general permits.

Placer mining activities are also permitted by the Idaho Department of Water Resources (IDWR). IDWR permits for Recreational Dredging to suction dredges with nozzle size of 5 inches in diameter or less, and equipment rated at 15 horsepower or less.

Many of the permit conditions in the GP are based on conditions of the IDWR permit and are consistent with IDAPA 37.03.07.07 Rule 64 Stream Channel Alterations Rules applicable to recreational dredging. Other permit requirements are based on Idaho Water Quality Standards (WQS) as described in more detail below.

C. Receiving Waters

The draft GP authorizes discharges of specified pollutants to certain waters of the United States in the state of Idaho during certain times of year. This section summarizes where (in what receiving waters) and when (what times of year) suction dredge placer miners can discharge effluent under the GP. The receiving waters are the waters of the United States in the state of Idaho, most of which are classified in the Idaho WQS [IDAPA 58.01.02] as protected for aquatic life, recreation, water supply, wildlife and aesthetics.

1. Receiving Waters not covered by this GP

The following are the receiving waters excluded from coverage, i.e., this GP does not authorize the discharge from placer mining in the water bodies described below.

National Protected Areas: The draft GP does not apply to facilities that are proposed to be located in National Parks System Units (i.e., Parks and Preserves), National Monuments, National Sanctuaries, National Wildlife Refuges, National Conservation Areas, National Wilderness Areas, or National Critical Habitat Areas.

National Wild and Scenic Rivers: Pursuant to the authorities specified in Section 47-1323, Idaho Code, the State Board of Land Commissioners prohibits dredge mining in any form in water bodies making up part of the National Wild and Scenic Rivers System. This includes the following water bodies: Middle Fork of the Clearwater River, Middle Fork of the Salmon River, and St. Joe River.

Appendix B of this Fact Sheet (Appendix C of the GP), Part 1 provides specific details on the prohibited waterbodies.

Withdrawn River Segments: Pursuant to the authorities specified in Section 58-104(a) and 47-702, Idaho Code, the State Board of Land Commissioners has prohibited recreational dredge and placer mining in certain segments of the following rivers: Boise River, Payette River, Priest River, Salmon River, and Snake River.

Appendix B of this Fact Sheet (Appendix C of the GP), Part 2 provides the complete list of specific withdrawn river segments that are closed to placer mining.

State Protected Rivers: Pursuant to the authorities specified in Section 421734A, Idaho Code and adopted by the Idaho Water Resource Board, certain waterways and/or stream segments are protected as either a State Natural River or as a State Recreational River with recreational dredge or placer mining prohibited.

Suction dredge mining is prohibited in portions of the following water bodies: Priest River Drainage, Payette River Drainage, Boise River Drainage, Snake River Drainage, Henry's Fork Snake River Drainage, South Fork Snake River Drainage, North Fork Clearwater River Drainage, and Main Salmon River Drainage.

Appendix B of this Fact Sheet (Appendix C of the GP), Part 3 provides a complete list of the segments of State Protected Rivers where placer mining is prohibited.

Water Quality Limited Segments: A water quality limited segment is any waterbody, or definable portion of a waterbody, where it is known that the water quality does not meet applicable water quality standards, and/or is not expected to meet applicable water quality standards. Under CWA § 303(d) of the CWA, states must identify and list water quality limited segments.

CWA § 303(d) requires states to develop a Total Maximum Daily Load (TMDL) management plan for impaired waterbodies on the list. A TMDL is a mechanism for estimating the assimilative capacity of a water body and allocating the capacity between point and nonpoint sources.

There are many waterbodies identified on the State of Idaho's 303(d) list as water quality limited for sediments. This permit does not authorize discharges from placer mining operations in these waterbodies, unless there is a TMDL that specifies waste load allocations for placer mining activities. Currently the only sediment TMDL that specifies allocations for placer mining is the South Fork Clearwater TMDL.

Appendix B of this Fact Sheet (Appendix C of the GP), Part 4 contains an internet link to a current list of segments that are water quality limited for sediment as of December 2008 and are therefore not included in the coverage area of this GP. IDEQ may be updating this list during the duration of this GP. Because this general permit does not relieve a permittee of the requirements of other applicable federal, state or local laws, it is the responsibility of the permittee to contact IDEQ for the most up-to-date list. Pages 2 and 3 of this Fact Sheet and Appendix A of the draft GP contain contact information.

2. Receiving Waters Covered Under This GP

The IDWR's permit contains closed areas as well as timing restrictions. EPA is including the current list in Appendix C of this Fact Sheet. The GP does not contain this list since it could be updated during the duration of the GP. Instead, a requirement to contact IDWR for the most current list of closures and timing restrictions is included. Because this GP does not relieve a permittee of the requirements of other applicable federal, state or local laws, compliance with the IDWR or IDEQ restrictions is expected.

III. OBTAINING COVERAGE UNDER THE GP

Suction dredge operators seeking authorization to discharge under this GP must first submit to EPA a written Notice of Intent (NOI) to be covered. See 40 CFR 122.28(b)(2).

The required contents of the NOI are specified in Appendix A of the draft GP and include information necessary for EPA to adequately implement the NPDES program and GP. The NOI must include the following information: legal name and address of the owner and operator; the operation name; the nature and size of the operation; the name of the receiving stream and location of discharge; the contact information for Idaho Department of Water Resources (IDWR) and, the dates of operation. IDG-37-0000 Fact Sheet Page 10 of 40

All operators that wish to be covered under this GP must meet the requirements of the permit, submit an NOI, and must receive written authorization to discharge from EPA.

After EPA receives an NOI, EPA will provide written authorization to the permittee regarding coverage under the GP. In certain circumstances, EPA may require the facility to apply for and obtain an individual NPDES permit. These situations are described in Permit Part I.F.1. and include circumstances where:

- the single discharge or the cumulative number of discharges is/are a significant contributor of pollution
- the discharger is not in compliance with the GP
- a change occurred in the pollutant control technology or practices
- effluent limitation guidelines are promulgated for the point sources covered by the GP
- a Water Quality Management Plan containing requirements applicable to such point sources is approved
- a TMDL and corresponding wasteload allocation has been completed for a waterbody
- circumstances have changed since the time of the request to be covered so that the discharger is no longer appropriately controlled under the GP

There are also situations where EPA may deny coverage under the GP. These are described in Permit Part I.F.2. and include circumstances where:

- a land management agency with jurisdiction over affected portions of the receiving water submits to EPA a request that GP coverage be denied within 30 days of EPA's receipt of the NOI
- the land management agency's request includes proposed additional or revised permit terms that the requesting agency believes are necessary to protect the natural values of the affected location
- the land management agency's request concerns a person who either seeks to discharge into waters of the U.S. located in certain protected areas, is in significant noncompliance with the permit, or intends to discharge into impaired waters
- the National Marine Fisheries Service (NMFS) or the U.S. Fish and Wildlife Service (USFWS) believes that consultation under Section 7 of the Endangered Species Act is necessary for suction dredge operations to protect listed threatened and endangered species and their habitat.

IV. EFFLUENT LIMITATIONS REQUIRED BY THE GENERAL PERMIT

A. Statutory Requirements for Determining Effluent Limits

NPDES permit conditions are developed in accordance with various statutory and regulatory authorities established pursuant to the CWA. CWA Sections 101, IDG-37-0000 Fact Sheet Page 11 of 40

301(b), 304, 308, 401, and 402 provide the process and statutory basis for the effluent limitations and other conditions in the NPDES permit. The EPA evaluates discharges with respect to these sections of the CWA and the relevant NPDES regulations in determining which conditions to include in the permit.

In establishing permit limits, EPA first determines which technology-based limits apply to the discharges in accordance with national effluent guidelines and standards. EPA then determines which water quality-based limits apply to the discharges based upon an assessment of the pollutants to be discharged and a review of state water quality standards. The effluent limit for a particular pollutant is the more stringent of the technology-based effluent limit or the water quality-based effluent limit.

B. Technology-based Effluent Limitations

CWA § 301(b) requires technology-based controls on effluents. EPA has established technology-based controls, also called effluent limitation guidelines (ELGs), for numerous industry categories. On May 24, 1988, EPA established ELGs for the Gold Placer Miner industry. However, these guidelines apply to mechanical placer mining and certain large dredging operations but do not apply to small suction dredge operations. In the absence of established ELGs, EPA may establish limits based upon Best Professional Judgment (CWA 402(a)(1) and 40 CFR 122.43, 122.44, 125.3).

It is EPA's Best Professional Judgment (BPJ) that Best Management Practices (BMPs) be established to minimize environmental impacts of the sediment in discharges from suction dredge operations. BMPs are commonly required in NPDES permits. BMPs are measures that are intended to prevent or minimize the generation and the potential for the release of pollutants from facilities to the waters of the United States.

The use of BMPs is allowed under CWA § 402(a)(2) and 40 CFR 122.44(k)(2) of the NPDES regulations. 40 CFR 122.44(k)(2) allows the inclusion of BMPs in lieu of numerical effluent limits under certain circumstances including where numeric effluent limits are infeasible or the practices are reasonably necessary to achieve effluent limitations and standards or to carry out the purposes and intent of the CWA.

Suction dredging's unique method of intake and displacement present unusual permitting issues. As discussed above, a suction dredge is a mechanical device that floats on the stream surface and pumps stream water and stream bed material through a suction intake conduit to a sluice box from which gold or other minerals may be recovered.

The discharge from suction dredges consists totally of stream water and bed material immediately released back into the receiving water. It is infeasible to establish numeric limits directly to the discharge point, therefore BMPs are required in the permit to reduce the discharge of sediment and meet the intent of the CWA. IDG-37-0000 Fact Sheet Page 12 of 40

The specific BMPs included in the draft permit are described in Section V. of the Fact Sheet.

C. Water quality-based Effluent Limitations

CWA § 301(b)(1)(C) requires the establishment of limitations in permits necessary to meet water quality standards. All discharges to state waters must comply with state water quality standards, including the state's antidegradation policy. The NPDES regulations at 40 CFR 122.44(d)(1) implement CWA § 301(b)(1)(C). These regulations require that permits include limits for all pollutants or parameters which are or may be discharged at a level which will cause, have the reasonable potential to cause, or contribute to an excursion above any state water quality standard (WQS). The limits must be stringent enough to ensure that WQS are met and must be consistent with any available waste load allocation.

As discussed previously, the primary pollutant of concern in the discharge of effluent from suction dredge operations is suspended solids which can be measured by turbidity. Turbidity is a measure of light transmission and is measured in nephelometric turbidity units (NTUs). High levels of turbidity can adversely impact water quality and can have indirect effects on fish and other aquatic life. The State of Idaho has established the following turbidity standard for protection of the cold water aquatic life beneficial use:

Turbidity, below any applicable mixing zone set by the Department, shall not exceed background turbidity by more than 50 NTU instantaneously or more than 25 NTU for more than 10 consecutive days.

IDEQ has also established a turbidity standard for small public water supplies:

Turbidity as measured at the public water intake shall not be (1) increased by more than 5 NTU above natural background, measured at a location upstream from or not influenced by an human induced nonpoint source activity when background turbidity is 50 NTU or less or (2) increased by more than 10% above natural background, measured at a location upstream from or not influenced by any human induced nonpoint source activity, not to exceed 25 NTU, when background turbidity is greater than 50 NTU.

Water quality-based effluent limits for turbidity are included in the draft GP. One set of limits applies specifically to operations in the South Fork Clearwater River based on the South Fork Clearwater TMDL. The other set of limits applies to suction dredge operations in other watersheds. These limits are described below.

1. Turbidity Limits and Monitoring Required for All Dischargers

The permit requires BMPs to reduce turbidity and to monitor to ensure that the BMPs are implemented properly. Proper implementation of BMPs will be protective of the Idaho WQS for turbidity. . IDG-37-0000 Fact Sheet Page 13 of 40

In addition, the draft GP includes the following turbidity effluent limit:

Any visible increase in turbidity (any cloudiness or muddiness) above background beyond any point more than 500 feet downstream of the suction dredge during operations is considered a violation of this permit. This requirement includes any turbidity that may result from any other part of the operation.

The 500 foot distance downstream is based upon the mixing zone included in the draft CWA § 401 Certification (Appendix D) from the State of Idaho. After the public comment period, the State will issue a final CWA § 401 certification. The mixing zone size in the final permit will be based on the State's final certification.

A mixing zone is a defined area or volume of receiving water around a wastewater discharge where the receiving water, as a result of the discharge, may not meet all applicable WQS. State WQS can be exceeded in the mixing zone, as long as acutely toxic conditions are prevented and the mixing zone does not impair the beneficial uses of the receiving water. Any authorized mixing zone will ensure that the WQS are met at all points outside the mixing zone.

The draft permit requires that the permittee conduct a daily visual inspection to monitor turbidity within the area 500 feet downstream of the suction dredge during operation

If any visible increase in turbidity is observed above background beyond any point more than 500 feet downstream of the dredge, it is a violation of the GP and the permittee must modify the operation to meet the permit limitation or cease operations.

2. Turbidity Limits for Dischargers to the South Fork Clearwater River

The NPDES regulations at 40 CFR 122.44(d)(1)(vii)(B) require that effluent limits be consistent with the assumptions and requirements of any available wasteload allocation (WLA) for the discharge in an approved TMDL. EPA reviewed the approved TMDLs for sediment impaired streams and found only one, the TMDL for the South Fork Clearwater River, that included WLAs for suction dredge operations. This TMDL was approved by EPA in July 2004.

The SF Clearwater River TMDL specified the following WLAs for the suction dredge industry. These WLAs are established as effluent limits in the draft GP.

South Fork Clearwater River above Harpster Bridge, including tributaries:

July 15 – August 15: IDG-37-0000 Fact Sheet Page 14 of 40

- When background turbidity is 50 NTU or less: Turbidity below the 500 foot mixing zone shall not exceed background turbidity by more than 5 NTU :
 Visual monitoring is required to ensure compliance with this effluent limit
- When background turbidity is more than 50 NTU: Turbidity below the 500 foot mixing zone shall not exceed background turbidity by more than 10% and shall not exceed a maximum increase of 25 NTU, and
- 314 tons/day total sediment discharge to the bed of the stream

The TMDL developed for this stream reach allows a daily mass sediment loading of 314 tons/day. The development of this was based on 15 dredges operating for 8 hours a day mining no more than 2 cubic yards (yd³)/hour. Based on this information, EPA is proposing that facilities on the SF Clearwater operate under these conditions and reapply for GP coverage on an annual basis so no more than 15 authorizations will be granted during any one year.

To facilitate this process, EPA is proposing that NOIs be submitted on an annual basis starting on April 1st. EPA would cover the first 15 NOI submittals and notify additional applicants that coverage is no longer available.

August 16 – July 14:

- The TMDL specifies that zero wasteload allocation is available between August 16 and July 14. Therefore, no discharges are allowed to the SF Clearwater River above Harpster bridge and tributaries between August 16 and July 14.

South Fork Clearwater River below Harpster Bridge:

The TMDL specifies that zero wasteload allocation for the entire year. Therefore, no discharges are allowed at any time to the SF Clearwater River below Harpster Bridge.

D. Monitoring

Section 308 of the Clean Water Act and the federal regulations at 40 CFR 122.44(i) require that permits include monitoring provisions to determine compliance with effluent limitations. Monitoring may also be required to gather data for future effluent limitations or to monitor effluent impacts on receiving water quality. Monitoring frequencies are based upon the nature and effect of the pollutant, as well as a determination of the minimum sampling necessary to adequately monitor performance. The permittee is responsible for conducting the monitoring and for reporting results to EPA. The draft permit requires visual IDG-37-0000 Fact Sheet Page 15 of 40

monitoring daily of the suction dredge turbidity plume and recording of the extent downstream that the plume occurs.

V. BEST MANAGEMENT PRACTICES (BMPs)

As discussed in the previous section, the draft GP requires compliance with BMPs to minimize the effect and the potential for the release of turbidity from suction dredge operations.

The draft permit requires compliance with the following BMPs (see Permit Part II.C.):

A. Silt and Clay Areas:

Dredging of concentrated silt and clay should be avoided.

The Permittee shall use reasonable care to avoid dredging silt and clay materials that would result in a significant increase in turbidity. Reasonable care includes moving the dredge to a new location or reducing the volume of effluent discharge by limiting operation speed of the suction dredge.

This practice will decrease the amount of fine material that will be released into the water that could cause turbidity plumes in excess of the permitted distance.

B. Mercury: If mercury is found during suction dredge operation, (i.e. mercury is collected in the sluice box), the operator must:

1. Stop dredging immediately;
2. Contact the local regional office of IDEQ (see Appendix A of the GP);
3. Keep the mercury collected, do not remobilize the collected mercury; and
4. Work with the appropriate regional office of IDEQ to dispose of the mercury properly.

Mercury was used in historic placer mining operations to amalgamate gold fines. Elemental mercury may be present in stream beds and banks and if remobilized can result in impacts to fish and other aquatic life. Placer miners encountering mercury must take the above steps to prevent mercury from reentering the water body.

C. Spacing between operations:

Suction dredges shall not operate within 800 feet of:

1. another suction dredging operation occurring simultaneously or,
2. a location where it is apparent that another operation has taken place within the past month

This practice should ensure that the mixing zone of a facility does not overlap with that of another since 800 feet is the distance of a 500 foot mixing zone for each operation plus a designated 300 foot buffer before the next suction dredge would impact water quality.

D. Fish Passage, Spawning Fish and Spawning Habitat:

1. Dredging and discharging are prohibited within 500 feet of locations where:
 - a. fish are spawning or
 - b. fish eggs or alevins are known to exist at the time dredging occurs
1. Suction dredge operation must not occur in gravel bar areas at the tail of pools or where operations result in fine sediments discharging onto gravel bars.
2. The Permittee shall ensure there is adequate passage for fish around and through the mining area at all times.

The following information can be used to determine if you are located in an area that may be a spawning area of a species of concern. These areas should be avoided.

- Trout construct spawning nests (redds) in clean gravel from 0.25 to 1.5 inches in diameter. The preferred site is a gravel bar at the tail or side of pools covered by 6 to 12 inches of smoothly flowing water. Redds may be recognized as round or oval depressions in the gravel which appear cleaner or brighter than the surrounding gravel.
- Salmon and Steelhead spawn in similar areas in gravel and cobblestones up to 3-4 inches in diameter.
- Steelhead, Rainbow and Cutthroat Trout can spawn from March through June, but primarily in the months of April and May, and their eggs and fry remain in the gravel until mid-summer.
- Spring and Summer Chinook Salmon typically spawn in August and September, Fall Chinook Salmon spawn in October and November. Their eggs and fry remain in the gravel until the following spring.
- Brook Trout, Brown Trout, Bull Trout, Kokanee and Mountain Whitefish spawn from September into December and their eggs and fry remain in the gravel during winter. Incubation of Bull Trout eggs also occur over a longer period than other species and their young have an extended period of residency in spawning gravels - 200 days as opposed to about 60 days for other trout.
- Pacific Lamprey are an anadromous species present in the Snake River Drainage utilizing similar stream habitats to Chinook Salmon and Summer Steelhead. Lamprey adults migrate into the Columbia and Snake River basins from June through October, over winter, and spawn during April through July. Spawning substrates are fine to medium size IDG-37-0000

gravels (0.25 to 1.0 inch diameter). Following a hatching period of 2-3 weeks, larvae (ammocoetes) rear in fine substrates where they remain for over 5 years until the transformation to adult is complete. Adults migrate to the ocean where they become parasitic.

This BMP is designed to minimize impacts to fish spawning and spawning habitat and to provide for fish passage.

E. Stream Channel:

Suction dredge operations must not change the stream channel in such a way that alters the bottom elevation of the active stream channel or redirects the flow of water into the stream bank, which may cause bank erosion or destruction of the natural form (width/depth configuration) of the active stream channel.

Under CWA § 101, EPA is required to restore and maintain the chemical, physical and biological integrity of waters of the United States. Protection of the physical integrity of waterbodies includes protection of habitat which could be impacted by stream bank erosion or destruction of the natural form of the channel.

F. Erosion:

Suction dredge operations that result in undercutting, littoral channeling, stream bank or beach erosion, are prohibited. Removal or disturbance of boulders (cobbles or larger rock) or any type of vegetation (dead or alive) on the stream bank, leading to erosion or undercutting of the banks is prohibited.

In addition, per IDAPA 37.03.07.64.04, the operation of the dredge shall be done in a manner so as to prevent the undercutting of stream banks.

This practice will ensure that erosion does not occur and that the finer sediments that may be found in these areas do not cause turbidity problems in the receiving waters.

G. Dams or Diversions:

Damming or diversions within a stream channel are not authorized by this GP.

EPA cannot authorize dams or diversions under CWA § 402. These are generally authorized under CWA § 404 which is administered by the U.S. Army Corps of Engineers.

H. Boulders and Natural Obstructions:

Explosives, motorized winches or other motorized equipment to move boulders, logs, or other natural obstructions are prohibited under this GP.

This practice should ensure that important habitat which includes large organic debris and large boulders in these areas will not be destroyed. IDG-37-0000 Fact Sheet Page 18 of 40

I. Mechanized Equipment:

Wheeled or tracked equipment use in-stream is prohibited while dredging is in progress.

With the exception of the suction dredge itself and any life support system necessary to operate the dredge, mechanized equipment shall not be used below the mean high water mark.

This practice will minimize turbidity from sources other than the suction dredge.

J. Refueling and Hazardous/Deleterious Material Storage

Care shall be taken by the operator during refueling of equipment to prevent spillage.

The Permittee must check the equipment for fuel and oil leaks daily prior to operation. Equipment must be in proper working order and shall not leak petroleum products.

Any spills shall be cleaned up using materials such as sorbent pads and booms.

All chemical or petroleum products shall be stored in a safe and secure location at all times. Fuel not stored and dispensed with an ANSO or UL approved safety container must be maintained not less than 100 feet from the mean high water mark.

Hazardous and deleterious material must not be stored, disposed of, or accumulated adjacent to or in the immediate vicinity of state waters unless adequate measures and controls are provided to ensure that those materials will not enter state waters as a result of high water, precipitation runoff, wind, storage facility failure, accidents in operation or unauthorized third party activities.

Spills shall be reported IDEQ and the National Response Center (see Permit Part II.C.10.e.). Spills of petroleum products that exceed 25 gallons or cause a visible sheen on nearby surface waters should be reported to IDEQ within 24 hours. Spills of petroleum products less than 25 gallons or that do not cause a visible sheen on nearby surface waters should be reported to IDEQ only if cleanup cannot be accomplished within 24 hours.

These practices will decrease the potential for contamination of surface water by petroleum products and other potentially harmful substances.

K. Invasive Species

Pursuant to IDAPA 02.06.09, operators must ensure their dredging equipment does not house invasive species. Equipment must be decontaminated prior to its placement in waters of the state. Furthermore, dredging equipment used in multiple streams should be decontaminated before each deployment. IDEQ Decontamination procedures can be found at: IDG-37-0000 Fact Sheet Page 19 of 40

www.deq.idaho.gov/water/data_reports/surface_water/monitoring/decontamination_procedures.pdf

IDAPA 02.06.09, "Rules Governing Invasive Species." establishes procedures for inspection, certification, permitting, compliance verification, decontamination, recordkeeping and enforcement of regulated Aquatic Invertebrate Invasive Species.

