Subject: DREDGING

Date: Thursday, April 28, 2011 7:57:09 PM PT

From: Apple MacBook

To: dfgsuctiondredge@dfg.ca.gov

I HAVE BEEN DREDGING FOR THE PAST TWENTY YEARS. I DO NOT BELIEVE WE EFFECT THE ENVIRONMENT AT ALL. ONE 50 YEAR RAIN WILL WILL ERASE MORE THAN OUR DREDGING WILL EVER DO.

PROBLY FISHING IS HARSHER ON THE RIVERS THAN ANYTHING. WE ARE A GRAIN OF SAND ON A BEACH.

PLEASE LEAVE THE DREDGING ALONE. REDUCING THE SIZES WILL EFFECT US ALL.

I HAVE OVER 34 ONCES OF GOLD. I HAVE NEVER TOLD ANYONE ABOUT IT BEFORE. VERY FEW PEOPLE WILL TELL YOU THE TRUTH. I ALSO BELIEVE THE DREDGERS SPEND A GREAT MORE MONEY THAN WHAT IS QUOTED IN YOUR LETTER.

PLEASE LEAVE THE DREDGING REGULATIONS ALONE. REDUCING THE SIZES WILL EFFECT US ALL.

THANK YOU.

SUCTION DREDGE PERMITTING PROGRAM
Draft Subsequent Environmental Impact Report (DSEIR)
Comment Form

Name: Lou and Pauline Berns

Mailing Address: 4088 Moreland Way
San Jose CA 95130

Telephone No. (optional):

Email (optional):

Comments/Issues: Our family is new to gold mining. For the past 5 years we have joined a group of friends for a week long vacation of gold mining and dredging. We have the following issues with the DSEIR report.

1. Limiting the # of permits to 4000 is too few.
2. In the Summer the water level is low, and in places is not even 4' feet wide.
3. Regarding the foliage, we dredge in the water. Unlike fishermen that fish from the bank.
4. Onsite inspections would require us to show where the gold is located. This sounds like an unreasonable request!
5. We value the environment and take great care to leave the river the way we find it.

Please use additional sheets if necessary.

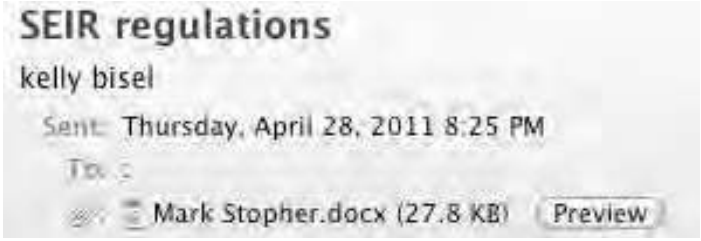
SUBMIT WRITTEN COMMENTS (POSTMARKED BY 05/10/11) TO:

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



Please do not put more regulations on dredging

Please find attached coments

Kelly Bisel
343161 East 960 RD
Chandler OK 74834
405-416-3737

Mark Stopher
California Department of Fish and Game
601 Locust Street
Redding, CA 96001
Fax: (530) 225-2391 E-mail: dfgsuctiondredge@dfg.ca.gov

I thank you for considering my thoughts about the SEIR regulations
I have not been mining all my life but I have invested over $30,000.00 dollars in the State California for myself and sons for future mining in California and spent money on taxes for claims and other necessities food and supplies that bring value to the state. And I would like you to consider my willingness to spend money in your State to be able to mine for gold and enjoy the privilege of our rights to mine for gold on public lands.
I feel the new proposal is not fair to the real impact of harm to the environment sense there are studies that show there is no proven harm to the environment. Please reconsider your new regulation as they will not in my opinion bring any benefit or harm to the State of California after reading all I can about the true impact of dredging.
I would like to continue to spend more time in the state but if these regulations are passed I will find somewhere else to go.
And due to the economic disparity of your state it seems as though California has no care about its small businesses that benefit from mining activity that bring in new revenue to the state.

Thank you
Kelly G bisel
343161 East 960 rd
Chandler OK 74834
405-416-3737

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 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 though 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 regualtions 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.
Thank you very much for giving careful consideration to my comments and suggestions!
Sincerely,
Name and Address Date

Kelly G Bisel

343161 East 960 RD

Chandler OKLA 74834

405-416-3737

4/28/2011

Subject: Comment on new dredging regulations
Date: Thursday, April 28, 2011 10:10:56 PM PT
From: Brant Callahan
To: dfgsuctiondredge@dfg.ca.gov

Mr. Mark Stopher,

Well first let me say, What was wrong with the old dredging regulations? You have no scientific data to base a change of regulations on.
They may tell you but look into it yourself. Its purely "political" or money driven.
The Karuk Tribe's involvement was misguided since they were lied to and were told it was dredging that reduced the salmon spawn.
Its not dredging that reduced the spawns, it is the commercial fish farms. I wrote them a letter informing them of this.

Read up on it. The wild salmon have no immunities like antibiotic fed farmed salmon.
And the wild salmon catch the pathogens that the farmed salmon have no problems with from passing by the farm cages.
Its a huge problem.

I cant believe this is going on. Our ability to put money into the economy is being taken away bit by bit for the wrong reasons.
People are being lied to and miners plus the assayers, jewelers, mining stores and families are paying the price.

I (and all of my friends-16 of them) vote to retain the previous dredging regulations.

Thank you for your time,

Brant Callahan

Subject: suction dredging of clearlake

Date: Thursday, April 28, 2011 11:51:27 PM PT

From: wayne chatoff

To: dfgsuctiondredge@dfg.ca.gov

Sirs

My name is Wayne Chatoff, I am a licensed marine contractor and own suction dredges. Dredging of Clearlake to get rid of the Hydrilla is an extremely bad idea. With a dredge shooting out 90% water, no screen will assure that parts of the weed will not break down and go through the screen and back into the lake spreading the Hydrilla. The best way to get rid of the weed is either use Aquacide products or have a diver go down in the area the weed is found and pull the weed, put it in a bag and get it out of the lake.

You have to relate this problem to weeds in your lawn. If you just pull the top of the plant and don't get the root, the weed just keeps growing. It could also be said that if you pull the weed out and lose halve the root. the root will replant itself in water and spread.

Dredging is a good thing, but not for removing such a weed as hydrilla. Don't spread the weed even more.

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 ΔED #5 claim, located on Elk Creek in Siskiyou County (Bureau of Land Management CAMC # 249811). 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,

Rollin Crago
PoBox 289
Happy Camp, CA
96039

MARK CUTLER
22101 Islander Lane
Huntington Beach, CA 92646

April 28, 2011

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

Subject: Suction Dredge Program Draft SEIR Comments

Dear California Department of Fish and Game:

I very much appreciate your time in reviewing and considering my comments and questions on the SEIR and Proposed Regulations for suction dredge mining in California. My name is Mark Cutler and I try to dredge about 1 to 2 weeks a year on the South Fork of the Salmon River in northern California. I am a senior geologist for an environmental consulting company and can appreciate the desire to review the environmental impacts dredging may have on wildlife and the environment and present a set of updated suction dredge regulations that would avoid deleterious effects to fish.

However, I must state that it is disturbing that the SEIR is proposing numerous restrictive regulations to protect fish when there is no evidence that dredging under the 1994 regulations has harmed a single fish. It appears a relative good balance between resource protection, regulation, and protecting property rights (as granted under Federal mining law) was achieved in 1994. If there is evidence that dredging under current regulations has been deleterious to fish and the environment, I would be the first to support additional changes, but is appears that the CDFG is trying to impact (decrease) mining on Federal lands without demonstrating any substantial harm, only a potential for harm. History has proven that fish and the environment have persisted through decades of very significant hydraulic mining, which makes the current modern mining activities appear trivial and the proposed changes to existing dredging regulations look unreasonable.

I would also like to ask a few questions about the process, and about some of the proposed new regulations:

1) I have purchased a couple of placer claims on the South Fork of the Salmon River (they were very expensive) and it is worrisome that due to the proposed limitation on the number of permits allowed, I could potentially lose access to my mineral rights on my Federal mining claims. Will you consider and propose a different system for issuing permits where current claim owners will have an opportunity to obtain permits on other than a first-come, first-served basis? And if not, why not?

2) One of the claims I purchased is located where McNeal Creek enters the South Fork of the Salmon River (near the town of Forks of Salmon). The proposed regulations consider that confluence to be a thermal refugia, and therefore I

would not be able to dredge on approximately 3/4 of my claim (approximately 800 feet of the 1,200 foot long claim). **I respectfully request at a minimum that this location be field checked before regulations restrict me from accessing my mineral rights on a significant portion of my mining claim.** McNeal Creek enters the South Fork of the Salmon River in an area of fast water full of large boulders. **There is not a thermal refugia at this confluence.** If one looks at Google Earth, it does appear that the creek may enter the river at a slow water pool. This pool is actually located upriver (southeast) of the actual confluence. The pool is relatively shallow (estimated at 6-8 feet deep).

3) Please let me know how you identified the thermal refugia listed in the proposed regulations, and will all the thermal refugia listed in the new regulations be field checked so that the determination can be based on verified field conditions before restricting mineral rights? And if not, why not?

4) Please let me know what condemnation process you will be following, or what restitution you will be providing, if you restrict access to my mineral rights on my Federal mining claim(s)?

5) Why was the baseline changed from the underlying document (1994 EIR) to the subsequent document (SEIR)? What authorizes the CDFG to change the baseline when legal precedent indicates that when temporary changes occur at the time of review (court order to temporarily stop dredging), those changes should not impact the baseline? Why does the CDFG believe it was not required to comply with the findings from legal precedence [Communities for a Better Environment v. SCAQMD (2010) 48 Cal. 4th 310,328] regarding the temporary moratorium on dredging?

6) Why does the CDFG believe it has jurisdiction to restrict mineral rights on Federal land?

7) Why does the CDFG believe it has jurisdiction to restrict mineral rights in waters located on Federal land?

8) Why does the CDFG believe it has jurisdiction over the bed and bank of waters on Federal land?

9) Please explain the difference between dredging within 3 feet of the edge of the river versus dredging over 3 feet from the edge of the river, and what study showed there is a difference in the effect on fish and the environment?

10) Please explain how the size of the dredge nozzle is directly related to impacts to the type and number of fish. Also, please provide the reference for the document supporting this conclusion so that I may read the study.

11) Where is it documented that unfilled dredge holes impact fish? Was the potential benefit to fish from dredge holes considered? I routinely observe fish using my dredge holes, while I am dredging, as refuge from currents.

MARK CUTLER | phone: 714.964.9763 | cell: 714.620.5489 | 22101 Islander Lane, Huntington Beach, CA 92646

12) It is unclear to me what peer reviewed study by a qualified professional was used to support the conclusion that dredging (especially since the 1994 EIR) has a deleterious impact on fish or the environment. Please provide a reference for that study or studies.

13) Without studying each river where dredging has occurred, how can you conclude dredging is adversely impacting the fish and environment at every river? How have you determined that the proposed mitigation measures are appropriate to all rivers of the State?

14) Why are you quoting documents that address effects on fish during spawning when dredging is not allowed during spawning? Please name the studies that address the effects of dredging on fish outside of the spawning period.

15) Please explain why numerous **potential** effects on fish and the environment from dredging are documented in the evaluation, when **actual** effects from the 14 years of dredging under the 1994 EIR were not considered?

16) Please explain how the proposed 3/32-inch intake screen requirement will protect fish and the environment? Why won't screen sizes on currently available dredges (3/16 and 15/64-inch most common) be acceptable? Please provide the reference for the study that was used to support this proposed regulation.

17) Please explain how you determined the proposed reduction in the dredging season? Please describe the difference in the protection of fish and the environment between the proposed changes to the dredging season and the dredging season incorporated since 1994, especially since the evaluation does not provide any examples of fish being harmed under the 1994 regulations? Please provide the reference for the information that was used to support further reductions in the dredging season.

Thank you very much for your time and I look forward to hearing from you soon.

Mark Cutler

MARK CUTLER | phone: 714.964.9763 | cell: 714.620.5489 | 22101 Islander Lane, Huntington Beach, CA 92646

EAST BAY
MUNICIPAL UTILITY DISTRICT

RICHARD G. SYKES
DIRECTOR OF WATER AND NATURAL RESOURCES
(510) 287-1629
rsykes@ebmud.com

April 28, 2011

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

Subject: Suction Dredge Permit Program SEIR

Dear Mr. Stopher:

The East Bay Municipal Utility District (EBMUD), would like to offer the following comments on the Draft Subsequent Environmental Impact Report (DSEIR) on the Suction Dredge Permitting Program that is currently out for public review and comment.

EBMUD is concerned over the potential mercury and trace metals resuspension and discharge under California Department of Fish and Game's (CDFG) proposed suction dredging regulations for the Mokelumne River above Pardee and Camanche Reservoirs. The mainstem Mokelumne River from Pardee Dam upstream under the CDFG 1994 regulations was listed as class C (open to dredging from the fourth Saturday in May through October 15). Under the proposed regulations, the mainstem Mokelumne River from Pardee Dam upstream to Highway 49, Middle Fork except North Forest Creek and the South Fork are class D (open to dredging from July 1 through January 31). There are some mainstem areas in the North Fork and tributaries under the proposed regulations where no dredging is permitted at anytime or restricted under class E (open to dredging from September 1 through January 31); the later restriction also includes Forest Creek. These areas would provide a refuge for listed species such as the foothill yellow-legged frog. In addition, Section E continues the allowance of suction dredge intake nozzles up to eight inches in diameter in certain rivers if permitted under the Department's discretion. The list of rivers includes the Mokelumne River in Amador, Calaveras and San Joaquin counties.

The proposed suction dredge permitting program even with time and area restrictions to protect listed species would continue to result in adverse effects related to mercury and trace metal loading, methylmercury formation and bioaccumulation in areas downstream of the dredging activity. The summary of findings in Chapter 4.2 of the DSEIR states that suction dredging operators may target deep sediments beyond the winter flow scour zone and mobilize sediments that would otherwise remain buried. In addition, suction dredgers would likely target historic gold mining and gold bearing sites, many of which have deposits of high levels of elemental mercury from the gold mining process. The discharge of contaminated sediments containing these high concentrations of mercury would end up depositing in the upper sediments of downstream water bodies, such as streams and reservoirs where the mercury would undergo transformation to methylmercury and bioaccumulate in the food chain. The increase in methylmercury in aquatic organisms may substantially increase the human health risks due to the consumption of fish.

375 ELEVENTH STREET . OAKLAND . CA 94607-4240 . FAX (510) 287-0541
P.O. BOX 24055 . OAKLAND . CA 94623-1055

Both Pardee and Camanche reservoirs were included in California's 2008 – 2010 Section 303(d) list of water and pollutants requiring a Total Maximum Daily Load (TMDL). The SWRCB's biannual Integrated Report added mercury for Camanche and Pardee Reservoirs and maintained the previous listing of copper and zinc for Camanche Reservoir making these impaired water bodies for these constituents. The USEPA criterion for methylmercury in fish is 0.3 mg/kg (ppm) for the protection of human health. Based on the SWRCB Surface Water Ambient Monitoring Program and two year screening studies, a number of popular commonly caught sport fish from Pardee and Camanche Reservoirs with lengths greater than 150 mm exceeded the EPA water quality objective, including:

- Camanche Reservoir – bluegill, carp, channel catfish, crappie, hardhead catfish, and largemouth bass, and
- Pardee Reservoir – channel catfish and largemouth bass.

These studies set the framework for the need to post health advisories for the consumption of fish caught from these reservoirs. EBMUD recently contacted the California Office of Health Hazard Assessment (OEHHA) requesting that they make fish consumption advisories for Pardee and Camanche Reservoirs a priority.

Because of the history of extensive gold mining in the Mokelumne watershed and the recent data showing a problem with mercury accumulation in Mokelumne fish, EBMUD recommends the CDFG Proposed Program ban suction dredge mining in the Mokelumne watershed. We further recommend that CDFG consider a ban in all similarly situated areas of the state where suction dredging will have a predictable significant impact on bioavailable mercury. As noted under the Water Quality alternative, the prevention of dredging in mercury impaired systems would largely avoid the significant adverse water quality effects associated with mercury discharge compared to the Proposed Program. This ban would prevent the further degradation of water quality in Pardee and Camanche Reservoirs (and other similar locations) from suction dredging due to mercury and trace metal loading, methylmercury formation and bioaccumulation in sport caught fish. As noted in Section 4.2 of the DSEIR, any impact of suction dredging on mercury loading and methylmercury concentrations might further exacerbate the existing mercury impairments, especially in the historic gold mining regions where mercury levels in fish tissue are above the thresholds of concern.

EBMUD appreciates your consideration of these comments and if you have any questions, please contact me at (510) 287-1629 or Joe Miyamoto at (510) 287-2021.

Sincerely,

Richard G. Sykes
Director of Water and Natural Resources

5-28-2011

To: Mr Stopher, Ca. DFG
From: Donald E. Eno
Re: Public Comments on Proposed Suction Dredging Regulations / DSEIR
Notice; This is also an official "notice" to DFG concerning Pollution of every sort.

Dear Mr. Stopher,
I attended the Sacramento public meeting on March 29th, 2011. You expressed your desire for thoughtful public input via public comments apparently to aid DFG in making wise decisions concerning these new proposed rules. Operating under the presumption that you genuinely want meaningful input, I have provided exactly what you asked for in these comments. Plainly, many issues I will cover in this DSEIR will not be covered by comments from other suction dredge *miners. I understand the comment period was extended and another hearing is scheduled. If I am wrong then I ask you to review them anyway, there is some very important information you will want to be aware of. You'll see. If my comments are rejected for whatever reason, consider this a notice and a report concerning pollution of every sort for your immediate attention. You will want to review this information to ensure our water and fish are protected.*

After reviewing the SDEIR and the proposed rules, it is apparent that DFG and Horizon staff have no *first hand experience* with the real world of suction dredge *mining*. I have been a gold prospector, miner, and dredger since 1992. I have dredged in Cambodia, Viet Nam, Oregon, and California. I have been qualified in prior mining claim litigation as an "*expert witness*" in the field of suction dredging. Importantly I spent $185,000.00 defending one River placer mining claim (also a suction dredge site) spanning 11 years of litigation. Therefore, you may well imagine your proposed regulations are not amusing to me. In turn, your office and staff are not going to be amused either as all this unfolds. It's long, I have no staff and little time, but content overall is alarming. These comments reflect the attitudes and understanding shared by most of the dredgers I know.

SDEIR avoids analyzing background pollution present today.

It is my intention with these comments to inform and educate DFG as to the realities of suction dredging that only an experienced suction dredger can *possibly* know. These comments offer *perspective* and comparative perspective through use of examples that I believe is seriously lacking throughout your SDEIR and as reflected throughout your proposed regulations. After reviewing the references in the SDEIR it looks like you utilized every "environmental scientist" in the State, and the fact that your *scientists* had the benefit of sections 4.2 water quality and 4.4 hazards and hazardous materials in chapter 8 indicates that DFG has willfully and intentionally avoided any and all analysis related to the vast amount of *trash and heavy metals* in our streams. As I will show throughout my comments, this oversight appears to be intentional, malicious and blatant.

Question; Can you explain how DFG could employ so many environmental scientists with so many references to hazardous materials and water quality you *have not acknowledged, studied, or publicly addressed the gross pollution, Super-sized garbage,*

Foreign materials; RR bed base, Hwy road base, and hazardous materials, heavy metals, asphalt, concrete, steel, and lead present in mass quantities in all of our streams and rivers?

SDEIR on Dams

After reviewing the SDEIR, it is appears that DFG and Horizon have carefully *cherry picked* the alleged *science. The DSEIR is completely silent as to the* ***known*** *heavy metal toxins in our dams, and our rivers and streams*. And *the DSEIR is silent regarding removal and disposal of super-sized garbage, heavy metals, and all other pollutants* that suction dredge *miners* find and remove on a daily basis in the normal course of suction dredge *mining*.

Science is weak

In general, these proposed suction dredging regulations (SDR) defy logic, reason and common sense, as I will demonstrate repeatedly throughout these comments. These proposed SDR's appear to be *politically motivated* because even your *biased* science and *40 years of suction dredging history have proven little if any discernable harm to fish*.

I note that most of the alleged *science* is so precarious, such a stretch, that the purported harm(s) to species and habitat are frequently *qualified* by the incessant use of the words; *might, may, possibly, possible potentially, could conceivably, uncertain, should, possibly, "has not been studied*," and "has not been evaluated" are peppered throughout your science. These qualifiers indicate merely *possible* circumstances. If DFG were certain, the qualifying words would be *will* and *must*. The thesaurus has very limited options for these particular words.

Benefits of suction dredging largely ignored

Another thing, *DFG has not adequately addressed all the environmental benefits that have accrued as a result of suction dredge miners' hard work spanning the past 40 years.*

Flood events introduce foreign materials and pollution

The *DEIS is completely absent analysis related to major flood events* (spanning the past 160 years) as relates to the how all these *floods have introduced massive quantities of toxic garbage into our rivers*. The floodwaters have pushed massive quantities of the toxic materials into our rivers including but not limited to following; *homes, entire estates, motor vehicles, garden equipment and tools, highway beds, RR beds, asphalt, concrete, culverts, guardrails, miscellaneous other garbage too numerous to list*, and of course all the *other naturally eroded foreign earthen materials* scoured from the river beds and riverbanks. These issues will be described more thoroughly at length in my comments below.

This permit process is a plan of operations – not a permit

The proposed regulations appear to **micro-manage** small scale placer mining even though DFG has *no actual field experience* and no concept of the realities suction dredge miners face in the river environment. Frankly, *the proposed regulations and permit process would more accurately be described as a* ***submission*** *for* ***plan of operations*** *that requires more permitting, site inspections, equipment inspections, various approvals, and*

dredgers must now make special requests to use a 6" or 8" dredge and to use a power winch, either of which may be denied.

Coincidence that DFG proposed regulations Satisfy exactly what litigants were seeking?

And for your scientists to provide such remarkably biased science and analysis that *conveniently* satisfies the desires of the Karuk tribe and the prior Siskiyu case concerning the USFS LRMP riparian zone management versus the USFS (Notice of intent/Plan of operations) regulations. It is *fascinating* that the net result of your targeted science just magically fills in the regulatory hole that these groups wanted to fill, regardless of the fact they all lost their cases. The win for the Karuk Tribe was fresh *analysis only, and the Court did not order DFG to change the suction dredge mining regulations.* It is *amazing* how easy it is/was for swarms of officers to tailor "science" to achieve *precisely* what these snivelers attempted to achieve in court.

Proposed regulations / SDEIR intends to compel $200,000.00 validity exams

The proposed regulations - if adopted – will have a devastating impact upon holders of otherwise *valid* mining claims because under these regulations the USFS or BLM will now be able to challenge the *validity of a mining claim* on the basis that most mining claims cannot be economically viable under these *unnecessarily* restrictive and prohibitive "*recreational*" dredging regulations, or the argument would be that such mining claims cannot be mined at all thus the claimant could not meet the "prudent man" test.

If DFG were proposing these regulations for purely *recreational dredging activities on lands not subject to the US Mining Laws*, then there would be no issue for me.

Unreasonable regulation – Safety issues – materially interferes with mining

However, here your *unreasonable* proposed regulations *purposely* attempt to make suction dredge *mining* on a bona-fide placer mining claim impossible to work at all, and/or impossible to work at a profit. If these *unreasonable regulations* are not defeated here at this stage or later in the courts, the USFS and BLM will use these regulations to invalidate just about every single placer mining claim located within a river or stream. This is because DFG proposed regulations intentionally make suction dredge mining far more labor intensive, less efficient, more ***dangerous***, more expensive, more cumbersome and therefore, in the final analysis, suction dredgers will ultimately lose their mining claims based upon the *economics* of mining. Suction dredge miners are simply regulated out of existence by these unreasonable proposed regulations. And all the *green benefits* of suction dredge *mining* by the *removal of heavy metal toxins* from our rivers will be *slowed or stopped.*

These proposed regulations defy 130 years mining law

Having of necessity studied mining law and case law for many years, I could not be more baffled by Ca. DFG's position on suction dredge *mining*, these proposed regulations appear to violate every principle of Mining Law I have ever studied in the past. I am simply at a loss as to what possible lawful authority DFG thinks it possesses that would

allow DFG to circumvent all known mining case law to date. I would be re-miss in my responsibilities if I failed to at least offer DFG credible reasoning under established law for DFG to abandon their quest to prohibit suction dredge mining with these asinine regulations.

Basically, DFG is attempting to overturn 160 years of case precedent concerning the US Mining Laws. It blows my mind that DFG pencil pushers think this is even possible. However, if your swarms of officers review the references immediately below, it will become readily apparent that you would have to go back through the SDEIR and dramatically change the entire analysis.

For example, 4.8-12 lines 39 and 40 are classic stupidity. Understanding mining law and case precedent, I must say the author who wrote this is not too bright. Read the Shoemaker IBLA case cited below. This case refers to the 1955 Legislative history which plainly quoted the *provisos* for amending the mining law which in part states that the miner is entitled to use so much of the surface that he needs for mineral development and mining, he must share the surface with Management and the public. It also states that the Dominant and Primary use is in the miner, and the State and Federal agencies may manage the surface resources and wildlife ***provided*** such management does not ***endanger or materially interfere with mining operations***. And *when State wildlife management endangers or materially interferes with mining,* ***the State's project or use must yield to the dominant and primary use.***

This case clearly establishes that DFG plays *second fiddle* to the miner's *dominant and primary use*. And, while you have authority to ***reasonably*** regulate *mining* activities, the word ***reasonable*** is key. Plainly, if you make suction dredge mining *unprofitable* entirely, and ***endanger*** *our lives with regulations* that cry out ***safety*** violations that MSHA would find intolerable, *then you have gone too far and your regulations must yield to the dominant and primary use, that of the miner*.

Throughout your SDEIR I find statements everywhere that indicate you have not considered 130 years of legislation and case precedent. None of us have time to pick out all references to the erroneous interpretations, however, a good mining attorney could only shake his head and laugh because of the obvious, glaring erroneous legal conclusions your team of environmentalists and their friends came up with throughout your regulations. It truly would be laughable if you weren't serious and devastating suction dredge mining for political favor and agenda.

Question; And how is it possible to perform the SDEIR and attempt to *propose a regulatory framework* without *full knowledge of the mining rights sanctioned by case law, up to the US Supreme Courts*, and yet you created *proposed regulations* that plainly violate multiple aspects of the mining laws and our collective mining rights?

Absent this legal analysis to providing a legal framework, DFG simply is operating on false premise(s) and therefore all decisions made on erroneous presumptions adversely affect the analysis and conclusions derived at in this SDEIR. That means much of your

analysis is adversely affected and dead wrong, that is, every thing *based upon a variety of false premises is wrong*. It is not only wrong but dead wrong and abusive to a minority group outnumbered tens of thousands to one.

Legal Framework

Despite your admonition that you don't want to hear anything related to "*mining rights*" conferred by Congress, "*takings*," and "*prohibition of mining*," it is essential to establish as a matter of record that *miner's rights* under the US Mining Laws will be directly adversely affected by this set of proposed regulations. These proposed regulations are "*unreasonable*" regulations that "*impermissibly restrict placer mining*" in the rivers and streams of California. In many cases these proposed regulations would completely prohibit placer mining because the only lawful means of mining gold from active streams is suction dredge *mining*. These proposed regulations absolutely fail to recognize the Miner's "***Dominant and Primary use***" of his/her mining claim. The DFG apparently fails to acknowledge that DFG management cannot lawfully "***endanger or materially interfere with mining operations and uses reasonably incident thereto.***"

I am absolutely baffled that DFG has blatantly disregarded 130 years of case precedent with respect to the rights of miners under the US Mining Laws. Having studied the mining laws and 130 years of case precedent over the course of the last 16 years. I believe the DFG has *broadly overstepped its authority* in its *gambit* to *micro manage* and ultimately destroy *placer mining* on the streams and rivers of California. It is not my intention to provide a legal brief or exhaustive legal analysis. However I do offer the following references to very important cases, legislation, and other documents to ensure that DFG is advised in advance of these genuine legal concerns *prior* to formally adopting these proposed rules.

An excellent "on point" court decision that demonstrates that the State *management* of fish and wildlife must yield to the dominant and primary use (mining) is **Robert E. Shoemaker IBLA 87-340 Decided July 13th 1989**.
Other important guidance with respect to the authority to manage wildlife tempered by strict limitations of management by managing agencies can be found below. I cite these following somewhat *obscure references* for your consideration because it is highly unlikely that other miners will. I am certain other miners will be providing vast amounts of mainstream case law and legislation for your consideration. I can send you copies of these documents if you cannot readily obtain any of them on your own. With unlimited resources at your disposal, I think you can locate this stuff on you own.

DFG should have carefully investigated and examined the following published documentation before they began performing the EIS and *prior* to drafting these *new* proposed suction dredge *mining* regulations. DFG must take a requisite "Hard Look" at the statutory framework that protects the Miners *essential bundle of rights* conferred by Congress, primarily the *US Mining Law of 1872* as amended by the *Multiple Use Act* circa 1955, as well as all relevant *case law*, the *Mineral Policy Act* of 1970, the *Mineral*

and Materials Policy Act of 1980, President Ronald Reagan's Executive Order 12630, March 15th 1988 "*Governmental Actions and Interference with Constitutionally Protected Property Rights*," and the Legislative Histories; of the 1872 Mining Laws, the Mineral Policy Acts (1970 and 1980), and the Multiple Use Act 1955.

Further, DFG should have extensively reviewed the Hearings before the Subcommittee on Public Lands of the Committee on Interior and Insular Affairs, House Of Representatives, Ninety-Third Congress, second session, Serial No. 93-44, Hearings Held in Washington, D.C. March 7 and 8, 1974. (PROPOSED FOREST SERVICE MINING REGULATIONS.)
DFG should also have reviewed the USDA FS Environmental Statement for the Proposed Mining Regulations, Transmitted to Council on Environmental Quality (CEQ) July 12th 1974. DFG should have reviewed all relevant and available information related to the FS proposed regulations (1974 era) because that review would shed considerable light upon the *essential bundle of rights* miners hold with a valid Mining Claim. It also illustrates that Congress has made great efforts since 1872 to *protect the miner's bundle of rights* when passing virtually all public land laws that might adversely affect mining rights. These aforementioned documents are abounding with credible information related to the severe and consistent limitations Congress has consistently placed upon the Managing Agencies with respect to management of surface and sub-surface resources on mining claims.

Suction Dredge *Mining* Is GREEN;

DFG should Praise Suction Dredge *Miners*

DFG should Foster, Encourage and Promote Suction Dredge *Mining*

Dredgers have been removing vast quantities of *heavy metals, garbage, and toxins* from our river systems for *four decades* at no charge to the California DFG or the US Government. In fact, often for the mere "hope or chance" called *prospecting* we might find some gold, or that we will recover our private property (gold) in economic quantities, and we search for and suction dredge *pay streaks* comprised of *heavy metal* garbage in the rivers.

It is amazing to think that the 1994 set of dredging regulations *arrogantly required* suction dredge miners to remove the garbage we routinely encounter and capture in our sluices and/or recovery devices. Most dredgers would remove such garbage anyway regardless of the regulation, but the fact DFG has required us to remove garbage *by regulation and contract*, leads reasonable thinking people to conclude that this is an *admission* that garbage and *heavy metals* will be encountered when we dredge and that DFG does not want us to throw the garbage back into the river.

The crucial issue before us today is that DFG has **never** *analyzed or acknowledged the shear quantities of garbage in our rivers*, and *DFG has not evaluated how vast the spread of garbage is* and how *each flood event spreads these toxic substances*

downstream in deeper and deeper streambeds that eventually will not ever be cleaned up because DFG has and is *forbidding the use of the proper sized suction dredge equipment needed to economically extract the garbage* along with the gold.

Generally the sooner suction dredge *miners* can intercept these pollutants nearest to the source point, the *easier it is to recover economically*. The longer DFG waits to allow heavy metals clean up, the *less likely it can ever be cleaned up because recurring floods relentlessly push all these toxins further and further down stream deeper and deeper in overburden.*

For clarification, throughout these comments, I use the terms *heavy metals, mercury, hazardous materials, trash, garbage, lead,* and so-forth. Generally when I use the words; *garbage, trash, pollution, pollutants and hazardous materials and contaminates;* I am using broad descriptors to refer to *all various forms of pollution* defined and described in my comments. If I try to define each and every type of trash every time I discuss it, I would end up adding 10 or 20 more pages to these comments.

Example; *Dumping* heavy metals in streams

Theoretically, if DFG field officers witnessed a group of suction dredge miners - or any other person(s) - *all* dumping several pounds of lead and heavy metals into a river – *that they had removed from the river that season* - it would be safe to assume DFG or another Government Agency would issue all the dredgers *tickets or citations* for polluting the river with toxic substances. These men would be *prosecuted* in Courts at the expense of the Citizens of the United States; I imagine this crime would be viewed in court as a *horrific environmental crime*, *egregious, and truly shameful behavior*. And the courts would punish them severely. (*Never mind* these particular *criminals* had removed all these toxins from the river in the first place.)

Please note; *DFG has devised no plan to dispose of the hazardous materials* these particular alleged criminals (and all suction dredgers) were *required to remove. And* history proves beyond question that *DFG does not even want to be informed that such garbage was removed*. It is as if DFG is deaf, dumb and blind to the vastness of river pollution problems. And the SDEIR focused so intently on what suction dredgers *might* release in microscopic quantities, that the underlying problem of "background" gross river pollution where these sediments are ultimately derived was virtually ignored. It is like "you cannot see the forest for the trees."

Based upon the example above;
Question; Why is it that suction dredge miners in the example above would be cited, prosecuted and harshly punished for throwing the heavy metal garbage in the rivers, but when each and every *suction dredge miner is directly responsible for routinely removing pounds of heavy metal garbage* from our rivers, he is treated like a *criminal, a greedy exploiter* or an *abuser* that must be further *restrained* with the old - and now new - proposed *draconian* regulations.
Can you explain why this is?

Question; If illegally dumping heavy metals into a river is a punishable crime, worthy of citation, prosecution, stiff fines and costs for special environmental clean up, and if reclaiming the heavy metals with a *reclamation dredge* is viewed as an "*environmentally sound heavy metals cleanup method*" then Can you explain why DFG has not given "*cash awards*" or "*pinned medals*" on the chests of every suction dredge *miner* in the State of California for *voluntarily performing reclamation dredging for the past 40 years at their own expense*?

Question; Since there is undeniable proof that suction dredge *miners* have been instrumental in removing vast quantities of heavy metals and river pollution for decades, why is it that DFG has not ever *defended* suction dredge miners, but also has failed to engage in a campaign to strongly support suction dredge mining by educating the public as to the invaluable services we provide to the water quality, habitats, fish, species, and for the benefit of all US Citizens on a voluntary basis at no cost to tax payers?

Question; assuming that DFG caught miners dumping heavy metals in the river, another issue and question arises. As a result of witnessing toxic heavy metals being dumped into our river, DFG would most likely send out a Haz-Mat team with heavy *metals suction dredge equipment* to dredge up the contamination. No doubt the *offenders* who dumped the heavy metals would be *charged* the *actual costs of the clean up*. Boy that's going to cost a pretty penny to be sure. The reclamation team/Haz-Mat team would be viewed as heroes, the *good* reclamation dredgers.

Question; So, ***why*** is it that *suction dredge miners don't get the same respect from DFG* for our *strictly voluntary efforts* cleaning up Haz-Mat materials**?**

Biased Science designed for predetermined outcome

By the way, reading the SDEIR, at every opportunity the SDEIR paints suction dredge miners like pond scum, even your intentional selection of photos (SDEIR Aesthetics) and much of your analysis plainly illustrates that the purported scientists engaged in this process used their creative writing skills at every opportunity to maliciously paint suction dredge miners in a bad light. Casting aspersions and citing public complaints that mere sentences later illustrate it is not a serious problem, yet it provided opportunity for your purported scientists to paint us in a bad light over and over. A little complaint here and there everywhere documented and word-smith'ed to make suction dredge miners look as evil as possible and without evidence or plain understanding of the laws that allow us to mine and use our private property. As such, you will find my comments on these other user groups somewhat harsh but realistic. At least DFG can rely on me ***to tell the truth***. DFG may be offended from time to time, but truth knows no offense, it is what it is, and I don't have a staff or unlimited funds to word smith and sanitize my comments like DFG and other Agencies do, so it is what it is.

Question; If the Haz-Mat team that was assigned to clean up the heavy metals is seen as *heroes* for cleaning up the contamination, then ***why*** are suction mining dredgers who clean out our rivers "*villains*" and treated like "*enemies*" of the environment?

Question; why are we being treated like a mere *nuisance and threat* to the environment?

Question; If the Haz-mat team encountered "***mercury***" while cleaning up the heavy metals with a suction dredge as described in my example above, what would the team do? See below.

A) Question; Will they leave the *heavy metals* in the river for fear of flouring the mercury?

B) Question; Or will the team clean up the *heavy metals* with a suction dredge and accept the fact that some *small contamination of floured mercury* might escape?

Question; Has DFG *quantified or qualified* the *amount of hazardous materials; garbage, trash, pollution,* heavy metals, mercury and asphalt that is presently distributed throughout our rivers? ***

Question; What could be more GREEN than Suction Dredge *Mining* in our rivers?

My answer is that there is no "*greener*" group(s) of *river users* than suction dredge *miners*. I will prove my case throughout these public comments.

Hunting and fishing license
DFG has been issuing 2-3 million *fishing and hunting licenses* annually for decades. *Cumulatively*, these groups are *directly responsible for putting the vast volume of lead in the environment*. And, the practice of using *lead weights* and split shot for fishing goes on to this day. Using chart at 4.8-8 indicates at minimum the *fishermen and hunters* average 12 days each so that is about *24 – 36 million days use* for their activities combined. That's a crap-load of sportsmen *slinging and blasting lead* spanning numerous decades. *Lead is* that Hazardous Material we have dredged up by the bucket full season after season.

Extending the math, assuming ***fishing licenses only*** and estimating the cost of fishing licenses at $43.46 per resident license, times ***1,730,000 licenses = $75,185,000.00 for fishing licenses in one year***, and the number of licenses x 11 use days = ***19,030,000 use days for fishermen per year***. (This is just resident license – there are many more licenses available)

And, assuming *one decade*, arithmetic roughly indicates 190,300,000 ***days of use in 10 years*,** And, considering ***each fisherman only lost one ounce in 11 days of fishing***, and ***dividing by 16 gives us 11,893,000 pounds*** of lead lost / by 2000 lbs/ton = ***5,946.87 tons of lead lost by fishermen over ten years***.

These are very low estimates and plainly extending more accurate calculations year by year since 1996 will be much higher. Regardless, continuing rough calculations; ***assuming fishermen lost 5 ounces in an 11 day span = 29,732 tons of lead lost by fishermen in ten years***. Or multiply by 2000lbs/ton = ***59,465,000 pounds of lead lost in***

the environment over 10 years. That's a lot of lead. When all data is analyzed and calculated, it is obvious that these numbers will actually be much higher. I Think DFG's lead releases have surpassed the old timers mercury releases pound for pound. We are only looking at a low-ball figure for ten years of sanctioned lead distribution into our rivers, lakes, and reservoirs. Do actual calculations spanning 40, or 50 years and that's a lot of lead slinging.

It appears that DFG makes a boatload of money selling fishing licenses. I am not bothering with analysis of the hunting license revenue at this juncture. Nevertheless, it appears profitable and lucrative to sell "take permits" to these two user groups who obviously are on a mission to collectively kill a massive amount of fish and other species for the fun of it. And at the same time your officers *authorized each and every piece of lead these groups scatter(ed) throughout our shared river environment.* The very lead we routinely *fish out* of our rivers with suction dredges.

Another thing, if you extrapolate from history, and make reasonable estimates related the numbers of fishermen and hunters who have graced these waters spanning 160 years, and from that data estimate the volumes of lead that have been used by both hunters and fishermen over this vast span of time, then it will be no surprise when you figure out that this long history has placed hundreds if not thousands of tons of lead into all of our rivers.

This is a very crucial point.
We continuously clean up tons of lead after the very fishermen and hunters who "cry the blues" and "whine and snivel" to the agencies that the suction dredge miners are; *making noise*, we are an eye - sore, we are using *their camping spot*, we disturb *their* peace, and/or we don't *belong* here, and we are screwing up the rivers. We have heard it all. You should tell them *we are the clean up crew cleaning up the cumulative impacts of their lead re-distribution efforts*, which they fired or slung into our rivers for shear fun and games.
Why the need to crack down on miners?
Suction dredging reduced 200% and Fishermen reduced by about 1/3 and hunters reduced 45 %. One would think that since hunting has declined 45%, and fishing appears to have dropped by 1 million users between 1996 and 2006, (SDEIR 4.8-8) then that would take enormous strain off the fish and wildlife. And suction dredge mining permits have also been reduced from 12000 miners to less than 4000 miners between 1994 and 2008. These facts indicate that enormous strain on habitats has been reduced ***dramatically since 1994.*** So you *claim* to be concerned about fish and their very survival, but the fish have bigger problems you have thus far refused to address. But since *the rivers are properly described as a garbage dump* and *DFG insists upon* ***pretending*** *pollution does not exist* and *insists upon protecting the garbage from ever being disturbed or removed*, it is no wonder fish and wildlife are or may be in decline. With this much reduction in activity, it defies logic that DFG is exercising a strangle hold on suction dredge mining, unless there is an agenda.

Finally, looking at the shear number if fishermen and hunters user days spanning 10 years, at 240-360 million use days, it appears obvious that the fishermen have

intentionally gone out of their way, and killed impressive quantities of fish, harmed far more fish, and harmed vastly more aquatic habitat than suction dredge *miners* ever dreamed of.

Every single day, hither swarms of "DFG licensed" sportsmen *with licenses to kill stuff sling hunks of lead into our rivers* and other idiots in years past would shoot off guns for the pure hell of it using lead bullets and buckshot that are also scattered throughout the heavy metals we dredge out of the rivers.

Other River users

Suction dredge *miners* are the only *mitigation measure*. Suction dredge miners are the only group of river users who vacuum up *all* the *other river users toxic byproducts* of their amusement and entertainment. We often pick up their trash.

All other river users are just that: *users*. These *users contribute nothing whatsoever to the quality of the environment*. As they say, in life, there are *givers* and *takers*. In my opinion, all other river users are *users and takers* because they give back nothing to the environment.

Question; What can DFG say - that is positive - about the various activities of *all the other river user groups* that are or may be construed as *beneficial* to the environment?

According to SDEIR 4.8-8, et seq. we have 37 million people in California, and estimating the other users' annual day use w/ possible overnight camping, the arithmetic shows 10,233,000 swimmers, almost 6,000,000 viewing and photographing fish, 1,890,000 rafting, and 1,161,000 kayaking. Wow, that's about ***20,000,000 day use visits*** in one year by swimmers, rafters, Kayakers, and photographers alone. So it looks like suction dredgers are vastly outnumbered, we are a *very small minority* who are being discriminated against by DFG. I imagine there are far fewer suction dredge miners than Native Americans with the right to net salmon by the bucket load.

Compare numbers of SD miners to numbers of fishermen and hunters

190,000,000 fishermen use days + 20,000,000 misc. use days from immediately above, + hunters at 3,372,000 use days = 213,372,000 total use days by hunters, fishermen, and other groups from above.

Assuming 4000 miners averaging 100 days use each per season, this equals 400,000 dredger use days. Comparing other use days 213,372,000/ dredger use days 400,000 we get **ratio = 533.43:1**. I think we are outnumbered a tad bit.

Basically 213,372,000 users come and go. And,19,030,000 fishermen use days. So basically 19,030,000 fishermen come and go and go at will, they don't have to *notify* DFG or USFS, or BLM where they are going to play, and do not need to coordinate their visits months in advance and need no *approvals* other than DFG licenses to systematically attack and kill the species of their desire; to *taunt species, maim species, trudge through and damage critical habitats, sling lead, and crush vegetation at will*.

They are *fleeting users*, whatever environmental harms they may cause happen swiftly, and they promptly leave not knowing whether they *may have* caused any harm to the aquatic habitats or species.

In stark contrast, suction dredge *miners* are longer duration commercial property owners extracting our property (and river pollution) under Federal Mining Laws and as such, we are routinely blamed for the damages to aquatic species, birds, and so forth very often caused by the other fleeting users such as previously described.

I guess by any definition we are the painfully obvious *minority user group* that is being *unfairly characterized and discriminated against by DFG*.
I think it is fair to say suction dredge *miners* are fair game to abuse and discriminate against, and there is no-one standing up for our statutory rights to mine and our voluntary efforts to reclaim heavy metals from our rivers.

Question; I told you from the start, my comments would point out the *perspectives* you fail to acknowledge. Being ***outnumbered at least 533 : 1***, can any of your staff imagine, infer, or anticipate that with this glaring disparity ratio, it is *no freaking wonder complaints might arise concerning our activities from time to time*?

Question; Can you name anything any or all of the other *river users do* to; benefit the aquatic habitats, clean up garbage and heavy metals, or that has or may have a lasting and positive environmental impact?

Other than suction dredge *miners,* virtually every *river user* is just that ***a user***. They are there on our rivers to *take* something from Nature - sometimes on purpose - if we are talking about hunting and fishing, or they *unwittingly* take species *carelessly,* or *unintentionally damage habitats* because *Ca. DFG has not **educated** or **properly regulated** their behaviors*.

Question; If our river aquatic environments are so *unhealthy and precarious* that your analysis allegedly indicates that you must "crack down" on suction dredge *mining*, then why is DFG still *profiteering* by selling off our various aquatic species with take permits?

> From your web site, Fish and Game Code Section 86 defines "Take" as hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture or kill.

Now isn't this a hoot, truly a charming view of some of these *other river users* isn't it?

Question; If suction dredge *miners* were responsible for discharging literally tons of lead into our rivers and streams annually, do you think DFG would have stopped suction dredging decades ago Legislatively or otherwise?

Question; If DFG is fully aware of the *cumulative lead accumulations* in our rivers, why does DFG insist upon profiteering by selling such vast numbers of fishing and hunting licenses (take permits) each and every year?

Question; Why is lead still being used so broadly throughout the recreational fishing industry?

Question; Is there a more expensive and more ecologically sensitive metal or metal/composite that can be used instead of lead?

Hint, gold plated copper, silver or gold alloys would work; it will not corrode, tarnish, dissolve, or pollute. Fishermen would be far more careful about losing their weights in the river. And, you would have far fewer fishermen eager to taunt, tease and harass species just for fun if you made such a bold regulatory change. It's just a thought. And, gold will collect mercury when clean gold and elemental mercury come into contact in the water. All weights the fishermen lose while fishing will be recovered by suction dredge *miners in the future*. It is a win-win scenario.

Lead Buckshot banned – Waterfowl feeding on lead

Decades ago scientists warned the public about ***lead buckshot*** in our aquatic environments, in part because *waterfowl* would *ingest lead when feeding*. *As a result, lead buckshot was banned*. Yet today, the rivers are full of lead buckshot and lead leader, lead split-shot, lead weights, and bullets and waterfowl does indeed feed in these streams and rivers. Also, every time this lead is ground up by the rivers, it is abraded and each piece gets smaller and smaller as it travels. This is a fact, and the explanation is that all particles of the oxides and the pure metal are removed and scattered throughout our riverbeds thus accounting for lead contamination of fish and water. Perhaps your scientists might be motivated to study this!

Question; If your gaggle of *environmental scientists* are so *genuinely concerned* about protecting our environment, then why have all these *geniuses* failed so miserably to acknowledge the lead / waterfowl issues in your SDEIR?

Question; How brilliant can your scientists possibly be if it takes a mere suction dredge *miner* to bring their attention to blatantly obvious environmental *concerns* - (lead transport and reduction is only one example of many to follow) - that they failed miserably to analyze or document?
*If I were an ethical *scientist* working on this SDEIR, I would be embarrassed.

Dredging out the lead including buckshot

The *waterfowl* are spared to some degree *only as a result of the work suction dredge miners have done over several decades*, no other group or agency has done more than suction dredge *miners* to clean out the toxic lead for the benefit of waterfowl. Suction dredge mining is the only possible mitigation for your lead problem. It is your problem because it is the byproduct of your *authorization*, which *authorized* and *authorizes* the collective discharge of vast quantities of the hazardous material lead into our rivers on a continuous and on going basis. In aggregate, DFG is directly responsible for the vast majority of heavy metal contamination in our rivers today.

Legacy mercury vs. DFG and lead
Now, for *comparative perspective*, the old time miners over a century ago were unaware that mercury had any toxic side effects. They did release a lot of mercury into the rivers. On the other hand, DFG; with vast power, environmental laws galore, huge scientific staff, and vast research available at their fingertips *have been responsible for depositing more lead in aggregate into the rivers* than the old time miners deposited in mercury.

The key difference is that *DFG should have known better* and *DFG was paid significant sums of money* for many, many decades for such *authorized lead distribution*, but in contrast, *the old time gold miners simply didn't know better*.

Ironic
It is also fascinating and perhaps *ironic* that Congress and our Legislators created agencies like DFG to *protect* the environment; the fish, water, and water quality from any and all people(s) who might repeat the purportedly careless release of pollution like the old time miners caused, but much to my chagrin, DFG has done far, far worse on *the lead issue* alone and refuses to date to recognize or correct these practices! Isn't capitalism working out great for the California DFG?

Question; Why is it that DFG finds it permissible and acceptable to sell fishing and hunting licenses averaging *24 – 36 million days annually of intentionally killing species* who each and every one - predictably - will throw fishing lead into our rivers en - mass as long as the lead is attached to fishing line, *when by stark contrast*, throwing small pieces of lead without fishing line is a punishable environmental crime?
*This amounts to 98,600 visits per day, except I calculate 365 days a year, fishing season is what six months, so double this figure and we get 197,000 fishermen per day. Yep, that is nearly 200,000 fishermen per day visiting our rivers, on a mission to kill, maim, tease, and plunder, slinging the hazardous material *lead* every day.

Fly Fishermen no prize either
Finally, even the *fly fishermen*, who are perhaps the snobbiest sportsmen I have ever met, are far from being as *environmentally conscience* as they *proclaim* to be. This group of elitist river *users* drive all over the state fishing where ever the law allows, doing their coveted *catch and release*. Aren't they green? I don't think so, *fish die on a daily basis* as a direct result of their activities. They crush vegetation, trudge and wade through sensitive aquatic environments and damage fish eggs, frog eggs, and cause a variety of harms to species and species habitats.

They also have a *license to kill* from the Ca. DFG. They purchased the lawful *right* to *taunt, tease, maim and kill species*. DFG eagerly sells these snobs the right to *harass species*. They are sick, they love catch and release. What is catch and release anyway?
**It is full grown adults who relish tricking species into biting their hooks for the shear joy of fighting fish, hurting them, and causing them stress and watching them leap out of the water in anguish and fear*. And when the fly fishermen are done "*Playing" with the species* they hooked, *they ever so carefully and gingerly let them go into the wild*, "off you go little fishy," *and they feel so good about themselves!* So, let's get serious here.

Question; What is it that *fly fishermen* do or have done in the course of fishing or commuting to and from the fishing hole of choice *that could possibly be viewed as beneficial to species or aquatic habitats*?

Question; Do they have *magic tires* that do not leave dust on gravel roads?

Question; Do they have *magic waders* that prevent them from crushing vegetation, fish and frog eggs?

Question; Do they have *magic glasses or magic eyes* that alert them to sensitive aquatic conditions that no other user, (such as an *evil suction dredge miner*) could recognize and thereby avoid harming critical habitats?

Question; Do they have magic SUV's that leave no carbon footprint when they drive throughout the mountain ranges to go slay the fish and contaminate rivers?

Again, fly fishermen, like most other river *user* groups are *takers, users*, and the environmental harms to fish and aquatic habitats is *undeniable* and apparently *unavoidable*. Worse, they *terrorize, taunt, maim and kill species* just for *fun,* and they give nothing back to Mother Nature. Isn't that truly sad in the scheme of things?

Question; So *which* river user group or groups *are truly exploiting the environment*, taking species, and using the rivers for *fun* while carelessly and ignorantly damaging the aquatic habitats?

Question; And, is it possible that the suction dredge *miners* who clean the habitat are creating *the least amount of habitat liabilities and the most environmental good*?

Exploiters? & Defense
I say all evidence available in your SDEIR indicates that *it is the cumulative impacts of the activities of all the other river* ***user*** *groups combined that are the true* ***exploiters*** *of Mother Nature*. Suction dredge *miners* appear to be the *rare exception to the rule*.

As a user group, we *use* the river *but* we *clean it as we go about our use*. The river is *cleaner as a result of our activities*, I dare say, *no other user group can make a remotely similar claim*. We *give labor*, *provide specialized equipment*, and we *bear the brunt of the expenses and even risk our lives in the process.* And we can offer DFG no praise for having *handicapped our efforts*, and *endangered and materially interfered with* our work at least since 1994.

Suction dredge *miners* are frequently accused of "greedily exploiting our resources and trashing the environment." This is not true of course but *it is the accepted and promoted narrative*. A *narrative* DFG evidently enjoys exploiting throughout this SDEIR. And as I have and will demonstrate throughout my comments, it appears that the ***only*** *river user group* that has *consistently improved our aquatic habitats and water quality* are suction

dredge *miners*. We take gold that we are entitled to take by law, and as we take gold, *we also take all the heavy metal contamination that the **other user groups** left behind by the millions of river **users** sanctioned by DFG and USFS and BLM.* We clean up the *other **users** messes or garbage*, which is *the predictable bi-product of their pure entertainment*.

DFG well paid for the right to kill and sling lead

Seems to me that since the fishermen and hunters have *paid DFG handsomely,* these ***user** groups* have *purchased the lawful right to go kill stuff and sling lead willy-nilly all over our fragile ecosystems*.

It seems only fair for DFG to *pay suction dredge miners to clean up the messes* DFG is responsible for; not only for allowing this lead to enter our rivers in astronomical proportions, but DFG has been well *paid for their permission to contaminate our rivers with lead*. These sportsmen are not only licensed to kill specific species at will, kill species that don't survive after release, kill other species by ignorance or accident, but also lawfully sling vast amounts of lead throughout our watersheds. And DFG has *sold* all these sportsmen the *right* to do all of these things with no apparent environmental benefit whatsoever and no plan to reclaim their lead!

Basically, DFG profits by selling licenses to sportsmen of various types to randomly kill stuff; target specific species for death, and sanctions all the fishermen's lead slinging throughout the watersheds in the State of California.

If DFG did some homework, I bet DFG could find readily available data that would estimate how much fishing lead is and has been manufactured and sold in California for domestic "fishing" use. *I'm sure your diligent and apparently industrious environmental scientists* could dredge up considerable and credible data spanning 40 years to get an idea of how much lead fishermen purchase, use, and redistribute into our rivers annually. I am also certain the amount of *lead sold to and used by fishermen* in the State of California will be *astronomical*.

Look, DFG has opened this can of worms as a direct result of attempting to screw miners, and DFG has no one to blame but yourselves for the pickle you are finding yourselves in.

Equipment; Gold Suction Dredge V. Reclamation Dredge

Comparative Perspectives

OK, lets look at a suction dredge designed for *gold mining* and then *compare* it to the design required for a *reclamation dredge* recovery system; designed for the recovery of lead, heavy metals, and mercury. Guess what? There is no difference.

A gold dredge sluice box - with 160 years of design and testing for gold recovery - *is absolutely the perfect tool for reclamation dredging, that is, for heavy metal and toxic metals extraction.*

It is safe to say that the only *difference* between suction dredge *mining* and *reclamation dredging* is the *objective* and the *intent.* The gold dredger is looking for gold and he just happens to dredge up *heavy metal garbage* because it is generally concentrated in precisely the same locations as the gold. The *reclamation dredger* is being ***paid*** *big money* usually by *Government* to go to known *contaminated* areas in search of garbage and heavy metals, he uses the same dredging equipment, he dredges and recovers heavy metals, and he finds the same quantities of *gold* in his sluice box quite by accident.

The key difference between the purported ***good*** *(reclamation) dredger* and the ***evil*** suction dredge *miner* appears to be the ***intent*** **or** ***purpose*** *of the dredging*.
In both aforementioned cases the *toxic heavy metals* were/are *removed* as a result of *suction dredge mining*. The difference is that there is an *unrealistic and largely ignorant bias against* suction dredge *mining* for gold, but on the other hand, *reclamation dredging has been painted with a broad brush as being green and environmentally friendly.*
Perhaps the *green* does not stem from environmental work per se, but from the *color of the almighty greenbacks he is paid for his purported good and green deeds.*

Question, what is it called when a miner uses a *suction dredge to remove gold* from a river?
My Answer is Gold Placer Mining, or suction dredge *mining*.

Question; What is it called when a dredger uses a *suction dredge to remove heavy metals* from a river?
My Answer is Heavy Metal Placer Mining, or suction dredge heavy metals *mining*.

Question; What do you think, do you suppose the reclamation dredger will clean out his sluice box and throw the gold back into the river**?**

Question; If a reclamation dredger (AKA heavy metals miner) dredges gold while dredging heavy metals, isn't he *also a suction dredge miner or a gold dredger*?

Question; If a suction dredge *miner* is searching for gold, follows the heavy metal trash, and dredges heavy metals but ends up dredging far more *heavy metals* than *gold*, wouldn't it be appropriate to say he is a *heavy metals miner, suction dredge heavy metals miner* or a *reclamation dredger*?

Question; Isn't the *difference* between *reclamation dredging* (AKA *Suction dredge heavy metals mining*), and *suction dredge gold mining* simply a matter of semantics?

Question; And secondly, would you agree that the dredges used in both kinds of operations are *identical* and that the job done produces precisely the same results?

Important Point; If an operator of a *reclamation dredge* designed for *heavy metal recovery* is sent to a specific location to clean heavy metal contamination out of a river section, and he *suction dredges* the heavy metals, *he is by definition a heavy metals*

miner. Why? The heavy metals are distributed in the lower strata of the gravel just as gold is. If a gold suction dredge operator is a *miner*, which is mining gold by excavating gravel and vacuuming the river bottom for gold distributed in the gravel, then, the purported *reclamation dredge operator* is a *miner* because he is literally and intentionally mining by excavating gravel and vacuuming heavy metals that are also widely distributed in the gravel with the gold.

Heavy metals mining (AKA Reclamation Dredging) is not lucrative on its own, in fact it is *uneconomical* with out a *government subsidy*. The exception is when the gold recovery in the heavy metals *mining* is high, but heavy metals miners are paid for their work regardless of how much gold they recover in the process. They are not required to throw the gold away. This is amazing!

The USFS has defined what mining "operations" are under the 36 CFR 228 mining regulations and the courts have upheld the definition of operations. And by ***strict definition***, suction dredging with a so called *reclamation dredge*, and *sluicing* heavy metals, *concentrating* heavy metals, and *panning* to extract the heavy metals is by any and every known definition to date ***mining***.

What kind of mining? Well, what are they mining? They are mining *heavy metals and mercury* from river gravel. So, operators who are operating *purported* reclamation suction dredges *for heavy metals recovery* are by irrefutable definition ***heavy metals miners***. The problem is that their purported heavy metals cleanup project, AKA heavy metals mining project, causes *precisely* the same results, the same sediment release, the same alleged toxic tailings discharge, the same turbidity is anticipated, and the dredge will have the same mercury recovery rate as the suction dredge gold *miner*.

Again, this is outright bias, discrimination, and "use prejudice."
Why? Because the alleged purpose of the Legislation was/is intended to target and eliminate suction dredge *mining* because of all the presupposed and alleged harms we *might could possibly maybe cause* at some point in the future.

But, If reclamation dredges, and suction dredge heavy metals miners use the same equipment as the suction dredge miners, use the same techniques, and do the same work and achieve the same identical results, in the same in stream settings, then plainly the Legislation is *discriminating* based upon the *intent* of the operator.

Yet, *the so-called reclamation dredging is not regulated by DFG in the same in stream waterways as suction dredge miners.* So SB-670 is prime for litigation as it is *discriminating against a specific and targeted minority group of specialized miners, namely suction dredge miners*.

SB-670 does prohibit suction dredge *mining* for gold, - if gold recovery is the *intent* - and allows other forms of suction dredges and suction dredging to proceed with all other in stream reclamation and reclamation projects as usual.

Dredge permit, Dredge Permit, we don't need no stinking dredge permit

How about if I skip asking for a suction dredge mining permit entirely, and instead I go out to my claim and dredge heavy metals (reclamation work) on purpose and the gold I happen to find is just an accidental recovery of gold. Then I shouldn't need to go through all the bullshit DFG is proposing in the new SD regulations, I can select the right dredge size for the job, use a double drum power winch without a permit and DFG can send the local news team to my claim so DFG can brag about how heavy metal miners are cleaning up our rivers for free! Better yet, DFG can pay me the going rate for my heavy metals recovery and my *invaluable services to nature, the environment, water quality, and aquatic habitats for all the citizens of the United States*. Such payment would ensure I keep up the good and necessary work of cleaning heavy metals from our environment.

Reclamation dredgers are subsidized via Taxes

Again, it is baffling that suction dredge *gold miners* are treated like *greedy exploiters of the environment* and somehow DFG and the general public has been *indoctrinated* to believe that *heavy metals reclamation dredging*, or more appropriately *heavy metals miners* are painted with a broad brush as providing an *invaluable service* to the environment and the people.

And because the heavy metals miner's *intent* is to find and mine heavy metals and these heavy metals are not generally economically mined, they must be *subsidized by the State and/or the Federal Government*, meaning the operators must be PAID CASH to dredge heavy metals even though they will *dredge the gold with the heavy metals* and *keep all the gold they dredge up* at the same time.

It could reasonably be said that the Agencies like DFG can use reclamation dredging as yet another species of "cash cow."

Question; Does DFG really and truly believe that the greedy, hungry reclamation dredger's mining of heavy metals under contract with the DFG - and other alphabet soup agencies - is in any way superior to, better than, or more moral, ***than*** those dad gummed suction dredge *miners* who do identical work without government pay, and for the sole purpose of extracting the gold along with heavy metals which is their private property?

Question; So, which *miner* is good and which miner is evil?
Seriously. Can you proffer a guess? I would like to know.

Question; Which miner does the reclamation work for free and which miner does reclamation work for dollars? (Tax payers Dollars at that.)

It appears to me that the *contracted reclamation dredger is the exploiter* of our aquatic habitat because he only does this work for a paycheck. (not many volunteers)
But a suction dredge *miner* does the exact same reclamation work for free, we merely expect to recover gold, you know that shiny yellow stuff that represents new wealth that finds its way into our economy. This is not *recycled wealth* where I take a paycheck and give it away for rent, and the landlord pays his taxes and Uncle Same gives it to Joe who

purchase drugs and the drug dealer pays his rent to the landlord and so forth. That just recycles the wealth over and over. I am not talking about recycled wealth, but brand new for the first time out of the earths crust wealth.

It is clear once again, that suction dredge miners have all other river ***users*** and reclamation dredgers beat hands down when it comes to *using* our rivers and *giving something worthwhile back to mother nature.*

So, these purported *reclamation dredgers* not only do *exactly* what *suction dredge miners do*, but they are *paid the full cost for the entire operation including labor*, by the *California tax payers*. They will dredge up the gold along with heavy metals and sell the gold as an amazing tax-free bonus! And, they don't even own a mining claim; don't pay property taxes on the claim, don't pay BLM maintenance fees, don't pay County and BLM filing fees, and as a bonus they don't get harassed for doing the same job we do!

So apparently *reclamation* dredging (AKA Heavy Metals Mining or Dredging) is basically suction dredge gold mining where the operator's *alleged intent* is the extraction of heavy metals, and because of the alleged *noble intent*, these heavy metals miners are subsidized and are not bound by DFG suction dredge mining regulations. Can you say ***Discrimination?***

In reality these purported *reclamation dredgers* are no more than ***paid*** *suction dredge miners* with the apparent right to *recover, keep, or sell the gold as a bonus*. The US Mining Laws have nothing to do with reclamation dredging strictly speaking, yet, somehow; *reclamation dredgers/heavy metals miners/suction dredge heavy metals miners* are in fact *dredging gold*, and keeping gold and therefore *gold mining without* the *Grant and authorization of Congress* and *without obtaining a suction dredge mining permit from the DFG.*
Worse, DFG is *sanctioning* this entire process while at the same time severely handicapping the *evil* suction dredge *miners* with draconian regulations, you know, the miners who have a Grant from Congress; Congressional authorization to mine, a mining claim, *The Dominant and Primary Use* and are the lawful owner of the gold deposit.

At this point I have conclusively established that there is *no difference* between in stream suction dredge mining for gold and suction dredge mining for heavy metals. They are IDENTICAL. The only arguable exception is that of *intent*.

Intent
The gold miner looks for gold and gets heavy metals and gold, and the heavy metals miner looks for heavy metals and gets heavy metals and also gets gold. The apparent difference is merely the *intent* of the miner.

The suction dredge miner *intends* to search for and dredge gold for profit, but absent State subsidies, he is on his own and he is required to make a profit. He must attempt to economically mine his gold without subsidy, and in fact, he must suction dredge with

DFG *impeding, prohibiting, stalling, and materially interfering with his activities*. The suction dredge miner has the DFG (AKA; 400 pound gorilla) on his back.

In stark contrast, the *suction dredge heavy metal miner* (reclamation dredger) intends to dredge heavy metals including gold except the taxpayers subsidize him and he is not bound by the regulatory nightmares his only competitor (Suction Dredge Miners) must endure.

Discrimination and use prejudice
This leads me to conclude that DFG's proposed suction dredging regulations are a clear-cut case of USE PREJUDICE.

In fact these proposed regulations are DISCRIMINATORY. It appears it is only suction dredge *miners* looking *for gold* who are *intentionally and maliciously regulated out of existence*. But purported reclamation dredgers mining heavy metals and gold is free to mine w/out regulations ostensive because of some half-baked, convoluted, and erroneous premise that *reclamation dredgers* are *good* and suction dredge *mining* is *evil* or bad.

Question; Isn't it weird that ***intent*** *of the miner* is the key factor motivating the Legislation, political motivation, the cooked *science* and the proposed regulations?

This is crucial. Because, while the *suction dredge gold miner* and the *suction dredge heavy metals miner* ***intent*** is to seek different metals, in the final analysis, both miners end up dredging up exactly the same materials when they clean out their sluice boxes.

Intent

So regardless of *intent* of the dredger, the end result is *exactly* the same. And because the results are identical in every way, the notion DFG and/or the Courts, or the State Legislators have declared a ban on in stream suction dredge *mining* and have not banned any other form of in stream dredging is ***prejudice*** by definition. As I have shown, while both *evil* dredgers and *good* dredgers have a different intent, a different goal, and a different stated purpose, it makes no difference in the final analysis because the end result is precisely the same. The end result is a river section cleaned of hazardous materials and toxic waste.

Reclamation equipment we can never ever use - discrimination
The other issue of concern is that there are many forms of dredging beyond heavy metals mining and placer gold mining. There are dredges designed to muck out dry land at waters edge for boat docks, to dredge channels for private boat docks in ritzy housing projects. There are dragline dredges operating sand and gravel plants that by the way almost always process the river gravel for the gold. These are huge dredges on massive barges that send barges full of river gravel and sand on their way to a gravel plant. Some of these dredges cruise lakes with weed cutters and vacuum up all the weeds for disposal. Other dredges are intended to merely pump sludge, sand, sediments, and gravel to another location with no filtration. This is often the type of dredge used to do most *maintenance* dredging on power projects as stated in SB-670.

The main point is that *all other uses for dredges of every kind and every size are exempt from DFG's proposed regulations for suction dredge mining.* And, therefore a mere placer miner is *discriminated against* because he does not have the same rights or permitting process enjoyed by all other dredge users regardless of the other user's *intent.*

And many of these reclamation or maintenance dredges are indeed dredging gold whether that was the *intention* to recover gold or not. So the plain fact that suction dredge *miners* searching for gold cannot use proper equipment to economically extract their property (gold), and *we are provided no option whatsoever to use the proper dredge size and support equipment, this* suggests that DFG proposed regulations and prior suction dredging regulations are deliberately prejudicial to one small minority *class of people*, namely suction dredge *miners*.

We should have exactly the same opportunity as the purported reclamation dredgers to use a 16-inch dredge if we need one. If DFG refuses to allow suction dredge *miners* to request permission to use such oversized equipment but allows all other commercial enterprises who claim they are not *intentionally* mining gold to apply for permits or licenses to use whatever equipment is best suited for the job, then it is clear that these proposed regulations are deliberately *intended to attack one class of people;* and *one type of extraction*, for one type of mineral, namely *suction dredge gold miners* and *suction dredge gold mining*. The common denominator is the terms "*gold, mining, and intent*."

Disclosure – Complaints

Going back to SB-670 I am curious as to *what input DFG has given the California Legislature* with respect to suction dredge *mining.* In America, historically *we the people are afforded the right to face our accusers*. In light of this tradition, I want to know what dirty deeds DFG has been up to; what *testimony and documentation, and letters* DFG offered to California Legislators, and I want to know more about the *other user groups who are and have been complaining* about suction dredge *miners* as touched upon in the SDEIR.

In the interest of fair play, I request to know *what it is these other user groups are complaining about*, and we all want an opportunity to "face our accusers," and/or *to know precisely what the specific complaints are* so that we might be afforded an opportunity to *defend ourselves*. This only seems fair to me.

DFG input instrumental in getting Legislative action

Sure, DFG had two court decisions, but the *Legislation* was a separate and distinct action. Plainly DFG has given input to the California Legislature to literally impose a ban on *evil suction dredge miners* and specifically excluded all other types of dredging. ***I would very much like to get a copy of the letters and documentation the DFG sent to the California Legislators and I want to see any testimony DFG offered in support of the suction dredge mining ban. Please send me copies of these aforementioned documents or publish them in the SDEIR.*** I believe that DFG is *largely responsible* for providing the

bogus information to the California Legislature that led to this *discriminatory* and *arbitrary suction dredge-mining ban.*

If DFG fails to offer up such a good faith request, I assure you that we will be dredging up the information through FOIA and / or discovery, or whatever other means until such information sees light of day

Moving on, if DFG contracts a crew of *heavy metals miners* to suction dredge a river clean of heavy metals, the *heavy metals miners* do not answer to the same regulations that suction dredge gold miners are saddled with in the new proposed regulations. Therefore, the *reclamation dredger*, or more appropriately, the *heavy metal miner* will select the *largest dredge possible* to complete the task as economically as possible.
They can use power winches, and move logs, stumps, boulders and such at will. *Heavy metals miners* (reclamation dredgers) have no size limit on the dredge they select.

If the DFG were to require heavy metal miners to use *tiny dredges* like they are attempting to coerce us into using under these proposed rules, then the operations will become more and more cost prohibitive. Certainly DFG has no obligation or desire whatsoever to compel *heavy metals miners* to comply with the regulations they have set out for suction dredge *mining*. As it stands today, there is nothing stopping any agency from sending a heavy metals miner (reclamation Dredger) to any gold bearing river using any size dredge the agency sees fit to dredge up heavy metal contamination.

What is amazing to me is that there have been literally thousands of heavy metals miners actively working at cleaning out our river systems and watersheds for 40 years. (4000 – 1200 suction dredge *miners* annually to be more accurate.) DFG labeled them as suction dredge *miners* because they had an *intent* to find gold, and then, DFG regulated them so heavily that since 1994, the amount of heavy metals removed from our environment was ***dramatically reduced*** on an annual basis as a direct result of the last set (1994) of draconian SD regulations. Gold recovery dropped significantly as well for same reason.

Now, DFG proposed regulations, if adopted, will undoubtedly cause another sharp drop in *Heavy metals recovery* and another **sharp drop in *gold recovery***. In fact heavy metals reclamation is literally being outlawed by DFG in the smaller streams due to the 3 foot stream bank rule.

Further, the ***draconian reduction* of *nozzle size*** will absolutely guarantee that streambeds containing over 6 feet of overburden will retain all hazardous materials and super-sized garbage metals *forever* because they cannot be mined/cleaned safely or efficiently without the volunteer work of suction dredge *miners* with the regulatory scheme that permits the use of the right tool for the job.

Gold up and DFG down on miners
Interestingly, gold spot price has dramatically increased in recent years, today at $1,500.00 per ounce. I find it odd that just when the price of gold shot up and held, DFG has proposed new regulations that make mining gold far more labor intensive, more

difficult, and using such tiny equipment will make a paying mine under the last set of regulations unprofitable with this set of proposed regulations. It will cut production rates in half if not more.

Further, whether your scientists call it a *gold dredge* or a *reclamation dredge*; they both have the identical net effect. Both dredges vacuum the river gravel, they both filter the gravel through a heavy metal/gold recovery device, AKA a sluice box, they both loosen compacted river gravel, they both leave piles of fresh river gravel suitable for spawning, and both leave dredge holes that invite fish to lurk about, feeding in the still cool water hole. The piles of *cleaned* gravel will fan out and spread out with the first high water of winter or snowmelt in the spring.

Pandora's Box – Background Pollution

DFG in its shameless attempt to screw miners has unwittingly opened Pandora's box. Your SDEIR is suspiciously lacking any real analysis of, or, information concerning the undeniable presence of massive amounts of Hazardous Materials and toxins in our rivers. I have had to spend days composing my comments, but I will say that taking the time to compose these comments has broadened even my understanding of what DFG is and has been up to, and it ain't pretty. It does not benefit our environment or aquatic species or water quality any discernable way. In fact, DFG management has already and will without question guarantee that our water quality will continue to degrade, mercury will continue to contaminate water and fish, fishermen will eat more mercury contaminated fish, lead and other heavy metals are assured to deposit in the sediments and lead contamination will increase the level of lead and other toxins in our drinking water.

Therefore since your SDEIR is *silent* regarding these Hazardous Materials, I presume that *if informed*, a purported honorable agency like Ca. DFG will be *eager* to recognize the *failure* of Horizon and DFG to address such *profound environmental issues* that have heretofore been purposely excluded. Certainly, it is my hope that after reading these comments, DFG will be *eager* to immediately go about gathering data, analyzing the effects of various garbage and hazardous materials for urgent and appropriate action.

Certainly the toxic garbage laden rivers throughout California deserve thoughtful analysis, comparison of harms, and a *plan to physically clean them up*, and *mitigate* the harms. I hope my efforts will be *appreciated* and that *DFG embraces these concerns*. It is not my *intent* to make work for the agency*, but I want to be certain DFG acknowledges, analyzes, takes responsibility for, and plans for the orderly removal of toxins of all kinds that are currently bound together in our riverbeds*.
I'm just trying to be helpful and I want to ensure that our aquatic habitats are properly analyzed, that a reasonable clean up plan is immediately devised, and that ultimately the toxic contamination gets cleaned up.

Question; Can DFG provide studies by DFG or other agencies as to the effects of the *Hazardous Material* ***asphalt*** entering our rivers, the effects of tumbling and grinding on its path down river in major flood events, and the effects of hazardous chemical leaching that surely must occur?

Question? How does or would ***leaching*** and grinding vast volumes of ***asphalt*** adversely affect water quality, sedimentation in our dams, and aquatic habitats and species?

You know, it seams to most of us that DFG, BLM, USFS, and other agencies have been supposedly *studying, analyzing, planning every aspect of the environment for decades*. And for the vast amounts of money "we the people" have paid over all these decades, *it appears that you folks never roll up your sleeves and get to the physical labor and hard work in the field that must be done for all the purported environmental reasons you "write about" all the time.* Talk is cheap. (Actually DFG talk is very expensive, see below)

Question; Analysis paralysis, opinions galore, but where is the action?

Question; All this hazardous waste needs to be physically cleaned up and removed. Where are the *boots on the ground*?

Question; Will you provide us all, *environmentalists included*, with a full report of the work your agency has done/is doing to physically locate and clean the heavy metals out of our rivers?
Please also *break down* the costs to perform the work. And, better yet, provide us with the list of all the *environmental analysis* that was done for those specific heavy metals cleanup jobs, and then, break down how much the "*analysis and paper shuffling*" cost the agency per cleanup project.

The point is that the environmental laws passed in the 1960's and 1970's have created a breed of overzealous regulators and truly misguided environmental scientists who never seem to get any real genuine physical work done in the field to *truly benefit* our shared environment. All you guys appear to do is *talk* about environment, put pen to paper, *analyze* everything to death and *strangle everyone you can with absurd regulations*.

Super-sized garbage
And what is truly *egregious* is that after 40 years of suction dredge mining history, your environmental documentation, (SDEIR) to this very day has ***failed*** *to Recognize, analyze, mitigate, or plan for cleaning up super-sized garbage, and known hazardous materials; asphalt, concrete, lead, and a host of heavy metals widely distributed through each and every water shed in California.*
This does not include the *gasoline in machinery and vehicle fuel tanks, oil in engines, toxins like Ni-cad batteries, dry cell batteries, alkaline batteries* that have been washed into the river or thrown in and they are all laying on bedrock in the rivers under the gravel.

Correction, you don't "analyze *everything* to death" because even a cursory review of the SDEIR reveals that DFG has a premeditated plan to intentionally and maliciously disregard any meaningful analysis of the quantity of; *hazardous materials, toxic*

substances, super-sized garbage, and heavy metals contamination in most if not all of California's rivers and streams.

Disregard for Background Pollution

It is truly sad, that DFG has such disregard for this significant pollution that could only be described as; *gross negligence, willful negligence, and a premeditated plan to eliminate suction dredge gold miners at the expense of the environment*. Shame on you all, in fact, such malicious oversight should be viewed as a criminal act and a premeditated conspiracy to harm, hands down, the most beneficial users of our rivers, namely, suction dredge *miners*. At the same time, you doom our rivers to keep and hold all trash and pollution that has accumulated in the rivers for 160 years.

This seems unbelievable to me, except nothing Government does any more would surprise me. Despite all the input we have given DFG after 40 years, DFG has once again *failed* to address the *hazardous materials* and *garbage* issues. This has to be a *calculated and calculated endeavor*. If DFG had their way there would be no dredging. If that occurred, much to the joy of DFG - and their dear friends the environmentalists and other abusive river ***users*** - *next to no reclamation of our rivers will ever occur in California's rivers ever again*, that is unless DFG *contracts* heavy metals miners to do a project here and there *at tax payers expense*.

Question; So why is DFG so eager to keep all the toxins ***in*** our rivers and streams?

For 40 years DFG has had the benefit of thousands of *suction dredge heavy metals miners* working several months a year. Thousands of *boots on the ground with their sleeves rolled up*, and working hard to clean up all the heavy metal they can. Yea, the greedy bastards got some gold with it damn it!

Comparatively speaking, hands down, suction dredge *miners* have done more environmental good for our river systems; water quality, species, and environment than; any and all other user group(s), environmental group(s), and the DFG combined. *And what have we got for our troubles?* Nothing but State and Federal regulatory; *abuse, citations, fines, restrictions, harassment, threats, and abuse by ignorant people jealous of our "Right" to mine.*

MSHA & Safety Concerns

We honestly risk our lives in *extremely* ***hazardous*** *working conditions*, especially in deep water and deep overburden. *Many suction dredge miners have been* ***killed*** as a result of *unstable* boulders suddenly giving way and trapping the miner under the boulder(s) and he drowns. Sometimes, entire masses of rocks and aggregate slip away from the working walls of a dredge hole burying the *miner* and either injuring him or ***killing*** him. ***Safety First.***

Every time we enter the water and begin dredging, we continuously work around and under ***hazardous*** materials like boulders and piles of rock and gravel. There is no way in hell DFG can implement regulations requiring a miner to report each and every boulder

he needs to move for personal ***safety***. The Idea that DFG can dictate and demand that we get permission for each and every hazard boulder and *dictate* the manner in which it is to be moved violates Mine Safety and Health Administration (MSHA) rules, regulations, principles and policies. ***Safety First***.

The entire concept of *streambed alteration permits* for suction dredging active river channels is a *fraud.* Every 10 years or so the raging torrents of flood waters have their way with the streambeds, completely reconfiguring the stream beds as Mother Nature sees fit. So, DFG in its *gambit* to screw miners created this 1604 streambed alteration permit to make sure *nothing* disturbs our river beds, and after all the planning and scheming spanning a decade or more to keep each and every boulder where it is, Mother Nature steps in and she wipes the slate clean, completely alters the streambed *without a permit* and all the work DFG did and all the hassles trying to preserve every rock and boulder turns out to be all for Nothing. But never fear, DFG will be out counting boulders again very soon and DFG will ensure you don't move any of them without DFG approvals and permits. Talk about a thankless, endless, do nothing job, and an outrageous waste of time, money and energy. You guys got to be smoking pot!

We work very hard, and the biggest ***threat*** to our ***health and safety*** is the DFG, USFS, and BLM who create *silly and* ***dangerous*** *regulatory schemes* that ***increase the hazards and risks*** *we face every day*. And all the while we are the only group capable of cleaning out the heavy metals that *all other* ***user*** *groups and construction crews* have deposited in the rivers over the past 160 years.

To be honest with you, and not to be intentionally rude, *you guys aught to be kissing our asses, getting out of our way, and asking how else you can help us to clean up your rivers. I say your rivers because you certainly act like you own them outright*.

Material interference

Since 1994, DFG suction dredge mining regulations have significantly *hindered, impeded, and materially interfered* with the *voluntary reclamation of our rivers*. Those regulations have generally *prevented the orderly reclamation of all areas of rivers that have over six+ feet of overburden since 1994*. In fact if not but for your 1994 regulations, miners would have made *more money* and *cleaned more rivers*, and the citizens of this country would have benefited from *new wealth of gold recovery*, balanced with *cleaner water, healthier riverbeds, and healthier habitats in general.* Now, with your new proposed regulations, far less reclamation will be done (than since 1994) at the expense of the environment and species you arrogantly proclaim to be protecting.

Mineral withdrawals and closed rivers protect pollution

By the way, all areas that have been withdrawn from mineral entry including but not limited to the following; *recreation areas, wilderness areas, wilderness study areas, active power projects, dam reservoirs, and a number of other land classifications, along with agricultural patents* are off limits for suction dredge mining.

This means that *vast amounts of heavy metals will* ***remain in place*** and the suction dredge *mining* community cannot voluntarily extract *any* of this pollution. And a certain as the sun rises in the West, this stream pollution will be blown down river again during each and every future flood event. This absolutely assures and guarantees that river pollution will be buried in deeper and deeper gravel, that pollution will spread further and wider, and that DFG has and is making impossible to clean up. The longer DFG waits to clean up our rivers, the deeper this hazardous material will be buried, and the larger and larger dredges will needed to be able to ever clean up this environmental disaster in the making.

The only way for these particular streams and rivers to be cleaned and reclaimed is if the work is *contracted* by an Agency and the American People pay handsomely for it - that is, if it is *ever* done. I wouldn't hold my breath. Nobody at DFG seems to be in a hurry to acknowledge, let alone clean up *heavy metals and garbage*, especially the very Agencies established to *protec*t our rivers, streams, and water quality.

Question; Has DFG considered and analyzed the contaminated streams and rivers in all these areas that are *off limits to suction dredge mining* as listed above?

Question; Has DFG considered that since no reclamation dredging has been done on many of these sites for decades, that the pollution, mercury, and heavy metals are still breaking down and floods are spreading the toxins far and wide in major flood events?

Question; Wouldn't it appear wise for DFG to *petition the other managing agencies* and *establish a program* that will allow suction dredge *miners* to enter any and all of these locations to perform reclamation dredging for the purpose of *arresting* the *relentless spread of toxins throughout our rivers?*

If it is unlawful to toss heavy metals into a river, and such a crime is subject to prosecution, fines, and charges for reclamation clean up, then it *must* be important to keep the rivers clean. And *if contaminates are known about* then I presume *it must be cleaned up*. But since DFG is hell bent on leaving all the contamination where it lies, I don't get why you bother prosecuting anyone for dumping heavy metals or automobiles in the stream.

You know *in court you will and have justified the need to clean it up*, and you know you will and have charged the offender(s) for the clean up costs and the court has and will punish the offender harshly for such environmental crimes.

Question; So if you can justify *urgent haz-mat cleanup in court* and *compel payment for cleanup for an individual toxic mess*, how can you ignore the fact that most of our rivers are a disaster with respect to the outrageous amount of heavy metals and other pollution?

Mother Nature needs protection *from* the bureaucrats at DFG, and Quickly.

After the fact "clean ups"

Let's look at air quality for a moment. Now, once particulates and contaminates enter the atmosphere, there is no known way for good Samaritans to volunteer their time to clean it up once it is released.
*(Coincidently, these proposed regulations will have significant adverse impact on *air quality* from exhaust fumes, burning fossil fuels, Co2, dust, and water run off from the roads as a result.) Analysis of this issue is expanded later in these comments.

Next, looking at land masses and all the garbage and human waste that is scattered about the surface of the land, there are some individuals and some organizations, and school children who go out from time to time is certain areas and they pick up and bag all kinds of trash. Now, people who bring media attention to themselves for their good deeds for picking up this trash are naturally viewed as wonderful, earth loving, environmentally conscience people doing a fabulous thing.

Similarly, these same like-minded people will occasionally go to rivers and streams to remove floating garbage, and scrap metal, shopping carts, and tires that simply did not sink into the gravel, sand, or muck.

Our Heroes

Interestingly, these people doing these good deeds are touted in the media; in the newspapers, and the evening news as being such good Samaritans, so green and earth friendly. Kind of makes you want to puke. Face it, these people are viewed as *heroes*, and the media eats it up, yet another "warm and fuzzy" "feel good" piece for the evening news. *Suction dredgers in contrast are treated like we are crap and accused of trashing the environment.*

Question; Considering the above, why is it that DFG has not specifically announced and promoted the amazing reclamation work we have done and publicly defended suction dredge *miners* for all these decades?

DFG had choice – Work with or work against dredgers

Question; Why hasn't DFG worked more closely with the suction dredge community to find a reasonable and voluntary process to document the mass volume of garbage, heavy metals, mercury, and other toxins that dredgers encounter and remove on a daily basis?

Seems to me this would have helped DFG estimate and document the volumes of and types of garbage in our rivers and would have allowed for better analysis and far better planning for future watershed cleanup. And, having a **friendly relationship with the miners,** and in the genuine spirit of voluntary cooperation, suction dredge miners could have been enormous assistance to DFG for finding, locating, identifying various forms of pollution throughout California. We have averaged what, around 3500 boots on the ground for 16 years, and any information we voluntarily discovered at our own expense of money and labor has boomeranged and DFG is using such information to destroy us. Hey, thanks DFG, way to go.

But it would be asking too much for common sense, rational thinking, and good planning, something DFG appears to be lacking. No, Instead, DFG and USFS in particular have ***made themselves*** **the primary enemy of miners**, mining, and reclamation dredging. You cannot blame miners of any kind for the anger and distrust resulting from your willful violations of our rights, your discretionary dirty deeds and raw abuse.

Question; Why has DFG failed - for decades - to provide a number of convenient ways for suction dredge miners to voluntarily **dispose of all their heavy metals** and thereby creating a way for DFG to *document* the amount of heavy metals removed from specific streams?

Question; Why doesn't DFG offer a *reward* for removing heavy metals from the river?

Mercury pools
It seems to me that DFG's inexplicable fears and paranoia over floured mercury also indicate DFG supposed concerns for water quality. DFG should be *thrilled* that elemental ***mercury*** can be found in pools, because it means conditions were perfect for deposition and allowed the mercury to accumulate and concentrate in a pool. It means the mercury is near the source. This is the perfect place and time to dredge the mercury nearest its source point.

And by the way, it is *stupid* to *dredge mercury pools* that are visible. It is far wiser to go topside, grab a sucker bottle, and go back to the mercury pool and suck the mercury into the bottle. It is self-contained. I know, *tough choices*, but every single major flood that occurs dislodges many of these mercury pools. *A major flood event can easily alter the streambed at such a site and launch the mercury into the raging floodwaters and the mercury will then be spread far and wide, once this happens there is little hope we can economically recover it* ***ever.***

Therefore, despite your paranoid fears, if this *mercury* keeps blasting downriver with the floods in the ultimate meat grinder, *there will be a point where the mercury is so widely dispersed that it will be everywhere and next to impossible to ever clean up*.
And we can thank DFG for *purposely allowing this irreversible environmental catastrophe to happen* under DFG mismanagement.

Question; So is this what you want?

Question; Do you want to wait until cleanup is *impossible* so you can *shrug your shoulders* and say gosh, we can't do anything about it now?

Flood's meat grinder abrades oxidizing and corroding heavy metals

Face it; water quality is also in peril with all the ***lead*** and other known toxins that are ***oxidizing, corroding, leaching and rusting*** *on the river bottom*. Applying logic and field experience to our understanding, when these degrading heavy metals are put into suspension during flood events, the *grinding effect of boulders and aggregates* combined with the downstream movement of the entire streambed load ***abrades*** *the (oxidized,*

corroded, rusted, decaying) ***surfaces of these toxic metals***. Then what happens to the oxides and corrosion? I presume it becomes part of the sand, silt, sediments and some of it becomes colloidal within the water - The very things DFG is sniveling about throughout the SDEIR. Experience and viewing crosscut sediment layers proves that these layers fluctuate in waves changing elevation. Sampling Background nearly impossible w/out many, many representative samples.

The DSEIR is silent as to not only the vast garbage existing in the rivers, but also is silent as to the effect a flood might have on water quality as a result of ***abrading*** the ***oxidizing, rusting, leaching and corroding heavy metals*** in our rivers gravel beds.
Other items like alkaline batteries may remain intact for many years before they begin to break down, but once the angry floodwater's meat grinder goes to work, these batteries disintegrate and the chemicals leach into the water.

So once again, all this *theorizing* about suction dredge miners' releasing *floured mercury* from its native home – the headwaters of Sierra Nevada's rivers and streams – is by contrast silly. Just as the spotted owl was used as a *seregate* species, a ruse *devised* for the real mission of stopping the logging of old growth forests, it appears that DFG is using the *paranoia of floured mercury* to *evade the DFG responsibility to acknowledge, analyze, and plan for immediate reclamation* of most of these rivers and streams in gold bearing rivers.

It seems crystal clear to me that when we get yet another major flood event, the riverbeds will go into suspension and the "meat grinder" will come to life, and ten or twenty feet of overburden will flow downriver in an angry raging torrent. *And most of the* ***mercury*** *DFG is so worried about is going to go bye, bye*.

The mercury will *flouer* some more in transport and most likely will end up in one of the *dam reservoirs*. So, all the *scientific study in the world cannot prevent this inevitable outcome because this is the DFG planned management for mercury to date*, and therefore all the fuss about *suction dredge miners* and *mercury* is as a matter of fact *hogwash*.

In fact, your proposed regulations do the *opposite* of what you intended. By adding further heavy-handed restrictions, *DFG is guaranteeing the pollution will never be removed*. Or at least until DFG *contracts reclamation dredge miners* to do the work at an enormous cost to the citizens of California. So, I don't think DFG is seriously interested in cleaning up the rivers, protecting species and water quality as they proclaim to be *protecting* with these proposed suction dredging rules.

Question; Why doesn't DFG come up with a modest finders fee or a reward for heavy metals suction dredgers remove? If, for example, DFG offered $10.00 per pound for lead and other common heavy metals, and perhaps $25.00 per ounce for mercury, then I imagine suction dredgers would be more motivated to gather and turn in all their contaminates to DFG.

Certainly, all the pounds of heavy metals will add up to tons, and DFG can send the collected *heavy metals in for* ***recycling*** so that they do not end up in the landfill. Of course, the recycler would pay DFG for those materials, and as these materials are recycled, it would mean less lead minerals like galena will need to be mined and smelted for lead production. Sounds like a good common sense deal for Mother Nature and for people.

I was feeling *generous* regarding DFG paying dredgers as suggested above. On second thought, I have a better idea that would be more *equitable* for suction dredge *miners*.

Compensate Suction Dredge Miners the *going rate* for Reclamation Dredging

If we examine the amount of money that DFG has typically paid to perform the purported *reclamation* dredging on any specific project for the purpose of removing *heavy metals* from a river or stream, and we weigh the mercury and heavy metals DFG was able to recover, we should arrive at a *cost per ounce for heavy metals and mercury*. We must insure we calculate *all the costs* such as transport of equipment, placement of equipment, transport of crews, gasoline/diesel, labor, dredge rental or depreciation, maintenance allotments, and so-forth. Then, *averaging the costs of each project DFG has requested, demanded, or otherwise contracted*, *we can determine the fair and reasonable price that should be paid to suction dredge miners - per ounce- for removing heavy metals and mercury from our rivers and streams.* I will venture a guess that using this formula will pay suction dredge miners handsomely for their *green* deeds and make suction dredge *mining* more profitable and more popular with the general public. After all, it would be difficult for DFG to keep badmouthing suction dredge *miners* when they are paying us the going rate for reclamation dredging, and/or even admitting we are the most beneficial river user group in California.

The cool part is that DFG can now go about the important task of advising the California Legislature and educating the general public not only what a great job California suction dredge *miners* have done for the environment over the past 40 years, but you can brag about how DFG has found a new way to encourage these highly trained and experienced suction dredge *miners* to continue their amazing 40 year track record of *heavy metals removal* and *reclamation* of our rivers for the benefit of all aquatic species, water quality, Mother Nature and mankind. It's a win –win for everyone. The suction dredge *miners* have been doing all this for free. But I love the idea of getting paid handsomely for *heavy metals extraction especially since DFG regulations require we remove garbage.*

Question; Has DFG ever really considered that by compelling suction dredge miners to remove heavy metals under the prior regulations *without providing them a place to dispose of these heavy metals* means that at some point some of these materials will end up in a land fill?

Suction dredge miners found and reported mercury to DFG

Another crucial point is that DFG has no means whatsoever of *finding* contaminates in the river gravel of the streambeds on their own. Without the knowledge, experience and actual inspections performed by the suction dredge *miner*, *DFG would have no clue*

whatsoever where to begin looking for such toxic materials. It is the suction dredge *miner,* who *finds* the offensive pollution, it is the suction dredge *miner* who *informs, advises, and reports the locations of hazardous materials to DFG* and who advises DFG as to the *quantity and type of toxins we encounter*. Absent the *free and voluntary work of* suction dredge *miners*, DFG would not have known where to look or where to dredge for mercury for the very analysis used in the DSEIR that is intended to *screw* suction dredge *miners*.

In fact, if not but for the *ingenuity* of miners spanning 160 years and the efforts of *suction dredge designers* and *manufacturers, inventors, and field testing spanning 40 years*, DFG would not even have the crucial tool necessary to perform their "dredge tests" for *mercury* recovery.

Hell, if it weren't for the suction dredge *mining;* community, manufacturers, and equipment developers, DFG would not have any *heavy metals reclamation dredges* to perform any other environmental or reclamation work. DFG owes the suction dredging mining universe a deep debt of gratitude for *developing and testing such important environmental equipment*. *This equipment has evolved into the most environmentally effective heavy metals extraction device available today*. Want to make a bet that DFG and other alphabet soup agencies purchase their reclamation gear from *suction dredge mining shops* and *suction dredge manufactures* here in the USA?