VI. OTHER PERMIT PROVISIONS

Specific regulatory requirements for NPDES permits are contained in 40 CFR 122.41. These conditions are included in the GP in Parts III., IV., and V. as monitoring and reporting requirements, compliance responsibilities, and general requirements. Since these conditions are federal regulations, they cannot be challenged in the context of an NPDES permit action.

VII. OTHER LEGAL REQUIREMENTS

A. Endangered Species Act

Section 7 of the Endangered Species Act (ESA) requires federal agencies to consult with the National Marine Fisheries Service (NMFS) and the U.S. Fish and Wildlife Service (USFWS) if the federal action, such as issuing a permit, could beneficially or adversely affect any threatened or endangered (T&E) species.

EPA has prepared a biological evaluation (BE) analyzing the effects of the GP on the listed species. A not likely to adversely effect determination has been made primarily on the basis that dredging operations are closed on streams where and when threatened or endangered species exist.

If necessary, EPA will enter into informal or formal consultation with USFWS and NMFS to ensure that the GP will not result in unacceptable impacts to any of the species identified on these lists.

NMFS has been reviewing applications that propose to alter stream channels and has been providing IDWR with pre-application assistance on possible ESA Section 10 incidental take permits. NMFS will continue to provide comments through this process. The draft GP contains conditions meant to minimize impacts to T&E species and their habitats. These include the turbidity effluent limits and restrictions on locations and timing of suction dredge activities.

The IDWR recreational placer mining permit does not allow dredging during periods when fish are spawning and eggs or alevins are in the gravel. The following is information from the IDWR permit that is also included in the draft GP:

To protect important spawning populations of salmon, steelhead, and trout, streams are closed to dredging during the periods when fish are spawning and eggs or alevins are in the gravel. Because different species of fish spawn at IDG-37-0000 Fact Sheet Page 20 of 40

different times, some streams have fish eggs or alevins in the gravel during every month of the year and are therefore closed year round to dredging (See Appendix C for more details).

Critical habitat was designated for the Snake River Sockeye Salmon (*Oncorhynchus nerka*); Snake River Spring/Summer Chinook Salmon (*Oncorhynchus tshawytscha*) and Snake River Fall Chinook Salmon (*Oncorhynchus tshawytscha*) in December 1993. Critical habitat was designated for Snake River Steelhead in 2005. Critical habitat was designated for the Bull Trout (*Salvelinus confluentus*) in 2005. Revised critical habitat was designated for the Kootenai River White Sturgeon on July 9, 2008. Critical habitat for the KR white sturgeon consists of 18.3 river miles of the Kootenai River within Boundary County, Idaho, from river mile 141.4 to river mile 159.7.

The critical habitat in Idaho for the Snake River Salmon, Steelhead and Bull Trout is described as follows:

Snake River Sockeye Salmon

Consists of river reaches of the Columbia, Snake and Salmon Rivers, Alturas Lake Creek, Valley Creek, and Stanley, Redfish, Yellow Belly, Pettit and Alturas lakes (including their inlet and outlet creeks)

Snake River Spring/Summer Chinook Salmon

Consists of river reaches of the Columbia, Snake, and Salmon Rivers, all tributaries of the Snake and Salmon Rivers (except the Clearwater River) presently or historically accessible to Snake River Spring/Summer Chinook Salmon (except reaches above impassable natural falls and Hells Canyon Dam)

Snake River Steelhead

Consists of river reaches of the Columbia, Snake, and Salmon Rivers, and all tributaries of the Snake and Salmon River presently or historically accessible to Snake River Steelhead (except reaches above impassable natural falls, Dworshak Dam and Hells Canyon Dam)

Bull Trout

Consists of Lake Pend Oreille Subunit of Clark Fork River Drainage (East River, Gold Creek, Granite Creek, Grouse Creek, Lightning Creek, Middle Fork East River, N.F. Grouse Creek, Pack River, Priest River, Tarlac Creek, Trestle Creek, Twin Creek, and Uleda Creek). The Priest Lake and River Subunit (Cedar Creek, Granite Creek, Hughes Fork, Indian Creek, Kalispell Creek, Lion Creek, N.F. Indian Creek, Soldier Creek, S.F. Granite Creek, S.F. Indian Creek, S.F. Lion Creek, Trapper Creek, Two Mouth Creek, and Upper Priest River). The Coeur d'Alene Lake Drainage (Beaver Creek, Coeur d'Alene Lake and River, Eagle Creek, Fly Creek, North Fork Coeur d'Alene River, Prichard Creek, Ruby Creek, IDG-37-0000 Fact Sheet Page 21 of 40

St. Joe River, Steamboat Creek, and Timber Creek). The Snake River in Adams and Washington Counties.

In streams where suction dredging occurs, the most critical life stage for salmon is the egg stage. To protect important spawning populations of salmon, steelhead and trout, streams are closed to dredging during the periods when fish are spawning and eggs or alevins are in the gravel.

B. Essential Fish Habitat (EFH)

The 1996 amendments to the Magnuson-Stevens Fishery Management and Conservation Act set forth a number of new mandates for NMFS, regional fishery management councils and other federal agencies to identify and protect important marine and anadromous fish habitat. The action agency needs to make a determination on Federal actions that may adversely impact EFH.

In freshwaters, the GP is unlikely to be used during the critical phase (egg stage) and if it were, studies show that the impacts of an operation are minimal after 500 feet so a 500 foot buffer (Permit Part II.C.4.a.) should be sufficient protection. EPA determines that, with the inclusion of the 500 foot buffer, no adverse impact to EFH would result from the issuance of this permit. This EFH assessment is documented in the BE for this GP.

C. National Forest System Lands

Dredging activities under the GP on National Forest System Lands must comply with US Forest Service Mining regulations found at 36 CFR 228A. These regulations require that a “notice of intent to operate” be submitted to the US Forest Service District Ranger who is in charge of the area on which the proposed operation will take place.

D. State Permit Requirements

Pursuant to IDAPA 37.03.07, operators must obtain a recreation dredging permit from the Idaho Department of Water Resources. An application may be obtained from the following web page:

www.idwr.idaho.gov/WaterManagement/StreamsDams/Streams/DredgingPermit/DredgingPermit.htm

E. State Certification

CWA § 401 prohibits EPA from issuing a permit which may result in any discharge to navigable waters until the State in which the discharge will originate has certified that the discharge will comply with certain CWA provisions (or has waived certification). The regulations at 40 CFR 124.53 allow for the State to require more stringent conditions in the permit, if the certification cites the CWA or State law references upon which that condition is based. In addition, the regulations require IDG-37-0000 Fact Sheet Page 22 of 40

a certification to include statements of the extent to which each condition of the permit can be made less stringent without violating the requirements of State law.

The State of Idaho, Department of Environmental Quality, provided EPA with their draft CWA § 401 Certification for the draft GP on November 13, 2009. See Appendix D for certification conditions.

After public comments have been evaluated, a preliminary final GP will be sent to the State to begin the final certification process. If the state authorizes different or additional conditions as part of the certification, the permit may be changed to reflect these conditions.

F. Antidegradation

In setting permit conditions, EPA must consider the State's antidegradation policy. This policy is designed to protect existing water quality when the existing water quality is better than that required to meet the standards and to protect water quality from being degraded below the standard when existing quality meets the standard. For high quality waters, antidegradation requires that the State find that allowing lower water quality is necessary to accommodate important economic or social development before any degradation is authorized.

The draft GP does not authorize discharges from suction dredge mining in streams that are already impaired for sediments. The one exception is the allowance for suction dredge discharges in some parts of the South Fork Clearwater during certain times of year under the conditions recommended in the SF Clearwater TMDL that are meant to bring the SF Clearwater into compliance with WQS.

For waters that are not impaired, discharges from suction dredge operations are allowed in certain waters and at certain times of year under the conditions of the draft GP. The draft permit limits turbidity and requires use of BMPs. IDEQ has indicated in their preliminary certification that the permit complies with the State's antidegradation requirements.

G. Permit Expiration

This permit will expire five years from the effective date of the permit. IDG-37-0000 Fact Sheet Page 23 of 40

APPENDIX A – REFERENCES

NPDES Permit Writer's Manual. EPA, Office of Water, Office of Wastewater Management, Permits Division. Washington, DC. 20460; EPA-833-B-96-003, December 1996, 220pp.

Technical Support Document for Water Quality-based Toxics Control. EPA, Office of Water Enforcement and Permits, Office of Water Regulations and Standards. Washington, DC, 20460; EPA/505/2-90-001, March 1991, 145pp.

Instructions for Idaho Department of Water Resources Recreational Dredging Permit Application. IDWR, Boise, ID. February 2009, 26 pp.

Impact of suction dredging on water quality, benthic habitat, and biota in the Fortymile River, Resurrection Creek, and Chatanika River, Alaska. Prepared for EPA by Aaron M. Prussian, Todd V. Royer, and G. Wayne Minshall, Idaho State University. June 1999.

Regional Baseline Geochemistry and Environmental Effects of Gold Placer Mining Operations on the Fortymile River, Eastern Alaska. Department of Interior, U.S. Geological Survey. Open-File Report 99-328. 1999.

Regional Geochemical Results from the Analyses of Rock, Water, Soil, Stream Sediment, and Vegetation Samples--Fortymile River Watershed, East-Central Alaska. Department of Interior, U.S. Geological Survey. Open-File Report 99-33. 1999.

South Fork Clearwater River Subbasin Assessment and Total Maximum Daily Loads. Idaho Department of Environmental Quality and EPA in consultation with the South Fork Clearwater River Watershed Advisory Group. IDG-37-0000 Fact Sheet Page 24 of 40

APPENDIX B Waterbodies Where Placer Mining is Not Authorized Under the General Permit

Part 1: National Wild and Scenic Rivers

Pursuant to the authorities specified in Section 47-1323, Idaho Code, the State Board of Land Commissioners prohibited dredge mining in any form from water bodies making up part of the National Wild and Scenic Rivers System.

1. Middle Fork of the Clearwater River From the town of Kooskia upstream to the town of Lowell; the Lochsa River from its junction with the Selway at Lowell forming the Middle Fork, upstream to the Powell ranger station; and the Selway River from Lowell upstream to its origin.
2. Middle Fork of the Salmon River From its origin to its confluence with the main Salmon River.
3. St. Joe River

Including tributaries, from its origin to its confluence with Coeur d'Alene Lake, except for the St. Maries River and its tributaries.

Part 2: Withdrawn River Segments

Pursuant to Section 58-104(a) and 47-702, Idaho Code, the State Board of Land Commissioners has prohibited recreational dredge or placer mining in the following segments.

1. Boise River

- a. The Bed of the South Fork of the Boise River from Anderson Ranch Dam in T01S, R08E, downstream to Neal Bridge in Section 34, T03N, R06E.
- b. The Bed of the Middle Fork of the Boise River from the east boundary of T05N, R08E, downstream to the west boundary of Section 1, T03N, R05E.
- c. The Bed of the Boise River from Lucky Peak Dam in T02N, R03E, down River to Star Highway in T04N, R01W. Note: This withdrawal does not include the removal of sand and gravel, which is necessary for flood control purposes.

2. Payette River

- a. The Bed of the North Fork of the Payette River, from Cabarton Bridge to Banks, between the ordinary high water marks, situated in Section 31, T13N, R 05E, to Section 32, T 09N, R 03E.

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b. The Bed of the South Fork of the Payette River from the Sawtooth Wilderness Boundary to Banks, between the ordinary high water marks, situated in Section 12, T 09N, R09E to Section 32, T 09N, R 03E.

c. The Bed of the Main Payette River, from Banks to Black Canyon Dam, between the ordinary high water marks, situated in Section 32, T09N, R03E, to Section 22, T07N, R01W.

3. Priest River

a. The Bed of Upper Priest River, from the Canadian border to the confluence with Priest Lake, between the ordinary high water marks, situated in Section 12, T65N, R05W, B.M., to Section 19, T63N, R04W.

4. Salmon River

a. The Bed of the Salmon River from the mouth of the North Fork of the Salmon River in T24N, R21E, downstream to Long Tom Bar. The Bed of the Salmon River from the mouth in T29N, R04W, upstream to Hammer Creek in T28N, R01E. The Bed of the Middle Fork of the Salmon River from its origin to its confluence with the main Salmon River. The Bed of the South Fork of the Salmon River from the mouth through T20N, R06E.

5. Snake River

a. The Bed of the Henry's Fork of the Snake River from its point of origin at Henry's Fork to the point of its confluence with the backwaters of Ashton Reservoir, situated in Section 21, T15N, R43E, to Section 13, T09N, R42E.

b. The Bed of the Snake River from the east boundary of T06S, R08E, to the west boundary of T01S, R02W, encompassing the Birds of Prey Area.

c. The Bed of the Snake River from the mouth of the east ordinary high water mark to the center of the main channel (State of Idaho ownership in the Hells Canyon National Recreation Area), from the north boundary of T20N, R04W to the south boundary of T31N, R05W.

Part 3: State Protected Rivers

Pursuant to the authorities specified in Section 42-1734A, Idaho code and adopted by the Idaho Water Resource Board, the following waterways and/or stream segments are protected as either a State Natural River or as a State Recreational River with recreational dredge or placer mining prohibited.

1. Priest River Drainage

· Upper Priest River, International Boundary to confluence with Upper Priest Lake IDG-37-0000

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- Upper Priest Lake
- The Thoroughfare, Upper Priest Lake to beginning of private property along south bank.
- The Hughes Fork, headwaters to mouth
- Rock Creek, headwaters to mouth
- Lime Creek, headwaters to mouth
- Cedar Creek, headwaters to mouth
- Trapper Creek, headwaters to mouth
 - Granite Creek, confluence of its North and South Forks to mouth
 - Priest River, Priest Lake outlet structure to McAbee Falls
- Lion Creek, headwaters to mouth
- Two Mouth Creek, headwaters to mouth
- Indian Creek, headwaters to mouth

2. Payette River Drainage

- South Fork Payette River, Deadwood River to Big Pine Creek
- Payette River, confluence of its South and Middle Forks to Beehive Bend
- North Fork Payette River, Cabarton Bridge to mouth
- North Fork Payette, headwaters (includes Cloochman and Trail Creeks) to Payette Lake inlet

3. Boise River Drainage

- South Fork Boise River, Anderson Ranch Dam to a point 250 yards upstream of Neal Bridge
- Lime Creek and all tributaries, headwaters to mouth
 - Big Smoky Creek and all tributaries, headwaters to mouth
- Boise River, from confluence of its North and Middle Forks to backwaters of Arrowrock Reservoir
- Sheep Creek, headwaters to mouth
- South Fork Sheep Creek, headwaters to mouth
- Devils Creek, headwaters to mouth
- East Fork Sheep Creek, headwaters to mouth
- Middle Fork Boise River, mouth of Roaring River to confluence with the North Fork Boise River
- Roaring River, headwaters to mouth
- East Fork Roaring River, headwaters to mouth
- Middle Fork Roaring River, headwaters to mouth
- North Fork Boise River, mouth of Crooked River to confluence with the Middle Fork Boise River
 - North Fork Boise River, Sawtooth Wilderness Area to mouth of Hunter Creek
- McNutt Creek, headwaters to mouth
- Taylor Creek, headwaters to mouth

3. Boise River Drainage Continued

· McDonald Creek, headwaters to mouth · Horsefly Creek, headwaters to mouth · Blue Jay Creek, headwaters to mouth · Lodge Pole Creek, headwaters to mouth · Bow Creek, headwaters to mouth · Big Silver Creek, headwaters to mouth · Johnson Creek, Sawtooth Wilderness Area to mouth · Robin Creek, headwaters to mouth · Grouse Creek, headwaters to mouth

4. Snake River Drainage

· Snake River, downstream boundary of the Milner Hydroelectric Project to Clover Creek, but excluding hydroelectric project boundaries.

5. Henry's Fork Snake River Drainage

- Targhee Creek, including West and East Forks, source to National Forest boundary
- Henry's Fork, Big Springs to Island Park Reservoir, and the lower 2 miles of Henry's Lake Outlet
- Henry's Fork, Island Park Reservoir to Ashton Reservoir
- Golden Lake
- Silver Lake
- Thurman Creek, Golden Lake to mouth
- Buffalo River springs approximately 8 miles upstream of mouth to mouth
- Elk Creek, right-of-way lines below Elk Creek Dam to mouth
- Warm River, Partridge Creek to upper boundary of Warm River Campground
- Robinson Creek, Yellowstone Park boundary to mouth
- Rock Creek, Yellowstone Park boundary to mouth
- Henry's Fork, Ashton Dam to Falls River
- Falls River, Idaho border to Kirkham Bridge
- Boone Creek, Idaho border to mouth
- Conant Creek, Idaho border to Conant Creek diversion structure
- Teton River, Trail Creek to Felt Dam
- Teton Creek springs near Highway 33 to mouth
- Fox Creek springs approximately 2.5 miles upstream of mouth to mouth
- Badger Creek springs approximately 3 miles upstream of mouth to mouth
- Bitch Creek, Idaho border to mouth

6. South Fork Snake River Drainage

- South Fork Snake River, Palisades Dam to confluence with Henry's Fork · Fish Creek, headwaters to confluence with McCoy Creek IDG-37-0000 Fact Sheet Page 28 of 40

6. South Fork Snake River Drainage, cont.

- South Fork Snake River, Palisades Dam to confluence with Henry's Fork · Fish Creek, headwaters to confluence with McCoy Creek

- Big Elk Creek, Idaho-Wyoming state line to Palisades Reservoir backwaters · Little Elk Creek, headwaters to Palisades Reservoir backwaters · Bear Creek and perennial tributaries, headwaters to Palisades Reservoir backwaters and the following perennial tributaries:
 - South Fork Bear Creek, headwaters to mouth
 - Deadman Creek, headwaters to mouth
 - Warm Springs Creek, headwaters to mouth
 - North Fork Bear Creek, headwaters to mouth
 - Small Creek, headwaters to mouth
 - Poison Creek, headwaters to mouth
 - Currant Creek, headwaters to mouth
 - Muddy Creek, headwaters to mouth
 - Elk Creek, headwaters to mouth

- Palisades Creek and perennial tributaries, headwaters to South Fork Snake Confluence and the following perennial tributaries:
 - o North Fork Palisades Creek, headwaters to mouth
 - o East Fork Palisades Creek, Idaho-Wyoming state line to mouth
 - o Corral Creek, Idaho-Wyoming state line to mouth
 - o Lost Spring Canyon, headwaters to mouth
 - o Dead Man Canyon, headwaters to mouth
 - o Little Dry Canyon, headwaters to mouth
 - o Dry Canyon, headwaters to mouth, including Upper Palisades Lake
 - o Water Fall Canyon, headwaters to confluence with Dry Canyon

- Fall Creek and perennial tributaries, headwaters to mouth, and the following perennial tributaries:
 - o East Fork Fall Creek, headwaters to mouth
 - o Willow Springs Creek, headwaters to mouth
 - o Beaver Creek, headwaters to mouth
 - o Trap Creek, headwaters to mouth
 - o Haskin Creek, headwaters to mouth
 - o Camp Creek, headwaters to mouth
 - o Gibson Creek, headwaters to mouth
 - o Blacktail Creek, headwaters to mouth
 - o South Fork Fall Creek, headwaters to mouth
 - o Currant Hollow, headwaters to mouth

- Pine Creek and perennial tributaries, headwaters to confluence with South Fork Snake River, and the following perennial tributaries: IDG-37-0000 Fact Sheet Page 29 of 40

6. South Fork Snake River Drainage, cont.

- o Tie Canyon, headwaters to mouth
- o Poison Canyon, headwaters to mouth
- o Mike Spencer Canyon, headwaters to mouth

- North Fork Pine Creek and perennial tributaries, headwaters to mouth, and the following perennial tributaries:
 - o Elk Flat Fork, headwaters to mouth
 - o Holter Creek, headwaters to mouth
 - o Red Creek, headwaters to mouth
 - o Corral Creek, headwaters to mouth
 - o Lookingglass Creek, headwaters to mouth

- West Pine Creek, headwaters to mouth, including unnamed headwater tributaries.

- Burns Creek and perennial tributaries, headwaters (including unnamed headwater tributaries) to South Fork Snake Confluence, and the following perennial tributaries:
 - o Beartrap Canyon, headwaters to mouth
 - o Little Burns Canyon, headwaters to mouth
 - o Jensen Creek, headwaters to mouth
 - o Hell Hole Canyon, headwaters to mouth

- Burns Creek (tributary to reservoir), headwaters to Idaho-Wyoming state line

- Trout Creek, headwaters (including all unnamed headwater tributaries), to confluence with Palisades Reservoir

- McCoy Creek and perennial tributaries, Fish Creek Confluence to backwaters of Palisades Reservoir, and the following perennial tributaries:
 - o Spring Creek, headwaters to mouth
 - o Clear Creek, headwaters to mouth
 - o Wolverine Creek, headwaters to mouth
 - o Kirk Creek, headwaters to mouth
 - o Box Canyon Creek, headwaters to mouth

- McCoy Creek and perennial tributaries, Fish Creek Confluence to backwaters of Palisades Reservoir, and the following perennial tributaries continued:
 - o Hell Creek, headwaters to mouth
 - o Jensen Creek, headwaters to mouth
 - o Bitters Creek, headwaters to mouth

- Indian Creek (tributary to Palisades Reservoir)-Idaho-Wyoming state line to IDG-37-0000 Fact Sheet Page 30 of 40

6. South Fork Snake River Drainage, cont.

- Smith Canyon · Sheep Creek, headwaters to South Fork Snake Confluence
- Indian Creek (tributary to South Fork Snake River), headwaters to South Fork Snake Confluence
- Rainey Creek and perennial tributaries, headwaters to South Fork Snake Confluence, and the following perennial tributaries:
 - o North Fork Rainey Creek, headwaters to mouth
 - o South Fork Rainey Creek, headwaters to mouth
- Prichard Creek, headwaters to South Fork Snake Confluence · Black Canyon, headwaters to South Fork Snake Confluence · Warm Springs, source to South Fork Snake Confluence · Wolverine Creek, headwaters to South Fork Snake confluence · Cress Creek, source to South Fork Snake confluence

7. North Fork Clearwater River Drainage

- Isabella Creek, headwaters to mouth · Weitas Creek, headwaters to mouth · Little North Fork Clearwater River, Meadow Creek to Cedar Creek · North Fork Clearwater River, headwaters to Wrangler Creek and from Isabella Creek to the backwater of Dworshak Reservoir (Thompson Creek) · Reeds Creek, Calhoun Creek to mouth · Beaver Creek, Charlie Creek to mouth

8. North Fork Clearwater River Drainage

- Little North Fork Clearwater River, headwaters to backwaters of Dworshak Reservoir at Meadows Creek · Elk Creek, headwaters to Deep Creek · Kelly Creek, headwaters to mouth · Cayuse Creek, headwaters to mouth

9. Main Salmon River Drainage

- Little Salmon River - Hwy 95 bridge above "The Falls" to confluence with the Salmon River · Boulder Creek - from its headwaters to its confluence with the Little Salmon River · Hard Creek - from its headwaters to its confluence with Hazard Creek · Hazard Creek - from the outlet of Hazard Lake downstream to its confluence with the Little Salmon River
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Part 4: 303(d) Listed Waterbodies for Sediments

Discharges from suction dredge operations are not authorized in waterbodies that are listed for sediment.

The Idaho Department of Environmental Quality's document: Final 2008 Integrated Report, Section 5: Impaired Waters: Lakes and Rivers ("§303(d) list"), which was approved by EPA, contains the list of water quality limited waterbodies.