Question; As stated earlier, without the *suction dredge miners dredging activities* and *voluntary cooperation* with DFG, the agency would not even know about the location of ***mercury*** to run their stupid test for the DSEIR. So the **question** is why is DFG proposing such *draconian regulations that will literally slow and in many cases prohibit the removal of heavy metal and toxic substances from our rivers?*

Question; Can DFG estimate or calculate how many hundreds of tons of heavy metals have been removed by suction dredge *miners* and how much of that heavy metal could have been recycled over the past 40 years of dredging? Do you give a rat's ass?

Question; Now, looking at the pollution, garbage, heavy metals and mercury that is known to be in our rivers in vast quantities, and considering *this garbage is out of site and out of mind*, can you name any environmental groups, or other groups of volunteers who can remove heavy metal garbage from the rivers without dredging?

Question; Secondly, are there any other environmental groups, interested parties, or volunteers who purchased the proper suction dredging equipment out of their own pockets requesting permission to voluntarily dredge garbage out of our rivers for the DFG for free?

Question; Are there any other user groups *who dedicate several months* of every year – and often for decades - who are actively removing garbage and *heavy metals* from our rivers?

The answer is most decidedly no. However, California suction dredgers are *the only user group* that already has the proper equipment and experience to even get to the river bottom to *notice* or observe the garbage in the rivers. Suction dredge *miners* are the only user group to *look for these heavy metal garbage pay streaks*, and *we are the only user group who actively removes these toxins from our rivers and for free*. Suction dredge *miners* – apparently - are the ***only user group*** DFG *requires by regulation* to *remove garbage and heavy metals* from our rivers.

Fishermen

For example, fishermen with a license to kill fish at will are not required to pick up and remove floating garbage, loose fishing line, scattered fishing lures, empty bait containers etc. in the course of fishing. The same argument can be made for hunters, campers, swimmers and so forth.

Suction Dredge Miners Clean Up After Other User Groups

To expand this idea, miners are required to share the surface resources with all other user groups at all times *provided they do not materially interfere with so much of the surface we need for mining and uses reasonably incident thereto*. I remind you that we generally have and possess *digging tools* close at hand so that if we need to defecate, we can dig a hole and do our business, and not at water's edge.

However, fishermen, hunters, swimmers, tubers, kayakers, birdwatchers, and other groups ***use*** our mining claims and the general stream banks and forests for a *bathroom*, leaving their crap and ***toilet paper*** *everywhere*. Swimmers, rafters and kayakers, among others - as gross as it sounds and is - *often defecate directly into the river* – while floating next to a raft - for lack of dry toilet paper and poor planning. Many are barefoot and cannot walk into the forest through briars, thus they drop their pants and *take their dump in the rivers*.

I have witnessed ***rafters on the American river*** do this on commercial rafting runs. In fact, on my trip with my wife, others from our raft did bail out of the raft and took their **craps and pissed in the river**. My wife and I overheard a brief discussion among their friends on the raft that basically indicated that when you gotta go, you gotta go. It appears to be *common knowledge* that this routinely happens. I was surprised, but those other *users* don't seem to be bothered by DFG or Water Quality Control Board. The only way for them to defecate 'absent dry toilet paper' and 'proper shoes' is ***in the water.*** I presume toilet paper is not needed; the river cleans their anuses for them. Data shows lots of rafters.

And then all these hundreds of millions of day *users* also must ***urinate everywhere*** that is convenient; whether *in the rivers* or *on the riverbanks*. USFS Best practices require digging and burying excrement, and FS officers must of necessity do precisely the same thing. OK, admittedly USFS and DFG officers and staff, and the countless hundreds of millions of *other river users* take "***magic craps***" and possess "***magic toilet paper***" that have no known adverse environmental impacts, and *no offensive odor* whatsoever.

Certainly there is nothing to see here folks; just keep moving, nothing to see here! There wouldn't be any reason for DFG or USFS or WQCB to consider, analyze, or regulate because these ***users*** have few options and couldn't possibly cause any degradation to water quality and fish.

But those damn miners, they gotta be stopped. So, when I see DFG making a huge deal over a measly 4000 dredgers who *might* take a crap and bury it under USFS best practices and compare it to the vast millions of idiots ***without shovels or digging tools*** or knowledge of ***Best Practices***, I want to reach out and touch someone if you get my drift. Frankly, even bringing up the issue without comparing the pissing and crapping *comparisons* provided above firmly illustrate and evidence the malicious intent of the so-called scientists evaluating this topic and most topics related to suction dredge miners in the SDEIR.

And, we also have the joy and privilege of cleaning it up when it is on our claims. Why? Because if *we* don't and USFS or DFG show up and *discover the offensive crap and toilet paper*, and *we* can and *are* cited into court and *we* have to *prove* that *we* did not leave the crap or the toilet paper and other garbage these other users leave on our mining claims.

Question; Where in the world do you think hundreds of millions of human beings using our rivers and streams might urinate and defecate absent public toilets?

For clarification; (I used the terms crap and dump synonymously with defecate, and the word piss synonymously with urinate.)

Super-sized garbage

Question; Why does DFG ignore all the garbage in the waterways in the DEIS?

When we are dredging, we find *cars, culverts, lawnmowers*, and every description of trash imaginable. Now, in the past we have been *required by regulation* to remove the trash we encounter, but what happens when the garbage is too big or too heavy for us to remove? I refer to this huge garbage as ***super-sized garbage***.

The proposed regulations and SDEIR are *deafeningly silent* as to the *potential* for running into super-sized garbage. It is odd, the proposed regulations specifically talk about *trees, logs, stumps, and boulders* that we might encounter and what we must do if we find these things when dredging.

It is *bizarre* DFG has not addressed how dredgers might be doing a service for DFG, namely *unearthing major trash for DFG to come to the site and remove such garbage in an environmentally friendly way*.

Now, if you do decide to change your proposed regulations and opt to come to our claims to remove garbage when we notify you of such super sized garbage, may I recommend that DFG use *hand winching only wherever possible. Then again, you will likely need a*

power winch so be sure to get your *power winch permit* and your *equipment and location inspection*! Oh crap, I just remembered that DFG would be issuing a permit to itself. Like the fox guarding the chicken coop. And you may also need to get a *streambed alteration permit* to complete the excavation needed to fully expose the super-sized masses of metal. And be sure to contact the USFS to notify them that you intend to remove super-sized garbage *because if you might cause a significant surface disturbance*, FS will want a plan of operations for their analysis and approval.
You never know, perhaps the FS will need to perform an *environmental analysis* to ensure your removal of one hunk of super-sized garbage from the river, and the winching of such masses of super-sized garbage across the riparian zones and up to the highway easements will not likely result in adverse environmental impacts that may also need to be mitigated. This shouldn't be a real obstacle because bureaucrats give bureaucrats permits with a nod and a wink.

Question; If Suction dredger miners unearth super-sized garbage; will DFG come to the site and drag it out of the water, load it on a truck and haul it off for proper recycling or disposal under appropriate law? And, if not, why not?

Question; Why is it that DFG has not considered what DFG policy should be with respect to removal and disposal of super-sized garbage whenever suction dredge miners find huge masses of steel and crumpled vehicles?

The dredger cannot remove such items and he has no choice but to move on and the trash will simply be re-buried in gravel. Frankly it is not the dredger's duty or obligation to remove such massive garbage. Even if the dredger wanted to use a power winch to pull the offensive garbage out of the water and place it in the gravel bar, it will simply get washed back into the river during the next flood event. (Unless DFG comes to retrieve, dispose of, or recycle it.)

Oh, and we would have to *apply for a special power winching permit to remove such garbage anyway*. And, if the suction dredger winched the vehicle onto the river bar, DFG has *made no offers* to come to such sites to remove the super sized garbage from the watercourse and have such debris sent in for recycling. The proposed regulations are absent in this regard.

Further, it is likely that winching a mass of garbage out of the river and onto dry land would likely result in the USFS *citing us* for damage to surface resources or some other bogus violation under 36 CFR 261 Prohibitions.

DFG seems so mighty Keene on regulating suction dredge *mining;* protecting fish and aquatic habitats, protecting the water quality of our rivers, yet, DFG apparently has knowingly turned a *blind eye* to the issue of "what to do" with super-sized garbage in the SDEIR and proposed regulations.

*Perhaps the *strategy* is that *if; DFG does not acknowledge* and by extension *address super-sized garbage throughout our rivers, then DFG will not have to plan for, remove*

or dispose of the discovered garbage as it is encountered. It appears that DFG does not want to be put in the position of being *compelled* to remove and dispose of the super-sized trash, or any other pollution unearthed by suction dredge mining operations.

Under the past regulations and now in the proposed regulations, all super-sized garbage is *magically* and calculatedly *ignored* in the SDEIR. In actual practice such super-sized garbage is passed by and ultimately reburied under river gravel. Considering all the years DFG has regulated suction dredge mining, it seems *impossible to believe that DFG has never considered how DFG might have an obligation to remove this super-sized garbage and all other hazardous materials. For these reasons, I believe DFG has perpetrated a fraud upon the Citizens of California, the California Legislature, and Mother Nature.* More on this later.

And, *DFG has remained suspiciously mute on all pollution issues***.**

When it comes to ***reclamation dredging***, (Heavy Metals Mining) I would imagine that the "***project" determines the size of dredge*** and it is *doubtful* that DFG established regulations for *reclamation dredging* that limit suction nozzles to 4" to 6." And, *turbidity and sediments* from these *reclamation projects* utilizing comparatively huge dredges is generally presumed "*approved*" by various agencies as having *little or no adverse environmental impact*. Otherwise they would not be in operation anywhere at any time.

Reclamation dredges OK & gold dredge not OK

This brings up the issue of AB 670, which allows *reclamation dredging, and all other forms of dredging* that does not involve "intent" or the words *gold or mining*. I also know that when *maintenance* must be done on the various dam projects along the Feather River, the result of their work literally *mucks out* some 30 miles of the Feather River and can go on for days in varying quantities. But then there are other power projects that also must maintain equipment, including suction dredging for maintenance purposes and as a direct result the Feather River gets mucked out (Turbid / sediment laden / brown) a couple times a year. (So do many, many other rivers throughout California.)

Furthermore, it is not uncommon for the average citizen to witness PG&E using huge excavators to excavate gravel in the active stream channel to clean out the base of a siphon. This mucks out the river as well. *Though a gold miner would never get permission to do the same kind of work for gold recovery in a river*.

So all these other projects can get or have *approval* to do whatever they need to do with a suction dredge of any size and they get to muck out the rivers with government's blessings.

Question; Why is that?

Question: Why is it almost always environmentally approved and acceptable to allow PG&E or some agency to muck out the entire river a couple times a year for maintenance purposes?

After all some Government agency *approved* PG&E, Cal-Trans, or another agency to allow the rivers to be muddied and flushed with silt and sediments as a direct consequence of performing maintenance. One would presume that such *approval* came as a result of *environmental analysis and consensus* that that *such mass contamination of short duration will not likely kill appreciable amounts of fish, fry or eggs*.

Certainly, these projects routinely release *massive volumes of sediments into the rivers*, which cause *turbidity* and make the rivers too muddy to see if you were diving. So if all these other *reclamation dredging projects* are always sanctioned by the Legislature, and mucking out an entire rivers for the purpose of maintenance by *maintenance suction dredging operations*, or mucking out a river with *excavators* for cleaning siphon discharge is all *sanctioned by our Legislature*, and by extension *sanctioned by all the Government agencies* who routinely *approve* this work, then I am baffled why DFG is so *persnickety* about the comparatively tiny amount of sediment and turbidity the *cumulative* suction dredge miners *migh*t release.

By contrast, suction dredge *miners* in aggregate could not possibly contribute the kind of sediments these other Government sanctioned projects release as needed.
And reclamation dredging for maintenance as stated in AB-670 will also pollute our rivers with mass volumes of sediment, rust, and will cause mass turbidity. I know this is true because I have seen the rivers suddenly turn muddy as the result of maintenance dredging power projects in particular.

Dams

And another point is that all of the ***dams*** on the Feather River are pretty much filled at full capacity with gravel and massive sediments that we have no right to enter or dredge because most if not all are withdrawn from mineral entry. They certainly do not hold back much volume of *water* as compared to when they were first constructed. (***Without fish ladders in most instances***) Of course, these reservoirs are going to need to be dredged out and very soon. These reservoirs are a prime location for *deposition* of; ***sand, silt, sediments, small heavy metals and tiny fragments of heavy metals, elemental mercury*, and *floured mercury*** no doubt.

The reason the dam reservoirs are prime for deposition of heavy metals is that the slope; the *gradient* of the ***dam*** fill materials being fairly horizontal, and taking into account the designers of the ***dams*** took advantage of wide canyons so that the reservoirs cause normally focused river currents to spread out into a lake so as to maximize the volume of water that can be stored. As the waterpower diminishes from a narrow focused channel to the wide section of dam reservoirs, the streambed load swiftly drops out and generally the approximately 10” minus gravel, sand, and sediments fall out of suspension and deposit into the reservoir.

This suspended load most certainly includes all forms of heavy metal, mercury, aluminum and tin cans etc. The key problem is that getting the *permitting* approved to remove such contaminates will be all but impossible. The DEIS briefly touched upon the ***dams*** and the

sediment loads deposited within them. DFG is ***suspiciously silent*** in the SDEIR regarding the obvious *heavy metal contamination that is concentrated behind all of our **dams** in California.*

Mark my words, all these *dams* are near full capacity, and PG&E has already attempted to run a ten-inch dredge as a *pilot test plant* to see if it is feasible to clean them out. The test plant consisted of a 10-inch nozzle, diesel engine with a gravel pump, and this dredge pumped material from above the dam to below the ***dam*** using a curtain to drop sediments out. Unfortunately, one of the upstream ***dams*** opened its gates unexpectedly and the entire dredge was blown over the ***dam***, and the engine and pump tore loose from the floatation and was deposited in the river below the ***dam***. The engine and pump assembly are still underwater and lost, but 10 years later it is still buried in the river gravel to this day along with the engine motor oil, and very large diesel fuel tanks. *Hey, what's the big deal, it is out of site and out of mind.* Who would know it is even there?

As you might be aware, cleaning out these *dams* is going to be tricky. It will require one of two methods. Drain as much of the water as possible and use *massive excavators to dig the reservoirs clean*, or, send in *oversized dredges to pump the material some distance to railroad cars* for shipment to a gravel plant for cleaning, screening, and extraction of all *heavy metals*. I believe there are 8 major ***dams*** on the Feather River drainage. Other California rivers have the same problems with reservoirs near full capacity with gravel and *sediments*. When this kind of work begins, you can count on seeing rivers loaded with vast amounts of sediments flowing in massive quantities whether DFG likes it or not. There is no choice in this matter. DFG will undoubtedly do analysis and will predictably conclude that removal of the *sediments* and gravel is essential, and will ultimately *sanction or approve* the operations and *likely will find the project will not significantly harm species or habitat*. *We all know how this convoluted process works.*

Following is California AB-670 concerning reclamation dredging.

(3) The new regulations described in paragraph (2) are operative.
(c) The Legislature finds and declares that this section, as added during the 2009–10 Regular Session, applies solely to vacuum and suction dredging activities conducted for instream mining purposes.

This section does not expand or provide new authority for the department to close or regulate suction dredging conducted for regular maintenance of energy or water supply management infrastructure, flood control, or navigational purposes governed by other state or federal law.

One thing I know about so-called *reclamation dredges* is they are also diverse in design. Some dredges use a hydraulic blaster in front of the nozzle, and other dredges have mechanical cutters for weeds, cutter-heads, or tillers to break up material enough to vacuum. Some reclamation dredges do no filtering whatsoever; they merely move material from point A to point B. Most reclamation dredges are specialized for various jobs, yet despite the fact that materials are laden with heavy metals, reclamation dredges, (or their specific project plan) calls for dredging materials, but absent a recovery system,

these operations fail to recover the heavy metals and they are simply transferred from one point to another full of toxic waste.

Miners are only group forbidden to use what reclamation dredgers use
With respect to suction dredge mining regulations for mining, and considering the incredible array of dredges of every size and configuration available to *reclamation dredgers*, and considering the size of these monsters, 10 inch, 16" or more nozzle or hose size, it seems strange and fundamentally unfair that suction dredge *miners* do not have the same choices of equipment that *reclamation miners* enjoy. This is strange also because it appears that ordinary citizens who are *not* operating under the US Mining Laws can go out and purchase a permit for any specific project using the dredge of choice, that is, provided the project operator does not ***mention*** any ***intent*** to seek ***and recover gold*** under the mining laws. Reclamation dredgers may indeed select the size and type of dredge of his choice, selected to meet the needs of the job at hand. He is not going to be bothered with the California Suction Dredge *Mining* Regulations or some arbitrary nozzle restriction of 4 to 6 inches.

Imagine that, miners, who have a "Grant" from Congress, bona-fide mining claims, "private property interests," the "Dominant and Primary use of the surface of mining claims," and who have a "statutory right to mine" are being force fed unreasonable regulation that have an absolute limit on nozzle size regardless of stream conditions.

Yet reclamation projects and other construction projects and even commercial enterprises and real estate developers routinely hire dredging companies to dredge channels for boat dock construction, or to maintain channels using dredges appropriate for the task.

However, *suction dredge miners*, because of the operative word ***miners***, are *absolutely prohibited by the proposed regulations from even asking for a dredge greater than 6 or 8 inches!* So, it appears that it is DFG's opinion that it is *suction dredge in stream mining* that is environmentally bad, but suction dredging for all other purposes, commercial development dredging, and environmental reclamation dredging, regardless of nozzle size are *good* and need no restrictive regulations for *in stream suction dredge mining for Heavy Metals.*

Sounds like **use prejudice** to me. Sounds like **DFG is *discriminating* against suction dredge *mining***. This appears to be true in part because a suction dredge *miner* who tries to mine his claim should have the lawful right to use precisely whatever size equipment he needs to economically extract his minerals, his property.

There should be no absolute limit on dredge size.

Allowing dredges of 10" – 14" and 16" does not invite environmental harm for many reasons. One reason is that the *benefit* is that with very large dredges we will be able to tackle the overburden over six feet deep, up to 18 feet deep, and in so doing, we will be dredging up and exposing all the super-sized garbage in our path.

Another reason is that you can only put a dredge where conditions are appropriate, access is the key. So even though a person may want to dredge a certain area with a large dredge, the location access, labor, and expense may or may not lead to a decision not to bother.

On most streams the ratio of aggregate sizes in the streambed load dictates the size of dredge needed. Not some arbitrary DFG regulation.
Seems to me that *allowing larger dredges into all the waterways would dramatically increase the rate at which our heavy metal reclamation dredgers can clean out the filth and toxins*, and DFG will get the benefit of all this for the low, low price of a reasonable dredge permit and the hope a miner has to find some gold. Wow, what a deal!

In fact, many stretches of the Feather River carry up to 10 to 15 feet of overburden. By the way, *most of the super sized garbage is located in these deeper channels with over 6 feet of overburden*. The only way to have a snowball's chance in hell of making a profit, or finding economic quantities of gold in such a location is to use a suitable dredge, the bigger the better. In the example above, a 14 inch or 16 inch dredge would do the trick, and as a result, vast amounts of heavy metal garbage would be removed, minerals would be profitably extracted for the benefit of all citizens of the United States just as Congress intended under the US Mining Laws.

Also, running these large dredges costs more to operate, thus, miners will use dredges of this size to punch large sample holes looking for pay streaks. Once a pay streak is found, (usually defined by heavy metal garbage) then mining will begin. If such an operation does not find profitable quantities of gold he will not continue going broke, he will quit and haul the dredge out of the river.
So, Oversized dredges will only operate as long as they are profitable. *Profit* is directly proportional to the miner's ability to run the maximum amount of gravel in the least amount of time. This is something your regulations since 1994 and your proposed unreasonable regulations absolutely prohibit. And therefore your proposed regulations prohibit reclamation and *heavy metal* extraction of toxic substances that are currently hiding deep in our river systems.

And because suction dredge *miners* using appropriate sized dredges can efficiently mine more of these gravels, and remove more of these toxins, and the shortened length of operating time - as compared to using a "*teaspoon and a soda straw"* (AKA so-called *recreational dredge*) - will benefit the wildlife such as the little *birdies* DFG is whining about in the SDEIR. Larger dredges ensure the job is done quickly, efficiently, profitably, and *guarantees that even more garbage will be encountered and removed in a shorter period of time*. Therefore, it looks to me like allowing over sized dredges would be a good thing, a win-win for a variety of fish and water quality.

And oversized commercial dredges start getting *very expensive* the larger the dredge gets. The average Joe, and so-called *recreational* suction dredge miners' will not be buying them or using them. It would not be uncommon to spend $20,000.00 on a custom production 8" or 10" dredge. Going up to 14" and 16" dredge this price could easily

double or triple to $40,000.00 - $60,000.00 very easily. The only suction dredge *miners* operating these larger dredges will be highly experienced and serious miners who do this for a living full time. Purported *recreational* suction dredge *miners* are not going to be using these larger dredges at all. And frankly, *without these larger production dredges DFG is absolutely guaranteeing every American Citizen in the State of California that all of our deep rivers loaded with toxins will remain toxic forever*. Absent the use of large production dredges will virtually guarantee that these toxins will be blown further down river with each and every flood event in the future.

Undersized, Recreational, and Sampling Dredges

Dredges 4" and 6" are considered ***recreational*** dredges according to DFG. This is a strange concept. I will argue that these "piss ant dredges" and "toys" are more appropriately defined as **sampling tools**. Yes, they are small and portable, but often stream conditions are such that we cannot use a larger dredge *even if we had a legal right to do so.* Therefore it is really a *misnomer* to refer to these smaller dredges as *recreational dredges*.

Here is an example; what if I had a small pilot mill for sampling hard rock materials. It is known as a *pilot mill*. It reduces ore and extracts the gold in the same manner a *larger plant* would, but the *pilot plant* proves that the grinding, reducing, and extraction process will work effectively if the mill is simply increased in size only. Would my 1-ton per hour $80,000.00 example *pilot mill* be considered *recreational* equipment? I think not.

But, when a 4" dredge is taken to a river, and proves gold deposits are present, the dredge did its job. It is a ***pilot plant***; it proves that if the miner brought in a much larger dredge with the same recovery system, the dredging operation would be profitable. Thus the miner would bring in a very large dredge suitable for the specific job. Unfortunately the DFG dredging regulations since 1994 have prohibited miners from using larger dredges that would do the job efficiently and profitably. So the miners, given no other choice have had to mine full time with tiny dredges, and to top it off, DFG now *labels* the dredges as *recreational* and the *miners* as *recreational suction dredge miners*.

It may be true that some miners consider themselves ***recreational dredgers*** and that smaller dredges can be used for *recreational* purposes, it can also be argued that people who call this *recreation* will easily spend $5,000.00 to go play, and as they play, they remove garbage DFG should have acknowledged and devised a long term plan to clean up decades ago. So, small dredges are *invaluable sampling machines*, they are intentionally small for portability, ease of disassembly and reassembly in remote or difficult access areas. But they can only be considered a production machine when the gravel is "stinking rich in gold" with *very little overburden* or when DFG regulations prohibit larger dredges. Generally the term "Production" dredge is generally an 8" or greater nozzle size which DFG has with rare exception outlawed, but such oversized dredges are *only outlawed for those suction dredge miners with the evil intent to extract gold* or *those evil suction dredge miners who own mining claims*.

Another point about purported *recreational* dredging is that ***the agencies came up with the term decades ago.*** Oregon in particular back in the early 1990's used the term broadly and this is how I learned the term *recreational* dredging. Further, as a society we say that the ideal situation for employment or our careers is that we should love what we do. We are supposed to have fun, enjoy our work. But when small-scale prospectors and miners say were *having fun dredging*, somehow agencies warp this concept of enjoying our work to labeling us as *recreational miners*. In fact, the term *recreational mining* is further *confused* with the Federal and State Agencies that set aside land in withdrawals to provide *recreational areas and recreational dredging opportunities*. Unfortunately, these days, many small-scale miners refer to their dredging as *recreational*, in part because they heard the term somewhere, most likely DFG, but these poor misguided people are ignorant of why they call themselves *recreational miners* to begin with.

I have no doubt in my military mind that the reason DFG is using the terms *recreational* dredges and *recreational* suction dredge mining, and *recreational* mining has *diabolical origins and purpose.*

I have extensive knowledge of the mining laws, and that knowledge, coupled with USFS and DFG actions and arguments to date, leads me to believe these terms will indeed end up before the courts for the purpose of eliminating purported "*recreational*" *mining* of any kind. It is a sad day in America that DFG cannot, or *does not want to* understand the reasons why truly "*recreational*" mining lacks statutory authority under the mining laws.

Even worse, the DFG is attempting to regulate *recreational suction dredging for gold*, when really, *the only mining authorized by Congress is small-scale mining, prospecting, development, and outright* ***economic mining*** *and recovery of such mineral deposits under the mining laws.* Frankly, even if certain aspects of *recreational mining* were deemed illegal, it will inevitably also be recognized that such so-called recreational prospectors will gain knowledge and proficiency as *recreational* miners, and be schooled by experienced suction dredge *miners* and therefore some of them will choose to pursue suction dredge *mining* as a vocation. Hence, purported *recreational dredging* will not only extract minerals and heavy metals, but serves as training ground for new placer suction dredge miners.

Gold Recovery

Now, DFG asked miners for a report of *how much gold* each suction dredge miner produces. First of all, miner's *mineral recovery is especially secretive*, and for just cause. Historically, loose lips sink ships. Blabbing and bragging and such will get you claim jumped, robbed and/or high graded. No good ever comes from quantifying how much gold we can or do recover on our mining claims.

By extension, no good ever comes from reporting our gold recovery to the Government, who *predictably* will find a way to *screw us* regardless of whether we report *fabulous* gold recovery or *dismal* gold recovery. So if you are asking miners to make it a matter of public record how much gold we get or got, DFG cannot rely on the answers as being truthful. I would never report what I find to Government stooges especially for the *public*

record. You guys must be brain dead to *ask* us to report our gold recovery or to *believe* any reported finds that were sent in and to analyze recovery based on that belief.

*There is ***no lawful statutory obligation*** *for suction dredge miners or any other miner for that matter to advise or inform DFG as to the* ***quantity*** *of gold we recover or* where *we are recovering it, or where we* plan to recover it. In fact there are court decisions that make it clear we do not have to answer your *silly questions* about *how much gold we have recovered* any where at any time. And because asking is unlawful, the answers should be stricken from the record and eliminated from the SDEIR analysis.

Furthermore, one would *expect* that a miner's ***gold recovery would be reported as low*** in part because DFG's prior 1994 Suction Dredging Regulations were far too restrictive and therefore gold recovery had to and *did* suffer dramatically. For example, nobody has been able to mine the gut of our major rivers since 1994 dredging regulations were adopted because using under sized suction dredges make dredging deep overburden nearly impossible, far too dangerous, insanely expensive, labor intensive and ultimately unprofitable in numerous locations. Now, after learning how gold recovery has suffered dramatically since DFG adopted the 1994 regulations, DFG is pursuing forward with even more restrictive and draconian suction dredging regulations that will reduce nozzle size and by *placing even more heavy-handed restrictions on suction dredge mining. Production rates will fall like a stone, and heavy metals reclamation will cease, if DFG carries this out.*

Gold Recovery

Truth is, gold recovery is low *in part* by depletion and in huge part by the severe regulations that we were compelled to accept. Many miners have been killed in the Feather River alone. Rock slides, or pinned under water with boulders. And, it is avoidable, it was not lack of skill or experience, it is that we are under gunned. We are simply so incredibly restrained that we end up putting our lives in extreme peril because the toys we are allowed to use along with a host of other ungodly restraints offer us no other choice.

OK, lets say that he worked 5 more days with his toy to make it safe. He gets to mine a bit, clean bedrock, a couple hours later, he has to advance and he runs into more precarious boulders in weird places that require days and days of moving worthless overburden, handling every single rock one at a time that is larger than the nozzle. So, a reasonable person could predict that all you have is tiny machines tackling a monster and punching holes. 90 % of a dredged hole is worthless overburden and garbage. Usually the lower foot gets interesting, and that is the 10%.

So, by God you are correct, gold production is down, and the numbers of dredgers has diminished. This is what was anticipated would happen, and it did happen. Couple that with miners are constantly under fire, and relentlessly harassed by USFS, miners getting cited and prosecuted every which way but loose. USFS regulations and Forest orders killing us, DFG regulations killing us, and makes us work in a hostile environment without protection. Is it any wonder gold production is down?

And the past two major floods re-concentrated the pay streaks in the rivers, and another flood re-concentration should make it prime time to start searching. But, we can't dredge

if your regulations wipe us out. We need real dredges for the main rivers, and we need to get the gorilla off our backs.

Look at how dangerous it is in a underground placer drift mine, as an old MSHA friend said once, "**a mine is a hole in the ground just waiting to kill you**." Now, go try mining the same materials; *underwater* in strong currents, with tunnel vision, in low visibility, in low light, and being forced to dredge with toys. Nobody can operate a paying mine like that.

I believe that DFG should ***disregard the reported gold recovery*** to the extent that miners who actually produce high quantities of gold *absolutely will not declare what they find*, especially when you ask us to name up to six locations we plan to mine in a season. And when a dredger's name, is tied to his recovery rate, and tied to a list of sites he wants to dredge, and it is all published as a matter of public record, then anyone could go out and find ways of stealing his gold, stealing or vandalizing his equipment, or jumping the man's claim, or even break into the man's house knowing he is on the river dredging.

3 inch lettering

After all, many people may not recognize the particular dredge 'John' owns since many dredges look alike and many are identical to each other. There are only a few dredge manufacturers in the United States, therefore it would be difficult for a would-be criminal to know - for example *John* was dredging here. When we "identify" basically identical dredges with an *Identification Number*, then we are identified, for under regulations I could not let others dredge in my stead. So if we see John dredging in the morning, we can go to John's house and break in. It is not far fetched. After all DFG proposed regulations *requires 3 inch lettering* for *identification* at a distance no less. Once a suction dredger's dredge number is known, then any would-be criminal can and will recognize he is far from home and thus he can be robbed blind since he is not home to defend it. So, the provision asking us *to identify our dredges with 3 inch numbers, to identify our dredge locations and asking dredgers for production records or gold recovery rates is completely unreasonable*, it borders on *giving up trade secrets*, it is *further invasion of privacy,* and should be *stricken from the record* or clarified to ensure miner's information is absolutely protected from public viewing of any sort. And, even so, who in their right mind trusts Government to protect them?

Question; Is the Department of Fish and Game looking out for my best interest - and is my best interest well served in these proposed regulations?

Question; Has DFG seriously considered the enormous investments we have made in a broad variety of mining equipment that supports the complete reclamation of all heavy metal toxins and gold that the gold miner is able to extract?

Question; Do you trust Government?…. Considering *you are* Government?

I don't, I am firmly convinced, and Government has proven that they cannot be trusted to safeguard any information for any reason and Government will indeed find a way to jack us around anyway. It doesn't get any plainer than that.

Considering the facts discussed above, the SDEIR economic analysis pertaining to the losses to the miners and/or gold recovery is faulty for lack of *credible reporting* and for the fact *that lawfully you have no right to ask gold miners this question to begin with.* I will provide the court's *decision* if you really need it, not that you give a damn.

Are these proposed suction dredging regulations?
or
placer mining regulations / with Plan of Operations?

I am somewhat confused at whether DFG is attempting to establish new "*placer mining regulations*" or "*suction dredging regulations*" within the active streams and rivers of California from the water line to water line.

The new proposed SD regulations and permitting system appears to be far too complex and cumbersome to be efficient. Based upon the proposed rules I must 1st fork over my money to DFG and apply for a permit, and provide a list of up to six specific and defined locations where I would like to dredge. Then I must contact DFG to inspect all my mining equipment. And because I will need to apply to operate a 6 inch dredge on one claim in particular, then I must schedule an on site inspection and request approval for a 6 or 8 inch dredge, and I must also apply for 1602 permit, which must also be approved. And because I need to use a power winch I must also request a winch permit, request an on site inspection, and hope for an approval. And I understand that I need prior approval for moving all boulders. Nothing is certain. Accept one thing *is certain*, these proposed regulations are *unreasonable.*

A prudent man, and a ***prudent miner would never accept these regulations*** because they absolutely destroy any hope for genuine economic mineral extraction.

Frankly, I don't think DFG could have made obtaining a permit for suction dredging any more difficult and complicated if DFG tried.

Further, these so-called proposed regulations and permit system is really akin to a ***Plan of Operations*** than a set of rules and a permit, because the application processes requires a series of *future applications, inspections, and approvals, and requires miners to provide specific locations where we plan to mine many months in advance, and now we are expected to dredge only during the hours of the day DFG has specified in these proposed regulations, and we must also provide specific dates that we plan to work at each site*. *Hell, even BLM and FS Plans of Operations under mining regulations don't establish hours of operation or days of operations.* And forcing miners into this plan of operations scenario is precisely what all the Siskiyu and Karuk litigation was aiming for. What a remarkable coincidence Isn't it? They get their wish! Thanks for all the biased science to make their dreams come true.

Foreign Materials

DFG Proposed Suction Dredge Regulations (PSDR) states that *foreign materials* may not be introduced into the stream or river. This regulation needs further clarification. I suggest that DFG specifically state that *foreign materials* may not be thrown into the river for the purpose of suction dredging these foreign soils/materials. Since these regulations are proclaimed to be "Suction Dredging Regulations" and not "mining regulations," the regulations as proposed may lead one to believe that dredgers may not *pan* lode or placer materials located outside of the existing water line.

Panning and/or sluicing foreign materials in the active stream course are not a *dredging activity* and therefore should not be included in "Dredging Regulations." The weird part is that when we agree to the terms of the DFG permit, we are actually signing a contract thus we cannot argue later that our mining rights under the US Mining Laws have been usurped by the regulations.

Now, if a miner holds a valid mining claim and has not agreed to the terms of the dredge permit, he may indeed pan foreign materials because he is *not* under contracted terms and conditions. Furthermore, placing a prohibition on panning and sluicing of foreign materials would unreasonably restrict and frustrate one's ability to *prospect* for either placer or lode minerals for future location and entry. As I will extensively demonstrate in the following pages, in the scheme of things, your *prohibition of introducing foreign materials* into the rivers would be laughable if you weren't *seriously* trying to *regulate gold panning and / or sluicing*.

These new Proposed S.D. Regulations, if not rectified, prohibits panning samples taken anywhere above the water line of the stream, and it stands to reason that suction dredge *miners* can not shovel streambed gravel (located anywhere in the forest above the waterline) into a *sluice box* – operating in a stream - even for taking minimal samples consistent with prospecting on lands free and open to exploration and location. However, prospectors who have no interest in suction dredge mining and who have not agreed to the terms and conditions of a dredge permit are in no way bound by your suction dredging regulations, thus the dredger may be cited for violations but the prospector would be free to go. Anybody see a conflict here?

This portion of the new proposed "Suction Dredging regulations" is *unreasonable* and unwarranted. ***Panning*** is not and never has been a *feared, dreaded, or destructive* mining practice. I doubt sincerely that any miner has ever caused a "significant disturbance of surface resources" by panning samples in a creek. Panning is typically used for removing gold from concentrates, and/or for sampling streambed materials and mosses located near and above water line (but often well within the high flood Stage Water line). *Panning* is a back breaking and labor-intensive task and therefore it is obvious that no appreciable amounts of "*Foreign Materials*" would enter the stream course by suction dredgers in aggregate using a mere gold pan or sluice box for the purpose of prospecting.

Again, DFG appears to be out to lunch when it comes to panning. Once again, *experience in the field* is the key to understanding panning in the field. Why? *Because just about every pan full of material taken from most stream banks and river banks* ***will have heavy metals in the concentrates when panned down***. Therefore, since there is so much heavy metal showing up in sample pans, it appears *far more wise to allow citizens to pan without regulation for the sole purpose of cleaning up the very places gold dredgers cannot dredge*, namely the banks and exposed bedrock above the water line. Here too, one is hard pressed to pan a half dozen pans of purported foreign materials and *not* find numerous pieces of lead and other toxic metals in every pan.

The so-called "*foreign materials*" referenced in the Proposed SDR can be fairly described as auriferous gravels / bedrock w/gravel / and sand *deposited* or *rewashed* during major flood events. Mother Nature carried these gravels, and all the garbage that transported with it, to a specific location during flood events from higher elevations. Eventually, another future flood will either wash or transport some portion or all of these gravels downstream along with ***vast amounts*** *of* ***asphalt; concrete****, road signs, guardrails, bridges, culverts*, and virtually any object that happens to be in the way of powerful flood waters.

Flood Events - Foreign Materials – Highway Road Beds

Since DFG is evidently concerned about miners panning *foreign materials* in California streams, then DFG has brought my undivided attention to a huge problem concerning *foreign materials*. I have been mining in California for over 16 years. I have personally witnessed two major flood events on the NF Feather River drainage, which includes all drainages into the NF Feather River. During the Jan 1st 1997 flood event, the Feather River Highway was destroyed on countless outside bends of the river. At the same time, on the opposite side of the river, the Railroad tracks are located at approximately the same elevation, and the flood also tore out miles of RR bed. RR tracks were suspended in the air with nothing under them in some cases for hundreds of feet at a stretch throughout the Feather River Canyon. The destruction was significant, requiring some 8 months of work just to re-open Highway 70. In fact, at Rich Bar, the NF Feather River completely destroyed a bridge (some estimated 200 feet in length) and the flood pushed the bridge several hundred feet downstream. The bridge was constructed of steel, wood, paint, wood preservatives, and asphalt. The bridge has likely been buried in the river gravel ever since.

Now, all these Highways and RR beds were re-built after the floods using *foreign materials* from local borrow pits (usually Serpentine or granite). These Foreign materials are loaded with earthen materials and clay, and these materials were "side cast" (or dumped all the way to the river's edge) to re-create highway and RR beds. Then, after grading, the roads were repaved with ***asphalt****, a* ***known hazardous material****.* Then, on certain selected river bends, Cal Trans used a concrete pump to pump concrete on top of the side cast (road bed and RR beds) from the shoulder of the road/RR to the waters edge. In 1997 when the river flooded and tore out massive sections of the highways and RR tracks, all that *foreign material* (road fill base) and ***asphalt*** *and* ***concrete*** taken by the flood was washed directly into the Feather River system.

My research uncovered the fact that the road work and concrete pumped on fill slopes was conducted under a 1936 FS Permit!

Foreign Materials; RR bed under RR Tracks

With respect to the RR tracks and fill base, all that material also washed into the river system.
I have personally walked miles of RR track in this area. On the downhill slope from the RR tracks to the river, I have seen vast amounts of RR trash side cast all along the way. The trash I am referring to is; *old RR spikes, massive bolts and washers, scraps of metal, welding rod, old creosoted timbers, oil drums, 5 gallon buckets with various oily or chemical residue, hunks of RR track, industrial batteries and so forth*. In certain areas, where the flood completely tore out all the RR bed, this kind of trash washed into the river. Oh! You need proof, and you folks don't get out in the field much, so when you take your field trip to the Feather River Canyon, be sure to check out the downhill slope of the RR tracks from a mile west of Belden, Ca. and 1 mile East of Rich bar. There will be ample evidence of RR trash and debris to consider in your analasses. Furthermore, the *gravel under the RR tracks is often saturated with oil/grease* that heavily contaminated numerous sections of RR track along the route throughout the canyon. All that oil contaminated rock and dirt washed into the Feather River. You can observe the evidence of this special feature as well when you take your field trip! Note that most RR tracks along most rivers in the Sierras have precisely the same gross contamination. Perhaps it is time to investigate and make the RR clean all of it up.

Foreign Materials; Asphalt

Now, considering floods occur here in Northern California on average every ten years, (major floods 1986 and 1997) DFG must accept the reality that another flood is due any time. If DFG truly wants to protect the river systems and ensure *clean water* for our future, it appears to me that DFG must examine this issue carefully and thoroughly.

I am certain that DFG can contact Cal-Trans, PG&E, and other involved parties to obtain essential data, which would prove; how many tons of ***asphalt*** was used to repair the Highways after the 97 flood, which would be a good indicator of how much ***asphalt*** washed into the river by one flood. The data would also approximate how many cubic yards or tons of *foreign materials* (road fill base) were used to rebuild the roadbeds and the RR track beds, which would provide an accurate estimate of how many hundreds or thousands of tons of foreign materials were introduced into the river. If DFG searches out the data referred to here, it will stagger the imagination how many hundreds or thousands of tons of toxic ***asphalt*** and of tons of *foreign material* washed into the North Fork Feather River during *one* flood event alone. There have been several floods since the 1940's when Hwy 70 was constructed.

This is only one river in the State, therefore, using similar data, DFG should be able to gather enough information to calculate the volumes of various other foreign materials washed into the rest of the rivers in California.

Taken a step further, this was not an isolated flood event. During the flood events of 1986, this same river and countless other major rivers and streams flooded in a similar fashion throughout California, especially the Mother Lode Country known as the Sierra Nevada's. There can be no doubt that thousands of tons of asphalt and concrete entered the NF Feather River alone as a result of the 1986 flood event.

If DFG investigates this issue, and they should, and calculates the total volume of ***asphalt***, ***concrete***, and ***road/RR fill material*** that was washed into all the rivers and streams in California during any one flood event, and considering the impacts of many prior flood events, then the *DFG must analyze the probable long term adverse environmental impacts to various aquatic species and water quality as a direct result of major flood events introducing massive amounts of* ***asphalt, concrete and road/RR bed materials*** *into the active stream beds*.

Further, DFG should also calculate how many thousands if not millions of tons of roadbed base and RR bed base (*foreign materials*) washed into all the river systems throughout California, and then analyze what *harmful environmental effects these foreign materials have caused, may cause, and/or will cause within the riparian zones or rivers generally.*

Please take note here that up to this point I have only addressed the *foreign materials* related to the introduction of *road* bed and *RR* bed materials, and the associated ***asphalt*** and ***concrete*** that has been introduced into the active riverbed as a result of floods. There is far more.

Field Trip Recommended for Educational purposes

Since DFG does not get out in the field very often, I highly recommend that your environmental scientists take a drive. I suggest a 12-mile strip of the North Fork Feather River, in Serpentine canyon, Hyy 70, east of Belden Ca. in Plumas County.

Why? Because this strip is easy access, and is a winding river section resembling a third world ditch, a hodgepodge of patchwork man made crap. This section of river was and is the poster child for evidence of the destruction caused by flood events. In the riverbed, it is obvious to any one that it is full of RR bed, Roadbed, ***Asphalt***, Concrete and so forth.

The entire scene is a *disgrace.* But, it might be a good place to cook up more science concerning the break down rates and leaching characteristics of **asphalt**, and to gather relevant information as to the adverse affects of **asphalt** leaching. One cannot know what adverse impacts may be occurring without quantifying the volume of toxin (asphalt) that can reasonably be determined by chasing down financial data or County records, or Cal-Trans, Pg&E, or other resources beyond my immediate grasp.

It would seem crucial to determine the shear and ***vast volume of foreign materials that have washed into the river*** over a long 160 year history of flooding and destruction of Hwy and RR beds. The entire length of the NF Feather on Hwy 70 is absolutely a prime location to examine the riverbed in detail. All the evidence is visible even as one drives along at 55 MPH. Everywhere you see concrete shot from water line to either RR bed or Hwy shoulder, is a place where entire road and RR bed had been ripped away by the 97 flood in its entirety.

The *concrete plaster job* that was done looks like hell. And when another angry flood rages with the literal sound of thunder, putting entire riverbeds into suspension, and the "meat grinder" is in full force, that concrete plaster is going to take the pounding of "the wrath of God" when 4-5 foot diameter boulders in suspension with vast tonnages of cobs and gravel relentlessly pummel and smash it on an *outside* bend of the river. And guess what, DFG will have a even more of Foreign Materials to ignore for, I don't know, another decade or so.

But, then we still must consider and estimate the vast volumes of all the other *foreign materials* (AKA *earthen* foreign materials) that were deposited into the river as a direct result of flooding on the NF Feather River drainage, and by extension, DFG should estimate how much of this more natural earthen material entered all the rivers during each flood event.

Flood Events, Foreign (earthen soils) materials

After the 97 floods, I hiked through many small streams that I was very familiar with in the recent past. I observed numerous small streams that in the summer typically run 4 feet wide and a foot or so deep that were unbelievably altered by flooding. On tiny streams like this I saw log ***dams*** created by the flood that were thirty or more feet high and 80+ feet in width which were composed of downed timber and were filled with gravel. I saw areas that the year earlier had several feet of streambed material, but the flood stripped away the entire gravel bed down to bare bedrock. I saw areas along small streams as described above where I could count approximately twenty trees leaning or laying across the stream in an area perhaps 150 feet in length. The trees are all sizes, but I am not talking about trees the size of bushes, no, the trees ranged between 8 inches to 2 feet in diameter. The floods scoured the banks, undercutting the tree roots causing the trees to fall toward and across these streams.

The floods also *destroyed gravel and dirt roads throughout the forests*, and in many locations, the flood ripped out *numerous culverts* ranging in size from perhaps 2' to 10' in diameter that were used to construct roads across small streams. Many of those *galvanized steel culverts* were simply blown down stream, crumpled up and partially buried in streambed gravel. *You can bet that these culverts are still located where the flood pushed them to this very day*.

The point is that natural erosion within the river drainage system caused mass erosion and transport of massive volumes of *foreign earthen materials;* stream bed materials,

river bank materials, sand, silt, clay, gravel, vegetation of all kinds along with trees and bushes. This is in addition to the previously discussed foreign materials from RR and Hwy. Beds.

DFG - total disregard for the rivers current Environmental health and outlook
There is no genuine science analyzing a reliable series of field examinations contributing to an in depth analysis of the current condition of our rivers and streams. None of this is reflected in the SDEIR. I would have thought it wise for DFG to have figured this out decades ago, I mean *the need to examine the rivers health and plan for swift, orderly and economic cleaning and maintenance should have been accomplished decades ago.* So, DFG pretends all is well, nothing to see here folks, move on…

Who cares, a little mass of steel, galvanization, and I assume zinc. No problem, but those pesky *suction dredge heavy metals miners* gotta go!!! God please save us all from those *evil volunteer heavy metals reclamation experts* we love to *hate* called *suction dredge miners*. Yea, we are certainly portrayed as, well take your pick; Greedy, exploiters, awful, and *evil miners* who rape and pillage, make unacceptable noise, disturb my serenity, and don't care about the environment. We have all heard the *diatribe and the narrative* over and over. And mind you, these remarks from the very people who are there to get *something* from Mother Nature for their own personal reasons, pleasures, and amusements.

Question; What are the other river users *giving* or *giving back* to Mother Nature?

Question; How does Mother Nature *benefit* from these people (River users) who come to *use* the rivers and streams for their own selfish pleasures?

Question; What is Mother Nature's cut out of the deal?

Looks to me like Mother Nature is getting a raw deal.

DFG management reminds me of a 1970's pimp. Seriously, you guys are charged with the responsibility to *protect* Mother Nature. But you have thus far failed to even diagnose the current health of our waterways as evidenced by your SDEIR. You use *her* to wield vast power, to promote *flimsy and biased science* for a *predetermined political conclusion*, and never truly do anything that *actually benefits her*. You do every thing in your power to stop anyone from healing her wounds and removing the hidden insidious poisons that harms all her children. For profit you sell out her fishes, deer, elk, and yet you refuse to allow us to help her, to cleanse her, and to top it off you beat us down like a pimp for disregarding your implicit regulations.

Quantifying number of homes/estates washed into our rivers;

Major flood events have occurred throughout California Rivers and watersheds nearly every decade since the 1850's. Plainly DFG must have reasonable access to credible data and statistics proving this point. Since the mid 1800's humans have built homes, sheds,

cabins, and businesses along rivers and streams in the Sierra Nevada. Numerous major floods have completely destroyed many of these structures along with all their contents and washed it all into the rivers.

One very important point is that if we *consider a dozen or so major flood events spanning the past 160 years*, we must acknowledge that *hundreds if not thousands of homes, cabins, sheds, vehicles, and structures* have been washed into our rivers *along with all contents such structures contained*. As these structures were ripped apart by the power of the water, virtually all the contents of these structures that do not float obviously sank and became mixed with gravel and boulders and the bulk of all that garbage still remains under the river gravel today. Obviously, as an entire fully loaded home gets torn apart, everything in such homes become part of the river gravel; ***Kitchen sinks, bathroom sinks, faucets, toilets, refrigerators, washers and dryers, dishwashers, cabinets, small appliances of every kind, record collections, lamps, light fixtures, electrical panels, switches, and wire, copper and galvanized plumbing, tools, lawn mowers, gardening tools,*** *you name it*!

Now, imagine a half dozen or two-dozen homes completely consumed and ground up in one river. Imagine how much garbage is at bedrock under the streambed just from a few homes being gobbled up. Wait until you do your homework and discover dozens or hundreds of homes were consumed by one Specific River flooding numerous times over the past 160 years. And not just homes, there are what I call *river estates*, to cover the; ***garages, work shops, shop equipment and tools, storage sheds, propane tanks, gas cans, oil cans, garden sheds, parked vehicles, travel trailers, campers, boats and motors*** *and on and on*. Virtually any item that the flood has pushed down the river at some time in the past has been *ground up many times and redistributed along the bedrock under the gravel*. So, I think it is time to do your homework and get realistic about our river health throughout California.

During these flood events, the streambed goes into suspension moving vast amounts of gravel and boulders; the best way to describe this is equating a flooding river to a *massive meat grinder or a ball mill*. If you toss a refrigerator into this raging grinder, it will tumble, and be crushed over and over, and any open cavities will fill with sand and rock, and ultimately it will be found in the future as a crushed ball like mass under river gravel perhaps several miles from where it originally entered the river. Therefore importance of flood events and the ***cumulative quantities*** of foreign materials, *freon in refrigerators, asphalt, heavy metals, and general garbage* should not be overlooked.

The DFG - and perhaps the environmentalists who dream of destroying mining rights - appear to *erroneously believe* that the rivers and streams are somehow *pristine and natural* and in need of *protection* from ***evil*** *suction dredgers*. The river systems in California are in fact *loaded with garbage and heavy metals*. The problem is that most of the garbage and heavy metals are ***out of site and out of mind***. Personally I would be amazed if I dredged a day and did not find any garbage.

Even DFG appears to turn a *blind eye* to the vast amounts of cumulative trash and heavy metals flowing through our rivers. (And for good reason) The DSEIR is void of any meaningful investigation or analysis pertaining to the ***quantity*** of garbage in the rivers, and *void as to an analysis of the types* of garbage in the river, and void as to providing any genuine analysis of how the; ***break down, corrosion, oxidization, rusting, and leaching of these heavy metals and toxins*** might effect the aquatic species and water quality. All the flood events spanning the past 160 years have washed virtually anything and everything imaginable into the riverbeds. All "experienced suction dredge miners" have uncovered vast amounts of heavy metals and garbage in pretty much every river that the public has had access to. All suction dredgers are the only real witnesses to this statewide tragedy and most will eagerly testify as to this issue as needed.

If you send out a letter to all previous suction dredge miners and ask for a list of big Super-sized garbage they have found in the past, and to list typical heavy metals and how many pounds they remove say in a month or season, and ask them to list some of the other garbage they have found, you will be shocked into action.

If DFG fails to dig deep and do proper analysis of our rivers *current health status* as relates to pollution and heavy metals as I have discussed throughout my comments, the DFG will be prime for a major lawsuit, and with thousands of letters from suction dredgers, the courts will rip DFG and WQCB, USFS, BLM to shreds. I cannot imagine the Courts giving the responsible Agencies much slack over these egregious pollution and subsequent management decisions that assure that our water Quality will continue to degrade.

I will assist anyone to accomplish that goal by ensuring they have a copy of my comments, and it will be difficult for DFG to complain that *DFG simply had no idea our rivers more closely resemble a super-fund clean up site than a place for species to have a snow balls chance in hell of surviving*. Try explaining this to the court, especially when such a suit will dig through all pertinent files and locate solid data that will prove that DFG willfully turned a *blind eye* to the pollution and used fraudulent science to stop reclamation dredging / heavy metals dredging, and prevented us from cleaning out the rivers.

Frankly, it would not shock me to discover that an Environmental organization (not currently kissing your butts) may decide to sue DFG for *failure to protect species, water, and so forth.* Good Luck.

Description of typical trash/garbage in our rivers;

A description of the **garbage** dredgers encounter routinely includes but is not limited to this brief list; ***Crumpled automobiles, automotive frames, engine blocks, transmissions, wheels, wheels with tires, tires, car batteries, bridges, culverts, guardrails, road signs, silverware, nails, nuts, bolts, rivets, threaded rod, steel rebar, bailing and barbed wire, old pull tab cans, aluminum and steel cans, broken china, broken and unbroken bottles of every description, hubcaps, welding slag, small engines, aluminum ladders, metal***

buckets and tubs, copper and steel pipe and fittings, copper and cast iron sewage pipe, *and virtually anything else you can imagine*.

Description of typical heavy metals in our rivers;

The smaller **heavy metals** that we routinely encounter in our sluice boxes include but are not limited to the following; ***lead fishing sinkers, lead split-shot of all sizes and types; brass swivels and fishing lures, broken fish hooks with or without leader, bullets of every caliber, lead/copper projectiles and spent ammunition cartridges and casings, shotgun shells fired and unfired, buck-shot, lead balls, steel ball bearings, bb's, lead pellets, metal zippers and grommets, silverware, occasional coins, copper wire and plumbing fittings, solder, mercury, gold, amalgam, lead from auto batteries, pull tabs, bottle caps, tacks, zinc and galvanized nails, square nails, garden tools, shovels, rusty nails and scraps of rusty iron of every description.***

Garbage and heavy metals found in pay streaks;

Basically, our rivers and streams are loaded with trash and garbage of every description. And, the river will deposit much of its garbage and heavy metals in pay streaks along with the gold. To me, a river or stream is a sluice box. In fact, during major flood events, when the entire streambed goes into suspension and flows downstream, all the higher specific gravity materials (gold, metallic garbage and heavy metal) drop down to bedrock and settle together in what is known as a *pay streak*. Most experienced dredgers have learned that if you want to find gold, *follow the trash*. All of the trash and garbage descriptions used above and throughout these comments will most likely be found in a pay streak.

Flooding – Act of Nature – Recurring Floods predictable;

Having covered the topic of flooding above, I am keenly aware that it can be argued that floods are often construed as an act of God, or may be described as periodic and natural events. However, flooding is also a re-occurring event that can be predicted to some degree, and there is no doubt that the next major flood(s) will cause precisely the same problems previous floods have caused. Hwy 70 and the RR tracks have not been moved to new locations or elevations since the last flood, thus there is no doubt the rivers will flood again and flooding will introduce another massive volume of *foreign materials*, road base/RR base, stream bank materials, garbage and debris, and yes more *estate property* will wash into the active stream and river beds.

Since the DFG appears to be so genuinely concerned about gold miners "panning" which would introduce comparatively miniscule amounts of the dreaded *foreign materials* into the watershed as a result of panning samples, then I think the DFG must incorporate a careful in depth analysis of the ***cumulative impacts*** **of 10 year flood events** in the DEIS for the proposed dredging regulations. The Environmental Impact Statement must make reasonable efforts to analyze the adverse environmental impacts resulting from past flood events which introduced; ***natural streambed materials, stream bank materials, road fill base, RR fill base, asphalt, concrete, garbage and other contaminates into the river systems***.

The EIS must then presume that future **flood(s)** of similar magnitude will cause similar results which will have a variety of adverse impact on the *aquatic habitats and fish* in the *aquatic environment* and upon *water quality*. Such analysis should include the adverse impacts of all rivers and streams not open to the mining laws, and the affects of that protected pollution - heavy metals and elemental mercury - transport, and the affects of streambed down slope migration when such streams carry hazardous materials and pollution downstream in flood events.
This year in particular, we have near all time high snow pack in the Sierra Mountain Range. Depending upon how quickly this snow pack melts, and considering the last flood was 1997, it is highly probable that flooding will occur this spring.

Foreign Materials; Early Day Construction Project Waste/Garbage;
Another reason we have such vast amounts of garbage and pollution in our rivers is that there were no environmental laws related to the early day construction of highways, RR, Bridges, tunnels, dams, and roads. Today, anyone could set up a dredge below or slightly downstream of a number of bridges and find massive amounts of; ***scrap steel, rivets, metal straps, welding rod, welding slag, and so forth*.** Early day construction was not concerned with the environment, and it was common practice to ***dump scrap iron and construction debris into the rivers* or *into road base fil****l* as the road construction proceeded. All the junk that had been thrown in the side cast materials for the roadbed on outside bends of the rivers has long since washed into the rivers as a result of major flood events.

Wrapping up the significant issue of flood events in relation to how floods have caused vast volumes of foreign materials, earthen materials, asphalt, garbage and pollution into our rivers over the past 160 years, I have a few more points to make and several questions.

DFG repeatedly informed of River pollution and Heavy Metals for Decades;
DFG has been informed for decades that individual dredgers conservatively remove 10 – 20 or more pounds of ***heavy metals (primarily lead) steel, and mercury, and mercury amalgam*** during a single mining season. *We generally only add up the weight of the small pieces we find in our recovery systems*, we do not add the weight of all the other large scrap metal and garbage we remove.

Tally average heavy metals recovery
Assuming that in one year, 5000 dredgers removed similar quantities of heavy metal, then simple arithmetic demonstrates that suction dredge miners remove ***50,000 to 100,000 pounds*** or ***25 – 50 short tons of heavy metal*** from our rivers in *one* season, and this figure does not include the weight of all the other *manageable sized garbage* we remove and excludes the super-sized garbage we leave in the rivers.

Now, estimating that ***dredgers have been removing these heavy metals for nearly 40 years, and converting pounds to tons, it appears that dredgers have been responsible for removing between 1000 and 2000 short tons of heavy metals from our rivers and streams.***

Fishermen and hunters Leave Lead Legacy - Verification

Do these calculations make sense? Let's see. Take ***1,730,000 fishing licenses***, *assume each fisherman is bound to lose* ***at least 1 ounce of lead*** *in 11 days of fishing per season*. So, 1,730,000 x 11 days average (from SDEIR) = ***19,030,000 use days*** of fishing. Then, assume one ounce lost for each fisherman in 11 days. That is ***19,030,000 ounces of lead*** *lost in our rivers in one season*. Then divide that by sixteen to get pounds, and *we get* ***1,189,375 pounds of lead*** *all scattered by your fishermen friends in one fishing season in California Rivers, lakes and streams*.

In fact, DFG authorizes all of this lead by selling these fishing licenses to fishermen to go sling lead at fish. Now, having been an very avid fisherman years ago, I know for fact that *99% of these fishermen will more than likely lose far more lead than this in 11 days of fishing!* Nevertheless it does provide some insight into *how much lead is introduced* into our rivers, water supply, and fish habitats on an annual and ongoing basis. Therefore, *looking at* ***50,000 to 100,000 pounds of lead recovered by suction dredge miners annually*** *appears to look mighty reasonable*. Especially when fishermen have been fishing these rivers and streams for nearly 160 years.

Question; Over the past 40 years, how many pounds or tons of heavy metal has DFG removed from our rivers and how much money did it cost you to remove these heavy metals?
Pease answer in cost of removal per ounce of listed heavy metals and mercury.

Fact is, you folks have a lot of *nerve* ***persecuting heavy metals extraction experts*** when your 40 year history ruling the waterways with an iron fist at enormous expense to our treasury has failed not only to see big pollution and ***Hazardous Materials problems***, but has failed to remove what a hand full of suction dredge miners do in a single season. So for an agency incapable and unwilling to recognize and diagnose the pollution problems and get down to the nitty-gritty clean up, to chastise us for accomplishing what you fail to see, is truly egregious. This ***willful blindness*** is *prime* for major litigation. And, if it is litigated, DFG's entire job description and mission will change big time forever more. No more fun and games projects for DFG, nope, you guys are going to be spending all your time coping with the largest super-fund cleanup site in the USA if you're not careful. I suggest you go back to the drawing board and try real science this time. Get off our backs or there is going to be hell to pay. I will personally see to it.

Question; Has the DFG ever seriously analyzed the amount of background garbage suspended in the streambeds of our rivers or developed a plan to clean up our rivers?

Question; If yes, where is the data and analysis?

Question; Will you share that information with us?

Question; is there any other user group that is actively removing streambed garbage and heavy metals from our rivers?

Question; I understand that the DFG at one point attempted to collect mercury from miners. So, after all the years DFG has "regulated" suction dredging, why is it that DFG has not created a simple way for dredgers to turn in their ***heavy metals and mercury*** for disposal?

Question; Has DFG ever pondered ***what might happen to the mercury*** miners remove from the streambeds, since DFG has refused and currently refuses to coordinate orderly disposal or recycling?

Question; Has DFG ever conducted a study or analysis to determine how much ***asphalt*** has washed into our rivers, and if so, has DFG made any determination(s) regarding the adverse environmental impacts to species and water quality?

Question; Has DFG analyzed the adverse impacts to aquatic species and water quality as a direct result of all this ***asphalt*** breaking down over time, releasing toxins by leaching into the river water, and what harm(s) this ***asphalt*** might cause to fish, frogs, frog eggs, and our water supply?

Question; Has the DFG considered or developed a plan to ***remove asphalt*** from the riverbeds? Boy, this is a tough one to remove.

Inspections, approvals, mileage, permits galore

It's an application for a Plan of Operations

I fail to see how or why DFG has created a *separate inspection and approval provisions* for dredge nozzles over 4" diameter and less than 8" diameter, and for power winching boulders. These extra steps, seeking *various inspections* of; *dredge equipment, nozzle restrictor ring size, dredge permit numbers, intake screen size,* and *application for power winching and approval process for power winching*, and *various other approvals* are overly cumbersome, *intentionally burdensome* and they will take considerable time to arrange, schedule and ultimately to approve or disapprove, nothing is certain.

This brilliant proposed regulatory scheme ***will require 4000 miners*** or more to *drive* to meet DFG officials at various remote locations throughout the State, including site inspections for oversize dredge permit, winching locations and streambed alteration permits, and on and on. Don't your scientists at DFG understand that ***most miners will be traveling hundreds of miles on highways and dirt roads to actually follow the regulatory process just to attempt to acquire the right combination of permits?***

Numbers are helpful

Now lets do a little ***arithmetic.*** Not only do we have to drive all these miles, so do the State officers charged with the duties of meeting perspective "Permitee's" and licensees

on remote streams throughout the Sierra Nevada's. There will be *more traffic on dusty Forest Service roads, wear and tear on the Forest Service roads and wear and tear on the vehicles*.

So if each of these ***4000 miners were averaging 250 miles each***, which I believe is a low estimate, that amounts to ***one million miles driven***. (Not including DFG miles) So that also amounts to ***50,000 gallons of fuel***, at an estimated *5.00 per gallon* for fuel, and assuming *20 miles per gallon*, that would be a ***$250.000.00 expense for the miners***. (Not including DFG expenses) I took *1 million miles* and *arbitrarily* I assumed average speed of 50 mph and came up with ***20,000 hours behind the wheel driving***. Driving just to acquire all the necessary applications, inspections, approvals, permits and signatures, just to reach final approvals for each of the combination of permits needed to satisfy the unreasonable regulatory requirements.

It would be safe to say that *DFG will have similar mileage*, expenses and so forth, so we can double the figures from the miners to account for DFG officers travel. This means that combined, the miners and DFG will annually spend at minimum; ***2 million miles driving from location to location, 100,000 gallons of fuel, 40,000 hours behind the wheel driving and $500,000.00 in fuel expenses*** *for necessary approvals before the miners can even begin suction dredge mining operations*.

Another thing is that with a series of permit applications, inspections, approvals and so forth, I envision miners placing equipment in a remote location, having it inspected, and then *waiting for the next inspection*, or perhaps they cannot get the next approval for several weeks because so many appointments will flood DFG, and DFG is not equipped to meet the demand. I imagine that equipment will need to remain unattended in or near the remote streams until the next DFG *inspector* approves the next phase.

Question; can you explain the difference between a permit and a plan of operations?

Question; What about if the USFS finds this staged equipment unattended and *declares* it was stored on NF lands w/out authorization, or was *abandoned equipment**?***
And, if *prosecuted, tried, and convicted, that* would cost up to ***$5,000.00 fine and six months in jail*** *for each alleged violation*. *Citations* are always possible, or probable knowing the FS reputation for overzealously persecuting miners.

The point is that I can see the reality of this process and miners are going to have their equipment and *gear stolen or sabotaged*. Or the *miner will be forced to pack the dredge and other equipment in and out of the claim several times for security reasons*, and *that is just during the application/approval process.*

Question; Does DFG think this is a wise environmentally sensitive plan?

Question; How does DFG reconcile the proposed suction dredge regulations with the Mine Safety and Health Administration (MSHA)?

Question; Has MSHA been consulted regarding your proposed SD regulations?

Question; Did DFG consult with MSHA regarding mine safety, and diver's safety in relation to the new proposed regulations?

Packing a dredge back and forth from dredge site to truck for *security reasons* will mean a half dozen or so round trips, multiply by 2 or 3 times (for each time DFG drags their feet on *inspections or approvals),* and you get 12 – 18 or more round trips from truck to stream. This is environmentally ludicrous.

Therefore this *multi-level application/approval process* is *unnecessary,* and amounts to ***unreasonable regulation*** that ***impermissibly encroaches upon the rights given to miners by Congress***. The proposed regulations **"*endanger and materially interfere***" with bona fide economic mining.

All these inspections, approvals, & various permit applications will be very costly;

This *lengthy process* will also require the DFG to spend vast amounts of time and money traveling all over the State to make *inspections* and ultimately to *approve or disapprove* certain equipment and requests; for example power winching and oversize dredge nozzle. *With our economy in such sad shape, I cannot believe the State of California can possibly afford to perform all these silly inspections and approvals in a timely manner*. If you have not addressed the State budget of both *time* and *money* for all these unnecessary activities, you simply will not be able to fulfill your obligations to the miners who apparently will be required to *wait* for your inspections and authorizations.

I suspect you don't care about the expenses and that *your agency has no intention of working efficiently to inspect claim sites and equipment.* The miners simply will not be helped; *he will be stalled, delayed, impeded, and interfered with, in part because DFG doesn't have the staff or resources to do all this crazy nonsense.* I don't believe DFG has any intention to follow through with these procedures even if they have unlimited funds.

MSHA would have a big problem with the safety issues

The ***4" dredge restrictor ring*** limit is going to cause ***injury and death***. If DFG limits the nozzle to 4" then you have pretty much regulated profitable mining out of existence. If a miner can not obtain a *permit* for anything greater than 4" and he must work 6' - 10' - 15' of overburden, it goes without saying that most dredgers are going to be compelled to take a lot more dangerous risks, they will make their cut slopes nearly vertical, and as a result these walls (cut slopes) *will cave in on dredgers* - and mark my words - *dredgers are going to be **injured** or **killed*** as a result of DFG's half-baked idea of reducing nozzle size and compelling miners to use only hand winches, or where DFG prohibits power winches.

Question; The question that plagues me is why DFG is so eager to restrict the size of nozzle to 4 inches?

Here I will provide a *hypothetical situation to prove my point*; Assuming a six inch dredge will *move over twice as much material* as a four inch dredge per hour, and assuming *it will take a miner 2 months to mine a particular area with a 4-inch dredge*, then the same job should be completed in *one month using a six inch dredge*.

Question; why in the world would DFG find it more environmentally sensitive to require the miner to use a 4-inch dredge considering the scenario I presented?

The economic cost & Cost to wildlife reducing nozzle size

The net result of this folly is that the miners will be compelled to; ***commute for an extra month*** and make the miner ***work harder and in far more hazardous conditions***. Dredgers that travel say ***30 miles a day*** (one way) to dredge **5 days a week** will travel ***1200 more miles*** for the ***extra 20 days*** it will take to do the same job. ***At 20 mpg*** on gravel roads and nearly $4.00 a gallon for fuel, it will cost the dredger in this example another ***$240.00 in fuel*** for the commute alone. It will also take ***25 to 30 hours to commute*** to the dredge site over the course of the ***extra 20 days***. As a result of being forced to use a 4-inch dredge the commute includes travel on gravel roads. There will be more *traffic* on these roads, more *dust* from the roads, When rainwater falls, there will be more *muddy water runoff*, more wear and tear on the roads *and our vehicles* and ***more toxic exhaust emissions.*** One Miner's expense one month.

Considering a *minimum 4000 dredgers* who are in the same pickle, extending my arithmetic, we get an extra ***4,800,000 miles*** in one month only, ***240,000 gallons of fuel***, ***$960,000.00 in fuel expenses*** at $4.00 per gallon, and at 20 mph, that is ***240,000+ hours commuting in one month only.*** 4000 miners and One Month.

Extending arithmetic to cover *5 months* of dredging *season* amounts to a staggering ***24 million miles***, ***1,200,000 gallons of fuel burned***, ***$4,800,000 in fuel expenses*** and ***1,200,000 hours – perhaps less - driving on the roads.*** 4000 miners and One Season.

Question; Can DFG see a predictable problem here?
I used very conservative assumptions. Personally, I travel approximately *1500 miles* per month with only *4 round trips* per month typically I drive more. So the above estimate is likely *very low*.

Nozzle reduction - other environmental costs - and Wear & Tear
We are only looking at *4000 dredgers spanning five months whose dredge size and restrictions have only cut production in half.* The above calculations illustrate that the ***environmental cost*** *will be profound* with respect to ***air quality; Co2 emissions, forest road dust, storm water runoff, wear and tear on forest and county roads***, and 4000 dredgers will spend twice as long mining in each location as a direct result of these proposed regulations. Not to mention the *increased vehicle maintenance* expenses (not calculated above). For example, if **tires** last 30,000 miles and cost $75.00 each, lets check

the arithmetic. That equals 40 new tires and another **$3,000.00 in rubber *destroyed*** that we must pay to properly dispose of.

And, miners will spend twice as long mining each site and allegedly disturbing birds and wildlife, and we will get ½ the gold and ½ the heavy metals we would have recovered if DFG proposed regulations as written take affect.

Costs of 1994 SD Regulations – Lowball Estimate

And, doing some more arithmetic, and assuming that DFG 1994 regulations caused a very similar problem, which it did, then we calculate 16 years. Assuming you cut production in half for the past 16 years then we are talking about an arbitrary 4000 suction dredge miners that burned ***1,200,000 gallons of fuel***, x 16 years = ***19,200,000 gallons of wasted fuel*** all because DFG insisted via SD regulations that we use *smaller* dredges. Certainly we had approximately *12000 dredgers at one time*. So, if any of you DFG scientists want to crunch some numbers and come up with more precise calculations, be my guest. It will only make DFG decisions look more and more draconian.

If not but for DFG *unreasonable* suction dredge regulations and mismanagement *since 1994, our rivers biological health would have been vastly improved as a direct result of our reclamation efforts*. DFG is *prohibiting the removal of toxic substances of every kind* with these new proposed suction dredging regulations.

Question; And what about all the little nesting birds DFG is sniveling about?

Question; If dredging goes on one month longer than it would have solely because DFG arbitrarily limited the size of suction dredge nozzles, and our presence allegedly *bothers the little birdies*, then *what benefit is there in regulations that will double the time suction dredge miners will bother the little birdies and wildlife*? After all once it is mined we move on.

Frankly, back in 1994 you established draconian regulations that doubled and tripled the amount of time miners would spend mining on a claim because you dramatically limited the nozzle size and so forth. Now your doubling down and tripling down the time we spend working our mining claims to do exactly the same job again!

Nozzle restriction increase in fossil fuel and emissions

*Come on DFG, I thought you guys and your pals at the EPA wanted to regulate **greenhouse gasses** and regulate carbon, and want us all to have more efficient clean burning vehicles. Yet, you create dredging regulations that serve to cause far more environmental harm than if you did nothing. In fact, DFG has been more of a hindrance than help when we consider how DFG regulations have unreasonably regulated suction dredge mining and DFG proposed regulations as proposed will, "**endanger and materially interfere**" with heavy metal reclamation dredging and gold mining with overly restrictive and arbitrary regulations since 1994.*

Ultimately the exact same "work" will get done, it will just take twice as long and costs us twice as much and will be at least ½ as profitable. As a direct result of DFG proposed regulations, suction dredge *miners will disturb wildlife twice as long* and suction dredge miners *will trudge up and down the riverbed and stream banks twice as many times*. It will require transporting and storing *more fuel*, *for a longer duration* and *will require refueling more often*. It will also take *more fuel* to run a 4-inch dredge than a six-inch dredge because of loss of *efficiency*. While the dredge is running, we must handle all the rocks by hand that ranges in size over 3.5 inches because they will not fit through a 4" Nozzle restrictor ring.

Furthermore, a 4-inch dredge comes with a 3.5-inch restrictor ring because if the constrictor ring is the same size as the hose, the rocks will get hung up in the hose and it will take time to clear the hose thereby losing efficiency. Therefore most dredgers who own a 4-inch dredge can only use a 3.5-inch restrictor ring. So the only way miners can avoid clogging their hose and dredge with a 4-inch restrictor ring is to use a 5-inch or 6-inch dredge. Brilliant!

Size matters. On every job mankind does, there is an old adage. *Choose the right tool for the job*. In both placer and hard rock mining, every mill is designed for a particular mine. There is no *one mill* that has ever been designed that can be used at any or all other lode mines because every mine has its own unique issues. The same is true with placer mining and suction dredging. There are a vast number of streams that DFG has proposed we cannot *ever* use a dredge larger than 4-inches on. Yet there are many streams of that description that have well *over ten feet of overburden in patches*, and other patches of the same stream might be completely exposed bedrock. Experienced dredgers can look at a project area and select the proper dredge for that job, but with these proposed regulations ***we are limited to taking the river apart with our bare hands and sucking up the crumbs***. DFG is ***arbitrarily*** *selecting the dredge size* we can use in *all locations*, and this is a significant ***safety*** concern *that is going to get suction dredge miners* ***killed.*** ***Safety First***.

Another important factor is that each stream course contains a very **unique mix of aggregates**. Some streams are comprised primarily of *slates*. Slates will be ground down but all the rocks are *flat, rounded and thin* which persistently get stuck in the dredge hose, power jet and nozzle. Some streams high percentages of sharp, jagged, irregular rocks generally the kind of foreign materials that fall into the rivers by; Deer, bear, or animals disturbing the surface, or weathering; such as freezing, or rain, or summer when the hills dry up. All these factors and more *cause foreign materials to fall from the steep riverbanks and mountainsides enter the rivers*.

And, these *odd rocks* tend to hang up in our dredges. This always slows the production rates. Other streams have a high percentage of small rock, so that using an 8-inch dredge would suck up the vast majority of the streambed with very few cobs and boulders to deal with by hand. This is fairly rare in my experience.

Other rivers have vast amounts of cob and boulders, and comparatively very little small gravel that can be vacuumed from the bedrock thus a smaller dredge might be the right tool for that particular site.
And, every stream has its own *special mix of aggregate* and therefore to efficiently dredge, miners need the flexibility to select the most efficient dredge for that particular location *on that particular stream* because *dredging is a business* and that *business must be profitable*. Suction dredge mining can be very profitable when the dredger is *efficiently* moving materials and that can only be accomplished when the miner uses the right tool for the job. Again, this is where DFG regulations concerning the establishment of dredge maximum nozzle size on all state waters is *arbitrary and capricious and without merit*. This proposed regulation is *unreasonable, inflexible* and far too restrictive.

Perhaps DFG should *cite Mother Nature* and all her critters for causing and introducing *foreign earthen materials and rocks* into DFG managed rivers without authorization and necessary DFG permits.

The general rule of thumb is that we need 1 inch of dredge for every foot of overburden. Now, most major gold bearing rivers contain 8 to 20 feet or more of overburden. So the question is how can DFG create a set of regulations that prohibit the use of the proper tool for the job, meaning the right size dredge and power winches for efficiency, ***health*** and ***safety,*** and profitability? ***Safety First***.

Indian Creek, Plumas County

Regarding Indian Creek, Plumas County, I see that the proposed regulations have changed the 6 inch dredge with option of using an 8 inch dredge (*with permission*), to a 4 inch dredge restriction and option for a 6 inch dredge with *permission*.
Now, from the intersection of Hwy 70 and Hwy 89, heading up stream, this placer ground is suitable for an 8 inch dredge because of the deep gravel beds and shear volume of water in the stream. From the Hwy junction to the bottom of Indian falls, a span of perhaps 3-5 miles should be open to an 8-inch dredge. Once you go past Indian Falls, there is no dredging because the valley is so deep with gravel one would need a bucket line dredge to mine it. My claim has typically average overburden on the lower end of the claim, but the upper section covering several acres is up to *18 feet deep* and most of the overburden is comprised of large rock and boulders. ***This stretch of river needs to be open to 8" dredges with option for larger dredges as needed for this commercial mining claim.***

Indian Creek – MSHA - & Extremely Dangerous Regulations

Question; Now, how can you expect a miner to ***safely*** dredge this massive wall of boulders described on Indian Creek with a 4-inch dredge and a hand winch?

Question; If I am mining this wall of rock and I create a slope or ramp to allow winching boulders, and I hook up my hand winch, how do you propose I can winch by hand if I don't even have something to stand on?

Question; You want me to place a stepladder underwater and see if I can winch a boulder from on top of the ladder underwater?
*And then I would be directly ***in harms way*** because I would literally be winching from a position *between a rock and a hard place*! ***Safety First.***

And working with Boulders on a steep uphill ramp under water, where the boulders may be 10 - 15 feet or more in height above bedrock, we will be forced to climb up the ramp on an *unstable* dredge face (*ramp; comprised of unstable boulders, cobs, & gravel*) and dredge around the boulders with a *toy* - that *extends the amount of time we are vulnerable to unanticipated and sudden rock slides*. If no rock slide occurred, then we still have to rig these ***dangerous*** unstable killer boulders, and then on the down hill, down stream side of the boulder, we are expected *by regulation* to literally stand (in front of and on the down hill down stream side) of the boulder, and under the boulder(s) we plan to move. This is an ***accident*** waiting to happen. ***Safety First.***

If the boulder does slip at any time we are rigging it, or attempting to move it with a come along (hand winch), then you can reasonably predict that the boulder will roll and/or slide swiftly downhill immediately toward the suction dredge miner and it can only be by the Grace of God if we are not *mashed into the bedrock and* ***killed dead***. Thanks, for looking out for our collective ***health and safety*** DFG. ***Safety First***.

Without elaborate rigging, using a come-along / hand winch puts the human physically between the boulder and bedrock. In fact, MSHA would have a BIG problem with anyone performing any other job *where he is put between a load and a hard spot* specifically ***by*** *terms of the unreasonable regulations*. This is an ***unacceptable safety issue*** that ***will*** get miners ***killed and buried.*** Kind of convenient though, *buried out of site and out of mind just like all the other river trash*. What is this, *poetic justice*? ***Safety First***.

The ***dangerous scenarios*** that unfold daily when suction dredge mining is conducted in overburden over a couple feet in depth. Every suction dredge mining site with a few feet of overburden can easily get a dredger ***killed*** very easily. Especially when *compelled to use a toy* ***where a serious tool is required*** *for* ***safety and economic*** *reasons*.
When a miner is free to choose the proper tool, and in this scenario, where overburden is 6 – 18 feet deep, he will select the largest dredge suitable for the task. Why? Because if a man can quickly and efficiently move materials, he will open a larger dredge hole - (Large hole = safe hole) - he can quickly slope the walls as needed for ***safety***, he can create a ***safer*** and more gradual ramp, he can *terrace* the working face or side walls to prevent the probability that ***hazardous boulder*** perched high on *unstable* aggregates will not unexpectedly slide in on top of him which would likely ***kill him***. ***Workplace Safety First.***

Now, imagine a 3-ton – 6-ton boulder, perched 15 feet over **your** head on *unstable aggregates*. Imagine working with the *constant fear that* ***killer*** *boulders are perched in such locations that they may slide in on top of you at any time*. And boulders falling

follow the Newton's laws of gravity, a falling boulder will *accelerate in velocity* for every foot it falls in elevation. Your brilliant scientists might want to crunch the numbers to estimate the impact, or kinetic energy of a 5 ton boulder free falling 10 – 15 feet in water. Wow, isn't purported *recreational* dredging fun? **Safety First**

Now, imagine the poor bastards who are paralyzed by insane regulations to the extent that the *recreational* toys *authorized* by DFG would necessarily mean that the dredger might spend weeks accomplishing what can be done with a large dredge in days. He will inevitably take shortcuts. It is human nature to adapt. I have seen it all, dredgers with a 4-inch dredge *literally drilling a hole strait down six feet and more*, not much bigger than the dredgers body. Why? Because he needs to know how deep the overburden is, what the streambed is composed of, and what the bedrock looks like just to *decide* if he *should invest more time and labor dredging in these particular conditions*. Sometimes all the observer will see is his feet sticking out of his hole and some air bubbles. He is in a ***gravel tomb*** that can collapse at any time regardless of how ***safe*** it may appear. Why did he do this? Because the ***toys*** DFG allows us to use is far too small to allow the miner *the luxury of dredging a **safe** exploratory hole*. So, here too, the proposed regulations will lead to ***injury and death*** of suction dredge miners. **Safety First.**

Now, imagine a dredger working on the bottom of the river, handling every little 4" plus piss ant rock that gets in his way. He will be there a very long time placing 4" plus rocks in buckets, crates, and nets. The longer the dredge hole is open the looser and the more "unstable" the dredge hole becomes. Now, your regulations keep the dredgers in this ***hazardous situation*** for; vastly longer periods of time, sucking -3.5 inch rocks and gravel through a 4" nozzle, handling every rock over 3.5 inches diameter, which ***dramatically increases risk exposure 10 fold***, and thereby increasing the *probability* that *gravity* is going to have its way with the dredger sooner or later, and it ain't gonna be pretty. Your purported scientists can crunch the numbers to determine whether "10 fold" is reasonable. I believe it is even more dangerous than that. **Safety First.**

Dangerous, well perhaps it is wise for DFG to understand that *working underwater* under any circumstance could be classified as *working in one of the most **dangerous** jobs in the world.* I'm sure there is plenty of data readily available supporting this well known fact. Now, couple that with standing under a land slide underwater, *undermining* massive boulders, resting on unstable *aggregates* looming and ready to ***kill*** you, and add into the equation the fact that DFG dictates that *you cannot use the proper equipment*, then I think you have created "by unreasonable regulation" an *even more dangerous job* than "one of the most dangerous (working environments) on the planet." **Safety First.**

Dangerous? Perhaps your *purported* environmental scientists who dreamed up these dangerous regulations can "imagine" the continuing perilous saga unfolding. Imagine, that 3 ton – 5 ton boulder perched 10 – 15 feet or so above the evil dredgers body while he is working feverishly to take the river apart with his bare hands and a (toy dredge). He is on the river bedrock "whistling dixie" picking up gold and heavy metal, when without a single noise heard, and without seeing a thing move, this killer boulder suddenly slips from its perch dropping 10 –15 feet nearly strait down and landing directly

on top of the dredger. Needless to say, it will break every bone in his body; *mash him into the equivalent of road kill*, a bloody pulp. He would typically never see it coming and wouldn't have a chance. **Safety First**

If not ***killed -*** and this has also happened many times - lets assume the 3-5 ton boulder only lands on his *arm or legs from 10 to 15 feet.* If he has no communication with a top man on the surface, and if he cannot unpin himself, he will either bleed to death, pass out from blood loss and trauma, go into shock, or he will simply *drown as* the dredge runs out of air when the engine runs out of gasoline. Charming. So what, he was *just* an *evil* suction dredge *miner*, BFD. The world is better off. Right?

All, of the ***hazards*** discussed in this section and throughout these comments are directly caused by DFG "***reckless*** and ***dangerous***" regulations that have taken away the very tools we need to do our jobs efficiently, profitably, and ***safely. Remember, Safety First.***

Prohibiting mining within 3 feet of waterline

The proposed regulations that limit dredging to within **3 feet of the water** line also impermissibly encroach upon the miners right to mine his *property*, (the gold contained in the gravel). This is completely *unreasonable.* For example, if a citizen owns a placer claim on a small stream say 10 feet wide waterline to waterline with gravel river banks a foot or more high, then the miner can only dredge a narrow four foot strip of gravel in the center of the stream. Now, if he has 3 feet of overburden depth in the center of the stream, the miner can only expose perhaps one or two feet width of gravel on bedrock. If per chance, the side of his trench sloughs in, then DFG can measure from the bank to where the trench sloughed, and the net result is that the miner will be *subject to fines,* appeals and litigation under these proposed regulations. This is completely unreasonable.

Taking this logic further, if the stream is 6 feet wide, then any attempt to dredge would result in citation, appeals, and litigation. Effectively, most streams 8 or 10 feet wide or less will become un-mine able entirely if your proposed regulations take effect as planned. I must note here that the 4 inch and 6 inch dredges are really designed and intended to work this size of stream. But because DFG is outlawing suction dredging on these smaller streams with the 3-foot bank rule, these small dredges cannot lawfully mine the very areas these dredges were designed to mine!

As such, and considering that the proposed regulations do not provide any ***alternative*** methods of placer mining within the stream channel (for example *Drag Line Dredging*) that might be used in places where dredging is prohibited under the proposed regulations. These mining claims may ultimately be abandoned at some point in the future, but the State of California DFG will be subject to countless lawsuits, and expensive litigation for each and every claim so "taken" by the *unreasonable* proposed regulations where the miner chooses (or can financially afford) to file such lawsuits. The 3' stream bank rule is unreasonable and prohibits placer mining on small gold bearing streams.

So far hydraulic mining was banned with the Sawyer decision, dragline dredging appears to be banned by DFG, fluming the river and diverting the river are unlawful, and dredging is all but banned. Absent reasonable options, all hell is going to break loose. Many of us experienced dredgers are not going quietly into the night.

Question; Do any of you DFG geniuses have any alternative means for me to economically extract my gold from my claims? If yes, what other means would you suggest?

Another MSHA Safety Issue Power Winching

Regarding ***winching*** in the active stream course, the PSDR allow only *non-motorized hand winching* without asking (or begging) DFG for an *inspection and permission* to use a power winch. First, what is the logic behind allowing a miner to winch boulders with hand operated winches versus power winches?

Look, I was a boatswain's mate in the US Navy, which means I was also a cargo handler, a rig captain transferring 8 ton missiles from ship to ship, and that I do know a thing or two about how to move *anything* with a winch. Hand winching takes much longer to perform than power winching. Further, most small hand powered winches are rated between two tons and 6 tons. Hand winches generally are capable of holding only 20 to 30 feet of cable, meaning that if the 2 ton hand winch must move a 3 ton boulder, then the cable must be doubled up for a 2:1 ratio. This shortens the cable length to 10 – 15 feet, which allows the winch to only feel 1500 pounds, which also means that a miner may need to hook up the boulder(s) perhaps two or three times to get the boulder out of its original location and to a location far enough away to be useful. This can take hours of time on one-boulder and puts miners directly in the way of the load they are trying to move. ***Safety First***. It is ***extremely dangerous underwater*** particularly because of *tunnel vision*, water currents pushing on us, boulders resting on other unstable boulders and cobs that can slip and shift unexpectedly at any time, and as we drag the load it continuously slides on uneven surfaces causing the boulder to rock, tip, slide and roll uncontrollably. **Safety First.**

Considering also the fact that hand winches are very slow, may require hooking and re-hooking up the same boulder several times to get it where it needs to be, moving these boulders by hand is hard physical labor, is extremely labor intensive, and moving large boulders underwater is ***extremely dangerous*** as it is, but becomes even more dangerous when hand winching. The longer the miner is underwater; fiddling with rigging, winching by hand under & in front of the load, re-connecting the hand winch, prying to loosen a boulder, the more likely he will be ***injured*** or ***killed***.
Safety First.

Why? Because the miner is "up close and personal" with each and every boulder he must move under water and he is literally working in between the boulder and other boulders, or between a boulder and bedrock. Ever heard the term ***"Between a rock and a hard place?" Safety first***.

When we use power winches, we hook up a boulder, we go to a ***safe place*** on shore where the winch is set up and we pull the boulder to where we need it. *Nobody* needs to be in the water ***risking his or her life*** while struggling to move a boulder with a Micky-Mouse *hand winch* when power winching is and would be far, far, far ***safer.***

Furthermore, power winches have one or two drums that hold the cable depending upon the model. Such power winches can be as small as two tons but depending on the model, these winches suitable for dredging operations can move a 40 ton boulder if need be. Using a power winch allows the miner to move the boulder(s) 30 feet – 50 feet – or more as needed and the move is accomplished in one quick ***safe*** move. I have moved rock sleds, rock nets and boulders with loads of up to 4 tons as much as 70 feet in one pass, and each pull takes perhaps 30 seconds. Each pull can easily move 2 tons using a 5 hp gas motor driven Mighty-lite winch which measures 3' long, 18 Inches wide and 16 inches tall, weight is about 100 pounds. Once the boulder is attached with a strap, net, or choker, it can be moved quickly and safely. ***Remember workplace safety first***.

It is obvious that compelling miners to use hand winches *will undeniably lead to* ***death and / or injury*** *of suction dredgers*. Why? Because if the suction dredger cannot acquire the necessary permit to use a power winch, the miner will attempt to *undermine* the boulder or boulders, and he will try to use *pry-bars and gravity* to move the boulder(s). It is a common occurrence that when we least expect it, such boulders suddenly move and move extremely fast. Even when we see a boulder slip toward us, we can't move out of the way quickly because of our buoyancy underwater. We move like snails comparatively. ***Safety First.***

Now, it must also be understood that suction dredgers wear a facemask underwater. Anyone who has ever spent any time underwater knows that the images we see underwater is very *distorted*, like *tunnel vision*. In fact, I have worked around boulders underwater many, many times over the years. As I worked around them, I thought my work was ***safe***, until I came out of the water and looked down at the scene from the surface. Then it became obvious that I had been working in a very ***dangerous*** situation that I had not recognized earlier when I was underwater. I have seen this situation occur on many occasions, this is not an isolated incident. This proposed rule as relates to power winching and hand winching presents serious ***safety*** issues that even MSHA would complain about and likely compel DFG to make necessary changes to ensure health and ***safety*** that DFG is not going to like. ***Safety First***.

Another significant issue with hand winching is the ***adverse economic impact***. Requiring hand winching only will make movement of boulders considerably more *labor intensive*. As such, when the BLM or USFS elects to challenge the validity of a particular mine in the future, the economics of mining the deposit will be heavily scrutinized. I have significant first hand experience regarding how the USFS and Office of General Council attack mining claims, namely economics and the "prudent man rule." See US V Burton and US v. Eno IBLA cases, and see also the EA for the Soda Rock Mineral Withdrawal

for an education in relation to how the economics of suction dredging, moving boulders, using a 4 inch nozzle, will adversely impact the economics of a mine.

For example, USFS Geologist Richard Teixeirra is a geologist and an "expert witness" for the USFS in validity determinations. Mr. Teixeirra documented and testified specifically about the economics of my "Hound Dog" placer mining mine. Mr. Teixeirra plainly stated in my case that he uses an estimation of how much gold can be recovered per unit of time, generally in milligrams per hour. He lists all regulatory restrictions so as to show that under existing DFG, USFS, and/or other regulations, a miner ***cannot make a profit***. Therefore, as discussed at length earlier, the 4" nozzle restrictions and hand winching will make an otherwise profitable mine unprofitable, and all because the proposed DFG regulations are *unreasonable* and places unnecessary economic and regulatory burdens upon the miner.

Worse, the regulations will lead to ***injury*** and ***death***. And because you DFG folks are so eager to *whisper sweet nothings in my ear and slip one up my xxx*, I will be the first guy eager and waiting to hear about suction dredgers getting injured or losing their life as a result of these regulations. I will track down the family of the deceased or injured and provide them a copy of my comments to prove DFG knew well in advance of promulgating these regulations that dredgers will be i***njured*** or will ***die*** as a direct result of these proposed regulations. ***Workplace safety first***

Indian Creek (described below) should be open to dredging with an 8" dredge minimum with opportunity to request 10" Nozzle.

I own the Hound Dog placer claim, located on Indian Creek (HWY 89) approximately 2 miles from the junction of HWY 89 and Hwy 70. On the upper half of my claim, the river widens out some 100 feet, and the overburden is as much as 18 feet deep. The entire area is armored with large boulders ranging in size between a half-ton each and 10 tons each. The boulder pile (armoring) has in fact protected the placer gold on bedrock from being washed away for countless centuries. In order for me to mine this area of the claim at a profit, and for my ***safety***, I definitely need to use a *double drum winch* with the capacity rating to move 10 – 20 ton boulders, otherwise mining this particular dredge site will be too labor intensive to prove profitability and too ***dangerous*** for my personal ***safety***. Therefore I conclude the proposed regulations in my case are unreasonable. Indian creek should be open to dredging with up to a ten inch dredge from the Greenville Y (Hwy 89 / Hwy 70) up to the bottom of Indian Falls in Plumas County, and the power winching should be authorized without application or permit. Reducing the dredge size from 8" to 6" is ridiculous, and completely unwarranted. Besides, most of the land on this section of Indian Creek is either private property or an agricultural patent; there are only 2 or 3 placer claims on this stretch of river including my own. ***Safety First***.

Pollutants, toxins, heavy metals

Pollutants are also another topic of interest. I personally have removed countless pounds of contaminants from the rivers I have dredged including but not limited to; ***lead, fishing sinkers, split shot, swivels, fish hooks, bait jars, lures, bullets, bullet casings, buckshot,***

rusty iron, nails, screws, bolts, aluminum cans, tin cans, copper, zinc, alkaline batteries, automotive batteries, broken glass, and mercury and mercury amalgam. I have removed all these toxins as most dredges do routinely every time they dredge.

Now, I am curious why DFG does not applaud our successful removal of various heavy metal toxins as a direct net benefit of allowing suction dredgers to mine the rivers. It costs DFG NOTHING to have all this toxic material removed from the river systems. Yet, according to the DEIS for the proposed rule, the big cry-baby issue is that some minute amounts of floured mercury might escape the recovery system and flow back into the river. I firmly believe that removing 95% + of the elemental mercury - and the bonus of having all the other heavy metals removed from the streams - more than compensate for the miniscule amounts of floured mercury that might not be captured in the recovery system from time to time.

DFG must also be aware that elemental ***mercury*** in the river systems is not *all* caused by historic mining. Vast amounts of mercury have entered the human environment all over the world from time immemorial because the native mercury ore "cinnabar" has eroded from its source. Natural erosion, freezing, tree roots, wind and rain, earth quakes and floods have caused natural erosion that put vastly more mercury into the environment than mankind ever has dreamed of. Regardless of the reasons why mercury may or may not be in a river system, the suction dredgers and miners have been cleaning it up for four decades. (With certain risks to our own health.)

Question; Don't you think it is high time to acknowledge the good works suction dredgers have done cleaning up heavy metals contamination of out watersheds?

Question; Can you provide any credible estimate of how much the State of California would have had to pay to hire "reclamation dredgers" to remove all the heavy metals we have removed over the past 20 years alone?