The document can be accessed at:

http://www.deq.idaho.gov/water/data_reports/surface_water/monitoring/2008.cfm

It is the responsibility of the Permittee to check the website or contact IDEQ for the most upto-date, EPA approved, 303(d) list. IDG-37-0000 Fact Sheet Page 32 of 40

APPENDIX C – Areas of Coverage/Areas of Closure

<p>The following is a list of waterbodies that are open for dredging and the times of year that they are open. This list also specifies closed areas. The waterbodies are organized by river drainage. This list is current per the IDWR Instruction Booklet published in 2009. Please note if you apply after the 2009 dredging season, you must consult the most up-to-date version of the area of coverage/areas of closure list or contact EPA for the most up-to-date list. Table C-1</p>	OPEN	CLOSED
Kootenai River Drainage		
Kootenai River & tribs not listed	July 15 - Aug 15	Aug 16 - July 14
Myrtle Creek & tribs	Entire year	
Long Canyon Creek & tribs	Entire year	
Parker Creek & tribs	Entire year	
Callahan Creek & tribs	Entire year	
N. Callahan Creek & tribs	Entire year	
S. Callahan Creek & tribs	Entire year	
Boulder Creek & tribs	Entire year	
Debit Creek & tribs	Entire year	
Caboose Creek & tribs	Entire year	
Curley Creek & tribs	Entire year	
Snow Creek & tribs	Entire year	
Moyie River Drainage		
Moyie River & tribs not listed	July 15 - Aug 15	Aug 16 - July 14
Canuck Creek & tribs	Entire year	
Keno Creek & tribs	Entire year	
Spruce Creek & tribs	Entire year	
Deep Creek Drainage		
Deep Creek & tribs not listed	July 15 - Aug 15	Aug 16 - July 14
Trail Creek & tribs	Entire year	
Ruby Creek & tribs	Entire year	
Fall Creek & tribs	Entire year	
Boundary Creek Drainage		
Boundary Ck. & tribs not listed	July 15 - Aug 15	Aug 16 - July 14
Grass Creek & tribs	Entire year	
Saddle Creek & tribs	Entire year	
Pend Oreille Lake Drainage		
Pend Oreille Lake drainage not listed	July 15 - Aug 15	Aug 16 - July 14
Pack River & tribs	Entire year	
Grouse Creek & Tribs	Entire year	
Trestle Creek & tribs	Entire year	

Subject: California Suction Dredging

Date: Saturday, April 23, 2011 8:37:22 AM PT

From: Marc Lipman

To: dfgsuctiondredge@dfg.ca.gov

As a resident of Seiad Valley.....

WE SUPPORT THE BAN on Suction Dredging

Thank You, Marc Lipman

4/24/11

To: Department of Fish and Game
Regarding: Suction Dredging E.I R.

Dear Sirs;

In Amador County I have had experience with Fish and Game and concluded they protect mining and logging interests above all. A logger was illegally drafting water from the stream that flows through my property on the S. Fork of the Consumnes River. They were draining it dry each year. Fish and Game ignored our proof of this matter and refused to even listen to or read the evidence. Only when the Water Quality Control Board got involved did the logger stop the illegal activity they had been doing for years. Another involved a dredger upstream who muddied the water for everyone else downstream with their lust for gold. When we complained about it Fish and Game said "that's what dredging does".

For the few thousand gold diggers who lust for gold for profit it must be fun to visit a pristine place and crank up the generator and suck the life out of a river or stream for profit. For the fish and the vast majority of us folks who think nature is something to commune with and not conquer, their activity is an insult to our senses and an assault on nature. Now that the fish are coming back the gold diggers want to come back. The claim that dredging is good for rivers is as ridiculous as saying auto exhaust is good for the air we breath.

State senator Ted Gaines's quote from novelist Ayn Rand's dislike for government intervention in the affairs of men is appropriate for the "goddess of greed is good." But that philosophy has just run it course to it's logical conclusion with the financial meltdown.

Dredging our precious clear rivers for gold is a sin and a crime against Mother Earth.



Harry Cowan

Box 212
Mount Aukum, Ca. 95656

Cc: Water Quality Control Board
State Senator Ted Gaines
State Assembly person: Alyson Huber
Governor Jerry Brown

Subject: New dredgeing requirments

Date: Sunday, April 24, 2011 1:20:42 PM PT

From: wolfwolf tds.net

To: dfgsuctiondredge@dfg.ca.gov

To Mark Stopher
Ca. Dept of Fish And Game
Redding Ca 96001

The new Department of Fish and game's proposals that would require a dredging permit holders to list all equipment used while dredging is ridiculous. To require the permit holder to list the size of the motor, the horsepower & make, the nozzle size, the specified four locations and the time the 4 locations are being used. Is a power grab that is obvious. The above stated requirements opens the door to government sanctioned harassment

The same method could be used for issuing of a fishing license requiring the holder to list their reel or line or hook or lure or rod ect.

To carry this type of proposal to its further ridiculous extent. Game hunters could be required to list rifle, the ammunition the weight of the bullet type and weight of gunpowder ect.

To carry this farce even further why not require hat, shoe and underwear sizes for all future Department of Fish and Game permits.

William DeWolf
Trinity Center
Ca 96091

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

April 24, 2011

Dear Mr. Stopher:

Please consider my letter an official comment letter on the draft SEIR prepared for the draft amended regulations presently being circulated.

I am a professional nature photographer and avid outdoorsman who lives near and enjoys the North Fork of the American River. I am very disturbed about the possibility of allowing suction dredge mining on this pristine river. The beauty and quality of this river must be protected from the destructive practice of suction dredge mining which has much in common with the kind of disregard for the environment which created the Malakoff Diggins disaster of years ago on the Yuba river.

The thought of unleashing thousands of miners who only have profit on their minds is unacceptable in light of their negative impact on critical habitat for endangered fish, all wildlife, human health as well as the scenic value of the river.

Therefore I urge you to maintain the restriction on recreational and commercial mining, particularly suction dredge mining so we will continue to have clean and healthy rivers for all California taxpayers.

Yours truly,



James Hirschinger
3700 North Lakeshore Blvd.
Loomis, California 95650

c.c. Ted Gaines

April 24, 2011

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

Comments regarding Title 14, Division 1, Subdivision 1, Chapter 8, Section 228 and 228.5 Suction Dredging - Proposed amendments to regulations.

Dear Sir:

I have been following the impact of the above titled regulations with great interest because I own claims on Kanaka Creek near Alleghany California and have been dredging our claims since 1972.

We have always followed all the regulations, gotten the proper permits, used only the permitted size dredge, never left any trash and never left the creek without taking out all of our dredge equipment.

In 39 years of dredging that creek, generally from July 1st thru the 10th or 15th, I have never seen, nor has anyone else who is there with us, ever seen a yellow legged frog nor have we ever seen a salmon. By the end of July Kanaka Creek's water level is so low that even if there were salmon trying to get up that creek they couldn't. It is such a small creek that any spawning areas would be washed out with each winter's creek wash by heavy rains. We have seen an increase in native trout in the creek which belies the belief of the Fish and Game Dept. that dredging somehow harms fish. We have witnessed that in fact, it helps increase the fish - at least in Kanaka Creek.

The original Class C designation for dredging on Kanaka, May to October, allows dredgers to float their equipment. By the end of July the creek is so low that it is nearly impossible to float a dredge to use. The current Sept. 1st thru Jan. 31st is not a good alternative.

Last year and the prior year after the moratorium was instigated we had to do the assessment work by hand digging and shoveling into Long Toms.

We always have made sure we left little or no impact on the creek after our ten day to two week dredging time and we understand fully the need to protect the forests and the creeks and rivers. The water in Kanaka Creek has always been pristine and we have had it checked over the years for any contaminants, including mercury and e-coli and have never found any particles of anything detrimental to the environment. We still drink the water from Kanaka Creek as we have done for over 35 years and will continue to do so. No one that we have invited to come with us has ever become ill from Kanaka Creek water.


Please hear the pleas from the small miners who do not make a living mining but only supplement their incomes as we do. With the price of gold still increasing we pray that this summer we will again be allowed to spend our regular ten days

to two weeks dredging our claims instead of working them by hand. The history of this area has always been about mining; while I do not believe there has ever been mining on the Klamath River, but then I don't live up on the Oregon border so I really don't know what mining goes on in that area of California.

We just want to be able to do our assessment work, make a little supplemental income and enjoy our own private camping area that is on our claims. There is no way our creek could impact the salmon in the Klamath River and if there were salmon in the Yuba, we would not impact that either. But there have never been salmon in the Yuba Rivers either.

Thank you for listening!

Very truly yours,


Grace Knowles
2048 Ridge Road
Pika, California

Subject: Defending are liberty's and freedoms
Date: Sunday, April 24, 2011 12:35:41 PM PT
From: Metalmanc33@comcast.net
To: dfgsuctiondredge@dfg.ca.gov

To Mark Stopher: Once again I find myself in defense of an activity that has made this country great. Gold dredging is nothing but healthy for are rivers, fish, people and are country. You know this! "We the people" are under attack by some very unscrupulous people that have been caught in numerous fact twisting lying cheating attacks on are liberty's and freedoms. Please do the right thing and defend this activity that is a huge part of are heritage, PLEASE leave it alone. We loose this and this country is in real trouble!

Subject: My Comments on Your Proposed Dredging Regulations

Date: Sunday, April 24, 2011 5:43:21 PM PT

From: Randy Witham

To: dfgsuctiondredge@dfg.ca.gov

Dear Mr. Mark Stopher,

After reading through your proposed new suction dredging restrictions to be forced on us California recreational suction dredgers, I can only say I am shocked & appalled at what you are trying to do...

It's 110% obvious you're out to use your proposed overly burdensome and costly "regulations".....i.e., government bureaucracy and red tape, to harass, hinder, limit, reduce and ultimately deny us recreational miners our legal rights under the Mining Law of 1872, and other Federal laws on public lands & waters. Have you ever prospected for gold? Gone suction dredging? Had the fun?

I invite you to come out with me some weekend and see for yourself and maybe find some gold too.

Here's some specifics complaints I have with your proposed regulations:

1). Demanding we itemize all out equipment, down to the nozzle size, restrictor ring (if one), engine make & model number and HP is ludicrous! I update my equipment as needed, and stream conditions warrant. Also, if a friend sells me good used equipment, that may happen in a weekend, or even while out on the stream. Why would you give a hoot if my engine is a Honda or a Briggs & Stratton? I have several different pieces of equipment, such as a 4 inch Keene suction dredge, a Proline 2 1/2 inch high banker dredge/combo unit. Do I have to get a separate permit to use both? What about both in the same day? Same location? What if I had 10 different sized dredges, from a 2 inch backpacker model up to an 8 incher? Would I need a permit for each just to use them?

2). What the heck is this limit on no more than 6 locations to work with my dredge permit? List exact geographical locations too? Are you serious? How do I or any other dredger to know exactly where the gold is? We don't! I set up, work a while and check my sluice box. If nothing, I move on to another spot. What if my 6 locations all have nothing? I am what....out of luck for the year? Would I have to obtain another permit to work 6 new locations looking for gold? I may go to the SF American River one day and NF American the next day, and the Yuba River the third day....That's the joy & fun of prospecting.

Freedom is a founding principal of this nation, I have the right to work public lands, owned by us, the public, which includes the rivers, creeks & streams as a free man. Just silly to predetermine (or try) where the gold is... Oh, with exact specifics on where I plan to work, so criminals can come and target me and my equipment, or vandalize or harass me on the stream.

Would you tell a hunter to I.D. the 6 exact spots he plans to hunt a deer?

3). Additionally, having to give you the (approximate) dates of my dredging activities? Say what? I often don't even know myself.....work, weather, family situations all mean I may not know until the night before. I suspect it's so you can send you Fish & Game officers out to harass me, right? So as to not waste their time walking the stream to look at the HP rating of my engine, or if my dredge spot is close enough to their opinion as to my "exact" geographical location. If information on my whereabouts gets out, my home/property is wide open to thieves to come and rob me while I

am on the stream dredging. Really, what's the date of my prospecting to Fish & Game? Oh, more control...

As you can see, you and your department are out to use the power of government to ruin a great American pastime, gold prospecting. I have been a suction dredger for many years, and I can tell you we do a great service cleaning up the creeks & streams.....of heavy metals, such as lead, iron, mercury and such. The gold prospectors I know all treat nature and the environment a lot better than most. How a dredger working one, 6, a dozen dredge holes/spotsmaybe 10 feet around.....on thousands and thousands of miles of rivers/creeks/streams in California can be a supposed threat to "the environment" and fish is just silly. We mover inert creek material from one spot to another, separate out the gold, plus remove any heavy metals, and that's beneficial. When the annual floods come, the streambed resets itself, as it always does. It's really neat to actually have the trout and other fish come right into your dredge hole with you, feeding off any aquatic bugs stirred up, totally unafraid of you or your dredging.

I please ask you to reconsider your positions on these new Dept of Fish & Game regulations: all unwarranted bureaucracy, red tape, burden, cost. Delete, modify and otherwise put some REAL common sense into all this and let us suction dredgers enjoy or hobby as we have and as we help clean the streams in our great state.

Nothing was "broken" before.....don't try to "fix" something that was & is not broken.

Thank you,

Randy L. Witham
Recreational Gold Prospector

From: "Mark Yarbrough"
To: dfgsuctiondredge@dfg.ca.gov
CC:
Date: 04/24/2011 9:25:21 PM
Subject: Suction Dredge Permitting Program SEIR comment

Dear Mr Stopher,

I am writing to object to the findings and the suggested regulation changes as set out in the 2011 "Suction Dredge Permitting Program SEIR"

Executive Summary

Dump this extraordinarily flawed SEIR and continue with the 1994 regulations without change or further delay.

The long version

In general, I find this document heavily biased against suction dredge mining and specifically biased against the miners that are being deprived of their rights. The findings contained in the SEIR are devoid of sound scientific process. It is clearly a political policy shaping effort rather than an attempt to protect fish and wildlife in a way that affords equal protection under the law to all public land users.

That said, this is the hand CDFG has dealt no matter how distasteful and smarmy this bureaucratic exercise may be.

I specifically object to the following findings of "significant unavoidable impact":

Flawed SEIR finding 1. The effects of mercury resuspension and discharge from mining are significant unavoidable impacts.

Suction dredge mining should be listed as beneficial to the environment due to a net removal of mercury from the river system. You must consider that the presence of mercury in the river is **THE** problem. **Any mercury in the river will be re-suspended by natural forces during periods of high flow.** The only way to limit environmental impact is to remove the mercury. **SUCTION MINING REMOVES MERCURY FROM THE RIVER.** Re-suspension from dredging is insignificant relative to natural resuspension processes. Mercury removal by suction dredging is a HUGE benefit to the downstream ecosystem especially in light of the fact that **no natural forces are at work removing this toxin.**

Correct Finding: Suction dredging beneficial

Flawed SEIR finding 2. The effects of resuspension and discharge from mining of other trace metals are significant unavoidable impacts.

Same argument as number 1 above regarding heavy metals. Any other non-heavy metal toxins are dispersed by other means, dredging is not a factor.

Correct Finding: Suction dredging beneficial

Flawed SEIR finding 3. The effects on special status passerines (e.g. birds) associated with riparian habitats are significant unavoidable impacts.

Passerines utilizing riparian habitat have evolved to tolerate and thrive in a normally dynamic habitat. Yes- rivers are very dynamic. Where do you think those canyons came from to begin with?

Suction dredging creates habitat diversity that would not otherwise exist.

Correct Finding: Suction dredging beneficial

Flawed SEIR finding 4. Substantial adverse changes in the significance of historical resources are significant unavoidable impacts.

Biologists are absolutely not qualified to comment on this topic and it is covered under other regulations anyway. If historical resources could be impacted by dredging then they would already be impacted into oblivion. The fact is that this "impact" just does not occur.

Finding: No significant impact

Flawed SEIR finding 5. Substantial adverse changes in the significance of unique archaeological resources are significant unavoidable impacts.

Biologists are absolutely not qualified to comment on this topic and it is covered under other regulations anyway. Again, this "impact" just does not happen. If anything dredging may result in finding and preserving as yet unidentified resources. Why does CDFG think that a dredger would then destroy this new archaeological find? This type of prejudice is repulsive especially coming from public servant in a position of power.

Correct Finding: No significant impact

Flawed SEIR finding 6. Exposure of the public to noise levels in excess of city or county standards is a significant unavoidable impact.

OH MY GOD are you serious!!!!!!!!!!!!

Noise controls are already covered by societal norms and other regulations. If you want to eliminate all possible human impacts and stop all public land use - go ahead and try, but don't single out the miners.

We are talking about "Public use Lands". These are not wilderness areas or a case of trespass. I would assert that noise is a normal and historically accepted consequence of human presence in these lands.

There is no documented "excessive" noise issue with suction dredging. It should not count that someone just does not like any noise in public lands. No one has a right to a completely noise free environment while on public land. Or even adjacent to public lands for that matter.

Correct Finding: No significant impact

Flawed SEIR finding 7. Cumulative impacts on wildlife species and their habitats, turbidity and related discharges, and mercury resuspension and discharge are significant unavoidable impacts.

Again, Same as number 1 above. The cumulative impacts of leaving mercury in the system are even worse in the longer term. Suction dredging provide locally intense improvements in terms of desilting, habitat diversification and toxin removal. Rivers get turbid all by themselves - dredging turbidity is insignificant to the natural processes already present in the waterway.

Correct Finding: Suction dredging beneficial

Other problems with the SEIR:

Personal impact on miners

I strongly object to the lack of consideration the report gives to the hardship caused to citizens that directly suffer financial harm due to forced limitation of their livelihood and to others that are deprived of a beloved recreational activity.

Three foot stream bank exclusion zone:

This is clearly an arbitrary solution without a problem. It is just another example exposing the bias of this SEIR against suction dredging. Why 3 feet? Where is the exact point to start the measurement? Pure absurdity!

Additional stream and river exclusions zones and closure periods:

Just not needed. The 1994 regulations covers this just fine. CDFG already can close an area if needed.

The list goes on. Virtually every new regulation proposed in this SEIR is without merit, lacking of basis and scientific grounds.

I strongly request that DFG adopt the 1994 regulation option. It is sufficient to afford all necessary protections to fish and wildlife while maintaining a well regulated use of public lands.

This SEIR is a politically biased report:

I ask you and the others at CDFG to think about this:

This is an excerpt from the CDFG Law Enforcement Division oath (source CDFG web site)

(bold emphasis added by me)

California Department of Fish and Game Law
Enforcement Division
Policy Manual

"As a law enforcement officer, my fundamental duty is to serve the community¹; to safeguard lives and property²; to protect the innocent against deception, the weak against oppression or intimidation and the peaceful against violence or disorder³; and to respect the constitutional rights of all to liberty, equality and justice."

"I will never act officiously or permit personal feelings, prejudices, political beliefs, aspirations, animosities or friendships to influence my decisions. With no compromise for crime and with relentless prosecution of criminals, I will enforce the law courteously and appropriately without fear or favor, malice or ill will, never employing unnecessary force or violence and never accepting gratuities."

I doubt those involved in preparing this SEIR are required to take such an oath of office (perhaps you should) but at least your Law Enforcement Division has its head on straight. You should at least show some respect for your fellow employees and not burden the enforcement division with a bunch of new unenforceable regulations. If you do take an oath of office, could you please provide me with a copy because this SEIR would certainly place you in violation.

I am sorry for my tone here but if this matter was not so vital to the livelihoods of so many, this SEIR would be very comical.

Again, I strongly request that CDFG fix the biases in this SEIR and recommend adoption of the 1994 regulation option.
Thank you for your thoughtful consideration of my concerns in this matter.

Mark Yarbrough,
Environmental Biologist
Oceanographer
Small business owner
U. S. Citizen
and a responsible user of California public lands

Dear Sir:

I am sending a note along with the form letter, because, I don't have time to re-write a whole letter.

I just wanted to say, that, as a 1st year dredger (the year we were shut down), being mentored by a more experienced dredger, I was impressed by the effort put forth to not affect the environment - they all know it would shut them down faster than anything else.

It cost me over \$1500⁰⁰ to obtain \$100⁰⁰ worth of gold - cost of equipment repair, new wet suit, etc.

My mentor probably got a few hundred bucks worth - he's been doing this for 20+ yrs. He also had expenses, moving equipment, camping supplies, groceries, etc., which he purchased a lot of in Ureka - as I'm sure other miners did, thus, putting money into a sluggish economy.

Just some of my observations - Thank,
Warren Bagley

Mark Stopher

California Department of Fish and Game

601 Locust Street

Redding, CA 96001

Fax: (530) 225-2391 E-mail: dfgsuctiondredge@dfg.ca.gov

Dear Sir,

Please consider my following comments regarding the SEIR and Proposed Regulations for suction dredge mining in California:

SEIR Baseline is wrong: I take strong exception to the Department using an arbitrary and misleading baseline within the SEIR in an underhanded attempt to make the impacts from suction dredging appear greater than they really are, and in an attempt to marginalize the serious economic and social impacts to Americans which would result from your proposed regulations. You should use a proper baseline that is based upon existing dredge and small business activity under the 1994 regulations during the season before the moratorium was imposed.

Mercury is not a problem: Your SEIR relies unreasonably upon the unfounded conclusions of Charles Alpers' who has allowed his personal political agenda get in the way of real science. The SEIR does not give enough weight to the discovery by Rick Humphries Report of California Water Resources Control Board that normal gold dredges are effective at recovering at least 98% of the mercury from the bottom of California's waterways.

The SEIR does not acknowledge, based upon your own survey results, that suction dredgers have been removing over 7,000 ounces of mercury or more every year under the 1994 regulations from California's waterways. That amounts to 98,000 ounces during the 14 years we operated under the 1994 regulations! Adoption of the SEIR position would be fundamentally unreasonable in a context where the mercury is inevitably migrating downstream to areas where it is believed to be potentially harmful.

Since California State agencies are doing nothing to remove mercury from California's active waterways, it is grossly irresponsible to point the finger at suction dredgers who are the only ones that are removing the mercury, at no cost to the taxpayers!

Rather than reduce the amount of mercury which we are removing from the ecosystem, the responsible approach for State agencies would be to create a collection system in California which rewards dredge-miners for collecting and turning in mercury.

Identification requirement: The proposed regulations should allow visitors from other countries to use a foreign passport or driver's license as identification so they can apply for nonresident suction dredge permits. Otherwise, California will be discouraging the many visitors which we already receive that like to do their gold prospecting here.

DFG should not limit the number of suction dredging permits: There is no evidence presented in the SEIR that 14 years of dredging under the 1994 regulations ever harmed a single fish, much less threatened the viability of an entire species. What if I want to operate a dredge in some part of California where there would not be a deleterious impact? A limit on permits may prohibit me or someone else from using a suction dredge without a viable reason.

Allowing additional dredge permits after site inspection: In the event that DFG decides to impose (reasonable) limits in a blanket statewide permit program that will allow for most suction dredgers, I do not believe DFG has the authority to declare a wholesale prohibition to dredge mining in the other vast areas which exist on the public lands that would not be covered by the blanket permit. DFG has a site inspection mechanism allowing you to consider more individualized impacts in areas, and during time periods, when and where dredging would not be allowed in a statewide program.

Onsite inspections should be immediately signed off when approved: There should not be a delay in signing off on a site inspection in cases where DFG officials cannot identify a deleterious impact. There should be a time limit in the regulations in which the application will be approved or disapproved. Due process should be allowed if I desire to appeal an application which has been disapproved.

Prior existing rights on permit acquisition: There must be an allowance for prior existing rights on a limited permit program. Otherwise, dredge-miners who have already invested in property and equipment could potentially lose our prior existing right to work our mining claims or other mining opportunities (belonging to an association that provides access to mining property).

Statewide permits, if limited, should be transferable: Permits should be transferable if there is going to be a limit on the number allowed under a statewide program. Otherwise, miners will make the substantial investment into developing a viable mine and then not be able to transfer ownership to someone new who will be able to dredge it, therefore losing some or most of the value.

DFG should not further-limit the size of dredges under the statewide permitting program: I do not believe that DFG has the authority to step onto the public lands and impose a permit restriction upon the productive capacity of my dredge without also coming up with specific reasons why existing capacities under the 1994 regulations are creating a deleterious impact upon fish. Please leave nozzle restriction sizes as they were in the 1994 regulations. The regulations should also allow a wear tolerance factor on nozzle restrictor rings. I suggest 3/8 of an inch (diameter) is reasonable.

Allowing larger-sized nozzles after site inspection: If a dredger wants to operate a dredge having a larger nozzle than is allowed under a statewide permitting scheme, the Department should allow the activity as long as no deleterious impact can be determined through a site inspection.

DFG should not further-limit the places where dredging is allowed: This proposal is just supported by your "precautionary approach." Except for those areas where you can demonstrate that a deleterious impact has been created under the existing regulations, please leave our seasons as they have been since 1994.

Gold miners should be afforded due process, and should be allowed to proceed in areas which are not allowed under a statewide permit, as long as a site inspection cannot turn up evidence of a deleterious impact.

Reduction of our existing dredging seasons is unreasonable: I do not see that the SEIR contains evidence of a deleterious impact upon fish to support the reduction of existing dredging seasons that are in the 1994 regulations. This proposal is only supported by your “precautionary approach.” Except for those time periods where you can demonstrate that a deleterious impact has been created under the existing regulations, you leave our seasons as they have been since 1994.

The proposed 3-foot rule is unreasonable: The SEIR has not presented any real evidence that dredging within three feet of the streambank has ever harmed a single fish. This prohibition would prevent beginners, non-swimmers or children from starting closer to the shore where water is shallower and more safe. Prohibiting dredging within three feet of the edge of the river will eliminate a significant portion of the operational value (perhaps even all of it) on some dredging properties.

It would be more productive to provide better language describing what the “bank” is in relation to dredge mining. For example, is there a “bank” in relationship to a gravel bar out in the waterway that is partially out of the water? What about a bar alongside the waterway that is submerged during the spring, but emerges more and more out of the water as the dry season evolves? Existing language is not clear enough. The proper answer is to clear that up, rather than impose an additional buffer zone which reduces our mining opportunities.

Suction dredge regulations should not impose the requirement of Section 1600 Agreements: Fish & Game Section 5600 already allows a site inspection mechanism for the Department to determine if a dredging program is deleterious to fish. Therefore, also imposing a Section 1600 requirement upon dredgers who wish to mine at a time or location that is otherwise closed, or to use larger nozzle than is allowed under a statewide permit, when there is little or no chance the dredge project will create a substantial impact upon the bed or bank of the waterway, would be an unreasonable imposition upon dredge-miners. Nobody else in California is required to pursue a Section 1600 permit until their activity rises to the level of requiring one. It should not be any different for suction dredgers.

This also applies to the use of power winches, which provide the only safe and efficient means of progressing when some rocks are too heavy to move by hand, or they cannot be rolled over other rocks that are in the way. You should not impose a 1600 Agreement requirement upon a gold dredger unless the surface disturbance rises to the level which triggers Section 1600 of the Fish & Game Code.

Imposition of the 3/32-inch intake requirement on pumps is unreasonable: The 1994 regulations already prohibit dredge operation at times when fish may be too small to swim away from pump intakes as they are already being manufactured.

Most dredges today are being produced using 3/16th inch or 15/64th inch holes for the pump intakes. To avoid conflict, you should adopt something larger than the two hole sizes which are already being used on most dredges in California.

Allowance of permit locations must be more broad: Since existing regulations already set the times and places where dredging is not deleterious to fish, I do not see any practical reason to force dredge-miners to inform DFG exactly where they are dredging – and then hold them to the location unless the permit is amended.

Since I intend to prospect, I will not know the exact locations where I will be dredging at the time I apply for my permit. You should broaden the location requirement in your permit application to naming the waterways where I intend to work. This will allow me some flexibility to move around in search of gold without having to make an expensive trip to the closest Department license sales office to amend my permit.

The proposed dredge marking system is not workable: There is no practical way of attaching a sign to a small dredge! What does this have to do with preventing a deleterious impact upon fish?

If you must have an identification number on my dredge, you should eliminate the requirement of 3-inch number and allow the numbers to be marked either on the pontoons or the sluice box, but only if it is possible to do so. This would allow smaller numbers in the case of smaller dredges.

Fuel should be allowed within 100 feet of the waterway if kept within a water-tight container or a boat: I question your authority on placing any requirement upon suction dredgers in this matter, other than to prohibit the spillage of fuel. Millions of boaters all over California are allowed to keep fuel safely in their boats. Your proposed regulations would prohibit suction dredgers from doing the very same thing!

There are plenty of effective ways to prevent fuel from leaking into the waterway without making a dredge-miner hike 100 feet up the embankment. At the very least, fuel can be placed inside of a boat, or inside a sealed catch tub of some kind up on the embankment to prevent leakage. These catch tubs are already routinely part of a dredge program to assist with cleanup of concentrates.

Disturbance of mussel beds: It is unreasonable to propose that every suction dredger must now do a survey before dredging to make certain that there is no place within 30 feet downriver where more than 40 muscles per square yard exist before dropping tailings! Some rivers are so inundated with muscles; this imposition would amount to a suction dredge prohibition in a large part of the waterway! And why, since there are so many? How does the protection of mussels from dredge-miners conform to the language of Section 5653? Please drop this silly mussel idea from final regulations.


Returning the site to the pre-mining grade to the greatest extent possible: Since it is impossible to move tailings and rocks upstream against a swift current, the requirement to fill in our holes and level off our tailings is unrealistic.

Ample evidence shows that salmon are less likely to place their redds in a heaped tailing pile, than they are on a pre-mining grade which is inundated with unstable gravel; so your proposal will actually create more harm than good! The dredge holes which I leave behind create cool water refuges where salmon and other fish hold up during the warm summer months. My piled cobbles create protected habitat where fingerlings can hide from predators. It would be better for the fish if we just allow Mother Nature to settle things out in the next storm event.

Dredge mining between one half hour after sunrise to sunset: Your authority is limited to preventing a deleterious impact upon fish. Please drop this from proposed regulations and leave this particular concern to local authorities where it belongs.

Thank you very much for giving careful consideration to my comments and suggestions!

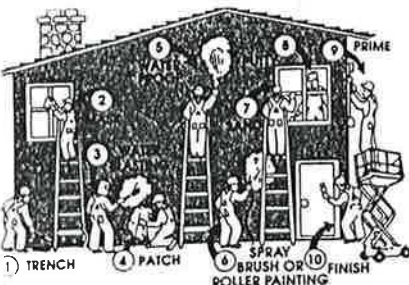
Sincerely,

WARREN C BAGLEY 7406 WILLET WAY, MONTAGUE, CA. 96064 4-25-11
Name and Address Date




PAGES: _____
DATE: _____

TROY BOCKUS
959 Kelvin Rd.
El Sobrante, Ca 94803



fax (510) 223-1199
cell (510) 812-4727

NAME: Mark Stephen

Best # to
CALL to TALK
TO ME.

ADDRESS: _____

TELE. # _____

FAX# _____

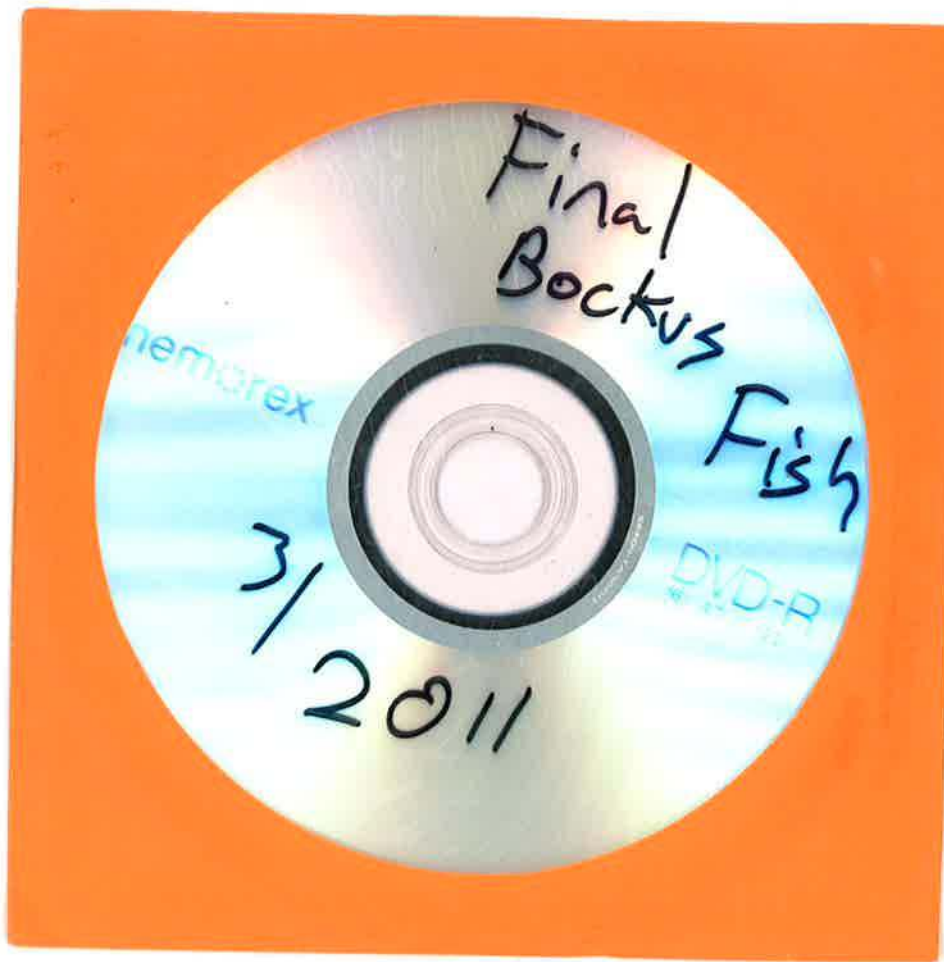
SUBJECT: THE RULES & LAWS ABOUT FUTURE

Dredging IN CALIFORNIA, I'm teamed up with
Northfork Dredgers ASSOCIATION I HAVE BEEN dredging SINCE

I WAS 12yrs OLD NO IM 36, I HAVE 100K IN PROPERTY
I BOUGHT BECAUSE OF THE GOLD, THE LAST couple yrs
I HAVE DONE GOOD, 1yr 5 lbs, 2 lbs, usually -
1/2 A POUND A year, finally making money AT Florida GOLD
if then they closed the season. Hopefully they DONT
MAKE US GO TO A 4" I HAVE A 8'x6"
ON private property NOT A CLAIM, I could write ALL
my Log But Im BUSY IF YOU HAVE ANY ?'S

CALL ME ANYTIME I made A Document on the
GOLD I Found, IN THAT I TOOK out parts & made
A 3 minute movie OF Fish Feeding AT the BACK OF
THE Dredge - I CAN ALSO send the Document to you to,

Troy Bockus



Final
Bockus Fish

3/
2011

nemorex

DVD-R

THE PROBLEMS IN THE LOWER YUBA

1. THE YEAR AROUND ICE WATER FROM BULLARD'S BAR CREATES A PERPETUAL WINTER. THERE IS NO TEMPERATURE BELL CURVE IN THE SUMMER FOR OTHER ORGANISMS TO BLOOM, HATCH OR GROW, EXCEPT SLIMEY MOSS. THE SALMON ARE NOT IN THE YUBA YEAR AROUND. BUT ONLY IN THE FALL, THE SAME WOULD BE ON LAND IF WE HAD A PERPETUAL WINTER, NO BUTTERFLIES, NO BUTTERFLIES, OR BIRDS NESTING, EVERYTHING WOULD BE DORMANT, A PERPETUAL WINTER.

- ALSO -
 2. THE SHOT ROCK SCOURED OFF THE SPILL DUMP ON P.G. & E. LANDS IN THE NARROWS BELOW ENGLE - BRIGHT DAM, DURING FLOOD STAGE HAS MIGRATED SOME 1 1/2 MILES DOWN STREAM ARMORING OUR LANDERS BAR AND VITAL SALMON SPAWNING HABITAT, WITH OVER 170,000 CUBIC YARDS OF THIS ALIEN PURPLE ROCK, DAMAGING ME AND MY LIVELY HORN. U.C. DAVIS DID A FIELD STUDY AND CONCLUDED THAT THE SHOT ROCK SHOULD BE REMOVED.

- AND -
 3. WITH ALL THIS DAMAGE DONE BY GOVERNMENTAL AGENCIES, WHICH IS CONSTANTLY IGNORED, THE ICE WATER AND SHOT ROCK, BUT ONLY FOCUSED ON SUCTION DREDGING WHICH DOES NO DAMAGE TO THEIR SO CALLED "FISHERY" "DISTURBING" COME SALMON OR GREEN STURGEON OR STIRRING UP MERCURY, BUT IN FACT SALMON COME IN TO SPAWN IN MY DREDGE TAILINGS. AND I HAVE PHOTOS OF IT.

- THEREFORE -
 4. THE GOLD DREDGE BAN IS UN-CONSTITUTIONAL AND WAS DREAMED UP BY A CABAL OF ENVIRONMENTALISTS WHO HAVE NEVER DREDGED OR KNOW WHAT THEY ARE TALKING ABOUT. THEY USE A SCARE TACTIC THAT SUCTION DREDGING "STIRRS UP" MERCURY. ① THE FACT IS: SUCTION DREDGING SUCKS UP MERCURY, LEAD, AND GOLD AND IS TRAPPED IN THE SLUICE BOX. ② ANOTHER FACT THAT IS IGNORED (BECAUSE IT DOESN'T FIT YOUR AGENDA) IS THAT GOLD DREDGING IN THE LOWER YUBA CREATES SPAWNING BEDS FOR THE SALMON, AND OTHER FISH SWARM IN TO FEED IN THE FRESH CLEAN GRAVELS. ③ NO DEMONSTRATABLE DAMAGE OR HARM HAS OR CAN BE PROVEN. AND IN CONCLUSION IT SEEMS TO ME THAT THE LIBERAL ENVIRONMENTALISTS ARE MORE CONCERNED WITH PRESERVING THEIR OWN POWER AND INFLUENCE THAN THEY ARE OF KNOWING AND FOLLOWING THE CONSTITUTION.
 5. SINGLE LANDERS BAR MINING CLAIM HAS BEEN IN MY FAMILY OVER 60 YEARS NOW. I HAVE A RIGHT TO DREDGE AND AT MY AGE I SHOULD BE GRANDFATHERED IN SINCE IM THE ONLY DREDGER IN THIS PART OF THE LOWER YUBA. FROM ENGLEBRIGHT TO PARKS BAR, SOME 3 1/2 MILES. HOW IN THE STRETCH OF THE IMAGINATION CAN I POSSIBLY DAMAGE OR INJURE ANYONE?

IN SPITE OF ALL THE FACTS (IT SEEMS TO ME) DOES NOT FIT YOUR AGENDA I.E. TO BAN GOLD DREDGING ENTIRELY. CRIPPLING THE INDUSTRY ON A HUNCH THAT IT MIGHT BE HARMFUL. THERE IS NO DEMONSTRATABLE DAMAGE PROVEN.
- P.S. PETER MUYLE OF U.C. DAVIS DID A STUDY OF THE EFFECTS OF SUCTION DREDGING ON THE N. FORK OF THE AMERICAN RIVER AND BUTTE CREEK. THE CONCLUSION: ANY EFFECTS OF SUCTION DREDGING IS HIGHLY LOCALIZED AND IS RECOLONIZED WITH INVERTEBRATES AND FISH WITHIN 24 HRS.

SINCERELY

James L. Butler (74)

12347 MOONEY BLVD
SMARTSVILLE CAL. 95377

SUCTION DREDGE PERMITTING PROGRAM

Draft Subsequent Environmental Impact Report (DSEIR)

Comment Form

Name:	JAMES L. BUTLER
Mailing Address:	12347 MOONEY FLAT ROAD
	SMARTSVILLE, CAL. 95977
Telephone No. (optional):	(530) 432-6744
Email (optional):	

Comments/Issues: THE FACTS SIMPLY ARE SUCTION DREDGING - CREATES NO SIGNIFICANT IMPACT ON FISH OR INVERTEBRATES OR ANY THING ELSE. ALL TRACES OF DREDGING ARE WASHED AWAY IN THE WINTER FLOOD SEASONS. IN MY 30+ YEARS EXPERIENCE IN GOLD DREDGING - IN ALL CASES, I CREATE SPAWNING HABITAT FOR THE SALMON. AND ATTRACTS OTHER FISH IN THAT FEED IN THE NEWLY EXPOSED GRAVELS. MY SLUICE BOX CAPTURES ALL HEAVY METALS, MERCURY, LEAD, AND GOLD. LANDERS BAR PLACER MINE 1 1/2 MILES FROM ENGLEBRIGHT DAM AT THE CONFLUENCE OF DEER CREEK AND YUBA RIVER IS "ARMORED" OVER WITH AN ESTIMATED (BY UC DAVIS) 170,000 CUBIC YDS OF SHOT ROCK FROM THE SPOIL DUMP JUST BELOW THE NARROWS II POWER HOUSE, HAS BEEN SCOURED OFF IN RECENT FLOODS HAS MIGRATED DOWN SOME 1 1/2 MILES ARMORING OVER VITAL SALMON SPAWNING HABITAT, THAT MAY AS WELL BE CONCRETE. IVE LIVED ON LANDERS BAR PLACER MINE SINCE 1975 AND HAS BEEN IN THE BUTLER FAMILY OVER 60 YEARS. I HAVENT MANY YEARS LEFT THAT ILL BE ABLE TO DREDGE AND THERE ARE NO OTHER DREDGERS ON THE YUBA, ENGLEBRIGHT TO PARKS BAR. ANY AND ALL DAMAGE TO THE ECOLOGY OF THE YUBA WAS DONE BY GOVERNMENTAL AGENCIES. I.E. THE SHOT ROCK AND ICE WATER FROM BULLARDS BAR DAM (600' HIGH) HAS KILLED THE LOWER YUBA OF ALL OTHER CRITTERS, BASS, FROGS, ETC WHEN THERE IS A PERPETUAL WINTER SINCE 1970 IN THE LOWER YUBA.

THE PERPETUAL ICE WATER YEAR AROUND?
SALMON DONT SPAWN UNTIL AFTER THE AUTUMN EQUINOX. SO, WHY
NORMAL-BELL CURVE. SEE ATTACHED SHEET.

Please use additional sheets if necessary.

SUBMIT WRITTEN COMMENTS (POSTMARKED BY 05/10/11) TO:

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

Email: dfgsuctiondredge@dfg.ca.gov

Fax: (530) 225-2391

Questions? Please call us at (530) 225-2275 • More information: www.dfg.ca.gov/suctiondredge

Mark Stopher
California Department of Fish and Game
Suction Dredge Program Draft SEIR Comments
601 Locust Street
Redding, CA 96001

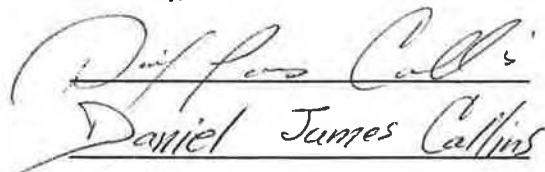
Please take notice that I am the owner of the Konas claim, located on Clear Creek in Sierraville County (Bureau of Land Management CAMC # 258929). I have reviewed your proposed regulations for suction dredging, which appear to forbid any and all suction dredge mining on my claim. Because suction dredging is the only practical method of mining the valuable underwater gold deposits on this claim, you are proposing to forbid all mining on my claim.

This is a violation of federal law forbidding material interference with my federally-protected mineral rights, and also constitutes an unconstitutional taking of my private property without just compensation.

I urge you to reconsider your proposed regulations. This area had strong fish runs for decades during and after hydraulic and other large scale mining, and there is no credible case whatsoever for harm to fish from small-scale suction dredging operations. A single fisherman with a good day on the river causes more damage to fish than all the suction dredge miners put together, and you allow the fishing. Focusing environmental regulation on an activity like suction dredging, which actually improves fish habitat, discredits your regulatory role generally.

If you do not reconsider, and allow me to mine my claim, you may rest assured that I and other miners will hold you accountable in the courts for your outrageously unlawful and arbitrary decisions.

Sincerely,


Daniel James Callins

Mr. Mark STOPHER

CDFG

601 Locust St

Redding CA 96001

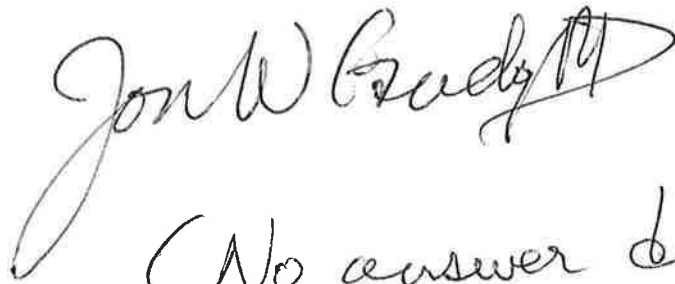
Dear Mr Stopher:

You know the verbiage relating to opposing dredging which I would support. A carpenter husband of a patient was most proud of the extra income he made with a diving facemask, tweezers and a test tube gathering flecks of gold from the American somewhere above Loomis. I supplied some test tubes. I doubt he had any environment impact. Mostly gold recovery is not w/o a price which is not born by the miners. Move to protect our rivers.

Jon W Candy MD

3673 Kingmont Ct

Loomis CA 95650

A handwritten signature in black ink that reads "Jon W Candy MD". The signature is written in a cursive, flowing style with a large loop at the end of the "y".