I guarantee the cost would have been staggering and the State would not have paid anyone to clean up the streams. So all the "*talk*" about "*clean water*" is just that, *talk, lip service, or worse*, it is actually just another means of *controlling* suction dredge miners and *controlling* land use via Mickey mouse science.

Take Permits

Fishermen have fishing licenses, AKA a "*take permit*," which allows them to enter rivers and streams to fish. Now, these fishermen in their quest to *either*; catch and keep fish, or *worse*, to *taunt, tease, torment, or otherwise play with fish* (AKA catch and release). Plainly fishermen *must* also have serious impacts to the river systems that apparently are not addressed. These fishermen use the *same roads* as miners, they *park and camp* in the same locations, and they *trudge* up and down the river systems along the river banks both in and out of the water with impunity.

In the course of fishing, *these fishermen are not required to observe, look for, or avoid disturbing the fish and frog eggs*, and *they are not required to avoid disturbing*

vegetation. And though DFG limits fishing licenses, (3 million) DFG has no limit on the *number of fishermen* that may go to and fish on any particular river or stream. And there is *no regulation or requirement that fishermen gather up any and all trash they find in the streams or on the stream bank.*

Further, for ***centuries*** fishermen have erroneously presumed that fish don't feel pain. Well, some years ago a PBS TV broadcast presentation demonstrated that *fish do feel* ***pain*** *when hooked.* Fish leap out of the water and fight as a direct result of pain. So, it is *abusive* to all fish species to allow people to fish using the "catch and release" philosophy because fish have been proven to feel physical pain after all.

Therefore, *it makes as much sense to allow fishermen to use rod and reel to; fish for, hook, play with and catch* ***cats and dogs*** *with a barb less fish hook, just as long as the fisherman "****releases****" the cats and dogs when he is done playing with them*. I'm quite sure cats and dogs could put up one hell of a fight.

Apparently it is more than OK with DFG that fishermen *taunt and kill fish*, and *trample fish and frog eggs, and trample vegetation at will* for the sake of mere *recreation* and entertainment, *but suction dredgers* are held to a different and *higher standard* under these proposed SD regulations. Further, great numbers of the so-called "*catch and release*" type fishermen are killing fish regardless of the fact they *release* the fish they catch. This is because fish will bite a fly or bait with a hook. Sometimes the fish gets hooked in the lip, or the throat, gills, or the fish swallows the hook. Then, to make matters worse, fishermen *play with the fish* with ultra light fishing gear *for the mere sport of it*. This causes many fish to die of shock and/or traumatic injury regardless of the fact they were "*released*."

Add to this all the various *other users* of the same rivers and streams; forest visitors floating down river using inner tubes, kayaks, rubber rafts, and swimmers, campers, hikers, fishermen and hunters. All these ***users*** are *free to trample anywhere and upon anything they choose throughout the watersheds and would / do cause the same alleged harms to the vegetation and native species as the suction dredge miners*, but none of these other user groups are required to protect the environment under existing law and regulations similar to those that the DFG is trying to saddle suction dredge *miners* with under the new proposed SD Regulations.

If suction dredge miners are allegedly causing harm to the environment by merely walking in the water, establishing encampments, or walking on vegetation on the stream banks purportedly causing environmental harms, then ***all users*** of the forests *who might walk in or near the water or on streamside vegetation are causing environmental harm.*

Thus, DFG will have no other option than to perform an EIS and propose *restrictive* regulations related to *all other forest users* addressing *exactly* the same issues they have done for the suction dredge regulatory changes, otherwise there will be ample evidence of "*use prejudice*" as defined in the US v. Milender IBLA case.

It would be, and is *fundamentally unfair to single out suction dredge miners* for *alleged* harms to the environment when *any and all other users* cause the *same alleged harms*. DFG should also consider how these *other users* might disturb the *nesting birds and other wildlife*.

Screaming children, stereos a blasting, off road vehicles, ATV's, motorcycles, crotch rockets, dirt bikes, cars and trucks, beach parties, and commercial vehicles all disturb nature routinely. Nuts firing off rifles, shooting into the water, and on and on it goes. These people need restraint man!

Therefore I expect DFG to begin "public scoping" ASAP and to perform the necessary *environmental analysis(EA or EIS)* ***to comprehensively review and analyze all other user groups' impact upon the riparian zones, watersheds, vegetation, fish, and aquatic species, and nesting birds***. That must necessarily include the Karuk Indian Tribe and *all other Native American Indian Tribes* to fully analyze their ***use*** and the environmental impacts that are caused by their particular ***uses***. The Karuk Tribe isn't getting out of this unscathed. They wanted this environmental review, they are at the table with DFG eager to help screw miners, and they are a part of the problems just as all other ***users*** are. The uses of Native Americans must be accounted for in the final analysis. The river's health, the quality of water, and fish habitats must be studied with all the "new Science" DFG cooked up in the SDEIR for the suction dredge *miners*. Therefore, this Science - that is actually valid - must be applied equally to all river ***user*** groups.

This means that DFG must propose vast new regulations to protect the watersheds, fish, aquatic species, and water quality ***from virtually all other user groups*** including but not limited to; ***hikers, fishermen, hunters, Native American fishing with nets and other means, swimmers, sunbathers, tubers, kayakers, rafters, skin divers, families with kids building sand castles, general tourists, photographers, 4WD, ATV, birdwatchers, motorcyclists, and virtually anyone who might use or go into or near the rivers and streams of California.***

Question; my question is whether or not the DFG has done an EA or EIS as relates to the proper regulation of any or all other river ***users*** to ensure those ***users*** are not damaging the environment within the stream and river channels?

Question; if not then why not?

Question; If DFG did an EA or EIS concerning regulating *all other stream and river* ***users***, when was the work done, and does that analysis contain the purported "science" you have applied to the suction dredging SDEIR?

Since the purported "science" is *new*, and that science is *purportedly suggesting that you need to further regulate suction dredge mining*, then it would appear that DFG has gained new knowledge and enlightenment as to the river environment. Thus, now that you have this *marvelous* new "science," and you see *new* potential harms *you never saw before*, I presume that DFG is going to be in a very big rush to perform the necessary

environmental analysis on all other ***user*** groups to ensure you have not *neglected* to protect species and habitat from these *largely unregulated and unmonitored* ***user*** *groups.*

Question; How long has it been since DFG conducted environmental review of each and every one of these other river ***users***?

Question; How long has it been since you last took a requisite "hard look" at fishing and hunting license and/permit /tag processes?

Question; And, wouldn't it be *prudent* to review all this random river ***use*** very carefully since your scientists have recently "discovered" new and exiting "science" for the proposed suction dredging regulations?

Question; When can we anticipate DFG to get started on the EIS and proposed regulations that will ensure *all* heretofore unregulated river ***users***, and hunters and fishermen are held to the same environmental standards as suction dredge miners?

Maximum 4000 permits

Another point is that DFG proposes to allow ***only 4000 permits***. I absolutely oppose placing a limit on the number of permits issued because anyone who owns a mineral deposit /claim who must mine gravel in an active stream or river and who cannot obtain a permit will be absolutely prohibited from mining his property. ***DFG has no authority to prohibit mining.*** We also understand that the highest number of permits issued in the 1980's was around 12,000. There should be no limit that will materially interfere with any miner's rights and the Congressional Mandates to develop the mine. Assessment work.

Question; does DFG maintain any data on how many *other* ***users*** of our state rivers within the National Forests In the Sierra Nevada's engage in activities in or near the rivers and streams?
If not, please advise us of how you plan to ascertain this information and how soon such information will be made available.

Cultural Impacts

The next issue is related to *cultural impact* upon *miners.* California has a long history of mining beginning with the 49ers. Primarily it was miners seeking gold that caused the greatest migration of people in the US to migrate to California, Alaska and numerous other western States. This is a 160 year evolution of miners culture. Suction dredgers are miners operating under the US Federal Mining Laws, and suction dredging was an innovation that was and is environmentally preferable to all other methods available to miners.
(For example, prior to the invention of the suction dredge, the only way a miner could work the river gravel was to flume a river and work the gravel dry. Or, miners would use

a dragline dredge to drag the river material unto shore for processing and disposal. Obviously dredging was and is preferred over Dragline Dredging and Fluming Rivers.)
To this day, whenever a miner tells anyone that he mines gold or dredges gold, people light up with enthusiasm. These people are genuinely fascinated and want to know all about gold mining. If the proposed regulations are implemented, suction dredging for gold will steadily decline just as DFG and other Government Agencies are planning. It will be a slow and incremental process effectively destroying any opportunity to mine for gold in any river system within the State of California. In the future, we will only be able to tell our children what it was like to be a California gold miner.

Miners have a culture that DFG doesn't give a hoot about. In America, it is politically correct to meld cultures, to blend in and to be tolerant of other cultures. The Libraries are packed with mining lore and history, practices, customs of miners and so forth. Yet, *our culture* is disregarded entirely despite the fascination many Americans have with gold mining lore and diving for gold. It is akin to treasure hunting. I think it is long overdue for DFG to recognize the culture of miners and address it in the SDEIR.

3 Inch Lettering

I strongly oppose the regulation requiring that we *affix 3 inch lettering* on our dredges for identification purposes. I oppose this in part because equipment breaks down, or might be stolen. Thus, even if we replace the motor, or other inspect able component, now we have to notify DFG and perhaps amend our approval/permit or obtain a new dredge number. Whether a dredge has a number or not, DFG officers will engage conversation and inspections for compliance. So a dredge number is simply another pain in the ass that accomplishes nothing worthy of merit. If DFG is that close to a dredge to read the numbers, then what is the point? Why provide the public an opportunity to identify us and then through public information discover who we are and where we plan to dredge and how much gold we have been getting. This regulation is unnecessary; unreasonable, an additional expense, it exposes us to prying eyes in the public record, and just plain sucks.
Question; Really, how does affixing 3 inch lettering to our dredges lead to protecting species?
You are requiring a "license" for a dredge *identified* by a number, plain and simple.

Naming up up 6 streams

I strongly oppose the idea of *naming 6 streams* specifically by GPS or Township, range and section. I object because we must select these sites months in advance of the season, when much of the Sierras are snowed in. If we are selecting streams for prospecting; and we may have never been there before, it will be impossible to know what specific equipment may be needed, whether we need a power winch or not, thus we may have a permit but discover we cannot get a power winch permit until the end of the season. Pre-selecting dredging sites is a *bad idea* that will most definitely *frustrate prospecting and dredging*, and much time will be wasted complying with the paperwork nightmare DFG has eagerly prepared for us.

Question; Turn about is fair play, how about requiring fishermen and hunters to identify 6 locations they plan to kill and harass species months prior to the season?

Question; Shouldn't they also provide specific target hunting and fishing locations by Township, Range and Section or GPS coordinates?

Question; You must have a "need to know" how many people plan to fish a certain river at a particular time to *ensure* that they are not fishing in an area with endangered, threatened or purported sensitive species, fragile ecosystems, sensitive riparian areas, cultural areas, sensitive archaeological areas, and so-forth wouldn't you?

Question; Wouldn't it be prudent to require inspection of all fishing gear; rods and reels, and lead weights to ensure that fishermen have good strong fishing line that is not been weakened by river/lake rock abrasion so that fish will not break the line with 50 feet of fishing line still attached?

How about *regulating* all the swimmers, tubers, kayakers, rafters, and folks on picnics. All these *inconsiderate selfish people carelessly stomp all over the very things DFG is making illegal for a dredger to do*. Oh! Correction, "illegal for *suction dredge miners* to do" because dredgers (reclamation dredgers) can do as they please.
Anyway, these poor misguided *flatlanders* with no proper guidance, instruction or regulations from DFG *aimlessly trounce about our streams ignorantly causing catastrophic harm to species and species habitat, and yet there is no villain and no citation issued for the environmental harms*. This must be stopped immediately. And these people come and go swiftly, fleeting day trips. But *miners* are in one place for a quite a while comparatively speaking. It is easy to blame the miners for harms caused by fleeting masses of unregulated flatlanders run-amok.

Question; Shouldn't these people who evidently also pose a great threat to (endangered, threatened, and other sensitive species, or species of concern) be *controlled* as they freely and aimlessly ***use*** these waterways for fun and games in the same months divers would be suction dredging?

Question; Talk about disturbing fry, eggs, and aquatic habitat, OMG! These people, many of them don't know where milk comes from, they often have no experience outside of a city, and it stands to reason these knuckleheads will drive up to the rivers for camping, swimming and parties. Is it any wonder species are threatened by these other forest ***users***?

Re-Filling Dredge Holes

I strongly object to filling in our dredge holes. This is stupid. Dredge holes give fish a place to hang out (out of the current), to feed on whatever drops in the hole. And, as DFG doesn't want to see turbidity, the fact is that the only way to re-fill the holes is to re-position the tail end of the dredge over the upstream end of the dredge hole and *re-dredge the material*. As we do, we are obviously downstream in the current so that we will be

working in cloudy water where we can't see, and we will have to wait for the river to clear us so we can see well enough to resume dredging. This is referred to a "Blind Dredging." It is a *waste of time*, a waste of fuel, and certainly does not benefit the fish.

Question; For your purported "scientists" to freak out over the possible discharge of tiny little heavy metal specs, and mercury particles that might cause environmental harm or exceeds bureaucratic regulations, why would these scientists risk re-dredging which releases more of the toxins, sediments, and turbidity into the river that your "scientists" are sniveling about? Why?

Furthermore, a few months after dredging season ends, annual high water or minor/major flood events will erase all evidence that dredging ever occurred. Re-filling the dredge holes is a waste of time, a waste of fuel, and makes dredging more labor intensive, thus adversely affects profitability of such mining operations. Again, your making this task more labor intensive, and we have to dredge *twice* if we fill in our hole meaning more silt and sediments will flow downstream, we are at the site longer, burning extra gasoline, making more engine noise, and scaring little birdies to boot.

Damaging Streamside Vegetation

I strenuously object to the new proposed regulations concerning the "*damage streamside vegetation*" provision. I see that DFG has intentionally removed the words "Woody riparian" from the prior set of regulations, which used to read "No person shall remove or damage woody riparian streamside vegetation during suction dredging operations." I think "*woody*" is a key qualifier as to the type of vegetation damage DFG intended to protect. Now however, DFG has *removed the term woody*, thus as written, this provision is *far to broad* and will lead to abuse because any suction dredge *miner* working any stream can not possibly dredge without stepping on, or breaking some form of vegetation. Furthermore, there are times when the miner must place a dredge where there is concern for the potential of a fire for example where hot exhaust is brought close enough to the streams side vegetation. The reasonable solution is to allow the miner to cut or trim vegetation to ensure fire does not erupt when we are busy underwater mining.

Question; Does DFG have any concern about fire hazards?

I also will advise you that fishermen often cut or break tree branches and break branches off bushes that get in the way when they are trying to cast their lines into the rivers. They also break branches when the get their lures and hooks caught in trees and bushes, yanking at them till the lure comes free or until a limb snaps. *I do not believe DFG fishing regulations specifically prohibit fishermen from cutting, trimming, or otherwise damaging or removing vegetation*. If fishermen were held to the standard DFG is imposing upon suction dredge miners, then virtually any fisherman who walks on the riverbank could be cited into court for "*Damage[ing] streamside vegetation*." All ***users*** of the rivers and streams generally will walk on the riverbanks and/or trudge through the streams and could not help but *damage vegetation* because a crushed blade of grass would be damaged if walked upon.

Time for DFG to review Fishing practices and regulatory scheme

The above provides all the more important reasons why DFG should immediately analyze fishing, fishing licenses and tags, and licensing regulations to ensure your *profitable* regulatory scheme will ensure our rivers are protected from excess lead accumulations, to breaking woody streamside vegetation, stepping on critical habitats, crushing vegetation and so forth.

Destabilize in stream woody debris

The proposed regulations state, " *No person shall cut, move or destabilize in stream woody debris such as root wads, stumps, or logs*." I oppose this proposed regulation for several reasons. If a root wad, stump, or log is found in the river gravel, it is because river floods carried it there. When we dredge, we have no idea what lurks beneath the surface of the gravel. We may have spent days or weeks getting the dredge hole started with the toy dredge DFG *might* permit us to use. As we begin to progress forward, if we encounter some woody debris, *DFG expects us to simply pull out and go to a new location.* You guys must be *smoking crack* in the back room!

Behind such obstructions to the river flow, one would expect to find gold, but instead of recovering gold, *DFG insists we move*. Furthermore, these terms are *vague*. What size stump are we talking about? What if I found a two-inch diameter stump? What size log are we talking about? A log can be 2" in diameter. And root wads tend to be washed downstream by Mother Nature.

Woody debris has close association with lead. Why? Because, having fished a few decades it is clear that if a fisherman snags up on something in a river, it is usually woody debris. And, as Fishermen must use lead to cast their lines and hold bait near river bottom, then the ***woody debris is a primary snag***, and ***generally lead is lost almost every time a hook sets into wood.*** Rock snags often can be freed, not always, but highly likely. So insisting on protecting woody debris, logs, root wads etc will ensure even more lead will be deposited into the rivers.

Question; What is the big deal?

Question; What is the harm of working around loose random debris submerged in gravel?

The fact is that generally it is rare to encounter an occasional stump/log/ or root wad in shallow streams, but all bets are off in deeper overburden, and even so, we generally work around it, or we may move it slightly if we are recovering gold. And, even if we do mine around such "woody debris" or move the debris slightly, we end up burying the debris with dredge tailings. If we are not recovering sufficient gold around woody debris we will move on of our own accord.

Further, as discussed in an earlier section above, DFG had the *amazing forethought* to list root wads, stumps, and logs, and even has a plan devised for us in the regulations as to how we should deal with these items if we run into them!

It fascinates me that these *same* scientists did not think about what dredgers must do if they ran into ***pools of mercury, or an automobile, a culvert, engines, massive machinery parts, cables, an old bridge, RR track and so forth.*** Must have *slipped* your minds, ***the fact miners might uncover massive garbage***. DFG has no plan for avoiding these things, never has had a plan, and DFG has not clarified ***weather DFG should be summoned to remove the offensive garbage***. Amazingly, none of this is addressed in the SDEIR.

Who knows, ***removing a few cars*** might lead to finding the remains of stolen or lost vehicles. If it is a crime to dump a car into a river, it should be just as unlawful for DFG to *leave it in the river* when it can and should be removed. I suggest you ask the State for vast amounts of money to start a new program specifically to excavate, power winch, and haul the massive metal garbage out of the rivers as the suction dredge miners encounter it. Hell we work for free and uncover the crap, you guys should have a plan to come and get it. ***You guys need a plan***!

Disturb[ing] redds, actively spawning fish, amphibian egg masses or tadpoles. I object to this regulation on various grounds. First, the proposed regulation is broad and vague. I presume it all depends upon the definition of "disturb." Then, the proposed regulations instruct us to "cease operations and re-locate dredging operations." Again, the regulations are vague. So assuming we have actively spawning fish,… first of all I have dredged for years and I have never actually witnessed spawning fish in person. Having been not just an avid fisherman, but an absolute fishing fool, I was a fish *slayer*. Yet I don't know if I would recognize a spawning fish unless it happened right in front of me and I spent some time observing the fish behavior. And tadpoles move about at will, I simply can't understand what the concern is, especially when you allow all ***other users*** to stomp about and trudge through the same rivers at will. And obviously, if we see amphibian egg masses, we generally avoid them anyway because dredgers are also very aware of our need to protect the environment. As discussed earlier, and for good reason, *if you regulate us, you have to regulate all other river* ***users*** *to ensure they do not aimlessly and carelessly kill the very species we are required by regulation to protect.*

DFG may close any water to suction dredging

The proposed regulations state that DFG can close any water to suction dredging. I strongly object to this rule if such a closure adversely affects mining claims on federal lands open to location and entry under the US mining laws. If it is open to mining it should be open to dredging under Federal Law.

Furthermore, all of the areas proposed to be closed to suction dredging; and all the rivers and streams DFG has previously closed, in addition to all other Federal and State closures represent a vast amount of miles of streams that are grossly polluted with no means to clean them up.

The fact that all these various rivers are closed to suction dredge mining does mean that ***no*** heavy metals reclamation dredging will occur. Because of all these closures, all the ***hazardous materials, toxins, and heavy metals*** will continue to; ***corrode, dissolve, oxidize, rust, and pollute*** the aquatic environment ***and will, already has, and currently is adversely affect the water quality***. Therefore, since suction dredge miners are prohibited from performing reclamation work, I expect that DFG must and will need to analyze the impact of *closing all these rivers to beneficial heavy metals mining*. Without such closures, these rivers and streams would have a great chance of being cleaned up voluntarily by suction dredge miners. Seems to me that *it is better to allow reclamation than it is to maintain the status quo by pretending there is no toxic contamination problem in our rivers and streams that are closed to suction dredge miners.*

So all rivers in California; especially in gold bearing rivers, wherever located, if they *are closed to suction dredge mining*, are highly likely to be transporting toxins down river in flood events and the toxins are ***oxidizing, corroding, rusting, abrading oxides and so forth.*** All *closed rivers* need to be *sampled for toxic heavy metals*, and studied carefully to avoid the unnecessary and relentless spread of hazardous waste and materials. Simply closing a river to dredging does not mean it is *healthy and clean* even if it is declared a wilderness. ***Closed rivers may be the death of us all,*** and may be causing serious degradation to water quality, and may be contributing to the toxic sediments DFG science in the SDEIR refers to.

You might want to look into this before the environmentalists discover DFG *dirty little secret*, explained in the conclusion. DFG has made decisions years ago to simply *pretend* the rivers are clean, because if they *admit they are full of heavy metals* and pollution, *California's environmental laws are so strict that it would be impossible for DFG to do. reclamation dredging.*
DFG cannot possibly comply with these toxins under California Law and regulatory scheme. And all of the laws regarding *hazardous materials* would have to be *significantly amended* to even dream of beginning to clean the rivers up and dispose of the hazardous mess.

DFG has elected to ignore the garbage and hazardous materials, to hell with Mother Nature. DFG has vast *power under the guise of environmental protection*, when in fact, DFG is eliminating the thousands of witnesses to the environmental disaster, the suction dredge miners who know all to well that many of our rivers are toxic waste dumps.

Turbidity and Sediments

As a general comment to the SDEIR concerning sediments and turbidity, *actual dredging experience* once again sheds light upon this issue. It must be fully understood that each and every river and stream is unique. As I pointed out earlier, the *aggregate mix* that is the streambed load is generally local and native. By aggregate mix I am referring to the analysis of the various sizes of the aggregate expressed in percentages for each size contained in the aggregate mix. My first hand experience reminds me of dredging on the

upper reaches of a small creek that was draining a granitic-pluton. In that stream, because the material had not been transported far enough to round off and smooth the rock, the rock was rounded a bit, slightly angular and rough. Granite does weather easily and it is common to see granite in this type of area that one might assume traveled enough to be rounded, but really, it is simply the nature of weathered granite outcrops that feed rock to streams. In that particular stream I noted the sand was really coarser than river sand. Turns out that really isn't sand as we know it, it is simply *coarse granite granules* along with impurities.

Now if we go downstream several miles, we discover that the streambed materials have changed. The change occurs because several other feeder creeks deposit their "native" gravel load into the main stream. Now, if a feeder stream originates in another type of country rock (for example slate) and deposits into the aforementioned granite stream described above, then you will observe that the main stem of the streams contains a mix of granite and slates of variable percentages. The local native slates generally break down and become thin, flat, somewhat rounded aggregate of every size. Wherever these streams cut through tertiary channel, you will find the main streams now contain some percentage of the ancient gravel in the mix. Therefore you will find well-worn quartz aggregate in the stream, and walking upstream no more worn quarts. Hike up hill and you will find some evidence of the source (exposed ancient channel).

So now I hope DFG understands that the example above we have a native high elevation stream, a brisk stream that started out as a granite aggregate mix with granite granules for sand and upon digging it contained precious little sand or sediment. And finally, as the stream flows down the mountain other streams, feeder creeks add their own streambed load into the mix. In my example stream above, the stream aggregate visually evolved, it became a new mix of varying percentages of slates, granite, some ancient channel, and some misc. stray rocks that likely weathered and rolled into the stream. And so it goes all the way down the entire watershed. Streambeds joining and mixing with other streambeds, and each time the new aggregate mix will pass through a certain size dredge and a different rate, perhaps faster, perhaps slower.

The above is *crucial to understanding the amount of material a certain dredge can move per hour*, and in *determining the amount of sedimentation that is released from any given size dredge*. Also, the amount of aggregate that can move through a given dredge per hour is completely dependant upon the nature of the aggregate, its *shape*, the percentages of oversized cobs in the way. Often dredgers find aggregates that contain *sharp jagged slate slivers, and thin, flat, round slate discs,* that often get hung up in the hose. And of all the clogs known to man, *flat round rocks* are absolutely the worst in terms of the time it takes to clear the hose. The flat rocks often lay in the hose in such a way that if the lighting isn't just right, you can't see the obstruction. Perhaps I beat on the hose, vary the throttle, jam a stick down the venturi jet, and I see some rock coming out with the water so I dive down and start to dredge but immediately it plugs up again.

Thus, estimating how much volume a dredge can move per hour in the real world is far more complex than DFG appears to understand after reading your SDEIR.

For example, in high elevation streams where native materials are the general run of a streambed, the other issue becomes the type and physical shape of the rocks. Generally these streams contain a much higher percentage of sharp rocks, angular rocks, jagged and not well rounded because they are not well traveled. The problem is that there is no way to rush dredging these materials because the hose will clog, over, and over. *The only way one can overcome this is to use a larger dredge and where possible, use a dredge hose one or two inches larger than the restrictor ring.*

On the other extreme we can look to the Sacramento valley, perhaps rivers like the Consumnes. Rivers like this, far removed from the raging powerful waters of the Sierras also have a unique composition. Absent any discouraging quantity of large boulders, deposits like this can often be mined with an 8-inch dredge. Basically 95% of the rock goes through the nozzle at a fast pace. Also, in such conditions the rocks are well rounded and smooth. Therefore an 8 or larger dredge will efficiently mine this type of gravel bed due to its unique composition of conveniently sized aggregate. I dredged the Ma Mong River in Cambodia, it was the size of the Yuba or MF Feather river. I found that every rock in the streambed aggregate passed through my precision 5-inch dredge. Admittedly, the gravel in Cambodia, and perhaps certain rivers located in the valley represent ideal dredging conditions and the dredge processed close to what the MFG documents for each dredge they build. Close is less than perhaps by 10 or 20 percent.

With respect to sediments, the amount of sediment available in the streambed material is what dictates how much sediment will flow out of a dredge. Therefore the DEIS should expand the discussion and analysis concerning the alleged quantities of sedimentation released from various sized dredges. I believe that the DFG analysis concerning how many cubic yards a particular dredge can move per day and how much sediment each size dredge produces must also consider and document the type of materials in the gravel, the *percentages* of the various particle/pebble sizes contained in the aggregate, and must document the swiftness of the water expressed in the rate of flow.

For example, in swift water, there is precious little sediment contained in the streambed aggregate because the water is swift enough that sediments simply cannot settle into the gravel. This swift water does not have to be very swift, I don't have the formula for sediment deposition, however swift does not mean whitewater. Whitewater gravel contains very little sediment.

On the other hand, where the river has long quiet sections with precious little movement, they generally get an extra dose of sediment as the spring runoff recedes. The dirty and sediment laden water entering a long slow area will eventually drop a fair quantity of the sediments. The sediments tend to accumulate in these slower areas. Also, vast amounts of organics like leaves and pine needles also accumulate in the same locations. Thus if one is dredging samples to determine measurable sediment dispersal in the slower areas of rivers will likely produce the most sediment.

Therefore there is no way your science in the SDEIR can average the amount of gravel any one size nozzle can move without testing in a broad range of test conditions. Every

stream has its own unique blend of aggregate, and holds its own volume of sediments, and will accordingly affect the volume a suction dredge can run per hour and affect how much sediment is discharged, and how far these sediments will travel before they settle out. Even then, *if* rotten slates, angular rocks, oblong rocks, and slivers of broken rock are in the mix, expect delays with clogged dredge hoses and re-calculate dredge efficiency.

Every mining engineer in the country will tell you that every placer mine has its own unique problems and requires equipment designed specifically for the gravel we are working. Dredging is no different, without DFG regulatory interference, we would choose a header box if clays or fused materials were a problem. If we were in clean well-rounded aggregate with minimal clays, we would choose a flair jet. If odd, sharp, irregular rock was a problem we might need a dredge hose 2 inches larger than the nozzle restriction ring. Depending on access, we might want to bring in a dredge that is large but easy to assemble. If we can back a trailer to the water we would launch a fully functional commercial dredge ready to start dredging. There are many more variables, such as selections of sluices and recovery systems when dealing with inordinate amounts of black sands. On, and on it goes, there are lots of variables. Lots of choices, but DFG has eliminated most of these choices with their unreasonable regulations since 1994, and now DFG is back at it with another draconian set of proposed rules.
The bottom line is that DFG is proposing more one size fits all regulations that make no genuine sense on multiple levels.

DFG - dirty little secret

Finally, with respect to the DFG *dirty little secret*, I finally had my "eureka" moment. After all the DFG meetings on suction dredging over 16 years, I have always been astounded that when ever suction dredge miners go to a DFG meeting and bring in pounds of river heavy metals (all kinds of them) and bring this issue to the attention of DFG officers, they always *shine us on*. DFG simply moves on to another topic. This got me scratching my head wondering *why* an agency charged with the responsibility of protecting fish and wildlife (DFG) within our rivers would ***shine us on*** *and* ***ignore our input*** *on such an environmentally important issue such as* ***hazardous materials, asphalt, mercury and heavy metals***.

Then, I dug through the SDEIR. And despite all the talk and analysis concerning our dredge tailings and *possible* contaminates that we *might* release in our water discharge *may* cause adverse impacts to the *water quality*. This is some cherry picked gnats ass analysis of microscopic proportions of this and that, followed by the infamous chapter 4.2 Water Quality and Toxicology section which is a *laundry list of laws governing hazardous materials and water discharge* and so forth. And this section if lawfully applicable to suction dredging appears deadly for miners in that it makes suction dredging nearly impossible to conduct, just as DFG, RWQCB and other cronies haves planned.

Then, I realized that DFG has found a clever way to get rid of suction dredge *miners* by analyzing sediment and hazardous waste discharge in *minute quantities* to demonstrate

that *suction dredge miners are the people who are responsible for polluting the streams* and that the pollution must be controlled and minimized. DFG is essentially blaming suction dredge miners for releasing tiny amounts of microscopic heavy metals while ignoring the 600 pound gorilla in the room, namely the gross background pollution levels of the very rivers they claim we are polluting.

Example;
It is convoluted, it is like if I went to the countryside and found a pile of garbage and I decided, what the heck, I'll throw it in my truck and haul it off to the dump, but on the way, a single piece of paper blew out of the back of my truck, *and a cop sees it and promptly gives me a ticket for littering* even though I had informed him I was doing a good deed cleaning up an eyesore.

What is happening in our rivers *is precisely the same thing.* We are dredging out toxic waste sites and being slapped with a ticket for releasing a few specks of this or that toxic material, when we have successfully removed thousands of times that much pollution from under the river gravel at the same exact point in the river.

OK, so, *suction dredge miners are accused of polluting our water and allegedly killing fish*. I started wondering, it didn't make sense that despite all the trash and heavy metals we recover, DFG still has a hard on for miners and they are trying every trick in the book to get rid of us. Wonder why, Hum???

Then I started thinking about the recent instructions the EPA created for cleaning up ***a broken compact florescent light bulb containing mercury***. It was a multi step, 3-hour *ordeal* to clean up after one broken light bulb. Only Government could create such instructions including cutting several square feet of wall-to-wall carpet out of my brand spanking new living room carpet!

Then too, I remembered that ***DFG tried a mercury collection system*** years ago and it abruptly stopped accepting mercury the same year. I always pondered why?

Then I also noted that **the SDEIR is silent** as to the actual biological health of our rivers. Really, there is next to nothing in the SDEIR that; *documents, analyzes, studies, or diagnoses the health of each river and stream* they are regulating under the SDEIR and proposed regulations. Again, it would seem to me that if we are going to be concerned about all the microscopic and minute quantities of pollution released from a suction dredge operation, then the river's health and the level of ***background pollution*** that exists should be well documented in these public records and in the SDEIR.

Each and every river should be evaluated carefully. It would be wise to know the *quantity* and *types of pollution* that *already exists*, such as; ***Hazardous Materials***; ***Asphalt, mercury, lead, copper, cast iron, steel, galvanized pipe, brass, bronze, silver solder, welding rod, and a bunch of other toxic metals DFG specifically listed in their SDEIR***.

Next, I realized that in the ***SDEIR, DFG has avoided any discussion of pollution unless*** *that discussion was directed specifically at the suction dredge miners and such discussions and conclusions would help DFG shut down the miners*.

More head scratching ensued and I realized that as long as DFG ***denies gross pollution*** in our rivers, they will not be *required* to do the proper land planning; *research, analysis*, and they will not need to devise a ***reclamation plan***, and *invite the public* to help them select *alternatives to clean it up,* and *DFG will not need to put themselves in a position of having to deal with environmental laws, that right now*, at this point in time, clearly demonstrates that *DFG cannot lawfully do any river reclamation because all the environmental laws used against the suction dredge miners as provided in the SDEIR, would also apply to DFG and all contracted "reclamation dredging."*.

WOW.

And, the only way that DFG could *dream* of beginning to clean up these *super-fund sites* (our rivers) is if ***all Federal, State, County laws are reviewed and amended***. That means all environmental laws concerning water quality, Hazardous Materials, water quality, so that that the pollution (heavy metals +) that reclamation dredgers remove can be disposed of efficiently without the Haz-Mat team, white jump suits and clipboards.

Basically, the environmental Laws are so stringent and the regulators have been so convoluted as to make it so DFG cannot possibly comply with the very regulatory scheme these agencies have been cooking up and foisting upon the public for decades.

So what, what does it all mean? It means that ***finally the insane laws they helped foist upon all American Citizens are so ridiculous that DFG cannot accomplish its mission to protect fish and water quality.*** DFG is screwed itself.

It means that the ***environmental laws as they stand prohibit DFG from cleaning up our rivers.*** And, suction dredge miners are the only group of river users to observe and report these gross pollutants. Suction dredge miners are the only *witness to this environmental crime of enormous magnitude*. If DFG gets rid of suction dredge *miners*, there will be no one left to cry foul, and no one to report ***hazardous materials*** we routinely discover. It means DFG can play this game forever.

An old Latin phrase comes to mind, "Who's watching the watchers?" Plato

It appears to be good advice, for now; there will indeed be high pressure on DFG regarding many of these closely related issues. I guarantee it.

So, DFG has had a plan for years and years, perhaps not documented, but a plan nonetheless. The plan has been for 20 or more years ***to remain mute on the pollution topic unless it benefits DFG***. The plan is to leave all the haz-mat toxic waste, heavy metals and asphalt in place, out of site and out of mind. Do not study it, do not

acknowledge it, simply do nothing and screw anybody that so much as breaks a twig or pans a little dirt at the creek.

This plan works great for DFG. As long as they do ***not publicly acknowledge*** the obvious pollution problems, they can ***wield power over the people under the guise of environmentally protecting species, fish and water quality***. And *DFG does not have to worry about cleaning anything up*.

But if DFG ***publicly recognized or admitted the rivers were full of the pollution*** I have identified and detailed throughout these comments, all hell would break loose. DFG would be ***compelled*** to immediately go about a thorough investigation of the background pollution levels in every river and stream. Samples would need to be taken with a suction dredge, and samples taken at bedrock throughout each stream would lead to a *determination* as to the quantities and nature of the pollution in *each* stream or river. Then the data would be compiled for a state wide EIS to determine how best certain rivers should be cleaned up first; and what equipment would be needed for a clean up, and would require DFG to work with State and Federal Legislators to make significant changes to a broad spectrum of environmental laws and regulations so that reclamation work could be planned and carried out without undue delay and regulatory nightmares.

This IS a very big deal. As this unfolds, heads are going to roll. There will be committee and subcommittee investigations to determine how and why it took a mere suction dredge *miner* to expose the biggest fraud upon the citizens of California that has been exposed in recent years. Wait till they start verifying the arithmetic, and the insane levels of lead contamination compliments of DFG!

Our Current Status

So, in the final analysis;

DFG has simply turned ***a blind eye to proven and known river pollution*** for their exclusive benefit at the expense of the fish, water quality, humans, and environment.

DFG has done every thing in their power including using the SDEIR *biased science* to stop, hamper, impede and ***materially interfere*** with any and all *suction dredge heavy metals and hazardous materials* clean up of our rivers since 1994.

DFG has elected to ***allow*** major flood events to continue to push - ***mercury, heavy metals pollutants, asphalt, and other Hazardous Materials*** - further down “entire watersheds” into deeper waters and deeper gravels throughout the State of California.

DFG has and will continue to deliberately ***allow mercury*** to be blown downstream throughout our watersheds to “flour” with each and every flood event and to spread mercury far and wide so that it will become *impossible* to clean up at some point in the near future.

DFG is insuring *water quality will degrade* by ignoring the ***mercury, heavy metals, asphalt, and hazardous materials*** problems – (***while at the same time blaming suction dredge miners for the release of minute quantities pollution we dare let escape our dredges***).

Wrapping it up

The proposed regulations do not provide an alternative method of retrieving gold (our property) from a river or stream.

The proposed regulations plainly prohibit and/or ***unreasonably restrict miners*** from extracting their property (gold) and DFG has failed to provide other lawful alternative methods for miners to economically recover their gold from their mineral deposits.

DFG freely admits that 4" and 6" dredges are considered *recreational* in nature, and 8 - 10 inch and larger dredges are *commercial*. Mining under the mining law is a commercial activity and DFG proposed regulations will prohibit bona fide suction dredge *miners* from using the proper size commercial dredge for the **safe** and *economic* extraction of the valuable minerals and the toxic heavy metals.

DFG proposed regulations are suitable for *recreational* activities on lands not subject to the mining laws. The dredge size restrictions and winching restrictions are a significant **safety** concern and *will lead to cave-ins,* ***injury*** *and* ***death*****.**

It is my understanding that a number of *other* forest and river user groups and environmentalists groups are diligently working very hard with DFG to ensure DFG imposes the *regulations from hell* in their gambit to stop all mining in what they view as *their* private playground.

Frankly, DFG has not defended the dredging community for decades, in fact ***DFG has made us the "Fall Guys.***" Worse, as far as I can tell, DFG has done every thing imaginable in the SDEIR to embarrass, belittle, diminish, and punish suction dredge *miners.*

DFG simply has not *educated the public* as to the ***significant benefits suction dredge miners*** provide at NO cost to the taxpayers or the government. We remove these heavy metals in the course of extracting minerals. And we are happy to do so. We don't do it for DFG, we do it because it is the right thing to do.

And something else important, there are those people out there that are just plain *environmental junkies* with no genuine or honest knowledge of what we are doing in the rivers, namely volunteer reclamation work.

They complain of the ***noise*** of our engines. I say you tell them to either; go to the river and help clean it up, or, shut up.

They have been fed propaganda that ***mining is stealing from the people***, and the US Citizens aren't getting their fair cut. I say tell them to go on line and properly educate themselves before badgering the only group of people cleaning up your freaking toxic playground.

There are folks *jealous* because we do get gold and perhaps they can't. I say tell them to go home and quit whining.

Dredgers have removed all manner of garbage and heavy metals for decades, something that no other user group can do or wants to do, and something DFG cannot do or cannot afford to do, but we are still under relentless attack and ***we get no credit for our invaluable service.***

Take Permits and incidental Take Permits

I am extremely baffled about the idea that suction dredging has been going on for 40 years, and in all those years, and in this DSEIR there is ***precious little hard evidence of any discernable harm***. Sure, there is bound to be some *turbidity and silt*, but at the same time *we create new clean gravel beds* and *we remove heavy metals in the process*.
So, apparently DFG's position is that dredging allegedly *may* cause minimal harm to certain aquatic species. BFD - OMG

But here's the kicker! Hunters get a hunting license to go kill a deer, or perhaps the hunter also buys an elk tag, and a duck stamp and so forth. And fishermen do the same thing, they can buy a license for trout, tags for a certain number salmon and steelhead and so forth. All these licenses and tags are is a "take permit."

DFG is selling citizens permission to go kill lots of critters and fish. In fact, I am surprised that DFG sells fishing licenses to citizens who are taunting, harassing, and injuring fish simply because they enjoy doing it. Fishermen call it catch and release. DFG should call it *harassing a species by definition. Look, if a man wants to catch and eat a fish, go for it. If a man wants to burn gasoline, and* ***harass fish*** *for the hell of it, he shouldn't be permitted to do so, especially since the introduction of the lead issue alone screams* ***STOP.***

On the other hand, suction dredge miners are required to purchase a dredge permit. Miners go out into the forest with a mission to find gold.
Note: Unlike hunters and fishermen, miners are not out in the forests on a specific ***mission*** to go kill critters or fish.

What is bothersome is that assuming that dredging *might* cause some harm to certain species here and there, then ***why doesn't our dredge permit come with a take permit or incidental take permit to offset the alleged loss???***

Also, worthy of not is that when a person driving runs over a deer, a skunk or whatever, the drivers license comes with an ***incidental take permit*** built in for the incidental take of a species. Dredge permits should be no different.

It is just plain weird that dredgers pay good money for a dredging permit and we are not entitled to inadvertently kill anything including vegetation!

Yet, many of the other forest users go purchase "take permits" from DFG and go up to our rivers and ***go on a premeditated killing spree.*** Even I could purchase hunting and fishing licenses and tags and I could have a grand old time ***slaying*** various species on purpose! Hell I'll go out and get me a license so I can go taunt, terrorize, and kill trout for the pure fun of it. Why not, all the other sportsmen are licensed to kill, why not me? And you guys at DFG would happily sell me permission so that I too could go kill stuff - including on my mining claims - on purpose and just for jollies.

So it appears to me that DFG should simply issue a ***general dredge permit***, dump the provisions I have already discussed at length, and DFG should ***incorporate a take permit*** into a suction dredge permit so that *suction dredge miners can lawfully go out and kill stuff too.* Meaning that in the rare event dredging inadvertently harms some species or habitat, the take permit acts as a *license to occasionally and inadvertently kill or harm some species or fish*.

On one hand DFG suggests that ***silt might harm some fish eggs***, ***but if we pay DFG for a fishing license we can catch and eat our daily limit, no problem***…I imagine we could also trap crawdads if that has not been outlawed. *It makes no sense for DFG to castrate the very hard working men (suction dredge miners) who have been the greatest benefit to our river environments, greater than all other* ***user*** *groups and all State and Federal agencies combined.*

The proposed regulations as published appear to be "***use prejudice***" against a ***minority group*** and a less favored group namely suction dredge miners. Therefore it is bizarre that DFG insists upon destroying suction dredging by imposing unwarranted restrictions in the proposed regulations, that is, until one realizes the dirty little secrets DFG and the other agencies have been hiding behind for decades.

I remember an old TV advertisement from the 1970's depicting a ***Native American with a tear in his eye*** as he observed gross surface pollution and trash in the environment. Does anybody recall any actual comprehensive cleanup campaign dealing with our rivers and streams? I certainly do not. ***The garbage is still there***, and it got at least two more doses of pollution with the last two major floods alone.

And finally, it is a crying shame I had to go through all this trouble commenting on the proposed regulations and the SDEIR. I would have not had to do all this if DFG had truly analyzed the condition of our rivers and took responsibility for the garbage issues years ago, and established a plan, and goals for the immediate cleanup of our rivers. I could not be more disgusted with the Biased science in the SDEIR, the ridiculous proposed

regulations, and the vast pollution DFG has hidden from the people of this state for decades.

I forwarded my comments to my mining contacts and they are forwarding to fellow miners as per my instructions. I will be using these comments as notes for a concise report covering the most profound parts of these comments. I will be forwarding these to the appropriate Committees and Subcommittees for review with more concise calculations and estimates as needed.

The interest in the pollution problem with heavy metals we find routinely has gained significant traction. The miners are all eager to bring in buckets of heavy metals, a testament to the obvious disaster going on in many of these rivers. And a whole lot of them are eager to testify and provide evidence of; garbage, evidence of notifying DFG about those concerns over many years and where the pollution was found. It simply illustrates DFG turning a blind eye to the problem.

I am confused about the public comment period. I understood the period was extended for another public hearing and would be accepting comments. The Horizon coversheet says to keep available until April 29th the date the 60 day review concludes. Even if I screwed this up and these comments are rejected, they are in active circulation and the nature of your problems will escalate. Truth is truth, and we are getting steam rolled, so understand that from our perspective and seeing what all of us have seen starts to make sense when you start doing a little math.

I am sorry that I lacked time to assemble all the input I got in a more streamlined document. No secretary, no staff, and no time. Cutting. Pasting and editing input as I did it confused the organization a bit, but the thrust of the comments will suffice for now.

Please advise me ASAP if these comments are rejected or not considered. Use my e-mail address to contact me.

Thank you for your attention in these important matters,

Good Karma,

Donald E. Eno

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

#s 1-2-4-5-6-7

Please take notice that I am the owner of the South Fork Mining claim, located on Indian Creek in Siskiyou County (Bureau of Land Management CAMC # 283290). 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.

6 CLAIMS ON ALL PROPOSED CLOSED CREEKS

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,

Richard J. Kelly

Po Box 340 - 1225 South Fork Rd
Happy Camp CA 96039

I mine mostly JADE
it is only Found
ON A CREEK THAT
YOU - PROPOSE TO CLOSE.
I will Be OUT OF Business
My Company is South Fork MINING - www.HappyCampJade.com

april 28, 2011

TO:

MARK STOPHER Dept of Fish & Game

In regards to the new regulations for suction dredging, we would like to make the following comments.

No damage is created by using a four inch dredge to the river or to the fish. It is unreasonable to restrict the area that you use on your own claim.

It would be unreasonable to restrict the amount of hours you can dredge on your own claim.

You should be able to regulate the dates that you can dredge in to protect spawning.

Permits should be allowed to the extent that they were issued in 2009, anyone who owns a claim should have priority to the first permits issued.

The value of our claim is related to our ability to use it.

It is not ethical to destroy the value of our claim for no reason.

We have invested not only in our claim, but also thousands of dollars in our equipment, that would become worthless if we could not economically use them.

We have dredged on our claim for over 40 years and you are destroying our way of life in our final years.

This is not right for the state to do this to us.

Leave dredging as it was for small miners. Do not take this right away from us, after 40 years.

Respectfully

Gerald M. LaFon
Laurie L. LaFon

Subject: DSEIR comment
Date: Thursday, April 28, 2011 9:43:56 PM PT
From: Charles L
To: dfgsuctiondredge@dfg.ca.gov

My name is Charles Lassiter, I am a resident of Indiana. Since 1997 I, along with my wife and children, have been making annual trips to Northern California to dredge and prospect for gold. I have contributed thousands of dollars to the California economy on each of these trips, through the purchase of gas, food, supplies, ect. Many small businesses, in an otherwise impoverished region, have benefited from me and folks like me whom spend time working claims in California.

For the last 5 years I have owned my own claim in your state. This claim has a small creek on it, which up until the dredge ban, I worked for several weeks each summer. Under your proposed new rules I would never be able to suction dredge on my claim again, even though it is listed as class F and given a season. The new dredge rules are unnecessarily restrictive and are deceptive in their nature. In particular, the 3 foot rule will make "off limits" hundreds of creeks that are listed as class F, yet are less than 6 feet wide. I suspect that this was done intentionally to make claim owners like myself unable to dredge on their claims, even though the creek will have a dredging season listed. The dredging season is rendered meaningless on my claim because of your 3 foot rule, this is not right.

This must be changed before the rules take affect, the 3 foot rule is needlessly prohibitive and totally necessary. I urge you to reconsider and remove this rule.