(No answer desired)

Webmail

042511_Fish4fun

Webmail

fish4fun05@embarqmail.com

± Font size :

Public Input to DSEIR

From : CenturyLink Customer <fish4fun05@embarqmail.com> **Mon, Apr 25, 2011 03:33 PM**
Subject : Public Input to DSEIR
To : Mark Stopher

I am among the many persons outside the State of California watching the DSEIR unfold. I belong to two gold mining associations active in your State. DFG's vision for the future of recreational mining in the State are disturbing. MONEY seems to play a large part in the State's decision making. DFG's website stats over the past 10 years show the following. In 2008 (the last full year dredging permits were issued) the DFG issued 44 million fishing, 258,000 hunting, and 3,479 dredge licenses. Total revenues from sales are up but that results from increased fees and not increased license holder numbers. Revenue from dredge license sales are nothing more than a drop in the bucket due to the relatively small number of the public engaged in this activity. Law enforcement citations have tripled since 2003, mostly involving fishing and hunting violations. Salmon violations account for a steady 3.5% each year. Everyone involved in these matters desire to help the struggling salmon populations not only in California but throughout the entire Pacific Northwest. Yet as a case in point consider the Klamath river system. Study after study prove beyond a reasonable doubt that dams are deleterious to fish. They warm the rivers, alter the natural flows, flood the rivers stem to stem with toxic algae blooms and destroy vital spawning grounds wholesale yet they remain until 2025. Why? Even the Karuk tribe in California who started this mess for the State signed off to allow this to continue another 5 years and why? MONEY! What money? Can you say Indian casino dreams? Its a win, win situation. The State gets tax revenue from the new casino, the tribe gets a bigger revenue stream and this helps the salmon how? In the mean time the big money power companies, ranching, cattle and logging interests just keep on doing what they have always done. Enter the DSEIR proposed by DFG. The evil 3,479 suction dredgers! If we over regulate, over supervise, and in general make it so cumbersome and difficult to comply with the new regulations they will just quit. When all else fails the double jeopardy clause which threatens revocation of their license to dredge permit holders for merely being cited but not convicted really is over the top. The glaring double standard the DFG envisions to enact against the recreational mining community is down right bullying. Consider the following example. Two families go a a river. One to camp and fish, one to dredge. Both need permits. Does the state DFG require the same information from each citizen? No! Could the camping family have stored fuel within 100 ft of water way? Yes. Could the dredging family? No. Does the camping family have to have 3 inch permit number visible? No. Dredging family yes. If the camping family wanted to move to another location they pack up and find a open spot (freedom). The dredging family? Apply to Redding District Office or permit changes not valid. Can DFG justify this double standard? The solution is simple apply equal licensing requirement on all recreational groups. The dates and open seasons are already listed and there already exists code 5650 to cover releasing contaminants into waters of state that cover all persons. No one recreational groups rights are more important than anothers even those that make up the largest amount of revenue derived from that activity. DFG exists as a service to its citizens and visitors not a business. Try taking the MONEY out of decision making processes and use facts not fiction. Thank you. Ernie Larum

North Fork Association
P.O. Box 909
Soda Springs, CA 95728

April 25, 2011

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

Re: North Fork American River Suction Dredge Program Draft SEIR Comments

Dear Mr. Stopher:

Please consider this an official comment letter from the North Fork Association on the draft Subsequent Environmental Impact Report (SEIR) prepared for the draft amended regulations that have been circulated by the California Department of Fish and Game (CDFG) and described in the following website: <http://www.dfg.ca.gov/suctiondredge/> According to this website, suction dredging of the North Fork American River would be permitted from Lake Clementine upstream to Big Valley Canyon from Sept 1 to 30 (Class G), and the other reaches of this river (including upstream to Heath Springs) would permit year-round suction dredging (Class H).

The North Fork Association has owned and managed a large reach of the North Fork American River from its headwaters downstream to Heath Springs to maintain its pristine character as a wild trout fishery for 110 years. The recent CDFG proposal to permit year-round suction dredging of the river downstream from Heath Springs appears to be entirely inconsistent with existing state and federal laws. The proposed regulations do not address the destructive impacts of suction dredging and they are difficult to enforce. Members of the North Fork Association are strongly opposed to the proposed regulations for the reasons provided below.

First, the proposal for suction mining is inconsistent with the Management Plan adopted by the state in 1977 in connection with the designation of the North Fork American River as part of the state Wild and Scenic River System. Section 5093.50 of the Legislative Declaration provides that the rivers within the system must be preserved for their extraordinary "...scenic, recreational, fishery, or wildlife values..." CDFG has also identified the North Fork as a Wild Trout Stream: "*The aquatic habitat, including water quality and bottom conditions, should be protected to preserve the quality of the native fishery.*" Permitting suction mining in the river would severely impact the ability of wild trout to survive and reproduce successfully. As discussed below, the North Fork including the river downstream from Heath Springs has also been designated as part of the Federal Wild and Scenic River System, which contains similar protective language.

Second, the proposed regulations do not provide sufficient protection for the fish, wildlife, and water quality of our rivers. Suction dredge mining will degrade the North Fork's exceptional water quality and clarity, as well as its extraordinary scenic, recreation, and fishery values. The North Fork, like other California rivers and streams, must be protected from the adverse impacts of suction dredge mining such

as pollution, sedimentation, and waste disposal. CDFG must analyze each individual river, and its tributaries, for adverse impacts from proposed regulations. A statewide basis for evaluation is inadequate and will lead to major adverse impacts on state- and federally-protected streams, including the North Fork American River.

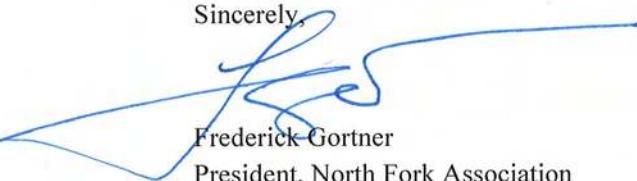
Third, mechanized or motorized equipment are not permitted under the federal Wild and Scenic Rivers Act (1968): *"It is hereby declared to be the policy of the United States that certain selected rivers of the Nation which, with their immediate environments, possess outstandingly remarkable scenic, recreational, geologic, fish and wildlife, historic, cultural or other similar values, shall be preserved in free-flowing condition, and that they and their immediate environments shall be protected for the benefit and enjoyment of present and future generations... Wild river areas are rivers or sections of rivers that are free of impoundments and generally inaccessible except by trail, with watersheds or shorelines essentially primitive and waters unpolluted."* (Public Law 90-542; 16 U.S.C. 1273-1287 et seq.). As a result of these proposed regulations, CDFG will be putting obstacles in the way of federal land managers (i.e., U.S. Forest Service, BLM) to protect the primitive character and unpolluted waters of the North Fork, increasing their enforcement load.

Fourth, CDFG regulations do not address the increased potential for trespassing on private lands and they are difficult to enforce. Our experience has shown that the miners bring lots of equipment and supplies down to the river but leave behind piles of trash (including batteries and fuel containers) that leach into the river. Even with a 14-day limit on camping, many miners stay much longer. Also, due to the narrow canyon, disposal of human waste is a problem; it accumulates in a few spots and leaches into the river. Both trash and human waste impact water quality, the fisheries, and human health. Rivers and streams should be closed to mining if state budget cuts result in insufficient CDFG wardens in the field to enforce the new regulations.

Suction dredge mining was prohibited along the North Fork under previous regulations due to its destructive effects on water quality and fisheries. Recreational and commercial mining is not a legitimate activity in California if it is done at the expense of the state's fish, wildlife, water quality, human health, and state-protected beneficial uses of our rivers and streams.

Please ensure that the extraordinary and outstanding values of the North Fork American River are fully protected and prevent suction dredge mining. The proposed regulations for suction dredge mining are completely inappropriate in the North Fork American River, incompatible with federal and state laws, and they are strongly opposed by our membership. Thank you for your consideration of our concerns.

Sincerely,



Frederick Gortner
President, North Fork Association

cc: Mr. Tom Quinn, Supervisor, Tahoe National Forest

Mark Stopher
Calif. Department Fish and Game
601 Locust Street
Redding, CA. 96001

April 25, 2011

Dear Mr. Stopher

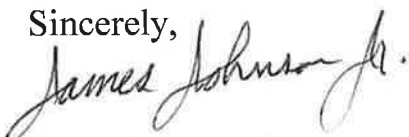
Please consider my following comments regarding the proposed regulations for suction dredging in Calif.

Please delete the following proposed regulations!!!!

- Limited number of dredge permits allowed. No!
- Max. nozzle size limit on the Klamath River. (allow six inch)
- Identification requirement. No!
- Changes of reducing dredging seasons. 1994 regs. Are perfect balanced use.
- Requirement of section 1600.
- Intake pumps screens size. No changes.
- Permit locations. Not your call. I don't know where and when. Unrealistic. Besides we have to let the local FS office know when we arrive now. Adequate

Dredgers are not the problem with low fish counts. Not even in the top ten reasons. So why are you going overboard on the proposed regs.?

Sincerely,



James Johnson Jr.
511 Calif. St.
PO box 413
Portola CA. 96122
530-832-4701

Subject: discontinuing dredging

Date: Monday, April 25, 2011 5:23:50 PM PT

From: jim katz

To: dfgsuctiondredge@dfg.ca.gov

The gold dredging in Calif. is not harming fish population at all. The big deal was with the indians and that woman from the bay area who did this.

I would say most rivers in Calif. are blocked by dams that prevent steelhead and salmon to their spawning grounds of old times. Just in my area, Oroville dam, Englebright dam, Nimbus dam, and up to shasta lake stop migration and spawning if these species.

Let us not forget that for 90 yrs !!! we had 170 salmon and steelhead hatcheries and now we only have 8. This is the biggest problem for the decline of these two species of fish. Also, let us not forget that the introduced striped bass eat most of the salmon and steelhead juvenals that California fish and game puts in our rivers to replenish these fish.

People who dredge for gold are also fishermen and hunters. We are paying your salaries !!! So

why are you working against us? We pay the highest fees in the united states for licenses and what do we get? You guys working against us. Most other states is about ten dollars for a fishing license. And you just have to increase the fee every year !

There is no reason for you guys or anybody to stop dredging. You could put a bounty on mercury and dredgers would clean even more up.

Any river that has a dam on it that stops anadromous fish from propagating should not have any stoppage of dredges above it. How many fish species have been brought into California that unbalance the original environment?

It is not the dredges !!! It is lack of hatcheries and stripers eating the young salmon and steel head fish that is put in the rivers.

What we need is to go back to the 170 hatcheries and have an open season all year for

stripers and any size is good.

I highly recommend that we seek monies from those other countries that benefit from our fisheries such as Japan and their fishing fleets to help pay for our hatcheries.

Have you guys ever heard the saying, "DON'T BITE THE HAND THAT FEEDS YOU?"

You keep doing this with higher fees and things like extra money for a two pole stamp.

Now the dredging deal. Shame on you guys.....

Subject: Hidden Action Species in Appendix L of the DSEIR
Date: Monday, April 25, 2011 2:33:02 PM PT
From: craig.lindsay@comcast.net
To: Mark Stopher
CC: Admin, CSP, Don Robinson, Eric Maksymyk, Jim Hutchings, Rick

Mark,

In Appendix L there are several line items that have the full listing of action species hidden, for example on Page 5.:

The following description is all that can be seen or printed:

[Butte County, Feather River, Mainstem to Lake Oroville, Class A, Chinook Salmon - \(Cental Valley](#)

BUT if you cut and paste from the document this is what shows up:

[Butte County, Feather River, Mainstem to Lake Oroville, Class A, Chinook Salmon - \(Cental Valley Spring Feather River, Feather River, Run\), Green Sturgeon.](#)

There are several more instances where some of the action species are hidden from view. It is difficult to comment on specific *Fish* species when they can't be easily read from the document.

Craig A. Lindsay
President, Norrth Fork Dredgers Association

Mark Stopher
Calif. Department Fish and Game
601 Locust Street
Redding, CA. 96001

April 25, 2011

Dear Mr. Stopher

Please consider my following comments regarding the proposed regulations for suction dredging in Calif.

The proposal **to limit the number** of dredge permits, is totally irrational. This must not happen. Anti dredging fanatics will buy up all permits.

No, no no. Delete this regulation!!!!

Why are you going so far overboard at pleasing the anti's? Especially since it's all a lie!

Please try to remember that our piddly efforts to move gravel are insignificant at most. If our dredges are harmful from stirring up mud, how the heck do any fish survive the spring and fall rain storms?

Last, since your closing most tributaries to the Klamath River, there is no need to restrict us to a 4 inch dredge on the Klamath. A double whammy that is plain wrong. No restrictions or at worst a 6 inch maximum, on the Klamath River.

Sincerely,



Les Martin
7005 Henley Rd.
Klamath Falls, Or. 97603
541-883-8920

Mark Stopher
Calif. Department Fish and Game
601 Locust Street
Redding, CA. 96001

April 25, 2011

Dear Mr. Stopher

If dredges are so bad for the rivers, please explain why the winter storms, moving the same dirt and mud in **massive quantities** are not deleterious to fish.

What the heck are the real reasons that the Indians and wacko – environmentalist are using to force the F & G Dept. to make such major changes to the 1994 regs... I do not understand how thy can make outrageous claims (lies) with no supportive intelligence. And that you comply with their demands.

Please delete the following proposed regulations!!!!

- Limited number of dredge permits allowed. No!
- Max. nozzle size limit on the Klamath River. (allow six inch)
- Changes of reducing dredging seasons. 1994 regs. Are perfect balanced use.

Dredgers are not the problem with low fish counts. Not even in the top ten reasons. So why are you going overboard on the proposed regs?

Sincerely,



Les Martin
7005 Henley Rd.
Klamath Falls, OR. 97603
541-883-8920

Mark Stopher
Calif. Department Fish and Game
601 Locust Street
Redding, CA. 96001

April 25, 2011

Dear Mr. Stopher

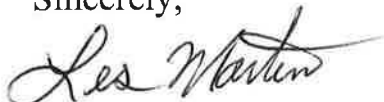
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- Requirement of section 1600.
- Intake pumps screens size. No changes.
- Permit locations. Not your call. I don't know where and when. Unrealistic. Besides we have to let the local FS office know when we arrive now. Adequate

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Sincerely,



Les Martin
7005 Henley Rd.
Klamath Falls, Or. 97603
541-883-8920

Mark Stopher
Calif. Department Fish and Game
601 Locust Street
Redding, CA. 96001

April 25, 2011

Dear Mr. Stopher

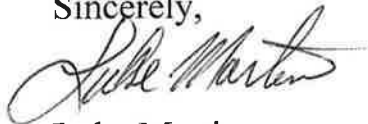
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Dredgers are not the problem with low fish counts. Not even in the top ten reasons. So why are you going overboard on the proposed regs.?

Sincerely,



Luke Martin
7005 Henley Rd.
Klamath Falls, Or. 97603
541-883-8920

Subject: Dredging permits

Date: Monday, April 25, 2011 12:58:22 PM PT

From: GordonCAFishing@aol.com

To: mstopher@dfg.ca.gov

Please don't stop recreational gold dredging in CA!! it's a great activity for families and doesn't harm the streams (the fish love it since it provides food for them!!) or the environment!!

Thank you,

Gordon McHenry

CAFishingShow.com

April 25, 2011

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

Mr. Stopher;

I will leave many of the details and impacts of suction dredging that could be permitted by the DFG to others. The one issue I will bring your attention to is elemental mercury from historic mining activities, or any mercury in any form that is naturally occurring in the watershed.

You cannot permit any activity that mobilizes mercury and increases the potential for development of methyl mercury. Human health, fish and wildlife health, and ecosystem health, especially in the downstream estuaries, just cannot afford the consequences.

Proceed scientifically and ethically on this issue. What you say and propose is what your and the Department's legacy will be.

Sincerely,



Richard Morat
2821 Berkshire Way
Sacramento, CA 95864

DSEIR

①

April 25, 2011

Mark Stopher
 Department of Fish and Game
 601 Locust St.
 Redding Ca. 96001

David Redeker
 2105 Ave B
 Bradenton Beach Fl.
 34217
 941 4473071

To whom this may concern:

I am in total agreement with the letters you have received from Craig Lindsay, and Dave McCracken, and I agree with everything Don Robinson has written you except the part about a priority given to California residents in the permitting process. So I won't be redundant with the points they already made.

Here are a few of my thoughts on gold dredging: I have been dredging gold in California rivers since 1978, mostly on the N. Fork of the American river. The reason I like the N. Fork best, is not so much for the gold which tends to be small and spotty, but the warm water temp. in the summer, (I can stay in the water all day)

Trout don't like warm water and we don't ever see them in the summer.

As far as the frogs go, they like stagnant water, marshes and mud puddles, none of which are good places to dredge!

Dredgers don't kill or eat frogs or disturb their tadpole puddles, and they move to fast to be dredged up.

There are lots of predators eating these beloved frogs, so maybe you could thin out some of the frog eating vermin, not the frog loving dredgers.

I have spent over \$10,000 on dredging equipment and over \$50,000 in California, N. Fork river property I bought with the sole intention to dredge.

I spend between \$5,000 and \$10,000 per year in Ca. dredging gold on permits, parts, fuel, food, ect.

(2)

When I was actively dredging I visited Ca. at least 4 times a year, and incouraged many others to vacation there, in the average dredging year I would spend about 120 total days a year in Ca. and lots of money. Now I spend about a week a year and allmost no money.

As far as aesthetics, the winter flooding makes sure there is not a trace of the previous years dredging activity.

The rock and gravel we move a few feet dredging, the river moves many miles during Winter flooding.

You know I don't know why I am even bothering to take the time to write this, but I must try. dredgers are Can-do people!

This matter is most likely decided, and our comments are fuetal.

I'll bet a bunch of slothfull, sidewalk people, using junk science and squewed study's have decided our fate months ago, and this is just a sham process of public comments!

I am 55 years old and don't have much time left, that I can run a 8 inch dredge a water depts up to 25 feet.

I like the whole dredgers lifestyle, living on site in the wilderness, I get in great shape, and have a real since of accomplishment from dredging!

I would prefer to not go over this again in federal Court, but I will be a part of the class action suit against the Fish and Game, and the state of California for monatory damages from a taking, and violation of my rights stated in the mining law of 1872. I would prefer to dredge while I'm still healthy enough to do it, please just leave us alone, we don't hurt anything or body!



David J. Redeker

Member of the North Fork Dredgers assn.
N.F. American river property owner

Ca. DFG

DSEIR COMMENT

Thoughts from a pissed off miner

It is about time we take back the country, I am mad as hell that our representatives don't act on our behalf. I am a miner and have been mining for the past 48 years doing the same thing year after year and along come the environmentalist and special interest groups that feel that I am infringing upon their rights and bang I am an unemployed miner. What makes it bad is that they have absolutely no evidence that we are harming the environment anymore than themselves getting up in the morning and taking a shower, washing their cloths, mowing there lawn, burning leaves and going to work all of which have environmental impact . What the hell is going on, they make us sound like murders of the planet life when studies have shown time and time again that we do nothing more than nature does only nature does it on a much grander scale .

Kill frogs? We don't kill frog's fishermen and rafters and predatory animals kill frogs along with fish, and anything else that are in their way. Fishermen kill fish, we feed the fish, we don't hike around squishing everything in our path, we work in the same area day after day and that is in the water making better fish habitat by breaking up the rock hard compacted gravels, removing harmful metals such as lead, mercury and debris, dams have created river habitat not fit for humans little alone for aquatic life by not letting nature flood the rivers on a yearly basses like it used to do; this would clean the rivers naturally. They raise the water level everyday causing it to be cold then let it down and it warms up, along with bringing down silt and moss like crap that fills in any slow spots on the river.

We Just finished trying to get the miners back to work introducing a bill SB657 with more than enough evidence to show that we don't harm the rivers but ourso called for the people representatives don't feel that the 4000 miners that were put out of work don't donate enough to their coffers to vote us bake to work. If there was a way to stop political donations from special interest groups such as the Sierra Club, Friends of the river etc., this world would be a much better place to live. It's alright for them to buy up all the land along the rivers and donate it back to BLM and Parks and Recreation with stipulations that no mining or minimal mining allowed but it is ok for them to put in horse trails, rafter landings and anything else that they enjoy along the rivers. It is not about the environment it is about domination. Fish and Game representatives fall under the I am afraid of losing my job if I fight for the right thing; man up and get us back to work.

Sincerely Martin Schumann

4848 Cabin Trail
Placerville, Ca 95667

Subject: Suction Dredge SEIR Comments

Date: Monday, April 25, 2011 1:08:09 PM PT

From: Gayl Staffler

To: dfgsuctiondredge@dfg.ca.gov

I have dredged a portion of the Middle Fork of the Yuba for over 15 years. This section of river is slated to have the normal season opener delayed due to a frog that isn't threatened or endangered but is a species of interest by dfg, usfs & blm. A study by Gary Fellers concerning the declining population of the foothill yellow-legged frog was done. This frog of interest exists in almost every county in California and throughout the Northwest. I agree that habitat due East of heavily populated areas and predators like the non-native German brown trout are impacting populations. When the impact of dredging has the words "likely" and "may be" the study becomes conjecture, not scientific. I would like to assure Mr. Fellers, as a matter of fact, the frogs and fauna are doing quite well.

Respectfully,

Ted Staffler

Mark Stopher
Calif. Department Fish and Game
601 Locust Street
Redding, CA. 96001

April 25, 2011

Dear Mr. Stopher

Please consider my following comments regarding the proposed regulations for suction dredging in Calif.

Please delete the following proposed regulations!!!!

- Limited number of dredge permits allowed. No!
- Max. nozzle size limit on the Klamath River. (allow six inch)
- Identification requirement. No!
- Changes of reducing dredging seasons. 1994 regs. Are perfect balanced use.
- Requirement of section 1600.
- Intake pumps screens size. No changes.
- Permit locations. Not your call. I don't know where and when. Unrealistic. Besides we have to let the local FS office know when we arrive now. Adequate

Dredgers are not the problem with low fish counts. Not even in the top ten reasons. So why are you going overboard on the proposed regs.?

Sincerely,



Art Sturgeon
7083 Henley Rd.
Klamath Falls, Or. 97603
541-882-0921

>>> audredger2 <audredger2@att.net> 4/25/2011 4:48 PM >>>

Dear Director McCamman

While I appreciate your concern for the “individuals and communities that rely on income from this industry will hopefully begin to recover from the economic losses they’ve experienced over the past few years”, I would urge you to become acquainted with the economic losses inflicted on the dredging community and the small mountain communities that rely on suction dredgers to spend money in support of their dredging activities. I certainly am going to send my comments to Mark Stopher regarding the DSEIR on suction dredging, but I did want to remind you that the financial losses from the current ban on dredging are also substantial and underestimated in the form 399’s on the DSEIR website.

Additionally, any of the proposed options for suction dredging will continue to harm the dredgers and the communities that rely on them for support. As DFG director, I think it important that your department consider these hardships before the final EIR is completed.

Respectfully,

Richard Wetzel
14 Year dredger in California
1250 Castle Creek Ridge Road
Newcastle, CA 95658

916-663-2699-home
916-316-4493-cell

Subject: Suction Dredge Program Draft SEIR Comments

Date: Tuesday, April 26, 2011 11:58:48 AM PT

From: John Adachi

To: dfgsuctiondredge@dfg.ca.gov

CC: Don Robinson

I'm writing to you to provide you with my comments on the Suction Dredge EIR.

The use of suction dredges should be encouraged as much as possible.

First of all, the use of suction dredges does not contribute any contaminant metals into the environment. The mercury is already in the environment. This mercury does not remain contained and isolated at the bottom of our waterways. Seasonal flooding and erosion will eventually release it all under uncontrollable conditions.

A study indicates that in the short term, **microscopic-size particles** of mercury may be discharged by suction dredging. However, suction dredges can remove the bulk deposits of mercury in our rivers and streams. Over the longer term (5 to 10 years), removing the bulk mercury deposits by suction dredging will result in less microscopic-size particles of mercury than leaving the bulk mercury deposits to be completely and uncontrollably discharged by natural forces. Over this longer term, any restriction of suction dredges results in worse water quality. An EIR should have been completed before the current moratorium on suction dredging was allowed

Considering the distribution of these deposits, encouragement of suction dredging is the only economical solution to reducing mercury in our rivers and streams.

John Adachi
1426 Arbor Avenue
Los Altos, CA 94024

APPENDIX G

SUCTION DREDGE PERMITTING PROGRAM

Supplemental EIR - CEQA Scoping Comment Form

Name:	Roberta Almercz
Mailing Address:	3791 Kroy Way Sac CA 95820
Telephone No. (optional):	916 - 453 - 9055
Email (optional):	Almercz30@Yahoo.com

Comments/Issues: This is regarding dredge-mining as was featured in the Sacramento Bee April 24th. I did some gold panning back in the day. Took down an area from green to bedrock in search of gold. It was fun, but like gambling brings out a certain madness or obsession. Gold fever is no joke, most of the gold pulled out is used to buy more equipment. MARRIGES sometimes fail when the wife & kids don't want to spend every weekend in the hills. Gold mining was almost as destructive as whiskey on it's impact to local indigenous people. It will be no friend to natives now. What is the impetus to opening up mining now? Is it not gold lust? Do not be misled. It can be a great hobby but it should be restricted.

Sincerely Roberta Almercz

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



DEPARTMENT OF CONSERVATION

Managing California's Working Lands

OFFICE OF MINE RECLAMATION

801 K STREET • MS 09-06 • SACRAMENTO, CALIFORNIA 95814

PHONE 916 / 323-9198 • FAX 916 / 445-6066 • TDD 916 / 324-2555 • WEBSITE conservation.ca.gov

April 26, 2011

VIA EMAIL: dfgsuctiondredge@dfg.ca.gov
ORIGINAL SENT BY MAIL

Mark Stopher
Environmental Program Manager
California Department of Fish and Game
601 Locust St.
Redding, CA 96001

Dear Mr. Stopher:

SUCTION DREDGE PERMITTING PROGRAM DRAFT SUBSEQUENT ENVIRONMENTAL IMPACT REPORT

The Department of Conservation's Office of Mine Reclamation (OMR) has reviewed the February 2011 Suction Dredge Permitting Program (Program) Draft Subsequent Environmental Impact Report (SEIR). The California Department of Fish and Game is proposing to amend their previous regulations governing suction dredge mining in California and issue suction dredge permits consistent with the proposed regulations. The fundamental purpose of the Program is to ensure that suction dredge mining will not be deleterious to fish.

The Surface Mining and Reclamation Act (SMARA), Chapter 9, Division 2 of the Public Resources Code, provides a comprehensive surface mining and reclamation policy with the regulation of surface mining operations to assure that adverse environmental impacts are minimized and mined lands are reclaimed to a usable condition. The suction dredging has the potential to cause channel degradation, loss of spawning habitat, lowering of groundwater levels, destruction of riparian vegetation, and increased stream bank erosion; all of which are impacts that SMARA is intended to prevent or minimize.

SMARA applies to all surface mining operations, including dredging, where the removal of overburden or mineral product exceeds 1,000 cubic yards and/or the total surface area disturbed exceeds one acre. Suction dredging activities that meet these criteria are considered surface mining operations pursuant to SMARA. Suction dredging activities that are the target of this SEIR will be limited in scope; but may trigger the SMARA 1,000 cubic yard threshold. Due to the nature of suction dredging, it can be problematic to determine when the

SMARA threshold is triggered. The SEIR should recognize the problem and develop recommended solutions for determining when SMARA would be triggered. For example, one alternative would be to identify measures that could be implemented for quantifying the volume of material being disturbed at each permitted location.

According to specifications presented by Keene Engineering, a suction dredge with a 4-inch nozzle has a dredge capacity of 5 yards per hour. At this rate, 1,000 cubic yards of material would be disturbed in as little as 200 hours of operation. If a 6-inch nozzle is used, 1,000 cubic yards of material would be disturbed within 56 hours of operation. Therefore, based on the nozzle configurations allowed by the proposed regulations, it is feasible to expect each suction dredge operation has the potential to exceed the thresholds for triggering SMARA. Another solution might be to require that dredges be equipped with a meter that would measure through-put over time that could be easily read by enforcement officials.

To further minimize the potential for adverse impact to the environment, the SEIR should evaluate how the proposed regulations will be enforced. For example, the SEIR could evaluate alternatives for what compliance measures will be in place to ensure suction dredging is occurring during the permitted time, in the permitted location, and only disturbing the permitted volume of material. A regulatory program to minimize the adverse effects of suction dredging will not be effective against illegal activities. The SEIR should identify and evaluate technology solutions that could be used to easily differentiate permitted activities from illegal activities, so enforcement can focus on illegal activities. An example might be to require permitted dredges be equipped with a gps tracking device.

The 'Non-Covered Activities' described in Section 2.2.1 of the Draft SEIR that are not considered suction dredging for the purposes of the Program have the potential to significantly impact the environment. Since suction dredge operators may utilize these non-covered activities as an alternative to complying with the proposed suction dredge regulations, they should be evaluated in the SEIR. To prevent or minimize the "activity", the scope of the SEIR should be expanded to consider the impacts of non-covered activities that can be used as an alternative to suction dredging.

If you have any questions on these comments or require any assistance with other mine reclamation issues, please contact me at (916) 323-9198.

Sincerely,



James S. Pompy, Assistant Director
Office of Mine Reclamation

Mark Stopher
California Department of Fish and Game
Suction Dredge Program Draft SEIR Comments
601 Locust Street
Redding, CA 96001

Please take notice that I am the owner of the Maple Bar claim, located on Dutch Creek in Trinity County (Bureau of Land Management CAMC # 294346). I have reviewed your proposed regulations for suction dredging, which appear to forbid any and all suction dredge mining on my claim. Because suction dredging is the only practical method of mining the valuable underwater gold deposits on this claim, you are proposing to forbid all mining on my claim.

This is a violation of federal law forbidding material interference with my federally-protected mineral rights, and also constitutes an unconstitutional taking of my private property without just compensation.

I urge you to reconsider your proposed regulations. This area had strong fish runs for decades during and after hydraulic and other large scale mining, and there is no credible case whatsoever for harm to fish from small-scale suction dredging operations. A single fisherman with a good day on the river causes more damage to fish than all the suction dredge miners put together, and you allow the fishing. Focusing environmental regulation on an activity like suction dredging, which actually improves fish habitat, discredits your regulatory role generally.

If you do not reconsider, and allow me to mine my claim, you may rest assured that I and other miners will hold you accountable in the courts for your outrageously unlawful and arbitrary decisions.

Sincerely,

Bernice P. Cressy
18650 Saddleback Rd.
Lottonwood, Ca. 96022

Mark Stopher
 California Department of Fish and Game
 Suction Dredge Program Draft SEIR Comments
 601 Locust Street
 Redding, CA 96001

Please take notice that I am the owner of the Maple Box claim, located on Dutch Creek in Trinity County (Bureau of Land Management CAMC # 294346). I have reviewed your proposed regulations for suction dredging, which appear to forbid any and all suction dredge mining on my claim. Because suction dredging is the only practical method of mining the valuable underwater gold deposits on this claim, you are proposing to forbid all mining on my claim.

This is a violation of federal law forbidding material interference with my federally-protected mineral rights, and also constitutes an unconstitutional taking of my private property without just compensation.

I urge you to reconsider your proposed regulations. This area had strong fish runs for decades during and after hydraulic and other large scale mining, and there is no credible case whatsoever for harm to fish from small-scale suction dredging operations. A single fisherman with a good day on the river causes more damage to fish than all the suction dredge miners put together, and you allow the fishing. Focusing environmental regulation on an activity like suction dredging, which actually improves fish habitat, discredits your regulatory role generally.

If you do not reconsider, and allow me to mine my claim, you may rest assured that I and other miners will hold you accountable in the courts for your outrageously unlawful and arbitrary decisions.

Sincerely,

Edwin J. Cressy
18650 SANDMEAD DR. #20
10170 DWOOD, CA 96022

From: "Michael Linvill"
To: mstopher@dfg.ca.gov
CC:
Date: 04/26/2011 8:47:35 PM
Subject: Comment on Suction Dredge Mining DSEIR

Dear Mark,

Unfortunately, gold mining in California has poisoned large areas of our landscape, especially to the water ways and mountain watersheds.

Suction dredge mining is still a process that negatively affects the environment, especially water quality. Toxins affect people as well as aquatic life and wildlife.

Millions of Californians depend on the local environment for a safe source of water. Accordingly, please adopt the No Action alternative.

Thank you.

Michael Linvill
1824 5th Avneue
San Rafael, CA 94901

Subject: Dredge Regs

Date: Tuesday, April 26, 2011 8:55:01 AM PT

From: Jim Randall

To: mstopher@dfg.ca.gov

Mark,

Well it looks like the suction dredging community has pulled the wool over the Departments eyes once again.

I am referring to the nozzle size/constrictor ring provision and dredge size for some waters in the proposed regulations. For your information, the requirement of placing a constrictor ring on a six or eight inch intake nozzle does absolutely nothing to restrict the amount of materiel the dredge is capable of moving per unit of operating time. In fact it increases the ability of the dredge to move material. The only thing the ring does is restrict the nozzle from sucking up a six or eight inch boulder, which they do not want to pick up anyway. Once again it appears these large dredges will be allowed. The small streams on the west slope can not survive dredges larger than two inches. In some cases even two inches is too large. These guys are so determined they change the whole physiology of the streams. The riffle - pool ratio is changed and the riffles left after dredging in a lot of cases are so shallow they are of no use to fish.

I am speaking from experience. I worked to protect the habitat of the many streams in Placer County for over twenty years. My training includes an AS degree in Fish and Wildlife Law Enforcement from Cabrillo Junior College in Santa Cruz County. The core classes in this course of study were taught by fish and game wardens, some of which were instrumental in the creation of the F&G Code 1600 series in the late '60's.

I am sorry I have not kept up with the EIR process and only became aware of it recently. It appears a golden opportunity has been lost to protect the resources of this state.

Jim Randall
Retired Fish and Game Warden
Foresthill
530-367-3211
jimran@ftcnet.net

Subject: Suction Dredge Program Draft SEIR Comments)

Date: Tuesday, April 26, 2011 3:23:37 PM PT

From: Jim at tachit

To: dfgsuctiondredge@dfg.ca.gov

April 26, 2011

Mr. Mark Stopher

California Department of Fish and Game

601 Locust St.

Redding, CA 96001

Dear Mr. Stopher:

I am writing to strongly encourage the California Department of Fish and Game to select the **No Program Alternative** as described in the *Draft Subsequent Environmental Impact Report and Draft Proposed Regulations* concerning the Suction Dredge Permit Program currently in hiatus under court order.

The proposal to allow suction dredging on our states rivers will have extremely deleterious effects on the native fish populations in many of small tributary rivers that dot the entire mother load region of the state. In particular the ability to use 8 inch intake nozzles on rivers such as the ones mentioned in P12 of the report will change the nature of stream beds, the insect populations and the well being of the fishery, not to mention the introduction of perilous holes that can endanger fishermen. To allow this to happen constitutes no less than a rape of the stream for the personal profit individual miners. We have all witnessed the effect of commercial dredging on our larger rivers and allow this to happen, even on a non-commercial basis, will have consequences that will last for ages.

At a time when the DFG is hard pressed to fund wardens to police our rivers for poachers, are we to believe that they will be able to find and prosecute violations of the restrictions placed on dredgers?

It is the responsibility of the state to protect our streams and waterways from activities that would destroy the natural habitat and fisheries for the sake of personal profit of individual miners. Many fishermen practice catch & release to mitigate the effect of their sport on the native fish populations. Dredge mining can and will change the course of our tributaries and destroy the ability of fish populations to sustain themselves by altering the nature of stream beds, the insect populations that inhabit the rocks and gravel, and eventually vegetation along stream banks.

Please adopt the **No Program Alternative**.

Sincerely,

Jim Scherer

Scherer Designs

Subject: comments

Date: Tuesday, April 26, 2011 8:45:22 PM PT

From: Foodtopia

To: dfgsuctiondredge@dfg.ca.gov

Suction dredge mining should be outlawed as too inherently destructive and dangerous to the environment.

John Stewart
Redway CA

Subject: Written comments

Date: Tuesday, April 26, 2011 8:04:40 AM PT

From: Michael Vickers

To: dfgsuctiondredge@dfg.ca.gov

To whom it may concern.

My name is Michael Vickers and I operate several mining claims in Onion Valley Creek (Plumas County) which is a small high altitude tributary of the Middle Fork of the Feather River.

I have issues with many of the proposed changes in California's suction dredge regulations. For example:

"The intake for the suction dredge pump shall be covered with screening mesh. Screen mesh openings shall not exceed 3/32 inch (2.38 mm) for woven wire or perforated plate screens, or 0.0689 inch (1.75 mm) for profile wire screens, with a minimum 27% open area."

This is unnecessary. There are no existing studies indicating the need for these small screens. The small holes will be constantly plugging up and will require constant attention. Where is the evidence of entrapment of aquatic lifeforms? No change necessary.

(k) Restrictions on Methods of Operation

(1) Motorized winching or the use of other motorized equipment to move boulders, logs, or other objects is prohibited, unless:

(A) The Department has conducted an on-site inspection and approved the proposed suction dredging operations in writing; and

How much will this cost? What are the timeframes for getting an onsite inspection? Given existing DF&G manpower resources how many onsite inspections can be performed in a season? Who is qualified to do these inspections and what would the requirements of such a permit be? Would this require an annual inspection? No change necessary.

(B) The permittee has a valid suction dredge permit; and

(C) The permittee has in their possession documentation of compliance with Fish and Game Code section 1602, subdivision (a), for the proposed suction dredging operations, including a copy of their notification to the Department; any response to the notification by the Department pursuant to Fish and Game Code Section 1602, subdivision(a)(4)(A)(i); and specific authorization from the Department for motorized winching if a Streambed Alteration Agreement is required.

(2) Winching, whether motorized or hand powered, must be conducted under the following provisions:

(A) Boulders and other material may only be moved within the current water level. No boulders or other material shall be moved outside the current water level.

- (B) Winching of any material embedded on banks of streams or rivers is prohibited.
- (C) Winching of any material into a location which deflects water into the bank is prohibited.
- (D) Nets and other devices may be used to collect cobbles and boulders by hand for removal from dredge holes providing the materials are not removed from within the current water level.
- (3) No person may suction dredge within three feet of the lateral edge of the current water level, including at the edge of instream gravel bars or under any overhanging banks.

This proposal would not be difficult to comply with in a larger river but it is an impossible restriction in a small creek. Late season, my creek is only four-five feet wide and is fairly shallow. In the past, I have winched boulders out of the stream (well below seasonal water line) and pulled them back close to where they were as I moved along. I see no impact of this practice as nature then moves those boulders where she wants them every spring run off. I challenge anybody to show me where I was dredging last year as there is no trace of my activity after the spring run off. I have always felt it is my responsibility to be a good steward of the land and conduct my operation with that in mind. This proposed change is unnecessary.

To move boulders within the wetted stream bed and not deflect water into the banks or create an obstruction is simply not possible in small creeks.

Lastly with a small creek, the restriction on not dredging within 3 feet of the lateral edge of the current water level makes my operation impossible. During the majority of the current (1994) May-October class E season my stream is less than six feet wide! How can I continue my operation and comply with this restriction? This proposal has the effect of a hard closure for small streams and is yet another unnecessary change.

(a) Suction Dredge Use Classifications

For purposes of these regulations, the following classes of suction dredge use restrictions apply in California's lakes, reservoirs, streams and rivers as specified:

- (1) Class A: No dredging permitted at anytime.
- (2) Class B: Open to dredging from July 1 through August 31.
- (3) Class C: Open to dredging from June 1 through September 30.
- (4) Class D: Open to dredging from July 1 through January 31.
- (5) Class E: Open to dredging from September 1 through January 31.
- (6) Class F: Open to dredging from July 1 through September 30.
- (7) Class G: Open to dredging from September 1 through September 30.
- (8) Class H: Open to dredging throughout the year.

My claims are listed as class E and are above 5,000 feet elevation. My water for the most part, comes from seasonal snow melt. It would be very rare to have enough water for me to continue operations beyond the first week of August. Also, my only access road is unmaintained and at an elevation above 6,400 feet. It becomes impassable with the first winter storm-usually late November and I will normally not regain access until early June. At this elevation, I have never seen a frog or even a crayfish. What is the purpose of changing the class E in water timing? Migratory fish are not an issue as my claims are well

above Oroville dam.

Changing the in-water times from existing for class E streams will have the effect a hard closure for my operation as my stream flow is far to low between September 1, and January 31st to support operations. In fact during years of low rainfall I have had to cease operations in mid July simply due to lack of water.

I also have concern for other lower elevation dredge operators with this new restriction. Winter comes early up here and I have seen major rivers like the Middle Fork of the Feather under several inches of ice long before the proposed season closure on January 31st. How can one safely dredge under several inches of ice? Under those conditions a simple diving problem could cause the death of the dredger as he/she may not be able to get to the surface.

This is a very dangerous and unnecessary change in in-water times.

I also have concern on the three foot rule-Riparian life forms. My ingress and egress is site specific meaning I have one path in and out and it crosses the stream several times to get to my work area because my claims lay in a narrow canyon. If the hope of the new proposals was to protect life forms in the riparian zone hikers or fishermen would also not be allowed to walk up and down this zone but clearly those groups are not included. It would also seem that swimmers would also be banned from the riparian zone. Under this proposed wouldn't rafters and kayak users as well be banned from riparian zones? Obviously this proposal favors certain user groups. Our activity and theirs, is less than significant and this is yet another unnecessary change and restriction.

What is the economic impact to this region? Plumas County draws suction dredge miners who occupy our motels, buy gas and groceries and use local services. A number of people in this area also supplement their incomes by suction dredge mining. My family earns much needed income from our small scale mining operation. The proposed regulations written by Mark Stopher seem to have but one purpose and that appears to use regulation to make suction dredging a non-viable activity. I see no study addressing the economic impact issues of these proposals.

I am not aware that the D.F.G. has any peer-reviewed evidence at this time that supports any Deleterious effect to fish and aquatic life. Therefore, there is no proven cause or negative impact to the environment, I cannot see any changes needed from the 1994 dredging regulations.

I feel the impact of my suction dredging is minuscule compared to the damage done by our annual spring run off and natural flooding which can (and does) literally rip up the entire stream bed from end to end. Obviously nature is the most destructive force present in the watershed.

Clearly California DFG. should be expected to make decisions based on facts, objective evidence and Peer reviewed science. To do otherwise would constitute a type of arbitrary and capricious conduct that is forbidden in our State and Federal Constitutions. It appears the new proposals fail to meet that bar and are unnecessary. I support no change in existing regulation.

Michael Vickers

165 Katherine Street
Quincy, CA. 95971

Subject: DEIR Comment

Date: Tuesday, April 26, 2011 9:23:05 AM PT

From: Steve Wandt

To: dfgsuctiondredge@dfg.ca.gov

From: Steve Wandt sjwandt@yahoo.com

Date: April 26, 2011 8:04:40 AM PDT

To: dfgsuctiondredge@dfg.ca.gov

Subject: Written comments

Mark Stopher,

My name is Steve Wandt and I operate several mining claims in Onion Valley Creek (Plumas County) which is a small high altitude tributary of the Middle Fork of the Feather River.

I have issues with many of the proposed changes in California's suction dredge regulations. For example:

"The intake for the suction dredge pump shall be covered with screening mesh. Screen mesh openings shall not exceed 3/32 inch (2.38 mm) for woven wire or perforated plate screens, or 0.0689 inch (1.75 mm) for profile wire screens, with a minimum 27% open area."

This is unnecessary. There are no existing studies indicating the need for these small screens. The small holes will be constantly plugging up and will require constant attention. Where is the evidence of entrapment of aquatic lifeforms? No change necessary.

(k) Restrictions on Methods of Operation

(1) Motorized winching or the use of other motorized equipment to move boulders, logs, or other objects is prohibited, unless:

(A) The Department has conducted an on-site inspection and approved the proposed suction dredging operations in writing; and

How much will this cost? What are the timeframes for getting an onsite inspection? Given

existing DF&G manpower resources how many onsite inspections can be performed in a season? Who is qualified to do these inspections and what would the requirements of such a permit be? Would this require an annual inspection? No change necessary.

(B) The permittee has a valid suction dredge permit; and

(C) The permittee has in their possession documentation of compliance with Fish and Game Code section 1602, subdivision (a), for the proposed suction dredging operations, including a copy of their notification to the Department; any response to the notification by the Department pursuant to Fish and Game Code Section 1602, subdivision(a)(4)(A)(i); and specific authorization from the Department for motorized winching if a Streambed Alteration Agreement is required.

(2) Winching, whether motorized or hand powered, must be conducted under the following provisions:

(A) Boulders and other material may only be moved within the current water level. No boulders or other material shall be moved outside the current water level.

(B) Winching of any material embedded on banks of streams or rivers is prohibited.

(C) Winching of any material into a location which deflects water into the bank is prohibited.

(D) Nets and other devices may be used to collect cobbles and boulders by hand for removal from dredge holes providing the materials are not removed from within the current water level.

(3) No person may suction dredge within three feet of the lateral edge of the current water level, including at the edge of instream gravel bars or under any overhanging banks.

This proposal would not be difficult to comply with in a larger river but it is an impossible restriction in a small creek. Late season, my creek is only four-five feet wide and is fairly shallow. In the past, I have winched boulders out of the stream (well below seasonal water line) and pulled them back close to where they were as I moved along. I see no impact of this practice as nature then moves those boulders where she wants them every spring run off. I challenge anybody to show me where I was dredging last year as there is no trace of my activity after the spring run off. I have always felt it is my responsibility to be a good steward of the land and conduct my operation with that in mind. This proposed change is unnecessary.

To move boulders within the wetted stream bed and not deflect water into the banks or create an obstruction is simply not possible in small creeks.

Lastly with a small creek, the restriction on not dredging within 3 feet of the lateral edge of the current water level makes my operation impossible. During the majority of the current (1994) May-October class E season my stream is less than six feet wide! How can I continue my operation and comply with this restriction? This proposal has the effect of a hard closure for small streams and is yet another unnecessary change.

(a) Suction Dredge Use Classifications

For purposes of these regulations, the following classes of suction dredge use restrictions apply in California's lakes, reservoirs, streams and rivers as specified:

- (1) Class A: No dredging permitted at anytime.
- (2) Class B: Open to dredging from July 1 through August 31.
- (3) Class C: Open to dredging from June 1 through September 30.
- (4) Class D: Open to dredging from July 1 through January 31.
- (5) Class E: Open to dredging from September 1 through January 31.
- (6) Class F: Open to dredging from July 1 through September 30.
- (7) Class G: Open to dredging from September 1 through September 30.
- (8) Class H: Open to dredging throughout the year.

My claims are listed as class E and are above 5,000 feet elevation. My water for the most part, comes from seasonal snow melt. It would be very rare to have enough water for me to continue operations beyond the first week of August. Also, my only access road is unmaintained and at an elevation above 6,400 feet. It becomes impassable with the first winter storm-usually late November and I will normally not regain access until early June. At this elevation, I have never seen a frog or even a crayfish. What is the purpose of changing the class E in water timing? Migratory fish are not an issue as my claims are well above Oroville dam.

Changing the in-water times from existing for class E streams will have the effect a hard closure for my operation as my stream flow is far to low between September 1, and January 31st to support operations. In fact during years of low rainfall I have had to cease operations in mid July simply due to lack of water.

I also have concern for other lower elevation dredge operators with this new restriction. Winter comes early up here and I have seen major rivers like the Middle Fork of the Feather under several inches of ice long before the proposed season closure on January 31st. How can one safely dredge under several inches of ice? Under those conditions a simple diving problem could cause the death of the dredger as he/she may not be able to get to the surface.