Sincerely
Charles Robert Lassiter
2898 S. Lockport Rd.
Logansport IN 46947
574-652-2139

Subject: Re: Status of Suction Dredge DSEIR public review
Date: Thursday, April 28, 2011 9:43:07 PM PT
From: ALLENANDIRENE LEHR
To: mstopher@dfg.ca.gov

April 28, 2011

From:
Allen & Irene Lehr

Dear Mark Stopher,

We would like to comment on the new rules for suction dredge mining , as well in no other sport, does the Fish and Game require that the person have to tell were and when they will do an activity. We find the rules to have our dredge inspected and display a number O.K. , but we do not know when we would go dredging, unless we had a CLAIM. we HAVE HAD IN THE PASS AND WOULD LOOK FORWARD TO HAVING ONE IN THE FUTURE, but having said that we belong to clubs with legal access and still feel that tell when we would be dredging months even year in advance would be a violation of our right to the freedom of being an American. We hope that State Fish and Game will reconsider at least this on point. Thank you for your time.

Allen and Irene Lehr
483 County Road 99 West
Willows, Ca. 95988-9639

On Thu, Apr 14, 2011 at 1:30 PM, Mark Stopher <MStopher@dfg.ca.gov> wrote:

> Interested Parties
>
> Quite a few of you attended one or more of the five public meetings held to date. Please be aware that a sixth meeting is scheduled for May 10, 2011 from 9:00 to noon in the California Natural Resources Agency auditorium at 1416 Ninth Street in Sacramento. This additional meeting was scheduled to assure compliance with requirements of the Administrative Procedures Act. This meeting will not include a preliminary workshop. There will be a very brief set of opening remarks by the Department of Fish and Game and we will then go into receiving public comment. The public review period will conclude on May 10, 2011.
>
> The public meetings were attended by more than 700 interested individuals and the speakers supporting restoration of suction dredge mining were clearly in the majority. We have received comments through regular mail, email, fax and hand-delivery; and these represent a wide diversity of perspectives. Usually, the bulk of comments in a public review period arrive just before the period closes. If that holds for this project, I am expecting a significant influx. What we already have is substantial.
>
> In addition to the DSEIR, you may be interested in reviewing additional documents related to the

Administrative Procedures Act which are posted on our website http://www.dfg.ca.gov/suctiondredge/.

Please feel free to contact me with questions and I look forward to receiving your comments and suggestions. We will evaluate every piece of information to determine the content of the Final SEIR and Final Adopted Regulations

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

voice 530.225.2275
fax 530.225.2391
cell 530.945.1344

Subject: Comment; Question on SEIR

Date: Thursday, April 28, 2011 8:40:08 PM PT

From: Tim McCoy

To: 'dfgsuctiondredge@dfg.ca.gov'

Question on the SEIR:

(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.

Does the above statement mean it is illegal to dredge in any stream
or creek where the main channel is within three feet of the lateral

PROPOSED REGS

KEITH MCROBERT.
COCHISE, ARIZONA
DREDGE MINER IN OREGON AND CALIF SINCE LATE 70'S

I AM AGAINST ALL THE PROPOSED REGULATIONS.

I SUSPECT THAT PERSONS DRAWING UP THESE PROPOSALS HAVE NO KNOWLEDGE OF SUCTION DREDGE MINING AND ARE NOT QUALIFIED TO REGULATE MINERS.

WHY DO WE NEED A PERMIT TO DREDGE? WHY SHOULD THE FISH AND GAME DEPT. ISSUE PERMITS? WE DON'T KILL FISH OR ANIMALS. WE PAY FISH AND GAME FOR PERMITS AND LOOK AT THE CRAP THEY HAND US.
IF WE NEED A PERMIT, MONEY SHOULD BE PAID TO SOMEONE THAT WILL BACK US. PLP? LAST REGULATIONS WERE OVER RESTRICTIVE.

WHO COMES UP WITH THE IDEA A FOUR INCH DREDGE IS THE RIGHT SIZE TO USE? THE MINER NEEDS TO DECIDE WHAT EQUIPMENT HE NEEDS FOR THE JOB. IF I HAVE OVER TWO FOOT OF OVERBURDEN I WANT TO USE THE SIX.

IF THE PAY STREAK IS NEAR THE BANK, THAT'S

WHERE I'LL WORK.

BEST THING FOR A SMALL CREEK IS TO HAVE A DREDGE MINER WORKING IT. DON'T CLOSE IT.

IF YOU WANT FISH IN COLD WATER AREAS, PUT A DREDGE IN THERE.

JAPAN. WHEN CALIF. HAS ITS BIG ONE ALL THE GOLD, TREES, FROGS, AND SIERRA CLUB WILL BE IN THE BIG POND. WE NEED TO HARVEST WHILE WE CAN.

Suction Dredge Permitting Program
Draft Subsequent Environmental Impact Report (DSEIR)
Comment Letter

Submitted By:
Name: Ken Mela
Mailing Address: 4101 Desert Fox Dr. Sparks, Nv 89436
Telephone No.: 775-424-3638
Email: goldprosp@yahoo.com

Proposed Regulation:

228(g)
"Number of Permits. The Department shall issue a maximum of 4,000 permits annually, on a first-come, first-serve basis. Any permits issued in 2011 will apply toward the limitation of 4,000 permits for 2012."

Comments:

The arbitrary limitation on the number of permits could adversely affect the whole access of recreational dredging in California. It is quite conceivable that opponents of dredging could launch an effort to buy up permits to deny legitimate dredgers' legal access to dredging. For those of us that own mining claims this would deny us legal development of our minerals interests. This issue could also affect those members of recreational goldprospecting clubs.

While many dredgers are recreational in nature, there are still those who rely on the income generated from this activity. For those people, the limitation could deny them of their livelihood in these difficult economic times.

I am also concerned over the establishment of a limited number of permits at all. The total number of permits stated in the DSEIR is approximately 3200 to California residents and 450 to non-residents as an average over the past 15 years. Then 4000 limit would cover that demand, but as I stated earlier, that is assuming that dredging opponents are not allowed to buy permits solely for the purpose of stopping dredging altogether. To eliminate this potential threat to a backhanded shutting down of dredging the Department would have to weed out those applying for a dredging permit whose sole purpose is to deny access to legitimate dredgers.

Recommendation: The best solution to this regulation and the potential for misuse that arises by implementing it is to eliminate the regulation entirely and monitor the number of permits issued. If it is the desire of the Department to limit the number of permits and significant benefit can be shown by that limitation to around the 4000 number, the demand for the permits may by its very nature make the regulation a moot point. This would also take the potential for misuse of the limit out of the hands of opponents of regulation.

>>> alden moffatt <alden.moffatt@gmail.com> 4/28/2011 6:49 PM >>>
Regarding Suction Dredge Permitting Program
Subsequent Environmental Impact Report (SEIR)

This is a personal letter to the Director of DFG and is not copied, pasted of mass mailed:

Extracting resources from public land without payment or just paying a pittance to the government is not in character with the valuing of private property. Why should a private property owner have more restrictions placed on their land and lifestyle than the miner on the government owned waterway. If I wanted to mine my own property I would need to address county and state restrictions on the use of that property, pay fees, taxes and jump through a maze of red tape, and if there was any runoff from that mining I would have to pay dearly for water treatment. But before I could even pursue that privilege, I would first have to pay for the property. And yearly I would have to pay property taxes, insurance and maintain the property to fire and safety standards. Now, miners just come along and act like they own the land for free, and maybe they are using a stream that runs through my property. One that I like to swim or fish in, or water my garden with. They get to use government land for almost nothing and extract resources from it without any payment, but I have to pay thousands in taxes, etc and they screw up the value of my lifestyle. What, exactly, is fair about that!? And furthermore, what about the low quality of their surveys that force me to hire costly certified surveys? And what about miners trespassing to get to their claims? Suction dredge miners are degrading my whole lifestyle, and they might find a little gold, but they don't pay for dredging the whole neighborhood of all it's other important values.

Alden Moffatt
(Property owner on the CA Klamath River)
residing at
6400 Highway 66
Ashland, OR 97520

--

042811_Molamphy

Mark Stopher
DFG.

After reviewing the harmful effects of dredge mining, I believe it should be permanently banned in California. The presence and re-release of mercury into streams, rivers, etc is harmful to our environment and may add to the mercury levels of fish

Michael J Molamphy

MICHAEL J. MOLAMPHY, O.D.
1746 Grand Canal Blvd. Ste. 15
Stockton, CA 95207
(209) 957-2110

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 Creek 1-8 claim, located on upper Seiad Creek in Siskiyou County (Bureau of Land Management CAMC # 281561). 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,

Carla Mueller

16087 ALGOMA RD
KLAMATH FALLS OR
97601

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 upper Scad Creek 1-8 claim, located on Scad Creek in Siskiyou County (Bureau of Land Management CAMC # 281561). 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,

James R Mueller

16087 ALGOMA RD
KLAMATH FALLS OR 97601

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 Bijo #1 claim, located on ELK ~~Creek~~ Creek in Siskiyou County (Bureau of Land Management CAMC #272019). 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,

John C. O'Leary
P.O. BOX 322
HAPPY CAMP, CA 96039

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

April 28, 2011

Re: recreational dredging
Dear Sir:

My husband and I are recreational gold panners. We have done some dredging in the past but no longer do so. However, we have several friends that enjoy this activity.

Our concern is that more and more restrictions seem to be placed on activities done on public land. Each year access becomes restricted, as land is placed into wilderness status, and in some places, roads are closed and miners lose access to their claims.

We understand the need to regulate the use of dredges during critical times for fish spawning. However, it does not seem necessary to restrict dredging in streams that do not have salmon or other spawning populations. By reviewing the documents on-line as to the adverse effects of dredging, there is not a lot of consensus about the harmful effects. After dredging, it seems like the streams do recover and new holes are created for fish habitat and do fill in after winter flooding.

The fact that over-fishing has contributed to the salmon collapse should also be considered as well as other sources of water contamination besides "dredgers". We hope that after all study, some accommodation can made for regulated recreational dredging that is satisfactory for all.

Yours truly,
Carol & George Rasmussen
Carol Rasmussen George C Rasmussen
425 Rambler Road
Merced, CA 95348

Mark Stopher

042811_Redeker

we are all in are [illegible] and one brother died this Spring it is hard work but it helps us get in shape we have spent a great deal of money buying land equipment travel + gas, road repair, access fees property taxes dredge permits since the early 70's

Me and My brother would travel from different parts of the country to meet at Reno then to the [illegible] river each year to run our [illegible] Dredge and Vaccume the river [illegible] to get [illegible] in mid [illegible] people about fish that don't make it past the claim, [illegible] that make me think it not about the fish. Each year we came bake it was hard to tell were we left off the spring thaw would flaten the river again.

we dont want to sue in class action to get our right back but it might be the only way. We just want to work. Time is [illegible] before we are to old to do it. Time is ticking [illegible] the [illegible] we want to work

North Fork Dredgers
Tim Redeker 941-704-7525

Dear. Mr. Stopher, April, 28, 2011

Rivers upstream of any dams are absolutely wild and need to be left to the rafters, fishing license holders, hikers, and an occasional gold prospector's pan or sluice box. The Klamath River, I believe, is the only river in California that is not controlled by a dam. It passes through a few Indian reservations. The BLM should not allow any mining claims on this river. Perhaps gold seekers should look elsewhere. Every river in California has gold in it

I have a BS in Geology from SJSU. I took courses in Hydro Engineering Geology and Advanced Sedimentology at SJSU, and 3 quarters of Chemistry and Crystal Chemistry at the University of California at Berkeley. Methyl mercury and the mercury in cracks and crevasses in streambeds are two very different things. Medical waste and chemical waste (methyl mercury) illegally dumped is in tiny molecules that float easily and can be dislodged by any activity in the streambed. The mineral cinnabar wherever a river washes across an outcrop of it, and vast amounts of amalgam dumped into the environment from1850-1930s wherever there was a stamp mill, have deposited the liquid heavy mercury in our rivers.

I have caught elongate trout with tumors near Downieville from the North Fork of the Yuba River. Talk about a sick feeling! There were 100s of stamp mills operating in this area for decades. Do not eat any trout caught below the town of Sierra City all the way to the Sacramento River.

Gold Dredging and panning for 30 years I have sampled the sediments in almost every river you could name in California. I have found very little mercury, but I could tell you where if you wanted to know. All miners should be given the opportunity to fill out a survey. If there is mercury they should be encouraged to remove it. This will cost the EPA nothing. Some fuzzy science is all we hear from them. We need to do something.

California's economy needs a gold rush now more then ever. Many counties in California have benefited greatly from recent mining and are now hurting without that income. I have spent $1000s on campground fees, gas in Downieville, groceries in Downieville, and drinks at the only Tavern in Downieville. Sierra County benefited greatly from my and other miners grubstakes over the years. Any dredging downstream of dams has a positive environmental impact that is measurable. These data can't be collected if we are not allowed in the rivers.

Gold is more than $1500 an ounce up $23 today. I was pulled off the Feather River (1/2 ounce of gold a day and no mercury) Golden Caribou Mining Association claim and a winter project dredging private property in Lotus on Dry Creek (lots of mercury, beautiful gold and livestock occasionally drink the water). I have spent most of my savings and sold more then 1 ½ pounds of gold I have dredged up trying to survive while my honest living was made illegal.

Check out my website hitemining.com. Please let me go back to work!

Sincerely,

Alton F. Salter

Alton Frank Salter

Please find enclosed evidence of two very good days in the field.


10 5'05

Subject: Proposed Dredge Regulations

Date: Thursday, April 28, 2011 12:18:10 PM PT

From: scot

To: dfgsuctiondredge@dfg.ca.gov

Dear Mr. Stopher or to whom it may concern,

I am very aware that you have read hundreds or even thousands of comments regarding the proposed new regulations. At the last minute here I've decided to convey to you some of my thoughts in the remote chance that I can make a difference.

I went to the Sacramento meeting and spoke with you briefly in the lobby. I'm pretty sure I didn't make a very good impression on you when I asked you if you were an outdoorsman {hunter, fisherman etc...} or if you had ever dredged or seen a dredging operation. You said no. And then you said "I want to protect the fish". Ideally, I think that the D.F.G. should have outdoors people in some upper administrative positions. People that avidly hunt and fish etc. Then maybe we as American citizens wouldn't get so drastically over regulated. Fishermen hunt fish we hunt for gold. First hand I know as a fact [salmon not included] dredging does not harm fish. Dredging feeds fish. I have a D.V.D. showing that. I might send it along.

. We had a revolution in 1776 to get away from government repression and over regulation. Now here 200 years later were almost back in the same condition. The government is telling us where, when , and how to do everything. Don't you feel this? I doubt that you can because you are part of the machine. It seems that there is less and less common sense being used and more and more special interest influence. The worst part about it is there not a damn thing that we as average American citizens can do about it is there? You're in control.

The suction dredge update of March 2011 states in one part "these restrictions are anticipated to result in slightly lower levels of dredging activity". Are you serious? 4in. max. nozzle size, no winching, dredge seasons starting in sept. or not at all? I guess since you've never run a dredge or seen a dredge operation that you might actually believe that. How can you and your associates complete this study and come up with all these revisions having no personal experience with dredging? Where is the common sense? If I was in charge of the study I would absolutely go check out dredging operations and definitely try it myself. Why not. You've spent all this time reading and doing paper work and phone calls and meetings go out and see what dredging is before you rule on it.

I personally invite you to come out for an afternoon off the record before the final draft. I promise no fish will be hurt and you might even have a lot of fun.

If you only knew dredgers aren't hurting fish,[although I can't speak about the big salmon spawn up north} dredgers aren't hurting frogs certainly, and dredgers aren't hurting rivers and streams. Every winter's rain washes away all evidence or summer dredging unlike the big operations of the early 1900's.Have you seen all those giant piles of rocks along almost every river and stream in the mother lode? Mountains washed away from hydraulicing? Today's small dredges do virtually nothing to the waters. That's a fact. These sweeping proposed changes are totally unnecessary. Frankly this brings shame to me to be an American. To see my rights get snatched away by the government.

You were only ordered to look at the regulations of 1994 not turn them upside down. How can you say "only slightly lower levels of dredging" when I was dredging year round in Yuba county and now its sept.-jan on my claim .{F.Y.I. dredging is predominantly a summertime activity June thru sept.} The poor suckers in Plumas county are shut down completely on slate creek.

Lets see now, since I was dredging june-sept and now with sept-jan proposed only sept is reasonable. That a 75% reduction. Add in the reduction in nozzle size from about a 5.2 inch on my six inch dredge to a 4 inch proposed that's a 50+ % reduction in production. I'm sorry but that a little more that a slight reduction.

Also Mark if feel the need to inform you of something because I heard you commenting about this in the lobby in Sac.You were telling someone how a 5 inch dredge was so much more than a 4 inch in capacity or destructive power or something like that. Almost like a night and day difference.

Since I have dredged for 15 years with 2's-8's and you have dredged for 0 seconds, please allow me to give you some perspective on the subject.

.Under ideal conditions you might double your production with the 5 as compared to a 4. What this does is it makes the miner dredge twice as long to get the same result with the 4. How would you like freeway speed to be 30mph?

The fact on the subject is this, and please pay very close attention:here's the nuts and bolts on the issue, you may not have seen the numbers presented this way. In the general scheme of dredging there is NOT a big difference between a 4 and a 5. At the end of the day a 4 will make a hole 6 feet across and 3-4 feet

deep. A 5 will make a hole 10 feet across and 4 feet deep. A 6 will make a hole a bit bigger yet but now human limitations factor into production because one can only move so many rocks in a day. You may or may not be aware every rock that doesn't fit in the suction nozzle must be moved by hand. Not a huge difference between the 4 and 5. 30 feet away you couldn't differentiate between the 4 and the 5 inch dredge holes. The 8 is a different story. I can suck up football sized rocks. In the big rivers one needs an 8 because there is often 10 -20 feet of gravel to move to get to bedrock. This would be impossible for a 4, 5, or 6 inch dredge. The magic part is that by the next summer there is no trace of any hole. What's the problem?

I've been informed you guys are going to be unwavering on the subject [nozzle size]. This is really sad because by hearing your comment I knew you are going to be legislating using false conclusions. Please, someone go out and dredge with a 4 and then a 5 . There's not that much difference at the end of the day or season. It's just so much more work with the 4.

In conclusion, the winching restriction is over the top and unnecessary. Winching is an integral part of dredging. You might as well cut off a hand. Instead of banning winching just tell us how not to do it.Try that first. Don't take such huge drastic steps. The intake screen at 3/32 unnecessary.I've in 15 years never seen a fish or an egg go into my pump intake with the standard 1/4 inch screen. The 4 inch nozzle is a severe blow and uncalled for. Your administration is making this decision without first hand knowledge of dredge production capacities. The yellow legged frog ???????Come on..... dredgers aren't having any effect on them and you are restricting or shutting down huge areas on the basis of a non-existent threat. A dredging season starting in sept. is a one month season.I am an associate claimant on three claims all of which are proposed class E. One brief thought about header box vs. flair. I saw you paying close attention to comments on the subject at the Sac. meeting. Since dredgers don't suck up fish anyway there is really no issue with the header box other than the technology being 20 years old and you weren't aware of that. I know you felt some of the passion from our industry at the meetings. I actually felt sorry for you having to sit there and take all those comments. In the spirit of America and common sense please don't unnecessarily over regulate dredging in California.

The fish would be just fine with the regulations of 2008 [with the only exception I don't know about the big salmon spawn in the northern rivers].

If you have to regulate the big salmon spawning areas do that. Make the Indians happy. I know you've spent tons of time and energy on this thing. I would imagine you may despise the whole dredging industry. That is certainly the way the proposed regulations look. We've already had 3 dredge seasons taken away and now you are proposing sweeping changes and restrictions . You don't need to do this. Make small changes each year after carefully studying the issues in question.

California Dept. of Fish and Game (CDF&G) 4/28/2011
Attn: Mark Stopher
601 Locust St.
Redding, CA. 96001

RE: PROPOSED REGULATIONS FOR SUCTION DREDGING PER SEIR

The draft Supplemental Environmental Impact Report released Feb. 28, 2011 by CDF&G raises questions that need to be answered before reasonable solutions can be suggested. It is the feeling of the Gold Dredging Community here that CDF&G "Intake meetings" are only scheduled to satisfy required regulations. I fully understand why CDF&G cannot answer questions that are under current litigation; however, take a few moments to consider why you are in litigation in the first place.

How does CDF&G intend to deal with (1) Waterkeeper Alliance Inc. v. Environmental Protection Agency, 399 F.3d 486 (2nd Cir. 2005) **?** *Suction Gold Dredges do not add pollutants to the water they work in.*

How can the CDF&G completely ignore the (Pro Dredge) opinions of retired EPA research biologist Joseph Green, and the prior EIR's that were submitted **?**

Where are the scientific 'Toxic Mercury Levels' published for our local fish **?** *In Yellow Creek where I mine, the chances of finding any Mercury is slim to none.*

Why did CDF&G turn a 'Blind Eye' to the Hydro Dams constructed above the Oroville Reservoir without any fish ladders **?** *There are no Salmon here now because the lack of fish ladders killed them and their ability to return, forever. The Maidu Indians fished for Salmon here for thousands of years, yet did not take the fish to extinction as the Hydro Dams on the N. Fk. Feather River did.*

Why has CDF&G produced a 1,000+ page SEIR with taxpayers dollars, (apparently written by 'Wanna Be' environmentalists), that is devoid of basic material facts **?** *The facts are that Suction Gold Dredges recover Mercury, feed fish, create cool deep water ' resting pools', and enhance spawning grounds.*

Why has the CDF&G chosen to hurt Federal, California and Plumas County economy by not encouraging a SEIR that embraces Gold Recovery, which include sale of equipment, purchase of food and fuel, the collection of taxes and permit fees from Suction Dredge Gold Miners **?**

Why is it the CDF&G has not been able to complete court ordered EIR's in a timely matter (as in 2008) **?** Is this why your former Director resigned, or did he feel guilty about the 'taking' of our dredging permits **?**

Why does CDF&G lean toward Politicians, News Media and Environmentalist that wouldn't know a Suction Gold Dredge from a Windmill **?**

Why is CDF&G suddenly in such a storm to re-regulate suction gold dredging laws that have worked well since I started gold dredging in 1982 **?**

Is it the intention of CDF&G to overturn the 1850 laws California agreed to, as well as the Federal Mining Laws of 1872 and all Suction Gold Dredge laws implemented since then **?**

2/

Be careful what you wish for.... You may not find the solution to be 'ideal' or to your liking. Regardless of how much money is collected to defeat Gold Dredging, how many pockets are lined, or how many votes are bought in the process, integrity, truth, dignity and honor cannot be bought or sold.

Considering our unsustainable and collapsing State and Federal economy, you must realize that *your* paycheck will soon be on the chopping block. State and Federal economy must be totally supported by the American People, and most know that "You cannot spend yourself rich". In the not so distant future, don't be surprised when people of the EPA, Water Quality Board, Biological Diversity, and other Environmental groups start killing each other for what is in the others cupboard. When faced with starvation, these same people will be eating 'Endangered Species' just to stay alive. It all comes down to a question of value.

I firmly believe that Gold will be the *last* unit of monetary trade used in the world, and as such, we will have a choice of buying a loaf of bread with a wheel barrel full of paper money, or a small amount of Gold.

Suction Gold Dredgers will prepare for ongoing legal battles. The questions I have submitted are a few of many the CDF&G should be considering before any re-regulation of the watercourses take place. I believe that what the CDF&G has come up with so far, and the way it is being done, is shamefully bogus.

Steven E. Sullivan 4/28/2011

Steven E. Sullivan
P.O.Box 102
Twain, CA. 95984

cc sent to:
President Barack Obama (for EPA and Water Quality review)
Cal. Gov. Jerry Brown
Cal. Sen. Mimi Walters
Cal. Sen. Ted Gaines
The California Mining Journal (ICMJ)
Public Land for the People
The Sacramento Bee
The Feather River Bulletin

Suction Dredge Permitting Program
Draft Subsequent Environmental Impact Report (DSEIR)
Comment Letter

Submitted By:
Name: Bill Vogt
Mailing Address: 1430 Ebbetts Dr., Reno, NV, 89503
Telephone No.: 775-747-3145
Email: wvogt@sbcglobal.net

Proposed Regulation:

228(g)
"Number of Permits. The Department shall issue a maximum of 4,000 permits annually, on a first-come, first-serve basis. Any permits issued in 2011 will apply toward the limitation of 4,000 permits for 2012."

Comments:

On what page or pages of this 1,000+ page study is the need for there to be a limitation on the number of Suction Dredge Operators scientifically established? On what page or pages is the need for that limitation to be 4,000 scientifically established? The answer to both of these question is that there is no place in this study where either have been established. If you search the entire document for the figure 4,000 you find it mentioned in about six instances but in each case the reference is to the fact that this is the limit not how the limit was established.

However, if you search for the figure 3,200 you will find the following statements:

> "On average, CDFG issued approximately 3,200 suction dredge mining permits to California residents annually for the 15 years prior to the current moratorium established in July 2009. The comparable average number of non-resident suction dredge mining permits issued annually by CDFG was approximately 450."

Those sentences can be found in the Executive Summary on page 2, lines 8-11, as well as in Chapter 1 on page 1, lines 31-35. In addition, the same sentences can be found in Chapter 3, on page 1, line 36 continued on page 2, lines 1-4. And finally, the figures of 3200 and 450 can be found in Chapter 5 on page 26 in Table 5-8 and again on page 27 in Table 5-8.

The only conclusion one can reach from these facts is that the limit of 4,000 permits was arbitrarily picked as a number that was roughly what the average number of permits has been for the past 15 years.

The establishment of a limit on the number Suction Dredgers permitted creates a number of questions and problems. A list of some but not all of these follows:

1. How is the allocation to be administered?

2. What is to prevent people unfriendly to Dredgers from obtaining permits thereby preventing Dredgers from being able to obtain one?
3. This is a discriminating regulation against Suction Dredging[1] versus other recreational activities requiring permits (fishing, boating, etc.) where no permit limit exists.
4. This regulation has the potential to deprive those Suction Dredgers who prospect as a means of earning or supplementing their income from doing so by depriving them of a permit to perform the most economically feasible way of prospecting for placer gold in rivers and streams.
5. This regulation interferes with the free market mechanism for establishing the value of a placer claim containing a river or stream by making its value dependent on whether or not the claimant can obtain a permit to Suction Dredge and will result in the claim having a lower value to the claimant if the claimant fails to obtain a permit. Any such change in value will not be reflected in the assessed value determined by County Assessors who use an entirely different metric.

Recommendation:

Since this DSEIR has failed to show that harm was caused by not having a limit on the number of permits issued in the past and since implementing a limit results in a number of unresolved or addressed problems, it is recommended that this regulation be eliminated from the proposed regulations.

Note:

1. Not all Suction Dredgers consider the activity to be a recreational activity. According to a survey of 668 people who dredged in California in 2008, 122 (18.26%) of them described themselves as semi-commercial or commercial dredgers deriving some or all of their income from this activity. See "Appx_F_SD Survery.pdf", the table on page 4 of 7 under the heading "Income From Dredging" subtitled "Dredger Self-Identification".

Suction Dredge Permitting Program
Draft Subsequent Environmental Impact Report (DSEIR)
Comment Letter

Submitted By:
Name: Bill Vogt
Mailing Address: 1430 Ebbetts Dr., Reno, NV, 89503
Telephone No.: 775-747-3145
Email: wvogt@sbcglobal.net

Proposed Regulation:

228(c)(2)

Under 228(c) the proposed regulation states that the permit will contain at a minimum: "(2) A list of up to six locations where the permit applicant plans to suction dredge. Location information shall include either:

(A) County, river or stream or lake name, township, range, section, quarter section, base, and meridian; or

(B) Approximate centerpoint of the location using latitude and longitude.

For each location the California Active Mining Claim number, if applicable, and approximate dates of proposed dredging shall be listed."

Comments:

Regulation 228(c) implies that there is a limit of 6 locations that a Suction Dredge Operator would be able to dredge at. If that isn't the case then why does the regulation state that only 6 locations can be listed? If this is the case, then why isn't it clearly stated that there is a limit? Also, if this is the case, where is the evidence presented in the DSEIR to support such a limitation? There is absolutely no evidence presented in the study that a dredger working at more than one location is any more likely to cause adverse impacts to the environment than if the dredger was working at only one location.

Where in the study has the rational been presented that it is necessary to have the precise location a dredger is working at included in the permitting process? Some insight into this regulation can be found in Chapter 4.3, on page 4.3-24, lines 39-42 where the following is written:

> "Section 228(c)(2): requires dredgers to provide CDFG with information regarding the location of their dredging operation(s). This will allow CDFG to monitor and manage areas with high dredging use, and potentially modify regulations if deleterious effects are identified."

At first glance and on the surface this statement seem innocent enough but then there is the following statement:

> "Additionally, the regulations that require the permittee to notify CDFG of locations of planned mining activities would provide additional oversight and enforcement capabilities, as well as a deterrent effect on illegal activities."

That statement can be found in Chapter 4.1, on page 4.1-22, lines 22-24 and a very similar statement can be found on page 4.1-25, lines 35-38. I am not sure I understand the meaning and intent of the expression "deterrent effect on illegal activities". However, the expression "would provide additional oversight and enforcement capabilities" has ominous overtones. Just what does "illegal activities" and "additional … enforcement capabilities" mean? If dredgers aren't at specific locations when they say they will be on their permits will that constitute an "illegal activity" requiring "additional .. enforcement"? If dredgers are at locations not specified on their permit will that constitute an "illegal activity" requiring "additional … enforcement"?

This regulations raises a number of questions and problems. A list of some but not all of these follows:

1. Will this information be private or available to the public? In either case dredgers will be telling who knows who where they are going to be and when they are going to be there. This will potentially make them vulnerable to the wrong sort at either where they aren't (their homes) or where they are (prospecting for GOLD).
2. How far can a dredger move in one direction or another from the location stated on their permit before they are in violation of their permit?
3. This is a discriminating regulation against Suction Dredging versus other recreational activities requiring permits (fishing, boating, etc.) since the other permits do not limit the permitee to a fixed number of places they can do the activity nor are they required to specify precisely where they will be and when they will be there.

Recommendation:

Since this DSEIR has failed to establish a basis for this regulation it should be eliminated. The previous permit process did not require the information nor should the process going forward require it. If the DFG feels there might be some benefits derived in the future by having this data then they should implement a voluntary surveying process similar to the fishing surveys completed by fishermen.

Subject: dredging
Date: Friday, April 29, 2011 11:58:21 PM PT
From: tdb@linkline.com
To: dfgsuctiondredge@dfg.ca.gov

Dear Sirs,

With all due respect, here are my comments regarding your draft and the study behind it.

First of all, I support many of the recommendations including requiring improved fuel storage, riparian respect,

4.10.4 implies that since there are other methods of recovering gold are still available to miners,therefore there is no impact to them. This defies BLM "prudent man and marketability" guideline which is supports the spirit of the 1872 mining law. Dredging is by far the most prudent and only feasible way to mine for gold in a river which is at this point a constitutional right. There is no comparison.IT IS LIKE REQUIRING FISHERMEN TO CATCH SALMON WITH SHIER HANDS, POSSIBLE BUT HIGHLY IMPRACTICAL.This moratorium is an un constitutional take.

Yellow legged frogs according to the info, is most probably impacted to the greatest extent by the other man made forces such as resavoir releases and Agra cultural poisons. The relatively tiny square yard disturbance by miners is miniscule compared to the massive area the former affects.

Class E season is too short to be practical. To recreational dredgers who may want to work a week or two on vacation may be fine with this but any one who is trying to be prudent and profitable in their right to mine is ruined by this time constraint, not only is it too short, the water will be at its lowest point by sept 1, cutting available dredging area by half. At least 10 per cent of this size season would be spent in set up and break down removal of equipment. Hardly "no impact"

I do not believe dredging has any measurable impact on a stream bed as compared to even one average sized spring flood. The report under emphasises this fact. If you were to look at the main stem Yuba river at the moment I am writing this letter you would see the river bottom being scoured. Standing Beside it tody I can hear and see Massive boulders rolling and know that the majority of the gut moved. Your comparisons and data comparing the affect of scattered dredgers to the baseline seasons selected are presumptive, circumstantial, and flawed. The amount of mercury being stirred up right now is immeasurable compred to the impact of dredging, and these floods occur many times a year. The base lines for the comparisons are arbitrary and flawed.

I object to being notified of the public meetings by mail only days before they were to happen.

Thanks for your consideration,
Todd Bracken
1827 Lincoln Blvd
Venice Ca 90291
3107760491

042911_Callahan

SUCTION DREDGE PERMITTING PROGRAM
Draft Supplemental EIR - Comment Form

Name: Joan Callahan
Mailing Address: P.O. Box 596 Big Bear City, Calif. 92314
Telephone No. (optional): 909-585-3892
Email (optional):

Comments/Issues:

In Regards To Winching Boulders, The Winching And Moving Of Boulders Has Minisicule impact on the Environment. To Request An on Site Inspection is Counter Productive Simply By Putting Unnecessary Demand on Fish & Game, Who along with other Agencies is Experiencing Severe Budget Restraints.

More Focus Should Be Put on Educating Dredgers of Proper Disposal And Reclamation of Foreign Material in the River. Including But Not Limited to Lead, Steel, Iron, Mercury Etc. Having Winching Equipment on the Dredge Site Also Has A Very Important Safety Factor. Thank You For Your Consideration.

Please use additional sheets if necessary.

SUBMIT WRITTEN COMMENTS (POSTMARKED BY APRIL 29, 2011) 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

Website: www.dfg.ca.gov/suctiondredge

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

Subject: support for suction dredging
Date: Friday, April 29, 2011 10:10:38 AM PT
From: Lisa Cardin
To: dfgsuctiondredge@dfg.ca.gov

Dear Mr. Stopher,

This is a letter in regards to the suction dredge issue. My name is Lisa Cardin and I am supporting the 1994 Regulations Alternative. I have been mining in a family operation for 26 years on the North Fork Yuba River. We own six mining claims and would like to keep our rights to suction dredge. We have always had our permits in place, plans of operations, and bonds and have operated a safe and legal operation.

I know I am one small voice in a large bureaucratic process, but feel I must write and try and save my families gold mining operation. I went to the Sierra County Supervisors meeting in Downieville this month and submitted my comments. The local small miners, like myself, are hoping the Dept. of Fish and Game can allow us to continue with our operations with the regulations that are already in place. It is overwhelming to see the amount of tax payers money, time, paperwork, and resources being used to stop small placer mining operations across our State of California. As you are aware, this State is in a financial crises and I believe that Sierra County is feeling the economic effects with the ban on dredging. It would seem to me that with the price of gold going up, along with state unemployment, it would be only right to support the small miner and his endeavor.

Please add this letter to the public comments in support for suction dredging. Thank you for your consideration.

Lisa Cardin
P.B. 3602
Olympic Valley, Ca.
96146
530-581-2755
lisacardin@yahoo.com

Subject: suction dredging

Date: Friday, April 29, 2011 5:01:57 PM PT

From: Andrew Derrick

To: dfgsuctiondredge@dfg.ca.gov

My Name is Andrew Derrick, Retired Fire Captain Fire/Arson Bomb Investigator 31+ years of service to the citizens of this state. I have purchased two small dredges and looked forward to my second only outing after properly obtaining permits for three years. After purchasing my last permit I was told I was subject to the moratorium and would not be allowed to dredge; and no refund was received. I am sincerely disappointed that the state fish and game and the governor decided to take my money then stop me from pursuing my hobby on such a small scale. Even when I have gone dredging and panning I have picked up other people's trash and recovered substantial quantities of fishing weights, lead shot and mercury from the streams. Most gold miners are old retired folks just looking for a few days of fun. I and my conscientious mining friends do no harm to the environment, remove metal contamination from the watershed and make a considerable contribution to the local economies. We also put gold one of the world's most precious commodities into the U.S. economic system at a time when America desperately needs it to support the falling dollar. This moratorium has destroyed many small businesses and damaged local economies. Please, Please lift the moratorium so that we may enjoy our later years after many years of risking our lives to serve the public; as you do. By the way we are part of the public. Please refund my hard earned unused permit money and stop charging us such a large amount for recreation. Thanks for your consideration in this matter. Andrew Derrick B.S., Retired City of Merced Fire Captain and all around good citizen.

Subject: comments SDEIR
Date: Friday, April 29, 2011 2:21:32 PM PT
From: Rabideno@aol.com
To: mstopher@dfg.ca.gov

Mark,

Cab we e-mail comments to you in 'word format as an attachment?

Otherwise, what address do I send them to?

Thanks,

Don

Subject: Comments/questions

Date: Friday, April 29, 2011 11:56:27 PM PT

From: Rabideno@aol.com

To: dfgsuctiondredge@dfg.ca.gov

From Donald E.Eno
To Mr. Stopher
Ca. DFG
Suction Dredge mining SDEIR/Proposed regulations
RE My final Public Comments

Mr. Stopher,
I had a couple quick comments and questions to formaly enter in the record before the deadline, but you didn't respond to my phone message.

1) How can a person officially go about reporting the presence of toxic pollutants in any river or stream beds of under the jurisdiction of Ca. DFG and/or any other agency working in cooperation with Ca. DFG?

2) Can you advise me or tell me /us what particular mining method I/we might engage in other than suction dredging?

A) Can you tell me if we can use tracked equipment with a bucket like a bobcat in the active stream course where suction dredging is impractical or prohibited?

A2) If it is lawful what is that permitting process?

A3) If it is unlawful can you explain specifically why?

B) Is it lawful to use a Gin Pole/King post and a drag line bucket to excavate gravel for production and processing where the stream bed is sluiced back into the river by mechanical means in the active river channels?

B2) If it is lawful what is that permitting process?

B3) If it is unlawful can you explain specifically why?

3) We are looking for all probable or possible means to mine our river gravel in active streams along with processing gravel and discharging similar quantities of water as we do when running a suction dredge. We need to be provided a thoughtful and reasonable alternative method for mining your - (DFG) or USFS) - gravel to get my/our gold.

A) what reasonable methodology offer us in the form of flow sheet plans or theories which we may use?

B) please use an approach similar to what miners offer in a Plan of Operations or what DFG would require for streambed alteration permits?

Thank you

Donald E. Eno,

Subject: Suction Dredging in the Trinity River Restoration Reach - a place for closure?

Date: Friday, April 29, 2011 2:31:06 PM PT

From: Gutermuth, F. Brandt

To: dfgsuctiondredge@dfg.ca.gov

CC: Faler, Jennifer A., Funkhouser, Peter G

Dear Mr. Stopher,

The Trinity River Restoration Program (TRRP) is a multiagency organization of state, county, federal, and tribal entities that has been working to restore river processes and complexity of habitat for restoration of Trinity River anadromous salmonid populations under the direction of the 2000 Trinity Mainstem Fishery Restoration Record of Decision for the last 10 years. The program spends millions of dollars annually on construction of channel rehabilitation projects as well as the monitoring of these projects. Presently the TRRP works with miners during construction to ensure that, to the extent possible, our mutual objectives for securing gold and restoring habitat, are met. After our projects are complete the areas are revegetated and fishery restoration "right of ways" remain in place on federally managed (U.S. Bureau of Land Management - BLM) lands, however, the areas may still be open for mining. The Redding Field office of the BLM currently identifies the need to withdraw anadromous fisheries habitat improvement areas from mineral entry including Steiner Flat and Cemetery Hole in their Resource Management Plan, however, this withdrawal has not been completed.

Given the financial commitment to restoration from public monies, the potential benefit of Trinity River restoration for anadromous fishes, the discrete 40 mile TRRP rehabilitation reach from Lewiston dam to the North Fork Trinity, and the potential impacts to restoration from dredging activities, we ask that you consider the relative merit of removing the 40 mile Trinity River restoration reach from dredging authorization during your review of the dredge permit program. Closure of this area to dredging activities would eliminate the potential to negatively impact constructed channel rehabilitation projects and might help to speed recovery of fish and wildlife populations in the Trinity. Removal of the area might allow for undisturbed juvenile salmonid use of shallow dredger operation areas and quicker recovery of vegetation on channel rehabilitation sites which overlap with dredger access areas. The Trinity River restoration reach, where dredging would not be allowed, would then be available for long-term comparisons with open dredge areas.

Thank you for the opportunity to comment on this draft document.

Sincerely,

Brandt Gutermuth

Environmental Specialist
Trinity River Restoration Program
PO Box 1300, 1313 S Main St
Weaverville, CA 96093
530.623.1806 (voice)
530.623.5944 (fax)
www.trrp.net

042911_Harrison

Ronald E. Harrison
Calif. Fish and Game Warden (Ret.)
705-540 Indale Drive
Susanville, CA. 96130

April 29, 2011

Mark Stopher
Calif. Department Fish and Game
Region 1
601 Locust Street
Redding CA. 96001

OBJECTION TO DEIR SUCTION DREDGE REGULATIONS FOR LASSEN COUNTY:

In review of your proposed regulations for suction dredge seasons in Lassen County it appears that you have used outdated and incomplete survey information.

Of particular concern are your proposals for Susan River and its tributaries along with Secret Creek, Smoke Creek and Willow Creek.

The main stem of the Susan River is a hatchery supported fishery from the outfall of Hogs Flat Reservoir downstream. It is a self sustaining fishery of exotic Eastern Brook trout upstream from Lassen County Road A21. Without the hatchery program very few fish would survive in Susan River. The silt load from Hogs Flat into Susan River has, by the deleterious effects of the fine silt, destroyed the majority of spawning gravels in the river. Along with the failure of Rainbow trout to spawn in the compacted gravels, another fish species of concern; the Mountain sucker has been absent from Susan River for over 50 years. This is based on my personal experience of fishing and working the river for the past 50 years. The upper Susan River is dominated by the exotic Eastern Brook trout that suppresses any reproduction of native species. If it is your goal to protect spawning of native species your recommended suction dredging season of September 1 to January 31 is questionable, Rainbow trout spawn in the early spring and the fall spawning exotic species need to be removed. My suggestion, close upper Susan River, to suction dredging January 1 to June 1, only.

Susan River from Hogs Flat downstream that depends on hatchery support to provide a fishery, change to class H. There are no Mountain suckers left in this section and very little Rainbow trout spawning. Suction dredging would help clean and move the heavy compacted fine settlements down stream and open areas to spawning. With time and correction of the Hogs Flat silt problem Susan River could again become productive.

The rest of the tributaries to Susan River; Willard Creek, Crazy Harry Creek, Cheney Creek, Gold Run Creek, Lassen Creek, and Fredonyer Creek are all infested with exotic Eastern Brook trout. Gold Run and Lassen Creek water only reaches Susan River during heavy run off. If you want to protect spawning of exotics in these waters then a fall closure would be suggested, October 1 to December 1 on the fall spawning exotics. Piaute Creek produces an occasional trout to kids fishing from planters in Susan River that access that creek. It is generally to warm for trout.

Willow Creek, another tributary to Susan River is a self sustaining fishery for Brown trout. As you know they are fall spawners and based on local interest and use of the fishery, should be closed only during the fall spawning season, October 1 through December 31. Suction dredging in this stream would have little effect, there is no know mineral value in this area. They are also exotic, but important to the local fishery.

Smoke Creek on the east side of Lassen County is also a self sustaining fishery for Rainbow trout and although there are no known minerals in that area, it should not be open all year as a Class H. It should be closed during the spring spawning season to suction dredging. Secret Creek is in the same classification.

Your consideration of the information presented from my 60 plus years of fishing and working as a Game Warden in Lassen County will be appreciated.

Sincerely;

Ronald E. Harrison

Stephen P. Jazdzewski
1454 Tanglewood Drive
Placerville, CA 95667
530/622-6411

April 29, 2011

Mr. Mark Stopher
California Dept. of Fish and Game
601 Locust Street
Redding, CA 96001

RE: Comments pertaining to Dredging Draft EIR
Sent by email to: dfgsuctiondredge@dfg.ca.gov

Mr. Stopher:

1). Dredge size limit of 4" is impractical in that the size of the creek or river being dredged effectively dictates what size dredge can or should be used. I hold valid Federal mining claims totaling 80 acres on the South Fork of the American River. While I generally use a 4" dredge while working alone, I have also used both a 6" and an 8" dredge to mine on these claims in the past due to gravel thickness and/or deep water. There are many areas on these claims that can not be dredged with a 4" dredge because the water is too deep and/or the overburden is too thick. I have found that a 4" dredge can only work in areas where the water is less than 8-10 feet deep and where the thickness of gravel above bedrock is less than 4'. In order to mine many areas of my claims a 6" or an 8" dredge provides the only feasible way to do so. To limit mining on my claims to a 4" dredge would effectively and arbitrarily take away my right to mine these Federal mining claims, and would greatly reduce their value to me or to anybody else.

There are many gold bearing streams where the maximum dredge size is limited to 4" by the size of the stream and water depth. A 6" or 8" dredge could not be used even if a person would want to use a dredge of that size.

2). Requiring fuel to be stored 100' away from the current water level is not practical in many areas, such as where you are dredging in a narrow canyon. In many areas the only way to get 100 feet away from the water is to go 100 feet vertically. This is not practical.

3). Limiting dredging within 3 feet from the lateral edge of the current water level and from in-stream gravel bars in rivers where the water level fluctuates during the day, and from day-to-day, due to water releases from dams (such as the South Fork of the American River) is impractical and unnecessary.

April 29, 2011

Department of Fish & Game
1416 Ninth Street
Sacramento, CA 94612
Dear Sirs:

I wish to take issue with at least two of the changes in the dredging regulations proposed in the recent DSEIR, the nozzle sizes and the season lengths.

The first issue is the striking of the provision for "Special Permits" to allow use of large diameter dredges. I had such a permit for a 12" dredge on nth North Fork of the American River in 1983. Our 5 man team ran two 8" dredges and one 12" dredge. With the larger equipment, we were able to excavate a 32' deep cone-shaped hole into the riverbed in approximately 4 months (about 1300cubic yards, or, 20 cubic yards per day). At the greater depths, we had to add power from the other dredges to run ultimately only the one dredge bringing material from the greater depth to surface. We finally DID reach the bottom layer, where there was, indeed, a rich placer deposit. Alas, we were only able to exploit it for 2 or 3 days before the rains came and the river started to rise. We had to move tools and supplies on the riverbank to higher ground, then immediately do that again, and then yet a third time, as the river kept rising. In approximately 2 hours, the river filled in the hole that had taken 4 months to excavate…to the point that one could not tell we had even been there at all!

The following year, we were not able to try again. However, someone else, who had observed our first try, hired a large, tracked, excavator and re-dug the 30' hole and then dredged out over 200 ounces of gold from that hole. My first issue, then, is that without the use of such special-permitted large diameter dredges (or heavy equipment, long since illegal), such deep deposits CANNOT be reached in the time Mother Nature allows for dredging before the rainy season floods.

This brings up my second issue, the shortening of the "Class G" dredging season from over 4 months (4th Saturday in May to September 30) to only 30 days (September 1 to September 30). It is absolutely impossible to reach any significant depth in only one month, particularly with only the small diameter equipment currently proposed.

Enclosed are some photographs of that summer's project showing: the state of the river when we arrived (white-water rapids), the continually expanding hole, and the final state of the river (again a white-water rapid).

Please consider restoration of the previous regulations that make provision for the issuance of "Special" permits for larger diameter dredges and the original season lengths for stream classifications that are not already completely closed to dredging (the vast majority of the streams listed in the DSEIR), as it would make your "alternative project" much closer to being "potentially feasible" in terms of CEQA Guidelines section 15364: "capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, legal, social, and technological factors."

Thank You,

Chris Keene

The river as we found it…white-water rapids in July

Beginning to “spud-in” the 8” sub-box dredge (lower left) early July

All 3 dredges in the water, l to r: 12” sub-box, 8” top-box, 8” sub-box

Hole getting deeper, down about 20’ in late August

Hole getting REALLY deep, about 30’ in late September

And then, “The Rains Came”, white-water rapids & NO hole, again

Comments on new regulations for suction dredging April 29, 2011.

Enclosed you will find a copy of the July 19, 1866 mineral grant. This grant is still the law of the land and has not been changed. The 1872 mining law only clarifies the 1866 mineral grant..

On line three of the 1866 mineral grant you will see the mineral lands are located in the public domain, not the public lands. On lines 4 and five. The grant specifies that the public domain is free and open to exploration by the citizens of the United States.

Section 8 vs. one, two and three say," that the right of way for the construction of highways over public lands, not reserved for public uses, is hereby granted." This is very clear, a miner has the right to construct roads over public lands, that is not set aside for public use. There are no clauses attached. It is a right. Once given, rights cannot be taken away.

Section 9, says a miner has a vested right to use water for mining. This vested right comes with no attachments. It cannot be regulated beyond this vested right by any means of regulation. A minor also has the right to construct ditches and canals to aid him in his mining operation.

Section 1 and generally, section 8 have this to say. This following is but one evidence that this grant of property, available to everyone today, is not subject to administrative interference or obstruction, whether or not by license, permit, other form permission, closure, or by criminal citation; the extorted utilize Asian of which is criminal and a plane error failure of duty for any judge to disregard..

The 1866, granted right prevails administrative authority. No form of government can regulate over this 1866 mineral grant. The grant has its roots in the public domain, not the public lands. These are entirely different. I will use for illustration a tree with two branches growing out of the public domain. One branch is locatable minerals. The other is common minerals.

Congress gave away all locatable minerals to citizens of the United States that will explore and claim such minerals. They were given in a trust. The federal government disavowed any claim to the locatable minerals, once given away, they cannot be regulated. The government no longer has control of them, they no longer own them, they have been set aside in a trust for American citizens.

The grant is not refundable. When something is put in trust for another, what has been put in trust no longer belongs to the trustee. Neither federal nor state government owns locatable minerals in this country. They have been set aside in trust for citizens to locate.

The second branch of this mineral tree can be called a branch of common minerals. These common minerals can be controlled and regulated through the government's. All regulation today, both state and federal pertain to this type of mineral, not locatable minerals.

The grant gives a miner the right to use water, timber, and equipment to extract these locatable minerals with no regulation. The right to use water is a property right and may be protected in the same manner as any other property right, by court action. Has a property right, the owner has the same obligation to defend it against encroachment has in the case of any other kind of property. I use water to mine locatable minerals on the bottom of a river or stream. This water is my property right

I am a commercial miner. I vacuum suck material from the bottom of rivers and creeks through a floating sluice box. All heavy locatable minerals stay in my sluice box and the rest of the material flows out back into the River. I make my living doing us. Through regulation my living has been taken away from me. This is now a governmental taking without compensation.

The 1866 mineral grant is my authority to mine locatable minerals where I find them without interference from government. I fully intend to do so, or the state of California will have to compensate me for my loss.

California has chosen to ignore all the studies conducted on vacuum mining over the last 50 years. No study has ever found that vacuum mining hurts the environment. California has chosen to ignore all of these studies. They do so at their own peril.

Stanley G. Meager
49317 State Hwy. 96
Seiad alley,
CA. 96086

the Mineral Estate Grantee has clear and distinct rights unlike any other user of the public lands. We have shown how the Mineral Estate Grantee possesses exclusive possessory title, private Property in the highest sense. We have shown how neither the State of Washington nor the WDFW has or can have authority to supersede Federal Law or title. We have shown how the WDFW's requirement that Mineral Estate Grantees submit a NOI to the USFS is far beyond any authority of the WDFW, flying in the face of the USFS's own Regulations and subject matter authority. We have shown how granted entitlements under the Congressional Mineral Estate Grant Acts are "non-discretionary" activities consistently protected from encroachment and as such not falling under the purview of the ESA, or for that matter, the CWA, or even the NEPA. We have shown how the current or proposed rules constitute an unlawful "taking" of the Mineral Estate Grantee's property, and lastly, we have shown how it is the continuing intent of the U.S. Congress, as is its obligation under its own grant, to "foster and encourage" mineral development by private enterprise, and contrary to the regulations of the WDFW which affectively declare a grantee's lawful Property criminal without license, or until "illegalized," a sanctioned crime.

Finally, if there were no other thing upon which a Mineral Estate Grantee could rely, the Water Rights Appropriation Water Doctrine dictates that water is contemporaneous the mineral estate itself, its Siamese Twin, enjoying and deserving no less than the highest acknowledgment and protection. By the grant of 1866 and the Water Rights Appropriation Water Doctrine, the Mineral Estate Grantee already lawfully possesses the water with equal power as that of the minerals estate he has been rewarded. By that grant the WDFW has no regulatory authority over the water possessed by the Mineral Estate Grantee's intention.

This whole issue will be avoided by the WDFW working within the law. Every Mineral Estate Grantee has protected property and rights granted by Congress and those Entitlements have been violated by the WDFW. In other words, a trespass has already occurred by the perceived threat and need caused by the promotions of the Agency precipitating this notice. There is still one more step in the process to assure that the American System will work for the people. The WDFW, et al, will be well served taking note of the recent Hague case for instruction on what happens to an agency acting contrary to clearly established law or private property entitlements.
We believe public funds are better spent serving the people in lawful administration.

"Rights under any mining claim hereafter located under the mining laws of the United States shall be subject, prior to issuance of patent therefore, to the right of the United States to manage and dispose of the vegetative surface resources thereof and to manage other surface resources thereof (except mineral deposits subject to location under the mining laws of the United States). Any such mining claim shall also be subject, prior to issuance of patent therefore, to the right of the United States, its permittees, and licensees, to use so much of the surface thereof as may be necessary for such purposes or for access to adjacent land: Provided, however, That any use of the surface of any such mining claim by the United States, its permittees or licensees, shall be such as not to endanger or materially interfere with prospecting, mining or processing operations or uses reasonably incident thereto..." (emphasis added)

Even if what the mineral estate grantee possesses was a less than fee simple interest subject to other disposable mineral statute regulation, as the above statute clearly shows, if the United States is prohibited from "any use" of the surface of a mineral claim (including so-called protection of fish) that endangers or materially interferes "...with prospecting, mining or processing operations or uses reasonably incident thereto...", then there is no legal way that the WDFW can "endanger or materially interfere..."; that either fish, wildlife or other lesser interests have no standing against the economic purposes for which the land and water is preserved, the priority of the mineral estate in trust, notwithstanding.
(See: US vs. New Mexico, 1978, 438 U.S 696.)

The Act of 1866, and subsequently of 1872, does not reward a mere privilege but instead grants the right of private property. The locatable mineral claim holder is the grantee of the vested mineral estate held in trust by the authority of the Act of 1866. Being the Mineral Estate Grantee, the right to go upon the open public domain or public lands freely for the purpose of exploration and Occupation, the prospecting, discovery, and claiming of the minerals upon the public domain, including all the surface, meaning water, mining that land for minerals, and taking that land to patent shall not be infringed. In other words, and in addition, the grantee also gets to make an unfettered self-determined living, as the Congressional grant requires, the right to the pursuit of happiness, notwithstanding. The Mineral Estate Grantee has accepted a grant of property from the United States Government and is executing that grant through the acts of prospecting or locating, whether or not filing papers or "mining" the minerals located under that grant.
To illustrate this concept the Supreme Court has said:
"A contract is a compact between two or more parties, and is either executory or executed. An executory contract is one in which a party binds himself to do, or not to do, a particular thing;...." "A contract executed is one in which the object [10 U.S. 87, 137] of contract is performed; and this, says Blackstone, differs in nothing from a grant...." "A contract executed, as well as one which is executory, contains obligations binding on the parties. A grant, in its own nature, amounts to an extinguishment of the right of the grantor, and implies a contract not to reassert that right. A party is, therefore, always estopped by his own grant." Fletcher v. Peck, 10 U.S. 87 (1810) (emphasis added)
The United States of America suffering estoppel by its gift of the mineral estate, including the use of the water, the WDFW is in no better right, the lack of lawful delegation agency notwithstanding or as additional proof. Any requirement to file any thing towards enjoyment of the already vested Property is contrary to the prevailing federal authority.

Being the grant may be subject to pre-existing condition, fulfilling this Mineral Estate Grant by the Grantee is sometimes a difficult task, especially under the demands of Mother Nature during the winter months, typically from November to March. The snow, cold water, rains and high water, too much of a good thing, can prohibit this activity. Consequently, during these months, Mother Nature prohibits the Mineral Estate Grantee from developing his property (the Minerals) under the grant, for as much as half the year. Now, since Mother Nature existed prior the time of the grant of Congress we must give way to her demands, accepting the grant with this pre-condition, but not so the WDFW, or even the State of Washington itself, as these acquired no such right or property in the mineral estate the paramount title of which resides in the United States in trust to the grantee, and no other.

The Public Lands cannot be "free and open" to exploration, as Congress is required obligated to protect, if the grantee can be prohibited by the WDFW. The WDFW may have the power to reasonably regulate activities NOT incident to mining upon the Public Lands, but that power fails when operating to affect the pursuit of a Mineral Estate Grantee. Even if the WDFW had authority, the proposed regulatory amendments are prohibitive and not merely regulatory in fundamental character and, therefore, are unlawful as proposed. We call attention to:

"The Supreme Court has set forth the analysis we must apply to determine if a state law is preempted by federal law: State law can be pre?empted in either of two general ways. If Congress evidences an intent to occupy a given field, any state law falling within that field is pre?empted. If Congress has not entirely displaced state regulation over the matter in question, state law is still pre?empted to the extent it actually conflicts with federal law, that is, when it is impossible to comply with both state and federal law, or where the state law stands as an obstacle to the accomplishment of the full purposes and objectives of Congress. A local government cannot prohibit a lawful use of the sovereign's land that the superior sovereign itself permits and encourages. To do so offends both the Property Clause and the Supremacy Clause of the federal Constitution. The ordinance is prohibitory, not regulatory, in its fundamental character." (emphasis added)

For the WDFW and or the State of Washington to continue to attempt to fabricate and regulate a mining season through the JARPA and the HPA time lines of an unscientific TU Time Frames is unknown and contrary to pertinent authoritative law, a:
Violation of the Mining Act (30 U.S.C.A. § 22)
30 U.S.C.A. § 22 states: "Except as otherwise provided, all valuable mineral deposits in lands belonging to the United States, both surveyed and unsurveyed, shall be free and open to exploration and purchase, and the lands in which they are found to occupation and purchase, by citizens of the United States and those who have declared their intention to become such, under regulations prescribed by law, and according to the local customs or rules of miners in the several mining districts, so far as the same are applicable and not inconsistent with the laws of the United States". (emphasis added)

With its affront, it appears as though the WDFW, in its infinite wisdom, has concocted a plan to effectively close many of the rivers and streams in Washington State to mineral estate grantee access altogether, but not without creating a taking of the grantee's mineral estate and right to water violating the Constitution, various acts of Congress, and clearly established law or inconsistent with the laws of the United States of America or its obligations.

It's like some one or some group within the WDFW (that has an agenda to prohibit mineral estate development or possibly the agency as a whole) said to itself, "All we have to do is create the suction dredging open time frames (seasons) concurrent with the winter months, where Mother Nature will not allow them to suction dredge because of the weather conditions, and then close the rest of the year to suction dredging."

However, even if having authority, and again we assert it does not, for the WDFW to disallow mineral estate development to the Mineral Estate Grantee during those months that Mother Nature has left open, the agency creates a full time prohibition against the Grantee acquiring his minerals and thusly there is a constructive taking of that Grantee's property (Mineral Ownership) without compensation. Much worse is, if this agenda in fact exists, it evidences at the very least a premeditated conspiracy to trespass valuable private property, if not more criminal than even this.

Water Rights Laws

California's hybrid water rights system includes riparian, appropriative, prescriptive, pueblo, contract, overlying, reserved and public trust rights. A mix of water rights could coexist in a one water system without overriding adjudication.

The right to use water is a property right and may be protected in the same manner as any other property right, i.e. by court action. As a property right, the owner has the same obligation to defend it against encroachment as in the case of any other kind of property. The flow of water in streams is variable and cannot be predicted with accuracy. Thus an approval of an application and issuance of a permit to appropriate unappropriated water does not guarantee that unappropriated water will be available at all times in the full amount specified in the permit. The holder of a permit should be prepared to accept responsibility for diverting only to the extent and at such times as will not impair the prior rights of others, regardless of the amount or season named in the permit.

Furthermore, the state may undertake to regulate environmental quality notwithstanding the resulting limitation imposed on the free use of property rights. The law of water rights involves a hierarchy of priorities: Riparian rights have priority that must be satisfied before any appropriative rights are exercised. Interests protected by the public trust of the state's water are nonconsumptive, instream uses; such as navigation, recreation, ecology and aesthetics.

State Water Resources Control Board (SWRCB)

The State Water Resources Control Board (SWRCB) was established by the 1967 California Legislature to administer the states water quality and water rights functions. It, in conjunction with nine regional boards, enforces pollution control standards to protect California's 103 rivers, 5,000 lakes, 461 groundwater basins and 1,840 miles of shoreline. In granting water right permits, the SWRCB must determine that the proposed appropriation will best serve the public interest. An appropriative right is an exclusive right to take a specific amount of water from a specific source for a specific use at a specific location during a specific period of time. The right may allow for the immediate use or seasonal storage of water.

SWRCB acts in a legislative capacity when performing its regulatory function of insuring water quality by establishing water quality objectives. SWRCB actions are guided by legislative policy that the favored or highest use is domestic and irrigation the next highest (U1254). SWRCB is expressl

SWRCB in undertaking to allocate water rights, performs an adjudicatory function; there is no requirement that the agency prepare findings in support of its quasi'legislative decision. It is only when an agency renders an adjudicative decision that findings are required in order to breach the analytic gap between raw evidence and ultimate decision. The board's task is not to protect water rights but to protect "beneficial uses", however in the larger view of water resources, in arriving at a reasonable estimate of all water uses, an activity well within the board's water rights function is to determine the availability of unappropriated water. It is is also essential to fulfill the board's water planning obligations.

The Water Code of California in Division 1 Chapter 1 addresses the General State powers over water. The code makes specific reference in section 106, 1254 and 1460 that "It is hereby

AMDS ONLINE
Alaska Mining & Diving Supply

Suction Dredging & the Environment

Suction dredging for gold is a relatively new mining method. Suction dredges are essentially underwater vacuum cleaners. They are commonly used to pull material up from a stream bottom, run it through a separation system to recover valuable minerals, and then redeposit the stream material back onto the bottom of the stream.

What makes suction dredging unique is that it takes place in a very dynamic environment... a natural stream or river. Natural variations in stream conditions, such as continual downstream movement of material through erosion and flooding, cause the effects of small scale suction dredging to be very local and short term. Suction dredging simply mimics natural erosion on a very small scale. Areas that have been subjected to years of suction dredging show little sign of the activity.

Information is presented here in the belief that education is the best answer to the problems of today. More reports and studies will be added here as time allows. If you know of any information in particular that you would like to see posted here, please contact us at amds@akmining.com

1999 EPA Study - Impact of suction dredging on water quality, benthic habitat, and biota in the Fortymile River, Resurrection Creek, and Chatanika River, Alaska

1999 Court Finds EPA and US Army Corps of Engineers Overstep Authority

1998 USGS Press Release on Suction Dredging on the Fortymile River, Alaska

1997 USGS Studies of Suction Dredge Gold-Placer Mining Operations Along the Fortymile River, Eastern Alaska

1995 Siskiyou National Forest Estimate of Yardage Moved by Suction Dredging

1994 US Army Corps of Engineers Finding of "de minimis impact" by suction dredges with nozzle openings of 4" or less

Excerpts From Suction Dredge Studies

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Alaska Books ATV's Boating Diving Heating Mining Power Equipment Snowmobiling

THIS LAND IS OUR LAND

The Consequences of This Valuable Property Establishing Grant

REQUIRING NO MORE PERMISSION THAN THE ACT APROVED JULY 26, 1866, YOUR GRANTED RIGHT OF ACCESS TO YOUR PUBLIC DOMAIN IS FOUND AT

SECTION 8

SEC. 8. *And be it further enacted,* That the right of way for the construction of highways over public lands, not reserved for public uses, is hereby granted.

39TH CONGRESS,
1st Session

H.R. 365.

IN THE SENATE OF THE UNITED STATES.
JULY 19, 1866.
Ordered to be printed.

AMENDMENT

Reported by Mr. STEWART. from the Committee on Public Lands, to the act (H. R. 365) granting the right of way to ditch and canal owners over the public lands in the States of California, Oregon, and Nevada, viz: Strike out all after the enacting clause, and insert as follows:

That the mineral lands of the public domain, both surveyed and unsurveyed, are hereby declared to be free and open to exploration and occupation by all citizens of the United States, and those who have declared their intention to become

citizens, subject to such regulations as may be prescribed by law, and subject also to the local custom or rules of miners in the several mining districts, so far as the same may not be in conflict with the laws of the United States.

SEC. 2. *And be it further enacted,* That whenever any person or association of persons claim a vein or lode of quartz, or other rock in place, bearing gold, silver, cinnabar, or copper, having previously occupied and improved the same according to the local custom or rules of miners in the district where the same is situated, and having expended in actual labor and improvements thereon an amount of not less than one thousand dollars, and in regard to whose possession there is no controversy or opposing claim, it shall and may be lawful for said claimant or association of claimants to file in the local land office a diagram of the same, so extended laterally or otherwise as to conform to the local laws, customs, and rules of miners, and to enter such tract and receive a patent therefor, granting such mine, together with the right to follow such vein or lode with its dips, angles, and variations, to any depth, although it may enter the land adjoining, which land adjoining shall be sold subject to this condition.

SEC. 3. *And be it further enacted,* That upon the filing of the diagram as provided in the second section of this act, and posting the same in a conspicuous place on the claim, together with a notice of intention to apply for a patent, the register of the land office shall publish a notice of the same in a newspaper published nearest to the location of said claim, and shall also post such notice in his office for the period of ninety days; and after the expiration of said period, if no adverse claim shall have been filed, it shall be the duty of the surveyor general, upon application of the party, to survey the premises and make a plat thereof, indorsed with his approval, designating the number and description of the location, the value of the labor and improvements, and the character of the vein exposed; and upon the payment to the proper officer of five dollars per acre, together with the cost of such survey, plat, and notice, and giving satisfactory evidence that said diagram and notice have been posted on the claim during said period of ninety days, the register of the land office shall transmit to the General Land Office said plat, survey, and description; and a patent shall issue for the same thereupon. But said plat, survey, or description shall in no case cover more than one vein or lode, and no patent shall issue for more than one vein or lode, which shall be expressed in the patent issued.

SEC. 4. *And be it further enacted,* That when such location and entry of a mine shall be upon unsurveyed lands, it shall and may be lawful, after the extension thereto of the

public surveys, to adjust the surveys to the limits of the premises according to the location and possession and plat aforesaid, and the surveyor general may, in extending the surveys, vary the same from a rectangular form to suit the circumstances of the country and the local rules, laws, and customs of miners: *Provided,* That no location hereafter made shall exceed two hundred feet in length along the vein for each locator, with an additional claim for discovery to the discoverer of the lode, with the right to follow such vein to any depth, with all its dips, variations, and angles, together with a reasonable quantity of surface for the convenient working of the same as fixed by local rules : *And provided further,* That no person may make more than one location on the same lode, and not more than three thousand feet shall be taken in any one claim by any association of persons.

SEC. 5. *And be it further enacted,* That as a further condition of sale, in. the absence of necessary legislation by Congress, the local legislature of any State or Territory may provide rules for working mines involving casements, drainage, and other necessary means to their complete development; and those conditions shall be fully expressed in the patent.

SEC. 6. *And be it further enacted,* That whenever any adverse claimants to any mine located and claimed as aforesaid, shall appear before the approval of the survey, as provided in the third section of this act, all proceedings shall be stayed until a final settlement and adjudication in the courts of competent jurisdiction of the rights of possession to such claim, when a patent may issue as in other cases.

SEC. 7. *And be it further enacted,* That the President of the United States be, and is hereby, authorized to establish additional land districts and to appoint the necessary officers under existing laws, wherever he may deem the same necessary for the public convenience in executing the provisions of this act.

SEC. 8. *And be it further enacted,* That the right of way for the construction of highways over public lands, not reserved for public uses, is hereby granted.

SEC. 9. *And be it further enacted,* That whenever, by priority of possession, rights to the use of water for mining, agricultural, manufacturing, or other purposes, have vested and accrued, and the same are recognized and acknowledged by the local customs, laws, and the decisions of courts, the possessors and owners of such vested rights, shall be maintained and protected in the same; and the right of way for the construction of ditches and canals for the purposes afore-

said is hereby acknowledged and confirmed: *Provided, however,* That whenever, after the passage of this act, any person or persons shall, in the construction of any ditch or canal, injure or damage the possession of any settler on the public domain, the party committing such injury or damage shall be liable to the party injured for such injury or damage.

SEC. 10. *And be it further enacted,* That wherever, prior to the passage of this act, upon the lands heretofore designated as mineral lands, which have been excluded from survey and sale, there have been homesteads made by citizens of the United States, or persons who have declared their intention to become citizens, which homesteads have been made, improved, and used for agricultural purposes, and upon which there have been no valuable mines of gold, silver, cinnabar or copper discovered, and which are properly agricultural lands, the said settlers or owners of such homesteads shall have a right of pre-emption thereto, and shall he entitled to purchase the same at the price of one dollar and twenty-five cents per acre, and in quantity not to exceed one hundred and sixty-acres ; or said parties may avail themselves of the provisions of the act of Congress approved May twenty, eighteen hundred and sixty-two, entitled "An act to secure homesteads to actual settlers on the public domain," and acts amendatory thereof.

SEC. II. *And be it further enacted,* That upon the survey of the lands aforesaid, the Secretary of the Interior may designate and set apart such portions of the said lands as are clearly agricultural lands, which lands shall thereafter be subject to pre-emption and sale as other public lands of the United States, and subject to all the laws and regulations applicable to the same.

Section 1 and generally Section 8

Declare the property vesting as of the date of the legislative grant, in this case 1866, upon acceptance.

This following is but one evidence that this grant of property, available to everyone today, is not subject to administrative interference or obstruction, whether or not by license, permit, other form permission, closure, or by criminal citation; the extortive utilization of which is criminal and a plain error failure of duty for any judge to disregard.

Once it is understood that Section 8 does not limit access to private inholdings, as the following case relates, or does not care about the type of vehicle used as in this case a motorcycle on a "closed" Section 8 Highway, it may be more fully appreciated that there is no limitation as to access as the following Section 1

analysis by the Court of Appeals for the Ninth Circuit confirms.

Granted Right

prevails administrative authority:

50 Fed.Appx. 867, 2002 WL 31553938 (C.A.9 (Mont.))
(Not Selected for publication in the Federal Reporter)

This case was not selected for publication in the Federal Reporter. Please use FIND to look at the applicable circuit court rule before citing this opinion. (FIND CTA9 Rule 36-3.)

United States Court of Appeals,Ninth Circuit.
UNITED STATES of America, Plaintiff-Appellee,
v.
Steve A. **HICKS**, Defendant-Appellant.
No. 01-30146.
D.C. No. CR-00-00001-DWM.

Argued and Submitted Nov. 5, 2002.
Decided Nov. 14, 2002.

Corporate employee was convicted in the United States District Court for the District of Montana, Donald W. Molloy, Chief Judge, of operating motorcycle in area of National **Forest** closed to motor vehicles by **Forest Service** closure order, and he appealed. The Court of Appeals held that employee of corporation that owned subsurface mineral rights in national **forest** was not subject to **Forest Service** closure order that exempted landowners.

Reversed and remanded.

Woods and Forests 411 8

411 Woods and **Forests** 411k8 k. **Forest** Reservations, Preserves, or Parks. Most Cited Cases
Corporation that owned subsurface mineral rights in national **forest** was "landowner," and thus corporate employee was not subject to **Forest Service** closure order that exempted landowners from prohibition against operating motor vehicles in national **forest**. 36 C.F.R. § 261.55(b).

***867** Appeal from the United States District Court for the District of Montana, Donald W. Molloy, Chief District Judge, Presiding.

Before TROTT, T.G. NELSON and THOMAS, Circuit Judges.

MEMORANDUM [FN*]

FN* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as may be provided by Ninth Circuit Rule 36-3.

****1 Steve** A. **Hicks** (" **Hicks**") appeals pro se the district court's affirmation of his conviction in magistrate court for operating a motorcycle in an area of Lolo National **Forest** closed to motor vehicles by a **Forest Service** closure order, in violation of 36 C.F.R. § 261.55(b). **Hicks** drove a motorcycle on a **Forest Service** trail while acting as an agent of Kenton Lewis ("Lewis"), an owner of subsurface mineral rights in Lolo National **Forest**. We have jurisdiction pursuant to 28 U.S.C. § 1291, and we reverse because **Hicks's** conviction is based upon a plain legal error.

1. Standard of Review

This court reviews for plain error when an appellant raises an issue on appeal that the appellant did not raise before the lower court. *Jones v. United States*, 527 U.S. 373, 388, 119 S.Ct. 2090, 144 L.Ed.2d 370 (1999). The **Forest Service** closure order exempts landowners from its provisions, but **Hicks** did not rely upon the landowner exemption before the magistrate court. Hence, we review for plain error. This court has discretion to grant relief under the plain error standard if there has been (1) an error; (2) that is plain; and (3) ***868** affects substantial rights. *Id.* at 389, 119 S.Ct. 2090.

2. Both Lower Courts Committed A Plain Error By Determining The Landowner Exemption Did Not Apply To Hicks

Mineral rights are ownership in land, and therefore Lewis is a landowner. *See, e.g.*, *United States v. Shoshone Tribe of Indians of Wind River Reservation in Wyo.*, 304 U.S. 111, 116, 58 S.Ct. 794, 82 L.Ed. 1213 (1938) (with respect to question of ownership, "[m]inerals ... are constituent elements of the land itself"); *British-American Oil Producing Co. v. Bd. of Equalization of State of Mont.*, 299 U.S. 159, 164-65, 57 S.Ct. 132, 81 L.Ed. 95 (1936) (finding a mineral estate an estate in land); *Texas Pac. Coal & Oil Co. v. State*, 125 Mont. 258, 234 P.2d 452, 453 (1951) ("[l]ands as a word in the law includes minerals"). We need not decide whether the term "landowner" as it is used in **Forest Service** regulations and orders always includes owners of mineral estates. Here, the government conceded at oral argument that Lewis is a landowner under the terms of the closure order before us and thus exempt from this closure order. The landowner exemption in this closure order must necessarily apply to agents of landowners. For example, corporate landowners can only access their land through agents. Hicks, as Lewis's agent, is therefore also exempt.

Because the trial courts did not recognize mineral rights as ownership in land, and because this error adversely affected Hicks's entitlement to the landowner exemption, we exercise our discretion to correct this plain error.

REVERSED AND REMANDED WITH AN INSTRUCTION TO ENTER A JUDGMENT OF NOT GUILTY.

C.A.9 (Mont.),2002.
U.S. v. Hicks
50 Fed.Appx. 867, 2002 WL 31553938 (C.A.9 (Mont.))

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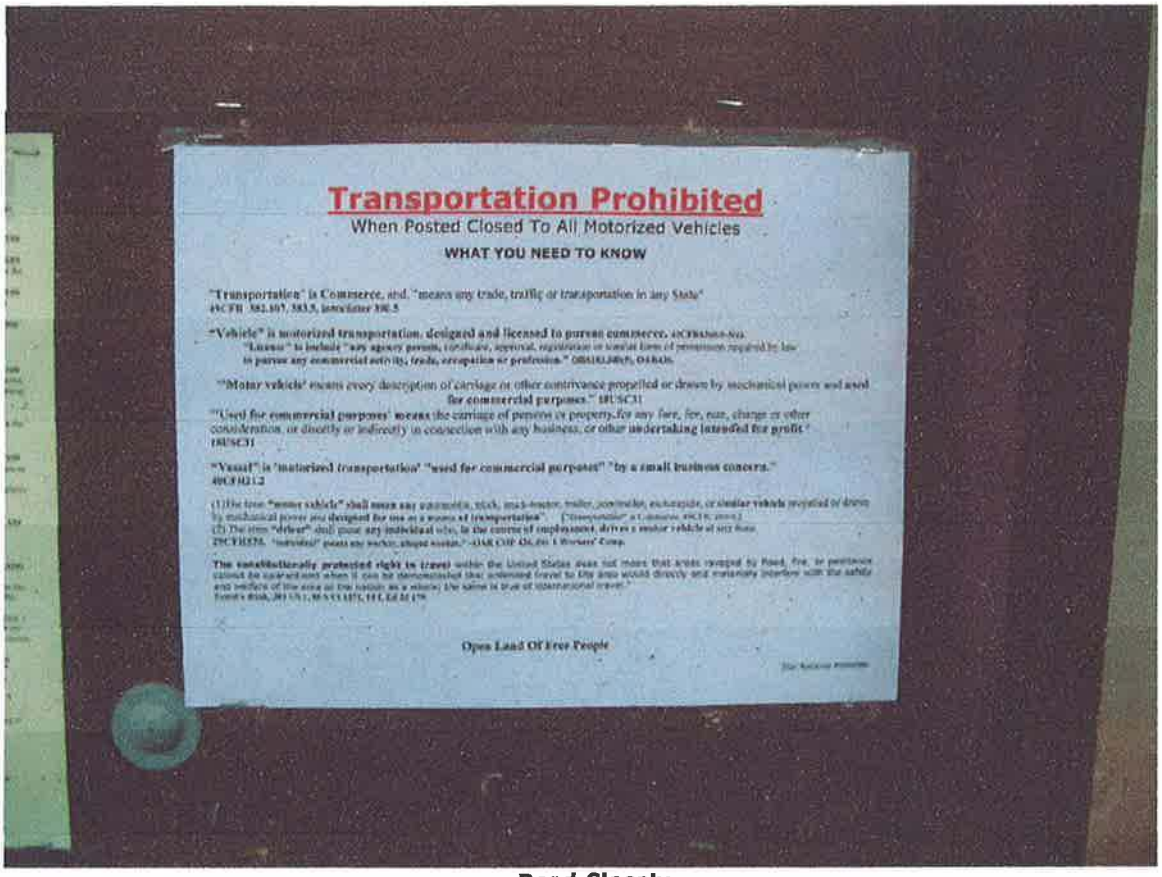

Read Closely.
"Transportation" may be prohibited, but the right of ingress and egress by private entry cannot be.

E-MAIL

Ascend

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April 29, 2011

Mark Stopher
Dept. of Fish & Game
601 Locust Street
Redding, CA 96001

Re: Comments Concerning Suction Dredging DSEIR & Proposed Regulations

Dear Mr. Stopher:

The purpose of this letter is to submit comments regarding the Dept. of Fish & Game Draft Subsequent Environmental Impact Report and Proposed Regulations for suction dredging. These comments are submitted individually as well as on behalf of the Prospectors Club of Southern California, a nonprofit corporation chartered since 1966.

1. IDEAS TO MODIFY THE PROPOSED REGULATIONS

a. Retain current regulation 228(k)(2) and eliminate entirely proposed regulation 228(k)(3).

DISCUSSION

The reason why a complete elimination of this proposed regulation is called for is because the closure any area that lies within three feet of the lateral edge of the current water level in any creek, river or other waterway to the use of vacuum or suction dredges constitutes an arbitrary and capricious administrative action that will require virtually all permit holders to engage in criminal activity, as previously set forth by the Legislature, in order to comply with the proposed administrative rule. This is so because Calif. Fish & Game Code section 5653(d) makes it unlawful to possess a vacuum or suction dredge within 100 yards of

waters that are closed to the use of vacuum or suction dredges. There are virtually no dredgeable creeks or rivers in California that are 202 yards (606 feet) wide [the minimum width to allow a law abiding citizen to comply both with proposed regulation 228(k)(3) and F&G Code 5653(d). Adoption of this proposed rule would be inconsistent with the legislative intent underlying F&G Code section 5653, subdivisions (b) and (d). Surely the Legislature did not intend that the Dept of F&G shall adopt a rule that would create a mere illusion of lawful activity when just the opposite is the case by virtue of the geologic realities of California waterways.

An additional reason to eliminate proposed regulation 228(k)(3) is because the regulation makes it more difficult than the existing regulation BOTH to comply with and to enforce. Existing regulation 228(k)(2) is very clear and easily enforced by prohibiting suction dredging into the bank of any stream, lake or river. This is so because the point where the bank of any waterway makes actual contact with the water is directly and immediately observable. This is consistent with the commonsense legislative definition of a river, stream or lake contained in F&G Code section 5653.5. The proposed regulation can only be indirectly ascertained by the intermediate use of a measuring device. Additionally, the proposed rule is vague and ambiguous in that it provides only one point of reference whereas a measurement requires two points, i.e., it is ambiguous whether the three foot measurement is to be made from the lateral edge of the current water level to a point along the submerged stream bed or to an imaginary point on the surface of the water. Suction dredging takes place underwater at the bottom of a streambed, never at the level surface of the water. Such ambiguity and uncertainty must be avoided when the consequences may include a criminal citation and resulting conviction.

A separate reason to eliminate proposed rule 228(k)(3) is because it is unclear what is meant by the verb "suction dredge" in the phrase, "No person may suction dredge within..." Does it mean that no part of the dredge can be operated within three feet? Or does it refer to the location of the suction nozzle only? Or does it refer to dredged material? Or something else? See proposed rule 228(a)(1) for definition of "suction dredging" which is silent as to any of the above referenced ambiguities.

SUGGESTION: Retain existing rule 228(k)(2) and eliminate proposed rule 228(k)(3) in its entirety. Also, consider redefining suction dredging in favor of a rule that turns on the removal of substrate material. Under the existing rule a bright line is drawn that clearly prohibits the erosion of, or eating *into*, bank material. The proposed rule is does not contain the term "into". Instead it references activity "under" overhanging banks. Such unusual use of language is

misleading and ambiguous and should be avoided.

b. Retain existing rule 228(k)(3) without modification.

DISCUSSION

Existing rule 228(k)(3) prohibits the removal or damage to WOODY RIPARIAN streamside vegetation during suction dredge operations. This is a good rule to the extent that the objective is to reduce erosion of the bank. Proposed rule 228(k)(4) eliminates the term "WOODY RIPARIAN". This modification is over broad and unsupported by any scientific evidence or study. Removal or damage to woody riparian vegetation has a rational basis to the protection and integrity of stream banks. But, there are literally thousands of varieties of non-woody native vegetation, such as algae or duck weed or of non-woody invasive vegetation, such as water hyacinth. These types of vegetation provide zero protection to the integrity of stream banks since they are not rooted in soil at all. Many other types of non-woody vegetation have only a negligible effect on preventing erosion to the extent they are located below the high water mark. Dredging operations occur well below the high water mark. No study demonstrates a rational basis for eliminating "woody riparian" from existing rule 228(k)(3). Also, there is no definition of "damage" as used in the proposed rule. For example, grass, a dandelion or other non-woody plant may be "damaged" simply by stepping on it, **but** the root system has not been damaged. It is only the *root portion* of a non-woody plant that stabilizes a bank. Proposed rule 228(k)(4) thus constitutes an arbitrary, capricious and overly broad administrative action which unnecessarily exposes permittees to serious sanctions.

SUGGESTION: Retain existing rule 228(k)(3) without modification or clarify that it is only damage to the root portion of vegetation that is prohibited.

c. Eliminate proposed rule 228(k)(15)

DISCUSSION

Proposed rule 228(k)(15) does not appear supported by scientific evidence or studies and implicitly assumes that pre-mining contours are more desirable than post-mining contours. Additionally, the proposed language utilizes terms that are not defined and that have no common understanding such as "shall level all tailing piles" or "pre-mining grade". Also, since the depth of many rivers and creeks fluctuates over passage of time depending on precipitation, dry periods or the

release of reservoir water, the proposed rule subjects permit holders to standards that are beyond their control, i.e., it may be impossible to restore a post-mining grade to a pre-mining grade [whatever that term connotes] if the water level has dropped or risen between the two events. Since the Legislature already has expressly defined a river, stream or lake solely in terms of, "...the current water level...," it would appear beyond the authority of F&G to adopt a rule such as 228(k)(15) which is based in part on a *prior* water level.

It is common knowledge that fish and other aquatic life forms exhibit strong preferences to deep dredge holes by concentrating therein. This likely is so because such holes provide sanctuaries for resting and also often contain cooler water than the ambient stream water [due to colder aquifer water seeping up through newly exposed bedrock cracks]. To the extent that the proposed rule requires the back filling of these holes, the proposed rule appears both arbitrary as well as counterproductive in the absence of sufficient evidence that pre-dredged contours are more desirable than post-dredged contours.

Anadromous fish repeatedly have been observed by myself and many other members of the Prospectors Club of Southern California to fight each other for the privilege of creating their spawning nests on freshly dredged tailings. This is evidence that the fish themselves prefer to select post-dredging gravel conditions, including grade. This may be so because freshly dredged gravel has been purged of the silt and the egg parasites and microbes that inhabit the silty conditions of undredged gravels. Whatever the reason, this observed fish behavior is inconsistent with the proposed rule.

Most fatally, proposed rule 228(k)(15) is an unauthorized exercise of administrative rule making power. The Legislature specifically establishes [pursuant to F&G Code sections 5653.9 and 5653, subdivision (b)], the authority of F&G to: "...designate waters or areas wherein vacuum or suction dredges may be used..."; "...waters or areas closed to those dredges..."; "...the maximum size of those dredges that may be used..."; and "...the time of year those dredges may be used...". There is no authority given to F&G to regulate post dredging activity. The Legislature also delineates the types of activities that are prohibited and constitute a crime [see F&G Code 5653, subdivision (b)]. These activities consist of the operation of any equipment, "...other than authorized..."; or "...conducts the operation in any waters or area...not authorized..."; or "...at any time that is not authorized..."; or "...conducts the operation without securing the permit...". None of these prohibitions include failure to perform post dredging activities. California Constitution Article III, section 3 and section 3.5 prohibit an administrative agency from exercising unauthorized legislative powers in the absence of a published appellate court decision.

SUGGESTION: Eliminate proposed rule 228(k)(15).

d. Modify proposed rules 228(c)(2) and 228(d) by simplifying

DISCUSSION

Proposed rule 228(c)(2) is unfair and constitutes an invasion of personal privacy expectations, is unnecessarily complex, requires guessing and, combined with proposed rule 228(d), is a bureaucratic waste of F&G manpower.

The proposed rule is **unfair** in that it [1] compels an applicant to select specific dredge locations and dredge times before the applicant can possibly know where or when he or she will engage in suction dredge activities and [2] it targets an insular minority of permit holders and requires only them to designate in advance and with great precision where and when they will make use of their permits. No such requirement is made of holders of fishing or hunting licenses. It is especially unfair to residents of Southern California who wish to dredge in Northern California or vice versa in that these residents are many hundreds of miles removed and do not have means that are equal to local residents for ascertaining river and run-off conditions.

The proposed rule also **invades personal privacy** by requiring permit applicants to reveal in a public document, in advance, the most likely places where they believe gold will be found, where they will be and when they will be there, thus publicly announcing when they will not be at home protecting their property and where they will be in isolated areas beyond cell phone range.

The proposed rule is **unnecessarily complex** in that it requires detailed descriptions of up to six separate locations. Many ordinary citizens have no knowledge of how to ascertain latitude or longitude. It is not a subject taught in California public schools. Nor do most ordinary citizens have knowledge of how to give a legal description in terms of townships, ranges, meridians or section divisions. Additionally there is no such thing as a "base" as required by the proposed rule. Presumably the proposed rule seeks identification of the location's base meridian -- but as written the proposed rule is vague and ambiguous in this regard.

The proposed rule **requires guesswork**. Just like fishermen or hunters, dredge permit applicants have no way of knowing many months or a year in advance which pay layer they will find profitable to dredge or where a pay streak will exist in the waterway or how many other dredge permittees may already have been on, or be on, or be too close to, a given location once they get there or when they will be able to take vacation or otherwise get time off from their regular jobs.

The proposed rule implicitly will require F&G manpower resources to review, copy and file in a retrievable manner all of this initial information for it to be of any use. After amendments are made the way proposed rule 228(d) provides, what formerly was an administrative expense now will become a **bureaucratic nightmare**. This will be the case because even more complicated and time consuming filing and tracking systems necessarily will have to be developed in order to make any practical use of the information.

Most fatal to this proposed rule are those portions of the rule that constitute an unauthorized or unconstitutional exercise of administrative authority as discussed in the comments to proposed rule 228(k)(15) above. This is so because the legislature **has not authorized F&G** to require advance disclosure of the personal plans of permit applicants in violation of their constitutionally protected individual freedoms. Such disclosure is repugnant to the American way of life and is constitutes an invasion of California Constitution Article I, section 1 [the inalienable right of privacy].

SUGGESTION: Treat suction dredge permit holders like other licensees, respect their areas of privacy and only require non-speculative information that a person would reasonably be expected to know at the time of application. It is reasonable to require equipment identification. It is unreasonable to expect applicants to know where the gold is in advance of finding it or to require them to leave their dredge site to visit F&G offices to file amendments every time they are required to move because a pay layer changes or a pay streak ends. Instead of requiring quasi-legal location descriptions or latitude and longitude descriptions, F&G could make it *optional* for an applicant simply, on a voluntary basis, to provide a photo copy of a map with the general area of dredging interest circled.

e. Modify rule 228(k)(14) by replacing subjective criteria with objective criteria

DISCUSSION

Proposed rule 228(k)(14) employs subjective language and invites speculative ambiguity in that there is no objective standard provided for determining a level of care that "...would result in a significant increase in turbidity." Nor does the proposed rule identify the acceptable extent of a turbidity plume. Peak natural runoff conditions are capable of observation and measurement, i.e., peak particles per unit of water [degree of opacity] is measurable during major runoff events [rain storms, snow melt, reservoir releases, etc.]. Since nature itself regularly produces such measurable turbidity, then

permittees should not be held to a higher standard.

There is a major distinction between natural turbidity and turbidity caused by a dredge. Natural turbidity is caused by increased water velocity; the more rapid the increase in velocity, the greater the turbidity. Natural water flow velocity, in turn, is entirely governed by the volume of water in the channel [the amount of pressure in the water column]. Thus, higher water events result in higher water velocity. A suction dredge is inherently incapable of adding to the volume or pressure of the water column because it adds no water to the channel. Thus, the plume created by a dredge is entirely transient and dissipates rapidly the further downstream it extends. Thus another objective method for establishing turbidity limits would be to provide a specific distance downstream from a dredge's discharge beyond which no plume should extend. This would make both enforcement and compliance a matter of simple objective measurement rather than subjective interpretations that would subject a permittee to criminal sanctions.

SUGGESTION: Modify rule 228(k)(14) to read as follows:

"No person shall create turbidity that exceeds the greatest level of turbidity present at that location during natural peak runoff events or regular reservoir releases." *or* "No person shall create a turbidity plume that extends beyond {_____} yards downstream from the dredge site."

f. Proposed rule 228(o) should be deleted or modified because it is made in excess of expressly delegated legislative authority

DISCUSSION

The Legislature delegates specific authority to F&G to adopt regulations. The extent of that authority is contained in the language of F&G Code section 5653, subdivision (b). These express delegations of authority include (1) the designation of waters or areas wherein dredges may be used pursuant to a permit, (2) the designation of waters or areas closed to those dredges, (3) the designation of the maximum size of those dredges that may be used, and (4) the time of year when those dredges may be used [see F&G Code section 5653, subdivisions (b), see also F&G Code 5653.9]. Subdivision (b) expresses no delegation of authority to compel applicants to disclose in advance the specific places and times that the applicant will be dredging.

The Legislature also imposes requirements and prohibitions upon *any person* using a dredge. Those requirements and prohibitions are set forth in F&G Code section 5653, subdivision (a). Nothing in subdivision (a) expressly requires

a person to disclose in advance where or when he or she will operate their dredge so long as he or she is in compliance with regulations and prohibitions adopted pursuant to F&G Code section 5653.9.

It is noteworthy that the legislature employs the plural "dredges" and the phrase "those dredges" multiple times in section 5653, subdivision (b). The reason this use of language is significant is because "a person" is only capable of using one dredge at a time, whereas only the "permit holder class" of all permit holders operates "dredges" or "those dredges". The intent of the Legislature, therefore, is not to delegate authority to F&G to compel individuals who apply for a dredge permit to disclose in advance specifically where and when on an individualized basis he or she intends to conduct possible dredge activities. Rather, use of the plural "those dredges" discloses a legislative intent to permit the entire class of permit holders to operate "those dredges" only in the class of permitted waterways and to prohibit the entire class of permit holders from operating "those dredges" in any of the closed waterways or at unauthorized times of the year. **In other words, section 5653(b) prohibitions are not intended to vary from individual to individual, but rather to apply equally across the entire class of permit holders.**

Additionally, since F&G Code 5653, subdivision (a) is addressed to requirements and prohibitions of the use *by any person* of either a vacuum or a suction dredge, the mandate that *"...any person...shall submit an application...specifying the type and size of equipment to be used and other information as the department may require,"* does not itself delegate authority for F&G to require the advance disclosure of specific personal information such as opinions identifying where the best gold is located or for F&G to compel applicants to guess at things the applicant simply does not know. Rather, the commonsense intention of the Legislature is to require the applicant to disclose information regarding the type and size of the dredge and such other relevant information as the applicant's identity and mailing address comparable to the type of information required in an application for a fishing or hunting license.

SUGGESTION: Modify rule 228(o) as follows:

"Location of Suction Dredge Operations. No person shall suction dredge in locations or at times other than those identified in the applicable suction dredge use classifications contained in section 228.5(b)."

g. Modify proposed rule 228.5(b) regarding Cattle Canyon Creek and the East Fork of the San Gabriel River in Los Angeles County due to changed conditions and the uniquely high amount of illegal dumping and pollution

DISCUSSION

Unlike most other waterways in California, great amounts of biologically hazardous materials annually are found, especially during the hot summer months, in great abundance during volunteer river clean up operations in and along the first 400 yards upstream from where Cattle Canyon Creek's confluence with the East Fork of the San Gabriel River and annually also are found in great abundance in and along the East Fork of the San Gabriel River from its confluence with Cattle Canyon Creek to a point 400 yards upstream of Heaton Flat. These biologically hazardous materials include many cubic yards of abandoned disposable diapers filled with human excrement, a substantial amount of carelessly discarded packaging and food items, including meat products, left to rot and to a lesser extent discarded hypodermic needles and drug paraphernalia. The annual recovery of said materials is well documented by the organizations that coordinate these clean up efforts. I personally have participated in many such clean up operations. The deposition of such materials constitutes a violation of F&G Code 5650, subdivision (a)(6) and of F&G Code 5652, subdivision (a) in that they are deleterious to fish, mammals and bird life. F&G has an obligation to correct or abate such chronic and continuing pollution pursuant to F&G Code 5651 and 5652(d). These biologic hazards leach and become mixed into the stream substrate through natural drainage processes.

It is well known that stirring silt laden gravels and exposing them to oxygen and ultra violet radiation enables natural processes to speed up the biologic cleansing of polluted waters. Thus, permitting suction dredges to operate in these zones would have the beneficial effects of stirring silt laden gravels and of exposing the parasites, fungi and harmful bacteria attached to them both to oxygen and the ultra violet radiation of the sun.