This is a very dangerous and unnecessary change in in-water times.

I also have concern on the three foot rule-Riparian life forms. My ingress and egress is site specific meaning I have one path in and out and it crosses the stream several times to get to my work area because my claims lay in a narrow canyon. If the hope of the new proposals was to protect life forms in the riparian zone hikers or fishermen would also not be allowed to walk up and down this zone but clearly those groups are not included. It would also seem that swimmers would also be banned from the riparian zone. Under this

proposed wouldn't rafters and kayak users as well be banned from riparian zones?
Obviously this proposal favors certain user groups. Our activity and theirs, is less than significant and this is yet another unnecessary change and restriction.

What is the economic impact to this region? Plumas County draws suction dredge miners who occupy our motels, buy gas and groceries and use local services. A number of people in this area also supplement their incomes by suction dredge mining. My family earns much needed income from our small scale mining operation. The proposed regulations written by Mark Stopher seem to have but one purpose and that appears to use regulation to make suction dredging a non-viable activity. I see no study addressing the economic impact issues of these proposals.

I am not aware that the D.F.G. has any peer-reviewed evidence at this time that supports any Deleterious effect to fish and aquatic life. Therefore, there is no proven cause or negative impact to the environment, I cannot see any changes needed from the 1994 dredging regulations.

I feel the impact of my suction dredging is minuscule compared to the damage done by our annual spring run off and natural flooding which can (and does) literally rip up the entire stream bed from end to end. Obviously nature is the most destructive force present in the watershed.

Additionally to all of the above, My jewelry business requires a constant supply of smaller screened nuggets. These kind of nuggets are rapidly dwindling due to the lack of availability from the ban on dredging.

Clearly California DFG. should be expected to make decisions based on facts, objective evidence and Peer reviewed science. To do otherwise would constitute a type of arbitrary and capricious conduct that is forbidden in our State and Federal Constitutions. It appears the new proposals fail to meet that bar and are unnecessary. I support no change in existing regulation.

Steve Wandt

5873 Cold Springs Dr
Foresthill, CA 95631

www.naturalgoldjewelry.com

Mr. Stopher,

My father-in-law and I own a claim on the Salmon River between French Creek and St. Clair Creek. This area, which is $\frac{1}{4}$ mile long, is what you want to eliminate dredging. Why? The facts that I have read regarding this are not true. In 1872 the federal government gave me the right to mine my federal claim. How is it that you can take my rights away? The General Mining Act of 1872 approved on May 10, 1872 codified the informal system of acquiring and protecting mining claiming on public land. All citizens of the United States 18 years or older have the right under the 1872 mining law to locate a lode or placer mining claim on federal lands open to mineral entry. In the United States Constitution, Article Six states that “the states constitutions and laws should not conflict with the laws of the federal constitution and that in case of a conflict; state judges are legally bound to honor the federal laws and constitution over the those of any state.” Federal law trumps state law.”

My claim is wall to wall bedrock so there is no way you could get anything to grow. The two times that I have been at my claim I have not seen any fish. Dredging is done when the fish are done with the spawn anyway. How many dredgers do you have on the panel? The Karak Indians claim that their rights are being taken away, what about mine? If you are going to take away the method that I need to accurately mine my claim then take away the Karak Indians right to use a net and have them use a fishing pole. What’s fair for one is fair for all. Dredging has been known to help the fish habitat with turning up the soil and removing mercury. I cannot utilize my claim then the state of California can pay us the value of our claim. I believe this figure is in the seven digits.

I believe that this is all political and bias. The state of California is suffering enough. Preventing dredgers from dredging will not bring any revenue to your state. It will in turn hurt the state because dredgers will not be spending money in California. When we came out there the dredge we spent quite a bit of money while we were there. We are losing time and money by not being able to dredge and this matter needs to be taken care of in a timely fashion.

Sincerely,
Tim Aldrich

Mark Stopher
California Department of Fish and Game
Suction Dredge Program Draft SEIR Comments
601 Locust Street
Redding, CA 96001

Please take notice that I am the owner of the Treasure Grove claim, located on Elk Creek in Siskiyou County (Bureau of Land Management CAMC # 258930). I have reviewed your proposed regulations for suction dredging, which appear to forbid any and all suction dredge mining on my claim. Because suction dredging is the only practical method of mining the valuable underwater gold deposits on this claim, you are proposing to forbid all mining on my claim.

This is a violation of federal law forbidding material interference with my federally-protected mineral rights, and also constitutes an unconstitutional taking of my private property without just compensation.

I urge you to reconsider your proposed regulations. This area had strong fish runs for decades during and after hydraulic and other large scale mining, and there is no credible case whatsoever for harm to fish from small-scale suction dredging operations. A single fisherman with a good day on the river causes more damage to fish than all the suction dredge miners put together, and you allow the fishing. Focusing environmental regulation on an activity like suction dredging, which actually improves fish habitat, discredits your regulatory role generally.

If you do not reconsider, and allow me to mine my claim, you may rest assured that I and other miners will hold you accountable in the courts for your outrageously unlawful and arbitrary decisions.

Sincerely,

Montine Blevins

3833 N. Fairview Avenue #35
Tucson, AZ 85705
Phone: 520 292 5655

April 27, 2011

RE: DREDGING

Dear Sir:

I would like to comment on the SEIR and proposed suction dredge regulations.

I am a private claim owner on Elk Creek in Siskiyou County. The claim name is "Gotta Go Bob", claim number 279663. I also belong to the New 49ers, LDMA and the GPAA. As you can see, I am seriously affected by some of your proposed regulations. I am deeply troubled by the fact that you are considering closing Indian Creek and Elk Creeks in Siskiyou County to all dredging.

This closure would render my claim on Elk Creek worthless. Is there a process for compensation if this passes or will a lawsuit against the CDFG be our only alternative?

Also, if the number of permits is limited will the private and prior permit holders be guaranteed a permit. I also feel we should not have to give the exact location of where we will be working. The clubs have numerous claims and we may want to move from one area to another without a bunch of bureaucratic paperwork.

The proposal to limit dredging within 3 feet of the bank is to open for bad interpretation of the rule, plus places some possible good gold recovery areas "off limits". It should be clearly defined, preferably using existing waterline.

Another suggestion, I would not be adverse to limiting the dredge size on Elk and Indian Creeks to 4" if this would keep these creeks open to dredging. I would also not like to see an increase in the price of non-resident dredge permit fees. I contribute substantially to the local economy when I am there for the summer.

Thank You


Ronald L. Burnside

Subject: Proposed Regulations- Calif.

Date: Wednesday, April 27, 2011 12:51:25 PM PT

From: aucc@juno.com

To: dfgsuctiondredge@dfg.ca.gov

CC: aucc@juno.com

There is more than enough "honest science" that proves that "small scale mining/dredging" has an insignificant impact to fish and habitat. The ultimate hypocrisy is when the Calif. DFG promotes the "recreational slaughter" of millions of fish with the fishing season when a million or more fishermen can enter the streams and rivers , trample through "sensitive spawning gravels" , clam and mussel beds to kill millions of fish just for the "fun" of itthen violet a simple "right to work" of miners through a scam best described as "protection pretense".

I look forward to the lawsuits.....

Clark Chase
Monroe , WA

Dear Mr. Stopher
 I know this is just another
 form letter and you probably won't
 pay much attention to it, but
 I believe what it says completely.

I have been a miner
 and dredger for 50 years and I
 have never seen a fish harmed by
 my activities. On the ~~contrary~~
 contrary the fish love to feed
 behind my dredge and in the
 holes I make.

I am 66 years old and
 I supplement my income from
 Social Security with my dredging,
 without it I would have to get
 food stamps.

So, would you please
 reconsider the changes in the
 dredging regulations.

Thank You.
 A very ~~concerned~~
 concerned
 miner
 Floyd R. Creson

Mark Stopher

California Department of Fish and Game

601 Locust Street

Redding, CA 96001

Fax: (530) 225-2391 E-mail: dfgsuctiondredge@dfg.ca.gov

Dear Sir,

Please consider my following comments regarding the SEIR and Proposed Regulations for suction dredge mining in California:

SEIR Baseline is wrong: I take strong exception to the Department using an arbitrary and misleading baseline within the SEIR in an underhanded attempt to make the impacts from suction dredging appear greater than they really are, and in an attempt to marginalize the serious economic and social impacts to Americans which would result from your proposed regulations. You should use a proper baseline that is based upon existing dredge and small business activity under the 1994 regulations during the season before the moratorium was imposed.

Mercury is not a problem: Your SEIR relies unreasonably upon the unfounded conclusions of Charles Alpers' who has allowed his personal political agenda get in the way of real science. The SEIR does not give enough weight to the discovery by Rick Humphries Report of California Water Resources Control Board that normal gold dredges are effective at recovering at least 98% of the mercury from the bottom of California's waterways.

The SEIR does not acknowledge, based upon your own survey results, that suction dredgers have been removing over 7,000 ounces of mercury or more every year under the 1994 regulations from California's waterways. That amounts to 98,000 ounces during the 14 years we operated under the 1994 regulations! Adoption of the SEIR position would be fundamentally unreasonable in a context where the mercury is inevitably migrating downstream to areas where it is believed to be potentially harmful.

Since California State agencies are doing nothing to remove mercury from California's active waterways, it is grossly irresponsible to point the finger at suction dredgers who are the only ones that are removing the mercury, at no cost to the taxpayers!

Rather than reduce the amount of mercury which we are removing from the ecosystem, the responsible approach for State agencies would be to create a collection system in California which rewards dredge-miners for collecting and turning in mercury.

Identification requirement: The proposed regulations should allow visitors from other countries to use a foreign passport or driver's license as identification so they can apply for nonresident suction dredge permits. Otherwise, California will be discouraging the many visitors which we already receive that like to do their gold prospecting here.

DFG should not limit the number of suction dredging permits: There is no evidence presented in the SEIR that 14 years of dredging under the 1994 regulations ever harmed a single fish, much less threatened the viability of an entire species. What if I want to operate a dredge in some part of California where there would not be a deleterious impact? A limit on permits may prohibit me or someone else from using a suction dredge without a viable reason.

Allowing additional dredge permits after site inspection: In the event that DFG decides to impose (reasonable) limits in a blanket statewide permit program that will allow for most suction dredgers, I do not believe DFG has the authority to declare a wholesale prohibition to dredge mining in the other vast areas which exist on the public lands that would not be covered by the blanket permit. DFG has a site inspection mechanism allowing you to consider more individualized impacts in areas, and during time periods, when and where dredging would not be allowed in a statewide program.

Onsite inspections should be immediately signed off when approved: There should not be a delay in signing off on a site inspection in cases where DFG officials cannot identify a deleterious impact. There should be a time limit in the regulations in which the application will be approved or disapproved. Due process should be allowed if I desire to appeal an application which has been disapproved.

Prior existing rights on permit acquisition: There must be an allowance for prior existing rights on a limited permit program. Otherwise, dredge-miners who have already invested in property and equipment could potentially lose our prior existing right to work our mining claims or other mining opportunities (belonging to an association that provides access to mining property).

Statewide permits, if limited, should be transferable: Permits should be transferable if there is going to be a limit on the number allowed under a statewide program. Otherwise, miners will make the substantial investment into developing a viable mine and then not be able to transfer ownership to someone new who will be able to dredge it, therefore losing some or most of the value.

DFG should not further-limit the size of dredges under the statewide permitting program: I do not believe that DFG has the authority to step onto the public lands and impose a permit restriction upon the productive capacity of my dredge without also coming up with specific reasons why existing capacities under the 1994 regulations are creating a deleterious impact upon fish. Please leave nozzle restriction sizes as they were in the 1994 regulations. The regulations should also allow a wear tolerance factor on nozzle restrictor rings. I suggest 3/8 of an inch (diameter) is reasonable.

Allowing larger-sized nozzles after site inspection: If a dredger wants to operate a dredge having a larger nozzle than is allowed under a statewide permitting scheme, the Department should allow the activity as long as no deleterious impact can be determined through a site inspection.

DFG should not further-limit the places where dredging is allowed: This proposal is just supported by your "precautionary approach." Except for those areas where you can demonstrate that a deleterious impact has been created under the existing regulations, please leave our seasons as they have been since 1994.

Gold miners should be afforded due process, and should be allowed to proceed in areas which are not allowed under a statewide permit, as long as a site inspection cannot turn up evidence of a deleterious impact.

Reduction of our existing dredging seasons is unreasonable: I do not see that the SEIR contains evidence of a deleterious impact upon fish to support the reduction of existing dredging seasons that are in the 1994 regulations. This proposal is only supported by your "precautionary approach." Except for those time periods where you can demonstrate that a deleterious impact has been created under the existing regulations, you leave our seasons as they have been since 1994.

The proposed 3-foot rule is unreasonable: The SEIR has not presented any real evidence that dredging within three feet of the streambank has ever harmed a single fish. This prohibition would prevent beginners, non-swimmers or children from starting closer to the shore where water is shallower and more safe. Prohibiting dredging within three feet of the edge of the river will eliminate a significant portion of the operational value (perhaps even all of it) on some dredging properties.

It would be more productive to provide better language describing what the "bank" is in relation to dredge mining. For example, is there a "bank" in relationship to a gravel bar out in the waterway that is partially out of the water? What about a bar alongside the waterway that is submerged during the spring, but emerges more and more out of the water as the dry season evolves? Existing language is not clear enough. The proper answer is to clear that up, rather than impose an additional buffer zone which reduces our mining opportunities.

Suction dredge regulations should not impose the requirement of Section 1600 Agreements: Fish & Game Section 5600 already allows a site inspection mechanism for the Department to determine if a dredging program is deleterious to fish. Therefore, also imposing a Section 1600 requirement upon dredgers who wish to mine at a time or location that is otherwise closed, or to use larger nozzle than is allowed under a statewide permit, when there is little or no chance the dredge project will create a substantial impact upon the bed or bank of the waterway, would be an unreasonable imposition upon dredge-miners. Nobody else in California is required to pursue a Section 1600 permit until their activity rises to the level of requiring one. It should not be any different for suction dredgers.

This also applies to the use of power winches, which provide the only safe and efficient means of progressing when some rocks are too heavy to move by hand, or they cannot be rolled over other rocks that are in the way. You should not impose a 1600 Agreement requirement upon a gold dredger unless the surface disturbance rises to the level which triggers Section 1600 of the Fish & Game Code.

Imposition of the 3/32-inch intake requirement on pumps is unreasonable: The 1994 regulations already prohibit dredge operation at times when fish may be too small to swim away from pump intakes as they are already being manufactured.

Most dredges today are being produced using 3/16th inch or 15/64th inch holes for the pump intakes. To avoid conflict, you should adopt something larger than the two hole sizes which are already being used on most dredges in California.

Allowance of permit locations must be more broad: Since existing regulations already set the times and places where dredging is not deleterious to fish, I do not see any practical reason to force dredge-miners to inform DFG exactly where they are dredging – and then hold them to the location unless the permit is amended.

Since I intend to prospect, I will not know the exact locations where I will be dredging at the time I apply for my permit. You should broaden the location requirement in your permit application to naming the waterways where I intend to work. This will allow me some flexibility to move around in search of gold without having to make an expensive trip to the closest Department license sales office to amend my permit.

The proposed dredge marking system is not workable: There is no practical way of attaching a sign to a small dredge! What does this have to do with preventing a deleterious impact upon fish?

If you must have an identification number on my dredge, you should eliminate the requirement of 3-inch number and allow the numbers to be marked either on the pontoons or the sluice box, but only if it is possible to do so. This would allow smaller numbers in the case of smaller dredges.

Fuel should be allowed within 100 feet of the waterway if kept within a water-tight container or a boat: I question your authority on placing any requirement upon suction dredgers in this matter, other than to prohibit the spillage of fuel. Millions of boaters all over California are allowed to keep fuel safely in their boats. Your proposed regulations would prohibit suction dredgers from doing the very same thing!

There are plenty of effective ways to prevent fuel from leaking into the waterway without making a dredge-miner hike 100 feet up the embankment. At the very least, fuel can be placed inside of a boat, or inside a sealed catch tub of some kind up on the embankment to prevent leakage. These catch tubs are already routinely part of a dredge program to assist with cleanup of concentrates.

Disturbance of mussel beds: It is unreasonable to propose that every suction dredger must now do a survey before dredging to make certain that there is no place within 30 feet downriver where more than 40 muscles per square yard exist before dropping tailings! Some rivers are so inundated with muscles; this imposition would amount to a suction dredge prohibition in a large part of the waterway! And why, since there are so many? How does the protection of mussels from dredge-miners conform to the language of Section 5653? Please drop this silly mussel idea from final regulations.

Returning the site to the pre-mining grade to the greatest extent possible: Since it is impossible to move tailings and rocks upstream against a swift current, the requirement to fill in our holes and level off our tailings is unrealistic.

Ample evidence shows that salmon are less likely to place their redds in a heaped tailing pile, than they are on a pre-mining grade which is inundated with unstable gravel; so your proposal will actually create more harm than good! The dredge holes which I leave behind create cool water refuges where salmon and other fish hold up during the warm summer months. My piled cobbles create protected habitat where fingerlings can hide from predators. It would be better for the fish if we just allow Mother Nature to settle things out in the next storm event.

Dredge mining between one half hour after sunrise to sunset: Your authority is limited to preventing a deleterious impact upon fish. Please drop this from proposed regulations and leave this particular concern to local authorities where it belongs.

Thank you very much for giving careful consideration to my comments and suggestions!

Sincerely,

Floyd R. Cusson
Name and Address P.O. B. 719
Brentwood, Ca -
94513

4/24/2011
Date

Subject: SEIR

Date: Wednesday, April 27, 2011 8:19:31 PM PT

From: Darrell DeMontes

To: mstopher@dfg.ca.gov

CC: Darrell DeMontes

Dear Mark Stopher,

Reasonable is the word that you and your research staff should consider. (definition - having sound judgement - fair and sensible). This should be based on good sense, not on political or environmental ruderick or influence by others. You should consider changing the Class A areas and opening them as before, at least, with acceptable limitations. Consider smaller nozzle size and a shorter season. At least, come up with something REASONABLE!

Money would be better spent when looking into deleterious situations that kill fish. One is pollution from waste water and sludge being dumped into our waterways. Dredgers do not pollute the streams or waterways! They only move original material that is already in the stream bed. Each and every year, high water during winter and the opening of the water flow from dams, create more turbidity than all dredgers put together - and you know this!!

Stand up for your inner thoughts and show both sides of your studies. Open up all streams, don't just clump them into Class A for reasons of narrowing or choking out all dredging. You are the one in charge. I'm sure you are a good person. Do what you know is honest and true. Show both sides. Our rights in this country are being removed at a slow rate. Let's not continue to go down this path! This is just one small additional deprivation that takes opportunity away from all of us - you included.

Signed,

Darrell DeMontes
18814 Starduster Dr
Nevada City, CA 95959
(530) 432-9380

Subject: Attn: Mark Stopher
Date: Wednesday, April 27, 2011 8:28:05 AM PT
From: Philip DeRiemer
To: dfgsuctiondredge@dfg.ca.gov

Hello Mark,

Please take a look at the below email string. It appears I sent an email to you back in 2009 with regards to my stand on suction dredging- I am opposed. Just yesterday I received a response from a Ron Morris with the email address of goldminer011@yahoo.com containing my original email. I am guessing he is not from your department and am wondering how he came to have my email address. Thought you might want to look into this.

Sincerely,

Philip DeRiemer
phil@adventurekayaking.com
www.adventurekayaking.com
 (866) 529-2566

Begin forwarded message:

From: Ron Morris <goldminer011@yahoo.com>
Date: April 25, 2011 11:37:49 AM PDT
To: phil@adventurekayaking.com
Subject: SAD STORY!!!

THIS IS SUCH A SAD STORY PHIL, THE DREDGERS WILL NEVER GO AWAY
 GET USE TO SEEING THEM!!!! ROFL

From: "Phil DeRiemer" <phil@adventurekayaking.com>
 To: <dfgsuctiondredge@dfg.ca.gov>
 Date: 11/30/2009 6:43 PM
 Subject: Suction dredging
 Mark Stopher
 California Department of Fish and Game
 601 Locust Street
 Redding, CA 96001
 November 30th, 2009

Dear Mr. Stopher,

I am writing to add my voice to the number of people that are opposed to suction mining. I am not a biologist, nor a hydrologist so I have no hard facts to fall back on other than personal experience. I have been a river runner for close to thirty years. My local river, the South Fork of the American allowed suction dredging up until the recent ban. I have paddled extensively on the California Salmon, Klamath and Trinity rivers where suction dredging has been highly evident in the past. The materials displacement, sediment plumes, overall effect of water quality and noise are obvious to anyone observing suction dredging. Today's mining laws are long

overdue for an overhaul and suction dredging is a worthy place to start.

Sincerely,

Phil DeRiemer

P.O. Box 559

Lotus, CA. 95651

Mark Stopher
 California Department of Fish and Game
 Suction Dredge Program Draft SEIR Comments
 601 Locust Street
 Redding, CA 96001

Please take notice that I am the owner of the Rush Creek ^{#2 #1} claim, located on Rush Creek in Trinity County (Bureau of Land Management CAMC # 296056). I have reviewed your proposed regulations for suction dredging, which appear to forbid any and all suction dredge mining on my claim. Because suction dredging is the only practical method of mining the valuable underwater gold deposits on this claim, you are proposing to forbid all mining on my claim.

This is a violation of federal law forbidding material interference with my federally-protected mineral rights, and also constitutes an unconstitutional taking of my private property without just compensation.

I urge you to reconsider your proposed regulations. This area had strong fish runs for decades during and after hydraulic and other large scale mining, and there is no credible case whatsoever for harm to fish from small-scale suction dredging operations. A single fisherman with a good day on the river causes more damage to fish than all the suction dredge miners put together, and you allow the fishing. Focusing environmental regulation on an activity like suction dredging, which actually improves fish habitat, discredits your regulatory role generally.

If you do not reconsider, and allow me to mine my claim, you may rest assured that I and other miners will hold you accountable in the courts for your outrageously unlawful and arbitrary decisions.

Sincerely,

Lu K. Greer
593 Elder St.
Vacaville, CA 95688
 Phone 707 448 5827

Over

Dear Sir,

Most of my complaints have been listed in the information you have received so far, I could list dozens of reasons I think this is wrong, however I will just add that I have cleaned my claim areas of tons of garbage including old auto parts, engines and having met many of the claim owners around me they have been cleaning their areas also, so my point is we are helping the environment in this way also.

Thanks for reading
Sue Greer

April 27, 2011

The California Department of Fish & Game
601 Locust Street
Redding, California 96001

To: Mark Stopher & The California Department of Fish & Game,

Since the Merced River became a "wild and scenic" river, there is no new mineral entry allowed which has resulted in very few dredges on this river. I have had a claim on the Merced since 1975, and was "grandfathered" in as this was before "wild and scenic" took effect. I also have to put up a \$2,000 bond and would lose this if I altered the river in any way (which has never happened), including the banks of the river which is in the "plan of operations" required by the bureau of land management, amongst many other restrictions.

As far as mercury is concerned, what minuscule amount is dredged up is caught in the sluice box, put in the concentrates and burned off at a later date.

There are no red or yellow legged frogs in this area, but plenty of bullfrogs that would prey on them if they were there.

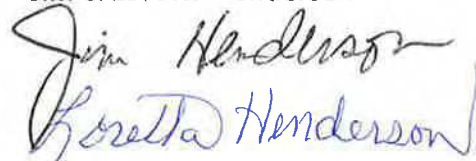
Not all applicants for dredge permits have a dredge. My wife, nephew, and occasionally a friend or two will apply for a permit to help me out as I am handicapped with two herniated discs in my back and I have emphysema. I usually dredge two hours in the morning and the same in the afternoon, and this has little if any impact on the river. This is with a six inch dredge with a Briggs & Stratton engine. A restricted nozzle should not be required. Therefore I request the rules and regulations be maintained as they are.

The only threat to the flora and fauna in the Merced River corridor is The El Portal sewage plant which overflows or just pumps sewage into the river. I spoke to Mark Stopher briefly about this at the meeting held in Santa Clarita. He told me they receive a fine every time this happens, but it does not STOP it!! Also your weekend campers pollute more than dredgers ever have with trash, beer cans, bottles, broken glass, diapers, etc. etc.

Again, keep the rules and regulations as they are. I am an avid trout fisherman as well as a dredger and am very concerned about the environment. The main things the Fish and Game need to worry about on The Merced River are the El Portal sewage plant, and the weekend campers.

Thank you for your consideration,

Jim & Loretta Henderson

Handwritten signatures of Jim and Loretta Henderson in blue ink. The signature for Jim is written above the signature for Loretta.

PS: Over 40 years on the Merced River!

**Mark Stopher
California Department of Fish and Game
Suction Dredge Program Draft SEIR
Comments 601 Locust Street
Redding, CA 96001**

Hi, I'm one of the owners of the Donna Jean Claim, located on the Humbug Creek In Siskiyou County (Bureau of Land Management CACM #293648).

I have reviewed your proposed regulations for suction dredging, which would appear to prohibit any and all suction dredge mining on my claim. Because suction dredging is the only practical method of mining the valuable underwater gold deposits on this claim, you are proposing to forbid all mining on my claim.

I urge you to reconsider your proposed regulations. This area had strong fish runs for decades during and after hydraulic and other large scale mining, and there is no credible case whatsoever for harm to fish from small-scale suction dredging operations.

This is a violation of federal law forbidding material interference with my federally-protected mineral rights, and also constitutes an unconstitutional taking of my private property without just compensation.

Please take notice that if you do not reconsider, and allow me to mine my claim, you may rest assured that I and other miners will hold you accountable in the courts for your outrageously unlawful and arbitrary decisions.

Sincerely,

John Morrissey

310 324-0491

Subject: Re: New Suction Dredging Regulations
Date: Wednesday, April 27, 2011 1:48:50 PM PT
From: g lloyd
To: dfgsuctiondredge@dfg.ca.gov

Attn: *Mark Stopher*

I attended the meeting in Yreka March 30th.

Every prospector that spoke made valid points at the meeting.

The regulations for dredging will affect not only now but will stun future economic growth for Siskiyou County and throughout the State of California.

Who's to say that an allowed limit of 4000 permits to prevent a group of people from buying out the permits? It certainly is possible and very unfair. I think having a limit on permits will not work.

Please go back to 1994 regulations.

Dredging does not effect the fishing industry, nor does it effect rafters. I think fishing has more effect on our waters and streams from the lead left behind, killing and poaching fish and the use of illegal nets. Look at the unlimited permits allowed for fishing and hunting, talk about an impact! Why the prejudice against dredging? We are cleaning up our rivers and streams by creating an ecosystem for critters and fish and removing the lead. I doubt if any one of you have ever witnessed a family dredging the rivers. People all over this State are trying to make a living. Please keep the regulations to 1994 and open up dredging to the people that respect the waters.

Sincerely,

*Gwen Neufeld-Lloyd
Fort Jones, CA.*

MARK.

My Name is Larry Packard
I move to Nevada City CA in 2002.

I move here so I could Dredge for
Gold on my two claims. I Just Retired
with my wife. We came from Sonoma Co.

I have been working my claim every
~~year~~ year. In 2009 I found where
main pay streak of gold was. I Never
Dredge that year, But I ~~paid~~ paid for
my Permit to Dredge.

My claim is on the middle fork of
Yuba River. We dont Dredge until
most of the summer people leave.

I spent \$4000.00 on a Dredge, \$4500.00
on a House Trailer, \$300.00 on a trailer to
haul my Dredge.

I usually spend about 4-6 weeks at
my claim.

I spend about two hrs a day picking
up garbage from the people who
~~swim~~ swim on my claim and ~~above~~ above
my claim. Beer can, Bottles, Diapers
and other trash. Tires, Broken glass.

(2)

They say we put hazardous waste into the River. Have you ever been to a gravel plant. HINSON BORNE Dig up tons of gravel with D8 CATS AND OTHER TRACTOR. How much oil, grease, Transmission oil, Fuel oil,

The Bear River is one of the worst River for ~~(Mercury)~~ ^{Mercury} Toxicology.

How much noise does a D8 CAT make Noise

How much noise do Fitty Boats that are pulling water skiers around a Lake. What about jet skies.

How much oil leak from Boat motor and how much garbage from House Boats and water skiers. Do they all go to the nearest Bath Room. NO

How many people throw Beer cans & Bottles over board when they see the water (COPS) coming?

The mercury that I pick up from my Dredge is at my house in a safe place. NOT BACK in the River.

They say Dredging has killed the Fish.

I live in Soman Co. 55 years
I have never seen a Dredge in

(3)

Any River in Sonoma Co.

But you can't fish in almost all the creeks. Did the Dredgers from the other side of the world kill off the fish. Sonoma Creek has ~~been~~ been closed to fishing for about 35 yrs. The Russian River fishing is bad.

Did the Dredgers do this or did the sewer from Santa Rosa and other towns do this.

Check how many times in the last 5 years in Nevada Co. that sewer plants dump sewer into Deerwood Creek and others.

What about Empire mine water and other mines that have leaching hazardous materials into the waterway.

The newspaper said the Empire mine was being fined by Fish & Game.

How much sewer does your city dump into the river.

Do you really think miners & dredgers are going to tell you how much (gold) they take out. Someone might tell

(LJ)

Some body else AND clane jammer would soon Be on the clane what their Not their or ~~the~~ Bob them when they know the have a good Amount of Gold.

The pot Farmer Dont want you Dredging. you ~~may~~ could find ~~the~~ their plants.

By BACK, hand is tired so I AM going to finish this letter.

LARRY PACKARD
11030 NEW TOWN RD
NEVADA CITY CA 95959

I AM Retired with A income of About \$35,000.00 a year. This money is spent in NEVADA CO. I move here to Dredge for Gold. AND make A little ex money. If I cant Dredge for Gold I have NO Reason TO Live in NEVADA CO. I will have to move to some ~~other~~ other STATE.

Cleanup begins

Trees felled along Empire Street as part of remediation project

BY LIZ KELLAR
Staff Writer

A number of pine trees have been felled along Empire Street as it runs past Empire Mine State Historic Park, the first step in a remediation project to clean up the Magenta Drain, a polluted creek that flows into Veterans Memorial Park in Grass Valley.

"We've been removing trees in (a planned) wetlands area," said project manager Dan Millsap. "We tried to keep as many trees as possible, but we needed access for the construction to create the wetlands."

The Magenta Drain is a small creek that sends polluted water downhill from 367 miles of flooded and abandoned mine shafts in the state park, through Memorial Park and eventually into South Wolf Creek and Wolf Creek, on to the Bear River and, eventually, the Pacific Ocean. The drain originates in a mine shaft and hits daylight in Woodpecker Ravine above the city park.

Its course is fenced off through the park, as the stream flows past the tennis courts, large barbecue area, the veterans memorials and a children's playground area.

The Empire Mine — one of the richest mines in California — closed in the mid-1950s after producing 175 tons of gold over 106 years. The state bought the mine for a park about 30 years ago and removed 46,000 tons of contaminated sediment from the area from 1986 to 1989.

After filing a lawsuit in 2004 over pollution in Little Wolf Creek, the environmental group Deltakeeper hammered out a compromise in 2006 with the state's Department of Parks and Recreation to clean up the Magenta Drain. The water board gave Empire Mine four



Photo for The Union by John Hart

Trees were cut down on both sides of East Empire Street between Penn Gate and the park's entrance for the Magenta Drain remediation project at the mine.

years to plan and build a treatment system.

The parks department is being assessed a penalty for missing that 2010 deadline, to the tune of \$30,000 a month.

Initially, the Parks Department planned a full-scale, active treatment plant that would have included sludge ponds, settling ponds and chemical storage areas. But that plan had a significant downside, including increased secondary waste generation, increased truck traffic from chemical deliveries and sludge hauling, and high ongoing capital and operating costs, said Roy Stearns, state

parks deputy director.

Instead, the department chose a passive treatment system with a settling pond screened by trees and two engineered wetlands, and a pump station in a shed out of public view. This passive system will have much less impact to nearby residents than an active treatment system, Stearns said.

The passive treatment system also will cost substantially less, Stearns said. The construction cost is estimated to be \$4 million, as opposed to \$6 million for an active treatment plant. And the annual cost is estimated at \$2,500 per year, compared to

\$600,000 for an active system.

Millsap said the wetlands area will look similar to a grassy field, with willows and grasses surrounding a pond. Conifers will be re-planted to screen the site, he added.

The felled trees will be removed within the next few weeks and the wetlands will be installed this spring, Millsap said. Then the pump station will be built.

The project is expected to be complete in October, Millsap said.

To contact Staff Writer Liz Kellar, e-mail lkellar@theunion.com or call (530) 477-4229.

Subject: Suction Dredge Permitting Program

Date: Wednesday, April 27, 2011 10:08:32 AM PT

From: Max Parke

To: mstopher@dfg.ca.gov

Dear Mr Stopher -

Thank you for your work on this Program.

I oppose permitting Suction Dredging on the Merced River and on its tributaries. From my personal experience, the noise created by suction dredging substantially degrades many other recreational uses of the streams and rivers.

Sincerely yours,

Nancy W. Parke
PO Box 188

15589 Wards Ferry Road
Sonora, CA 95370
209 928-3835

April 27, 2011

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

Re: Suction Dredging Program SEIR Comments

Dear Mr. Stopher:

I recently learned of the proposal to allow renewed suction dredging in California rivers and streams with up to 4,000 permits allowed pending approval of a final supplemental environmental impact report (SEIR). As Chairman of the Central Sierra Audubon Society and a resident of Tuolumne County, I protest the proposal to approve of the SEIR and adopt such permissive regulations.

The rapid increase in the price of gold is likely to have a disproportionate impact on the rivers in the Sierra Nevada including the Stanislaus and Tuolumne River and their tributaries. This unique area does not need further disruption of its environment by dredging for gold. Enough damage to its landscape and waterways was wrought by the original Gold Rush.

Suction dredging will adversely affect other users of the forests and waterways as a result of noise and movement of sediment. Those impacted will be fishermen, hikers, and especially fish and animal species. Your own draft SEIR indicates that such dredging activity will adversely impact several bird species which impact cannot be mitigated. This would include the Osprey which relies on fish and lives near rivers and streams.

Despite all of the management procedures incorporated into the proposed new regulations, the fact remains that California faces a budget crisis of unique proportions which likely will result in fewer staff to enforce environmental protections for the foreseeable future. Your proposed regulations envision on site inspections before certain permits are issued and follow up inspections. Unless and until the State budget can fully fund enforcement measures, adoption of the proposed regulations allowing suction dredging is an invitation to unregulated and unsupervised destruction of the unique environment of the Sierra Nevada.

Mark Stopher
April 27, 2011
Page 2

Thank you for your anticipated attention to this matter . Please enter these comments and protest in your record.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Thomas E. Parrington', written over the printed name.

Thomas E. Parrington

TEP:co

April 27, 2011

Mr. Mark Stopher
California Department of Fish and Game
601 Locust St.
Redding, CA 96001

RE: Proposed SEIR Suction Dredging

Dear Mr. Stopher:

I am writing to strongly encourage the California Department of Fish and Game to select the **No Program Alternative** as described in the *Draft Subsequent Environmental Impact Report and Draft Proposed Regulations* concerning the Suction Dredge Permit Program currently in hiatus under court order.

As the DSEIR notes, the No Program Alternative is the most environmentally protective alternative. I urge selection of this alternative (i.e., making the moratorium permanent) based on grave concerns with the potential reinstatement of suction dredge operations in the waters of the state. Despite DFG's proposal, in the selected Reduced Intensity Alternative, to make many of the smaller Sierra tributary streams off limits or time-limited for suction dredge mining operations, dredging under all alternatives except the No Program Alternative will lead to:

- ***Deleterious impacts to fish and wildlife***, including populations of salmon and steelhead, and passerine and piscivorous bird species
- ***Diminished water quality*** in the waters of the state
- ***Reintroduction of a use that is incompatible*** with other public trust uses of the waters of the state, such as fishing, swimming, kayaking, and passive recreation
- ***Unjustified net loss of increasingly scarce state funds*** to permit, manage, and enforce this program
- ***Inevitable violations of permit conditions*** due to:
 - The requirement that this program be fee-funded, with statutorily limited and extremely low permit fees
 - The dispersed nature of dredging activity in remote areas
 - Severe staffing limits at DFG and the Department's consequent inability to adequately monitor or enforce either compliance with permit conditions or impacts of reintroduced suction dredging on fish species

I am an avid backpacker and fly fisherman who spends substantial time on California's rivers and considerable money supporting these activities. I can tell you that the quality of my experience has been substantially diminished by the presence of suction dredge miners. I fished for years in a small tributary of the North Yuba, an idyllic spot until someone bulldozed a road to the other side of the stream and dredged out the bottom day and night (complete with generator-powered lights).

I fish throughout the year on California's rivers and have never seen a game warden enforcing basic fishing regulations, *even* in the most heavily fished and easily accessed places. This gives me no confidence that any alternative short of an outright ban can be effectively enforced and would amount to anything but a "paper solution" to the undesirable environmental consequences of the activity of suction dredge mining and the intimidating atmosphere created by the miners'

presence. Safe access to California's back-country is already imperiled by a growing number of marijuana growers. By licensing and permitting suction dredge miners to operate, the state would add yet another deterrent to the use of California's great outdoors by recreationalists who respect the environment and spend a substantial amount of money in pursuit of their recreational hobbies.

For all of the reasons noted above, I strongly recommend you adopt the No Program Alternative.

I appreciate the opportunity to comment on the Draft Subsequent EIR.

Sincerely,

A handwritten signature in black ink, appearing to read "Stephen L. Porter", written in a cursive style.

Stephen L. Porter

27 April 2011

California Department of Fish and Game
Attn: Mark Stopher
Suction Dredge Program Draft SEIR Comments
Department of Fish and Game
601 Locust Street
Redding, California 96001

Mr. Stopher:

Thank you for the opportunity to comment on the Draft SEIR and proposed regulations. I have read and reread your Draft SEIR. It is a very large daunting document. Hopefully, these comments/inputs will result in modifications that will enable you to prepare a better document and regulations that are more compatible for all including a level of protection for soil, water, plant, animal, and air resources of the State of California.

A few general comments:

Has any of the Staff that prepared the document spent any time gold mining or operating a suction dredge? A number of the suppositions imply that there is very little actual experience in either of the above.

Economics. I found the socioeconomic portion interesting. I do question some of the research. I am aware of a number of miners who make a living mining for gold in the Sierra Nevada. They are, best typified as "off the radar". Some utilize a section dredge. Also, if the study statistics are accurate then the majority of dredgers only dredge from 1 to 20 days per year. Why be so restrictive on the days available to dredge, the duration of operations, and the proposed numbers of permits?

Suction Dredge Size. Your document seems to more than imply that a significant number are utilizing 4" and above suction devices. There are a number of owners/utilizers of much smaller suction dredges or high-bankers. There are a number of reasons for these "smaller" devices. These include very small watercourses, distance from the nearest point of access (I challenge you to carry a 4 or 6 inch dredge and supplies some 3 ½ miles to a mining location). There are different degrees of impacts, much lesser typically, in a log of log curve relationship. There should be different standards for the smaller suction dredges.

Patented Claims. I did not see any reference to Patented mining claims. As you are aware the Federal government has decided, for whatever reason, the highest and best use of those lands within these claims is the extraction of minerals. You should address these claims and their recognized right to remove minerals in your documents.

WaterQuality - TMDLs. You made the comment that there may be environmental impacts to water quality. A significant number of the water courses where mining occurs in California have not been identified by either the Water Quality Control Boards or the US EPA as being impaired due to sediment. Furthermore, there are no established TMDLs for sediment on a significant number of water courses in

California where a significant amount of suction dredge activities have occurred. Additionally, your discussion of water quality does not mention or recognize the watershed structures (dams) that have been constructed for the primary purpose of capture of mining tailings. If relying on State Water Resources Control Board's determinations then the Department must insist that the data is based on defensible research, not a very limited "grab sample approach".

Noise. I am not sure that all dredges exceed allowable noise levels. Many are less noisy than operating a chain saw.

One Size Fits All. I understand that you have a task that is driven by law suits. However, the activities, as written are essentially tailored for those water courses in the lawsuit. It is essentially a one size fits all approach, not well tailored to the significant majority of water courses in the State where there are no anadromous fisheries issues.

A number of the water courses where suction dredging would occur are undergoing FERC relicensing. Were the wildlife surveys required for the FERC licensing taken into consideration when determining Class for water course segments?

Specific Comments:

I have issues with a number of items that you have proposed. These include:

Identifying engine model numbers. I am not sure this is important. What will occur when the engine needs to be replaced for whatever reason? Isn't horsepower the real issue?

Dredging within 3 feet of the lateral edge of the current water level . . . (1) This will place undue hardship on those that attempt to utilize a dredge on water courses that are regulated by Irrigation Districts, utilities, as well as State and federal agencies. Water releases or decreased flows can and do occur daily with no notification. (2) Some dredge operations occur on water courses that are less than 6 feet wide. You will, essentially, eliminate dredge activities on these small water courses.

Tailings piles to be leveled prior to leaving the site. In the waters I mine in there are very few pools (defined as deeper than 4 feet at low flows). The river is essentially a riffle with the occasional pool 3 or 4 feet deep. I have been told by biologists that the creation of pools creates thermal and hiding refugia. Additionally, I have yet to see tailings piles when a dredge is operated properly. Typically, the tailings from the smaller diameter dredges are carried downstream in a fan shaped disposal pattern.

Suction Dredge Use Classifications and Special Regulations.

- (1) I propose a modification of your existing Classes. I propose that you consider a Class that extends from 2 weeks after the opening of trout season until 1 November.
- (2) Except in those water courses in which I have fished, hunted and mined in for a significant number of years I do not have any expertise. I did not/could not find the complete rationale as to how the Class determination was made for a water course segment. I.e. **(31) Placer – American River, North Fork. Mainstream and all tributaries from Lake Clementine Dam to Big Valley Canyon. Class G.** Why is this watershed classified as G? According to your own survey information this is one of the areas that have a very high incidence of dredge utilization. Even with this higher utilization by dredges and mining the water quality is some of the best, if not the best in the State (PCWA, USFS, Regional water Quality Control Board,

Resource Conservation District, etc). As currently proposed the activities would take place during the period when the river is at its historical annual lowest flow, thus potentially creating a greater impact on wildlife, turbidity, etc.. Please review this and redefine the Class for the mainstem and consider determining a Class for each of its many tributaries. I would propose that dredge operations be allowed from a period 2 weeks after the opening of trout season until 1 November from the Yankee Jims Bridge to the headwaters. From Lake Clementine to the Yankee Jims Bridge - Class F.

You have incorporated a number of items that those that are interested in minimizing the potential damages to resources should have little or no comment. These include:

No storage of fuel, lubricants, or chemicals within 100 feet of the current water level. I do hope that a common sense approach will be utilized when there is not a 100 foot area for a buffer. (Think when in a canyon or where side slopes are exceedingly steep for 200 – 600 feet, i.e. no high flow channel or riparian zones).

Attachment of permit number. Remember the smaller dredges? Some of these are not mounted on large pontoons, or pontoons for that matter. Hopefully, there will be guidance for dredges that do not have room for 1 inch high numerals or letters, let alone larger.

The cessation of activities when there are egg masses or redds, disturbance of fry, or mussels.

What I wish you might have discussed/considered:

Hours of operation. Did you consider limiting operating hours to a specific period? For example, 1 hour after sunrise to 1 hour before sunset. According to some research these operating periods would benefit the movement of certain fish species. Also, these operating hours could show a consideration for the potential issue of noise levels and reduce any potential of light impacts by using lights to support mining activities.

Turbidity. At least discuss the concept that turbidity must settle or dissipate within so many feet downstream – say 100 feet. (Think what these water courses must have looked like in the 1850s and 60's as far as turbidity!!!!)

As I said before, thank you for the opportunity to comment on what I consider to be the first of many drafts of a work in progress. I sincerely hope these comments are taken as constructive criticism and will assist you in developing a document that is meaningful and workable for all parties involved.


Jerry Reioux
P.O. Box 105
Dutch Flat, CA 95714

Subject: Gold Dredging

Date: Wednesday, April 27, 2011 10:40:03 AM PT

From: Joe Rooney

To: dfgsuctiondredge@dfg.ca.gov

This is in response to the Sacramento Bee article on Sunday. As a small scale miner the article did not show any proof from effects of dredging. It was all about assumptions as studies are not being done. The only way to study this is for those who criticize this activity to use a dredge or dredges of different sizes for a summer in areas that miners frequent. We can't be shutting down activities because of assumptions. Fact is, the problem is the activity. There is no problem with dredging, it is those that criticize that is the problem. You can find fault with any activity, but it doesn't make sense to shut them down because of assumptions, it might, it could or worry or what ever. These people need to get a life and be more constructive. Has anyone ever complained of an oil slick coming from a dredge?. Has any licensed dredger ever been arrested for damaging the environment due to dredging? There are bad apples in every activity but if we start shutting down activities because of a someones assumptions pretty soon no activities will exist. Get the facts. Open the dredging season as before with the rules that were in place. Thanks, Joe Rooney

Subject: suction dredging

Date: Wednesday, April 27, 2011 9:00:08 PM PT

From: ROD RUNYON

To: dfgsuctiondredge@dfg.ca.gov, thedore

Dear Mark Stopher:

I am not from the state of California, but I just wanted to drop my thoughts on the subject.
Three

of us were planning a trip to California to dredge in 2011. But with the new regulations that could not

happen. Lord knows the state could use income.(California is Environmentally broke)

As for the mercury, dredgers can help clean it up at no charge to the general public, they also know how

to dispose of it properly.(no problem)

We do not use a dredge as a fishing tool. I have never sent a fish through the intake nozzle, and

I would think the same is true for the remainder of the dredgers.

To be honest, I think California has people pushing their personal agenda and not basing decisions from

scientific facts.(I'm a outsider looking in)

Thanks for your time:

Rod Runyon

3338 Chandell Rd.

Subject: Suction Dredge Regulations

Date: Wednesday, April 27, 2011 8:21:57 PM PT

From: Brian M See

To: dfgsuctiondredge@dfg.ca.gov

To Whom it may concern,

I was a suction dredger before ban. I have researched the "reasons" for the memorandum and have yet to find anything that would warrant an end to dredging. I have about 2500 dollars invested in dredging equipment with only about 30 worth of use on it. The ban hit not long after I purchased my setup, and without any warning. I urge your department to continue to review the scientific facts which support the fact that suction dredging is not responsible for fish decline. In fact, the little fishies love us.

Sincerely,
Brian See
20815 Point View Dr.
Groveland, CA 95321