An additional reason exists for extending the permissible dredging zones and times on the aforesaid streams: F&G no longer releases hatchery fish above Heaton Flat as it had in the past when the zones were withdrawn from dredging. Since that reason no longer exists, the changed conditions favor the restoration of dredging there.

SUGGESTION: Modify proposed rule 228.5(b) as it pertains to Cattle Canyon Creek and the East Fork of the San Gabriel River in Los Angeles County to authorize suction dredging on [1] Cattle Canyon Creek to a point 400 yards upstream of its confluence with the East Fork of the San Gabriel River and [2] to a point on the East Fork of the San Gabriel River located 400 yards upstream of Heaton Flat. Additionally, modify the suction dredge use classification on these

waters either to Class H [year around] or at least to Class D [July 1 through January 31].

2. CONCERNS ABOUT THE ACCURACY OF THE ANALYSIS

a. Should the public be confident that F&G conducted a scientifically reliable and valid study of the environmental impacts of suction dredging for this DSEIR during the period of time that a moratorium has been imposed on suction dredging?

Scientific reliability and/or validity requires, whenever possible, that actual observations and measurements are made of the activity being studied. How were actual observations and measurements made by F&G of suction dredging activity while a moratorium on suction dredging has been in effect? Did F&G make and record observations and measurements of suction dredging activities prior to a moratorium on suction dredging?

b. For the preparation of this DSEIR did F&G conduct studies to compare and contrast environmental differences observed between waterways where suction dredging is an ongoing activity with waterways where no suction dredging activity takes place?

If not, then why not? If so, then what were the results of the comparisons?

c. What studies have been done by F&G, if any, to investigate or confirm the beneficial impacts of suction dredging for this DSEIR?

Suction dredging has been an ongoing activity in California for approximately the last half century. During this time what beneficial environmental effects of suction dredging has F&G identified?

d. Has F&G made a determination whether deep dredge holes are more beneficial or more harmful to the environment in preparing this DSEIR?

Deep dredge holes may have beneficial environmental impacts such as providing resting places for migrating fish or providing thermal refugia during the hot summer months or providing life preserving water sanctuaries during periods of drought when some streams go dry. Has F&G conducted any studies to confirm whether this is true or not true?

e. As part of this DSEIR study has F&G documented cases of a fish or other aquatic creature being killed or harmed as a direct or indirect result of suction dredging activity?

Activities such as fishing directly and indirectly are responsible for environmental impacts which include the deaths of, and harm to, millions of fish and aquatic creatures. Why does this DSEIR study not attempt to evaluate, compare or otherwise place in perspective the degree of environmental impact resulting from the direct or indirect killing and harming of fish and other aquatic life forms by suction dredging activities versus the degree of environmental impact resulting from the direct or indirect killing or harming of fish and other aquatic creatures by sport and commercial fishing activities statewide?

Hundreds of thousands of California fishing licenses are issued and this results in many, many fishermen wading through miles and miles of streams, lakes and rivers. In the process they step on and kill or maim tiny aquatic life forms or eggs or juveniles that are present in the surface gravels. Additionally they actually hook and capture fish. These fish then either are released, left to die or taken home to be eaten. Would it not be relevant in establishing the *significance* of the environmental impacts associated with suction dredging activities to have a common and easily studied basis of comparison such as fishing activities? This seems particularly compelling when not more than 4,000 annual suction dredge permits are envisioned by the proposed regulations, only a tiny fraction of the number of fishing licenses.

* * *

Thank you for this opportunity to participate in this DSEIR and administrative process. I hope you find these comments helpful. On behalf of the Prospectors Club of Southern California, I look forward to your responses.

Sincerely yours,

Martin H. Milas, President
Prospectors Club of Southern California

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March 29, 2011

Suction Dredge Permitting Program - Draft Subsequent Environmental Impact Report

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

Dear Mr. Stopher,

I have reviewed the *Draft Subsequent Environment Impact Report* (Project No. 09.005, February 2011) with particular attention to *Chapter 4.5 – Cultural Resources*. As the Tribal Historic Preservation Officer for the Karuk Tribe, my responsibilities are defined by the National Historic Preservation Act (16 U.S.C 470) and approved by the National Park Service. These duties include "advise and assist, as appropriate, Federal and State agencies and local governments in carrying out their historic preservation responsibilities," and to "cooperate with the Secretary, the Advisory Council on Historic Preservation, and other Federal agencies, State agencies, local governments, and organizations and individuals to ensure that historic properties are taken into consideration at all levels of planning and development." The following comments reflect those THPO duties and my professional experience as a field archaeologist in a variety of Federal, state, and local government projects with the potential impact on cultural resources:

I appreciate the thorough description, as developed in *Sections 4.5.1 – 4.5.3*, of the regulatory and environmental settings that accurately contextualize the proposed Suction Dredge Permitting Program. It is clear from both archaeological and ethnographic evidence, as well as from indigenous oral histories, that California prehistory offers irreplaceable resources that are part of our shared heritage.

The *Criteria for Determining Significance* defines three significant impacts: Resources eligible for national, state, or local registers of historic places; unique archaeological resources; and human remains. The document further states that suction dredge mining has the potential to affect significant historical resources, traditional cultural properties, and archaeological resources. Your document recognizes that significant archaeological resources and traditional cultural properties "are located along waterways throughout California," and may be impacted by this project, and that these resources may also retain the integrity needed for National Register Nomination as addressed in *Chapter 4.5.2 – Regulatory Setting.*

In *Section 4.5.9:27-30*, the DEIR states that "all mining activities have left their mark on the landscape, including river diversions, waste rock and tailing piles, dredge tailings, cut banks, prospect pits, shafts, adits, and water conveyance systems such as dams, reservoirs, ditches, and flumes." However, the draft language (*4.5.10:17-20*) goes further in acknowledging that "regardless of these natural and human-made disturbances, the state's waterways remain abundant with both recorded and unrecorded cultural resources, all of which provide a detailed record of California's rich cultural heritage." Thus you

have clearly established the potential to adversely impact significant cultural resources in the Suction Dredge Permitting Program.

I strongly disagree with the department's findings that such impacts are "unavoidable," and that CDFG has no jurisdictional authority for enforcement or mitigation. Those statements have no supporting documentation. If DFG does not have such authority, who does? This needs to be clearly defined in the document. The DEIR also suggest that DFG does not have the resources for Native American consultation (*4.5.14:1-4*). This statement is very problematic. As a sovereign tribal government, the Karuk Tribe must have the ability to negotiate in good faith through formal government-to-government consultation. This consultation needs to be on-going.

Thus, the DEIR recommended measures for protection of cultural resources are inadequate and ineffective:

- An advisory informational packet to each suction dredge permit holder to provide "Best Management Practices" guidance that will "include guidelines to minimize and avoid adverse affects…such guidance would only be advisory and would therefore not reduce adverse effects to a less-than-significant level" (*4.5.13*). Such an approach is likely to encourage rather than mitigate unauthorized looting, and would typically function to identify resources that have been discovered following site disturbance. The information would effectively help permit holders to identify resources in the tradition of "amateur archaeologists," an avocation whose adverse impacts on these resources are well documented by both Native people and the scientific community.

- Archival research at CHRIS and "field surveys by qualified archaeologists and/or architectural historians, to determine the location of recorded resources prior to dredging activities, and data recovery and other documentation efforts designed to collect or record the significant data associated with resources" (*4.5.13:15-19*). This language does not address the unrecorded resources that may be encountered, and suggests "data recovery" as appropriate mitigation for dredging impacts. This also implies that priority would be given to suction dredging, even if potentially significant cultural resources are discovered, and without any professional evaluation of eligibility for nomination to the National Register. The potential for impacts to Traditional Cultural Properties (which may or may not contain tangible cultural resources) is also not addressed.

In the context of cultural resource management, I am therefore uncomfortable with these proposed actions, and the reinstatement of largely unmanaged ground disturbing activity along the Klamath River and its tributaries. To effectively manage and avoid impacts to these resources the Karuk Tribal Historic Preservation Office recommends:

- At a minimum, prior professional archaeological and tribal review and evaluation of all sites to be permitted for suction dredging. This assessment recognizes that many sites are unrecorded throughout California, and maintain both their significance and integrity.

- Funding for such site review to be provided by CDFG or other State of California revenues.

- Clear provision for enforcement and defined jurisdictional authority.

- All permit holders must be advised of Federal and State laws that govern cultural resources, and the associated penalties for any infractions of those laws.

- All cultural resource information must remain confidential, and not made public. Any associated records, site maps, and associated materials are to be kept in a secure facility – either the appropriate Information Center and/or THPO office.

- Annual review of the program with key stakeholders, including tribal government representatives. Development of a clear and comprehensive mechanism to provide findings and assess impacts, including cultural resource protection and management.

The Karuk Tribal Historic Preservation Office appreciates the opportunity to comment on the *Draft Subsequent Environmental Impact Report* and looks forward to working with the California Department of Fish and Game on this and future projects. If you have any further questions or comments, please feel free to contact me at 530-493-1600.

Yôotva (thank you),

Hélène Rouvier

Hélène Rouvier
THPO
Karuk Tribe

HR/hr

Subject: Suction dredge hearing
Date: Friday, April 29, 2011 3:40:13 PM PT
From: Harry Schoonbaert
To: dfgsuctiondredge@dfg.ca.gov
CC: Henry Sandigo

DFG:

Dredgers make the appeal they have historic and possibly Federal rights to use public waterways as they choose in pursuit of gold. Does their economic input (a positive value) balance the negative effects of habitat destruction, offensive noise from internal combustion engines, exhaust fumes, muddier rivers, littered riverside campsites and aggressive behavior toward other river users balance this positive? DFG again seems to be siding with powerful and monied SIGs. The dredger community has demonstrated to me on a personal level that we cannot exist on the same stretch of water. It is impossible to fish, bird watch, relax or enjoy the peaceful riparian habitat on any river section allowing dredging. DFG has outlined many rules and limitations for dredgers, but have not demonstrated an ability to administrate regulations. How can you stop a dredger from sucking up a weed bed if he thinks there are flakes of gold sequestered in the roots of plants? Dredgers say they don't kill fish, but they can't say they don't disrupt aquatic habitat necessary for fish survival.

Please consider long term effects and the health of our planet. Rivers are arteries of precious fresh water and need to be protected and nurtured - not farmed, mined and abused. Do the right thing and minimize dredging.

Harry Schoonbaert

Subject: Revised 2011 DSEIR comments for your review
Date: Saturday, April 30, 2011 12:12:14 AM PT
From: Matt Smart
To: Mark Stopher

April 29, 2011

Matt Smart
4829 Timepiece Circle
Stockton, CA 95219

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

RE: Suction Dredge permitting program – my comments

Mr. Stopher -

I am writing to comment on the most recent DSEIR report issued by the California Department of Fish and Game.

Thank you for the opportunity to attend the last two meeting in Sacramento. It is important that the dredgers have the opportunity to provide review and input. If this DSEIR report goes thru as is the impact will be detrimental and long lasting. This must be simple and fair to both sides.

"Without hobbies there is only crime."

Think about it… If we restrict our hobbies as law abiding taxpaying Americans thru HEAVY rules and regulations that makes them illegal then has the public's best interest really been served??

Dredging is not easy as I am sure many have shared with you. It involves a whole lot of luck and hard work. *Many try and few succeed*.

My father taught me how to dredge growing up. It is one of the few things we have REALLY enjoyed spending time together doing. Learning how to dredge alongside him was a rite of passage.

This gets me to the specifics I disagree with regarding the DSEIR.

For any reasonable person the proposed DSEIR is overwhelming. Specifically it tries to cover all the bases but somehow makes matters more confusing and open to judgment. How can laws be enforced if a reasonable person or law officer cannot understand them? This leaves them open for interpretation by the law officer not the dredger.

I oppose the need to not allow miners reasonable access to their claims. Fishermen can walk to the river or creek but if I go to dredge I cannot walk on the same grasses?

I oppose the requirement to dredge 3 feet of the side of the river bank. Who determines the lateral water level and at what time during the day should this be determined? In many creeks this goes up and down during the day.

I oppose the new dates for each location. Many of these locations only have water in the winter.

I also oppose the 3 feet off the side of the riverbank rule because the rules out all creeks and rivers that are narrower than 6 feet overall.

I oppose the broad 8 classifications of creeks and rivers. One methodology CANNOT be applied across all watersheds to determine where one should and should not be allowed to dredge and where.

Places to dredge should be determined on a case by case. As the gentlemen said at the last meeting the animals know no artificial boundaries set by DFG.

I oppose the need to refill dredge holes. Fish very often swim in these long after the dredge is gone. Deeper water is cooler.

EVER seen how well the RIVER and creeks move MILLIONS of tons of rock each winter??? Holes are quickly forgotten by Mother Nature.

I could see not having dredgers remove rock from the main channel. But in the winter does the water not typically rise many feet??

The concept that PLUMES of material is scarring the fish is a myth. Fish as many have suggested hang out at the tail of the box. And when you leave the area they take up home there.

I oppose the need to register when and where I will be dredging. This is private. Fishermen do not have to register where they fish. Nor do they have to share where they plan to fish.

can only lead to claim jumping and pose a real personal safety risk to the dredger. Do I have the right to EDIT my 6 sites? or am I locked in? Also, will there be a cap on # dredgers

at each location or first come first served. What happens if they never dredge there? Is there a refund system?

I oppose the limit on the number of dredging permits issued. With the price of gold as high as it is you could sell out in 1 day.

I request the PRICE of dredging permits be under $50. Otherwise you may out price the market. Why should it cost more to dredge than fish?

Both are hobbies.

I oppose the new smaller intake screen size. What test was used to determine optimal size mesh?? What is the worry with larger mesh? 27% may burn out the motors and pumps.

I oppose the 4" or smaller nozzle requirement. I believe 1" is needed for every 1 foot of water being worked. 6 feet deep needs 6" nozzle.

I recommend this be 6" not 4" nozzle size.

I oppose the requirement affix my dredge number in large letters to the dredge DFG does NOT require fishermen or rafters to POST their license numbers on their boats and jackets. What is the need??? Should fisherman have to spray paint their numbers on their clothing too??

I oppose the ability to winch rocks safely out of the way. Who will be held accountable when a boulder several feet in size crushes and kills an innocent dredger?? DFG?

This hobby does not need to be more difficult and dangerous than it already is

I oppose the need to store fuels and oil 100 feet from the lateral water line. In many locations this is not possible. So I guess if you cannot store these things 100 feet away then that area is off limits to dredging too?? What does a predetermined containment system look like? Booms etc?

At the end of the day these rules must be reasonable and not overly restrictive. We just want to have a good time and enjoy the outdoors like everyone else. California was founded by the gold rush. Our history is rich in it. At the end of the day mother nature moves far more material than the few dredgers on the water. The force of the water is immense and the rocks make huge noise tumbling down the rivers each winter. As long as the fishing trawlers sit at the mouth of each river inlet at the ocean and net the returning Salmon there will always be fewer fish. In fact one can see them if you make the trip. They go back and forth catching the returning salmon even before they have a chance to make it back into the river to lay their eggs. I sure do not see them only catching the males and returning the females. With millions of fishing permits issued annually and commercial fishermen in full season this year is dredging really the problem or is it an easy out.

Thank you for your time and consideration of my points. Please call me should you have any questions.

Respectfully,

Matthew Smart

Subject: DSEIR Suction Dredge Permitting Program - Matt Smart comments

Date: Friday, April 29, 2011 7:43:38 PM PT

From: Matt Smart

To: dfgsuctiondredge@dfg.ca.gov, smartswimmer@hotmail.com

Priority: High

Mr. Stopher -

I am writing to contest the most recent DSEIR report issued by the California Department of Fish and Game.

Thank you for the opportunity to attend the last two meeting in Sacramento. It is important that the dredgers

have the opportunity to provide review and input. Because if this report is done wrong the impact will be detrimental and

lasting. The biggest take away I've heard so far is that " Without hobbies there is only crime." Think about it.. If we restrict

the general public ability to enjoy the outdoors or any venue for that matter and participate in otherwise legal activities has the public

good really been served??

Dredging is not easy as I am sure many have shared with you. It involves a whole lot of luck and hard work. Many try and few succeed.

My father taught me how to dredge growing up. It is one of the few things we have REALLY enjoyed spending time together doing. Learning how

to dredge alongside him was a right of passage.

This gets me to the specifics I disagree with regarding the DSEIR.

For any reasonable person the DSEIR is overwhelming. Specifically because it was written that way. How can laws be enforced if a reasonable person cannot

understand them. This leaves them open for interpretation by the law officer.

I oppose the need to not allow miners reasonable access to their claims. Fishermen can walk to the river or creek but if I go to dredge I cannot walk on the same grasses?

I oppose the requirement to dredge 3 feet of the side of the river bank. Who determines the water level. In many creeks this goes up and down during the day.

I also oppose the 3 feet off the side of the riverbank rule because the rules out all creeks and rivers that are narrower than 6 feet overall.

I oppose the broad 8 classifications of creeks and rivers. One methodology CANNOT be applied across all watersheds to determine where one should and should not be allowed to dredge and where.

Places to dredge should be determined on a case by case. As the gentlemen said at the last meeting the animals know no artificial boundries set by DFG.

I oppose the need to refill dredge holes. Fish very often swim in these long after the dredge is gone. Deeper water is cooler.

EVER seen how well the RIVER and creeks move MILLIONS of tons of rock each winter.??? Holes are quickly forgotten by mother nature.

I could see not having dredgers remove rock from the main channel. But in the winter does the water not typically rise many feet??

The concept that PLUMES of material is scarring the fish is a myth. Fish as many have suggested hang out at the tail of the box.

I oppose the need to register when and where I will be dredging. This is private. Fisherman do not have to register where they fish. Sharing where your gold and equipment is

can only lead to claim jumping and pose a real personal safety risk to the dredger. Do I have the right to EDIT my 6 sites? or am I locked in? Also, will there be a cap on # dredgers

at each location or first come first served. What happens if they never dredge there. Is there a refund system?

I oppose the limit on the number of dredging permits issued. With the price of gold as high as it is you could sell out in 1 day.

I request the PRICE of dredging permits be under $50. Otherwise you may out price the market. Why should it cost more to dredge than fish.

Both are hobbies.

I oppose the new smaller intake screen size. What test was used to determine optimal size mesh?? What is the worry with larger mesh? 27% may burn out the motors and pumps.

I oppose the 4" or smaller nozzle requirement. I believe 1" is needed for every 1 foot of water being worked. 6 feet deep needs 6" nozzle.

I recommend this be 6" not 4".

I oppose the requirement affix my dredge number in large letters to the dredge. DFG does NOT require fishermen or rafters to POST their license numbers on their boats and

jackets. What is the need??? Should fisherman have to spray paint their numbers on their clothing too??

I oppose the ability to winch rocks safely out of the way. Who will be help accountable when a boulder several feet in size crushes and kills an innocent dredger?? DFG?

This hobby dose not need to be more difficult and dangerous than it already is.

I oppose the need to store fuels and oil 100 feet from the lateral water line. In many locations this is not possible. So I guess if you cannot store these things 100 feet away then that

area is off limits to dredging too??

At the end of the day these rules must be reasonable and not overly restrictive. We just want to have a good time and enjoy the outdoors like everyone else. California was founded by the gold rush. Our history is rich in it. At the end of the day mother nature moves far more material than the few dredgers on the water. The force of the water is immense and the rocks make huge noise tumbling down the rivers each winter. As long as the fishing trawlers sit at the mouth of each river inlet at the ocean and net the returning Salmon there will always be fewer fish. In fact one can see them if you make the trip. They go back and forth catching the returning salmon even before they have a chance to make it back into the river to lay their eggs. I sure do not see them only catching the males and returning the females. With millions of fishing permits issued annually

and commercial fishermen in full season this year is dredging really the problem or is it an easy out.

Thank you for your time and consideration of my points. Please call me should you have any questions.

Matt Smart
4829 Timepiece Circle
Stockton, CA 95219

209 888 5729

Subject: Susction Dredge Program - SIER Comments
Date: Friday, April 29, 2011 3:55:36 PM PT
From: Gayl Staffler
To: dfgsuctiondredge@dfg.ca.gov

Gayl M Staffler
2096 E Riviera Drive
Chandler, Arizona 85249

Mr. Mark Stopher
CDF&G
601 Locust Street
Redding, California 96001

RE: Suction dredge program – SEIR Comments

Dear Mr. Stopher;

I know that you are in receipt of well penned arguments against the current proposed suction dredge regulations for small mining operations in California; logical arguments of substance, based on scientific information, cumulative historical review , comparison and analysis. I'm not writing to re-hash the facts, because frankly, the SEIR has me convinced that those responsible care very little about credible arguments.

I have searched repeatedly within the SEIR for information that would support the need for this massive proposed regulation. The entire SEIR is prefaced by words like "may" or "has the potential to" or "is implied". In addition, there is continued reference to circumstance not within regulatory control, such as flooding, which is many times more devastating than suction dredge mining in California's rivers. The DFG has had years to compile data after issuing the original 1994 report; years to expand the samples, years to analyze, to record measurable changes to the environment caused by the suction dredge, years to determine community or environmental impact, and yet the SEIR is based on unqualified speculation, supposition and the admission that weather, flooding and river flow pose a greater environmental threat, while threats from the dredge are generally minimal. The SEIR presupposes that suction dredge miners lack the intelligence or compassion to do what is best for the environment, and it assumes "nanny-state" regulation is the answer. It is a one-size fits all solution to issues that vary from one location to another. I am appalled at concessions carefully crafted such as designating the middle fork of the Yuba river a section E (open to dredging from September 1, to January 1) which in effect causes the area to become a section A (no dredging allowed). How self serving?

What the SEIR doesn't address is the negative financial impact to rural areas that can no longer count on a relied upon customer base – the suction dredge miners. I question the adverse effect on property values in remote areas, on the ability to collect tax revenues and permit fees that support schools and infrastructure in places like Sierra Country with its 3,000 plus inhabitants. The SEIR advocates a look don't touch approach to the outdoors; it defies a

participatory relationship with the environment that is a miner's life and it disenfranchises one class of people on the whim of another for no substantial reason. That is precisely my argument; there is NO methodology behind the SEIR, there is no credibility in the agrument and the proposed regulations are not consistent with the lack of scientific evidence.

As a 6th generation Californian, my preference in all of this would be to reinstate the 1994 regulations, and encourage the DFG to engage in a planned meaningful collection of data and analysis where the solutions are consistent with the facts; track the statistical impact of the suction dredge by area, establish and verify the data and then discuss remediation, reasonable controls that protect the rights of the miners as well as the rivers and adjacent land.

As a side note, one of the reasons I chose to leave California was because I was tired of the changes that have overwhelmed my beautiful State at the hands of those who lack the true pioneer spirit of legitimate Californian's. My husband agreed to move to Arizona with the understanding that he would be able to dredge in the summers on the middle fork of the Yuba where he has been going for the past 20 years. He is the most environmentally savy person I know; he is well read, well educated and he would never compromise the river. He is a true outdoors man. The fact is that a group of environmentalist hitched their star to a legal action over salmon fishing on the Klamath that reveberated throughout the State, an uninformed, biased Alameda judge legislated from the bench and the governor signed off on interim legislation that extended the dredge suspension so that DFG could complete a report, previously mandated in 2006. I am amazed that with all the time and effort invested to paint the suction dredge as an enemy of California's rivers that the argument is so thin. Certainly there is nothing to compell you to pay attention to the the miners or dismiss the proposed regulations, but I pray you do. I would so love to see the DFG get it right.

Regards,

Gayl M. Staffler

Subject: Suction Dredge DSEIR comments
Date: Friday, April 29, 2011 9:36:56 PM PT
From: audredger2
To: mstopher@dfg.ca.gov
CC: craig.lindsay@comcast.net, 'Don Robinson'

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

Dear Mr. Stopher:

Regarding the DSEIR for dredging, I strongly disagree with the following proposed restrictions:

1. The 4" dredge nozzle restriction is unnecessarily too small as larger size nozzles do not harm fish or the environment.
   a. This should be broadened to include 6 & 8 inch nozzle size without any additional meetings with DFG.
2. Not being allowed to dredge within 3 feet of the water's edge would make it impossible to dredge in many small river systems and streams because they are less than 6 feet in diameter. The old rule (no dredging in the bank) should be kept as it is under the 1994 regulations.
3. The proposed amendments to the seasonal classification for the East Branch of the Feather River in Plumas County are improperly classified as Class E.
   a. The classification of the East Branch of the Feather River should be changed from Class E to Class D.

The DSEIR concludes that suction dredging is not deleterious to fish. So how can the DFG in good faith propose these draconian restrictions and closures if dredgers are not harming fish? If the DSEIR was an indictment against dredging, it would be thrown out of any court due to lack of evidence and credible facts- (unless it was filed in Alameda county-home to the far left-wing extremist "judges"). DFG is proposing shutting down miles and miles of rivers and streams as if dredging activities were killing fish and amphibians by the millions and despoiling the environment. The DSEIR does not present specific, unbiased scientific facts to even ***remotely*** justify the gratuitously severe restrictions and river closures. And why is there no mention of

Fishermen and their murderous activities in regards to killing fish? I would venture to guess that one fisherman kills more fish and fish eggs than any 500 dredgers! Dredging has always been classified as a de-minimus activity-meaning there is virtually no negative effects on the environment. **Nothing** in this document contradicts this well-established fact.

Additionally, the factually baseless assumptions and contradictions that infest this document do not pass the smell test. Not to mention the fact that this whole process was initiated by the far left-wingers in the contemptible California "legislature" with the cover story of protecting Salmon fish. The equation goes something like this: Extreme left- wing environmental organizations fund (buy) the Democrats and then receive in return from the corrupt Democrats restrictions on any capitalist activity the environmental Fascists do not like-such as dredging/logging/fishing/OHV usage, etc. SB670 (Wiggins) is the glittering jewel of corruption and idiocy that passes for governance in this state.

The Proposed program as well as the Water Quality and Intensity alternatives are, to be generous, based on flimsy assumptions, speculation, guesswork and a lack of any credible evidence, fact or extrapolation of fact. I have been dredging for over 14 years and due to the massive annual turbidity of the winter storms, I cannot visually see where I ended the last year's operations. The larger dredge nozzle size moves more material but it is <u>insignificant</u> to the chocolate milk color that is the river condition after a few days of hard rain or snow melt. Even a child could observe an 8" dredge in operation and conclude that the dredging activity is at best <u>insignificant</u> in comparison. So how does this obvious example elude the DSEIR? Also, the rule that no one can dredge within 3 lateral feet of the water's edge (Executive summary, page 7) is ridiculous and further eliminates areas to dredge in creeks, streams or rivers that are not very wide. As such I urge this 3 foot rule to be stricken and the old rule (no dredging into the bank) be kept. In regards to the seasonal restrictions, (Proposed amendments, pages 17-70), I find them to be EXTREMELY restrictive and totally unnecessary since the Yellow Legged Frog is **unknown** in the East Branch of the Feather River. The DSEIR does not provide any hard data to merit these extreme changes as proposed.

Also, I find it to be beyond the absurd that the folks that compiled and presented the DSEIR are unable to muster a single positive effect of dredging-such as the removal of lead, iron and most importantly **mercury**. Given the high specific gravity of mercury, any dredged material with mercury is caught in the sluice box and it is prevented from moving downstream. This

mercury removal is done at no charge to the State of California. And the assumption that dredgers are sending mercury out of their sluice boxes for the fish to eat is intellectually dishonest at best. There simply is no evidence of this mercury discharge at all. Also, dredging loosens the gravels, creates pools where fish can hide when the summer heat erupts and oxygenates the river water.

I wonder if Horizon, the peddler of this report, is financially bankrolled or otherwise supported by the hyper-extremist, anti-mining Sierra Club? To quote Patrick Moore, one of the founding members of Greenpeace: “To a considerable extent, the environmental movement was hijacked by political and social activists who learned to use green language to cloak agendas that had more to do with anti-capitalism (Marxism) than with science or ecology.” It seems abundantly clear that Horizon, the author of the DSEIR, is sympathetic with the diabolical Center for Biological Diversity and their fellow-travelers at the Friends of the River. Horizon cherry-picked only the information that *may* show that dredging is harmful and completely ignored all the positive benefits of dredging. Horizon presents a highly unbalanced and extremely negative view of dredging that does not square with reality.

On the topic of the Foothill Yellow Legged Frog (*Rana Boylii),* the proposed restrictions for the East Branch of the Feather River in Plumas county are improper and in dire need of revision for a number of reasons:

1. The main predators for *Rana Boylii*, according to Fellers: “A host of invertebrates and perhaps some aquatic invertebrates feed on the foothill yellow-legged frogs. Most species of garter snakes (Thamnophis sp.) which co-exist with foothill yellow-legged frogs, prey upon both tadpoles and juvenile frogs. This includes common garter snakes (T. sirtalis), terrestrial garter snakes (T. elegans), and Sierra garter snakes (T. couchii).” Based on my 14 years dredging this river and thousands of hours spent in this river area (T25N, R9E, Sec. 17, 8, 9), I can report that garter snakes are abundant near the East Branch of the Feather river and in the river itself. The snakes have been known to climb upon my pontoons and sun themselves, which is always a fascination for me.
2. According to Fellers, “Foothill Yellow-legged frogs are susceptible to a wide range of environmental impacts including loss of habitat, pesticides, competition/predation from nonnative species(e.g. warm-water fish, bullfrogs, crayfish), disease water

impoundments, logging, mining and grazing in riparian zones. In the Sierra Nevada foothills of California, air-borne pesticides (that move east on the prevailing winds blowing across the highly agriculturalized Central Valley) are likely to be the primary threat to foothill yellow-legged frogs (LeNoir et all, 1999; Sparling et all, 2001; Hayes et all, 2002b). The populations of foothill yellow-legged frogs in greatest decline are downwind of highly impacted (mostly agriculturalized) areas, while the largest, most robust frog populations are along the Pacific coast." I can categorically state from my 14 years of experience that in the East Branch of the Feather River, crayfish are abundant, large and well-fed. Fellers states that crayfish are predators for this frog—so even if this frog were in this area, (and it is not!) the large crayfish populations and the garter snakes would decimate the Foothill Yellow-Legged frog's eggs long before any dredging activity would occur. Can DFG kill off the crayfish and garter snakes to spare the frog eggs? This would be a more logical, efficient and effective solution than the extreme dredging restrictions DFG is proposing.

3. There are no sightings by Fellers or the DSEIR folks of Foothill yellow-legged frogs in the East Branch of the Feather River. This confirms my 14 years and thousands of hours in this watershed. Again, according to Fellers: "The largest populations in California are in the northern coast range where the estimated number of adult frogs exceeds 100 at six sites, and an additional nine populations have greater than 50 adult frogs. The Pacific Northwest is clearly the stronghold for foothill yellow-legged frogs in California, with healthy populations scattered throughout the region." Given the total lack of **verifiable and definitive** information on the Foothill Yellow-Legged frog's mortality regarding dredging activities, at best DFG should suggest that if any eggs are encountered during dredging activities, then the dredger should carefully move away from the eggs and dredge in another area.

4. From the DSEIR chapter 4.3-31-"To provide additional protection for this species, streams within the known range of foothill yellow-legged frog, which encompasses a significant portion of the state, are designated Class D. The Class D restriction would protect egg masses from entrainment; while tadpoles may still be present at the times that streams are open to suction dredging, sufficient refugia are believed to exist such that significant impacts would not result". Given this statement from the DSEIR, the East Branch of the Feather River in Plumas county needs to be

changed from the improper classification of Class E to Class D. Even better, this area should revert to the 1994 regulations-4th Saturday in May until October 15th.

5. From the Webster's dictionary: " Habitat- the place where a person or thing is found". The DSEIR improperly **assumes** that the Foothill Yellow-Legged frog's habitat is in the East Branch of the Feather River. The map provided in the DSEIR shows that after exhaustive checking, no frogs were found in this entire river system. The lack of **any** frogs suggests that the proposed seasonal restrictions in The East Branch of the Feather River are *not driven by facts or genuine evidence--perhaps the environmental extremists are unduly pressuring DFG on this matter?*

To summarize, the Foothill Yellow-Legged Frog has not been physically found in the East Branch of the Feather River in Plumas County, California. Given this fact and the above-cited facts by the DSEIR and Gary M. Fellers, the seasonal restrictions should be changed from Class E to Class D. Also, since dredgers are considered a "likely"? and not a definitive problem for this frog, more in-depth study needs to occur before the DFG gratuitously imposes extreme measures on the dredging community on the East Branch of the Feather River. An ideal study would include a representative from the mining (dredging) community to tag along with the researchers. This would help to alleviate the skepticism the dredging community has towards this issue in particular and towards the environmentalists in general. Also, since there are clearly natural predators killing this frog along with human activities that are not mining-related, DFG in good conscience cannot punish or blame dredgers for the lack of this frog. But more importantly, until DFG can prove that **any** dredging activity has killed or entrained the eggs or tadpoles, then restrictions on dredging are not only unfair, but scientifically unproven and a crime against common sense. From the few exhaustive studies on this frog, there is not a single example of dredgers killing this frog's eggs. Also, not a single piece of evidence is presented that even a single adult frog has been killed by any dredging activity. Until and unless DFG can **definitively** prove dredging causes the death of this frog's eggs or the death of adult Foothill Yellow-Legged frogs (*Rana Boylii*), restrictions on dredging can only be described as arbitrary, baseless, unnecessary, hopelessly impotent and factually bankrupt.

(Fellers study is at:www.amphibiaweb.org/search/index.html). Type in

the Latin name.

I have no doubt that the DFG is full of fair-minded, reasonable people who can **fairly** decide the issues that I have highlighted. I hope and pray that DFG will take a **conservative**, first-do-no-harm approach (to the dredging community) with the new proposed rules. A conservative approach demands that hard data, well-documented facts and a fair-minded, transparent and **legitimately** scientific process be conducted before radical changes are implemented in a program that since the 1960's has worked for the environment and dredgers. The information presented in the DSEIR does not fit these minimum qualifications. Guesswork, assumption and fanciful speculation regarding the Yellow-Legged Frog's "habitat and distribution area" are woefully inadequate reasons to severely change seasonal restrictions from the 1994 seasonal regulations. Clearly, dredging has been an economic plus for the small mountain communities that rely on people like gold dredgers to spend money in their communities. Dredging also helps supplement my income and is important in my retirement planning. The ban (the passage of SB670) has been an *unnecessary* financial and emotional ordeal for me personally and for all the other miners who dredge in this state.

Sincerely,

Richard Wetzel

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 though 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 regualtions 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,

[signature] 2022 CRESTWOOD LN KELSO, WA 98626 — 4-29-2011

Name and Address — Date

THE RULES SHOULD BE COMMEN SENCE AND REAL SICENSE NOT GUESS WORK OR PRESSURE FROM OUTSIDE NATION'S

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 though 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 regualtions 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.

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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, Richard Haynes

Richard Haynes 7916 Cold Creek Ct, Bakersfield, CA 93313 — 4-30-11

Name and Address — Date

I Retired Early in Life Just so I could dredge on my claim
Reinstate the 1994 Regulations.

David and Linda Brown
P.O. Box 3218, Truckee, CA 96160 (530) 562-1720 ▪ FAX (530) 562-1643 ▪ email: brown72@sbcglobal.net

May 1, 2011

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

Re: Suction Dredge Program draft SEIR comments

Dear Mr. Stopher,

Please consider this letter our comments on the draft Subsequent Environmental Impact Report (SEIF) prepared for the draft amended regulations that have been circulated by the California Department of Fish and Game (CDFG) and found on the following website: http://www.dfg.ca.gov/suctiondredge/. We understand that dredging of the North Fork of the American River could be allowed from Lake Clementine upstream to Big Valley Canyon from September 1 to 30 (class G) and other portions of this river would permit year-round suction dredging (class H).

1. For many years, I (David) have hiked the Palisades Creek Trail (which enters the North Fork) just below Heath Springs to fish and hike the North Fork of the American River. The proposal by CDFG to permit year-round suction dredging of the river below the Palisade Creek Trail seems to be completely inconsistent with long-established state and federal laws. The regulations do not address the destructive impacts of the proposed dredging and supervision of such dredging would be impossible to enforce in such a remote area.

We very much oppose the new regulations in part for the reasons listed below.

1. In 1977 a management plan was adopted by California that is not consistent with suction dredging, since the North Fork was designated one of the state's "Wild and Scenic" rivers. (Section 5093.50 of the Legislative Declaration states that the rivers within the system must be preserved for the "scenic, recreation, fishery or wildlife values.")
2. We believe that CDFG also identified the North Fork as a wild trout stream.
3. The North Fork has also been designated a part of the Federal Wild and Scenic River System. Suction dredging is not consistent with this designation.

We have just been through several years of severe drought but seem to have recovered due to our recent winter. Allowing suction dredging will interfere with the flow of this abundance of water and, in particular, the pristine water quality and clarity of the North Fork. We thought we learned some important lessons from the mining and methods used during the 1860's-1880's. That damage created still exists today in the Delta as well as the San Francisco Bay.

We believe that mechanized or motorized equipment are not permitted under the Federal Wild and Scenic Rivers Act (1968) (Public Law 90-542; 16 U.S.C. 1273-12187 et seq.)

Unfortunately miners bring lots of equipment and supplies to accomplish dredging but even with proper enforcement (which due to budget restraints will be lacking) leave trash (batteries, fuel containers, human waste) which will leach into the river.

We urge you to continue to protect the North Fork of the American River and not allow suction dredging.

Sincerely,

David Brown
Linda Brown

W. David and Linda Brown
Truckee residents

cc: Mr. Tom Quinn, Supervisor, Tahoe National Forest

May 1, 2011

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

Dear Mr. Stopher,

In response to the California Department of Fish & Game Suction Dredge Permitting Program and the Draft Subsequent Environmental Impact Report (DSEIR) released in February 2011, please address the following concerns and comments before implementing any new regulations or the proposed new program on suction dredge mining.

According to California Department of Fish & Game's DSEIR, Plumas and Sierra counties had the largest number of permit holders for suction dredging in the state with 112 and 115, respectively, in 2008. Despite this fact, no public meetings on the proposed regulations or program were held anywhere near either of these counties. Before any proposed program or change in regulations are made or implemented, it is incumbent on the California Department of Fish & Game to hold hearings where those most affected by their actions can have an audience with them. It is inconceivable that the California Department of Fish & Game can make any intelligent or informed decisions without first considering the concerns of those affected, particularly the residents of Plumas and Sierra counties.

The blanket approach taken to address suction dredge mining in California is a one-size-fits-all approach and does not take into consideration any unique or specific conditions relative to the Upper Feather River or any of the other Sierran river systems. The moratorium imposed in July 2009 because of issues related to the Karuk Tribe and the Coho salmon fisheries of the Klamath, Salmon and Scott rivers does not in fact, or in theory, relate in any way to the Upper Feather River watershed (which includes the Yuba and Bear rivers and their branches). Neither does the yellow-legged frog. The DSEIR focuses on "potential impacts" without providing specific scientific evidence on how suction dredge mining practices have damaged fisheries in these rivers, or for that matter, any other Sierran rivers.

The DSEIR does not even come close to adequately addressing the economic impacts to Plumas and Sierra counties. In 2008, the year prior to the imposition of the moratorium on suction dredging, Plumas County took in $23,300 in recording fees alone according to the Plumas County Clerk-Recorder. In 2010, a mere $11,800, or half the normal amount was collected (a decrease of $11,500). From a property tax point of view, the loss in unsecured property tax revenue to Plumas County is very significant. In 2010, tax revenue paid into the County on mining claims was down to $16,000 from $44,000 in 2009 (a $28,000 decrease) and the revenue on improvements for 2010 was down to $732. (ref: Plumas County Assessor and Plumas County Tax Collector.) The total loss in mining related revenue to Plumas County's General Fund for this short time frame amounts to over $40,000. Beyond this, the moratorium has caused a significant devaluation in the real value of mining claims, including the improvements and investments made by their owners. Almost all mining claims in Plumas and Sierra counties, and throughout California, hold at least half of their real value in their suction dredging potential. This moratorium almost certainly constitutes a "takings" based on this.

Another impact is that of the loss of tourism dollars that normally come into these counties as a result of mining activities. This is another facet that has not been sufficiently addressed by the DSEIR. With the economy of California and the nation in a shambles, it is unconscionable that the California Department of Fish & Game should be doing everything they

can to further cripple the ability of its citizens to make a living. Besides the support businesses that benefit from gold miner's custom, many individuals rely on it for making their living.

The "mercury issue" is only a smoke screen to further California Department of Fish & Game's agenda and that of several extremist groups. California Department of Fish & Game's own research from 2008 disputes its own allegations of mercury "re-suspension." Mercury is a valuable metal, and any suction dredger that knows what he/she is doing will recover it when it is encountered. In my experience suction dredging, I rarely found mercury and when I did it was in the form of solid amalgam. California Department of Fish & Game should work with miners to encourage them in the removal of any found mercury or amalgam, not restrict them.

The request to refund the dredge permit fees to permit holders collected in 2009 prior to the moratorium is a no-brainer. How can the California Department of Fish & Game collect supposed fee-based permit monies and then suspend the activity paid for, and not refund the money? Several court cases appear to have shown that this is not a legal practice.

I cannot believe that anyone actually even proposed October through January as "dredging season." In the Sierra and Klamath mountains this is winter.

According to the DSEIR, no actual physical research or on-the-ground analysis actually took place when coming to the proposed regulations and program. The Public Advisory Committee that was supposedly to be included had knowledgeable people with valuable hands-on experience, but they were not utilized.

A new baseline subjectively adopted in the DSEIR assumes "no suction dredge mining in California," which in fact ignores the obvious baseline established from at least 45 years of suction dredge mining that did occur all through California, up to 2009. It is incumbent on California Department of Fish & Game to include this information and establish a true baseline or the DSEIR, and any subsequent documents based on this flawed DSEIR, should be considered without merit. For instance, the DSEIR states that "more severe environmental impacts that <u>may</u> be occurring not previously addressed in the 1994 EIR", (my underline) leaves no doubt this statement is not properly supported with actual evidence and should not be considered.

The proposed regulations and program will impose a substantial burden on gold miners, Californians generally, and to the existing regulations that were previously adopted in 1994. The proposed program and regulations should be scrapped and a defensible EIR be conducted utilizing input from all affected parties. It is my belief and that of many others that California Department of Fish & Game has not produced a legally defensible EIR, nor acted in good faith in the formulation of these ill-conceived proposed changes.

Sincerely,

Scott J. Lawson
500 Jackson Street
Quincy, CA 95971

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

1 May 2011

Dear Mr. Stopher;

Likely you have received a large response from the dredging community to the proposed dredging regulations. There are a number of us concerned with the scientific evidence and the basis upon which the draft regulations are proposed. We have spent countless hours of our own time researching each issue and largely we can't see how the draft regulations were derived from the scientific evidence presented.

I can sympathize with the volume of comments and the position you are in. You are required by law to accomplish this task – and in general the DSEIR is well covered, and in the case of Biological Resources is exhaustively covered. I hope to make some constructive comments to help you shape the final regulations such that we can all work within a regulatory framework that prevents ongoing lawsuits and responds to core issues to satisfy legislative intent.

The Draft Subsequent Environmental Impact Report and the 1994 Environmental Impact Report reach the same conclusions: Dredging has no deleterious impacts on fish, and has less than significant impact on the environment. The resulting regulations based on the DSEIR could use modification to accommodate the variety of dredging areas throughout the State while still achieving your intent.

I believe the CEQA process provides a good definition of **substantial** evidence:

CEQA Pg 226
15384. SUBSTANTIAL EVIDENCE
(a) "Substantial evidence" as used in these guidelines means enough relevant information and reasonable inferences from this information that a fair argument can be made to support a conclusion, even though other conclusions might also be reached. Whether a fair argument can be made that the project may have a significant effect on the environment is to be determined by examining the whole record before the lead agency. Argument, speculation, unsubstantiated opinion or narrative, evidence which is clearly erroneous or inaccurate, or evidence of social or economic impacts which do not contribute to or are not caused by physical impacts on the environment does not constitute substantial evidence.
(b) Substantial evidence shall include facts, reasonable assumptions predicated upon facts, and expert opinion supported by facts.

I would like to concisely review each proposed regulation I disagree with, the basis upon which the proposed regulation is proposed and the underlying studies that support the issue. As the DSEIR is over 1,000 pages long an appropriate, fact based response necessitates a more thorough response.

Proposed Rules:

S.228 (g) – Maximum Permits Issued Limited to 4,000

The DSEIR provides no basis for this restriction. The only conclusion you can reach for this limit is it is designed to limit turbidity, TSS, and the introduction of mercury into the rivers. However, CDFG has no authority to regulate any of the three as pointed out by CDFG so the basis for limiting the number of permits MUST be based on an authority CDFG has, however, nowhere in the DSEIR is the rationale for limiting the number of permits. All studies referenced in the DSEIR prove that turbidity, TSS and mercury have less than significant impacts. The proposed program claims that "mitigation" limits the impact of this but the 1994 regulations provided the same mitigation.

The DSEIR provides ample scientific evidence for the impacts of turbidity and reaches a conclusion that dredging – even dredging not restricted by permitted numbers – has no impact on fish. This is stated repeatedly in the DSEIR which leads to the question – if turbidity from a dredge is (1) very localized (2) has no impact on fish populations – what basis is CDFG using to limit the number of permits and the nozzle size of a dredge?

References

(1) Page 4.2-19, DSEIR – "**All** scientific studies to date suggest that the effects of suction dredging on turbidity and suspended sediment concentrations as it relates to water clarity are limited to the area immediately downstream of the dredging for the duration of active dredging." Emphasis added. As stated there is not a single scientific study that refutes this – please note these studies were conducted under the existing program.

(2) Page 4.2-21, DSEIR – "...there is very little new dredging-specific data available since the preparation of the 1994 EIR, and **no substantial changes** in the scientific understanding of the effects of increased turbidity/TSS from suction dredging operations with respect to water clarity." Emphasis added. Please reference comment (1) above. If there are no changes since the 1994 study and all scientific evidence shows turbidity effects are localized and not cumulative – again why the need for changes to the existing program?

(3) Page 4.2-28, line 38 – "Sediment re-suspension from suction dredging activity can increase water turbidity and TSS levels immediately downstream of the dredging site (i.e. near-field effects) and increase the transport of fine colloidal material extended distances downstream (i.e. far-field effects)..." This statement is not referenced and is in direct contradiction to (1) above ...All Scientific Studies. This

statement is not made on any existing scientific study and appears to be conjecture. It should be removed from the DSEIR.

(4) Page 4.2-28, DSEIR. ..."the available scientific studies of suction dredging **suggest**..." The wording should be "prove", not "suggest." "...that the effects on turbidity and suspended sediment concentrations on aspects of water clarity and physical effects to aquatic organisms are limited to the area immediately downstream of the dredging for the duration of the active dredging." The follow on statement is consistent with (1) above, but in disregard to the CEQA requirement quoted on the first page for "significant effects...based on fact" the DSEIR goes on to state "However, it also should be noted that the finer suspended sediment transported long distances downstream **may provide** a disproportionally higher amount of surface area and binding sites for other water quality contaminants (e.g. mercury, organic compounds) that also are important to beneficial uses." This statement is not based on fact and is contradiction to (1) above. This is conjecture and should be removed from the DSEIR.

(5) Page 4.2-28, DSEIR – "Also, observations of large dredges and many dredges in a water course **suggest** that turbidity increases can be large." Emphasis added. Again, this is based on observation and conjecture. This statement is not based on fact. As shown in (1) above the effects of this turbidity are highly localized and are at background levels within 160m of the dredge. There is no cumulative effect and it is erroneous to suggest that multiple dredges somehow create a cumulative effect.

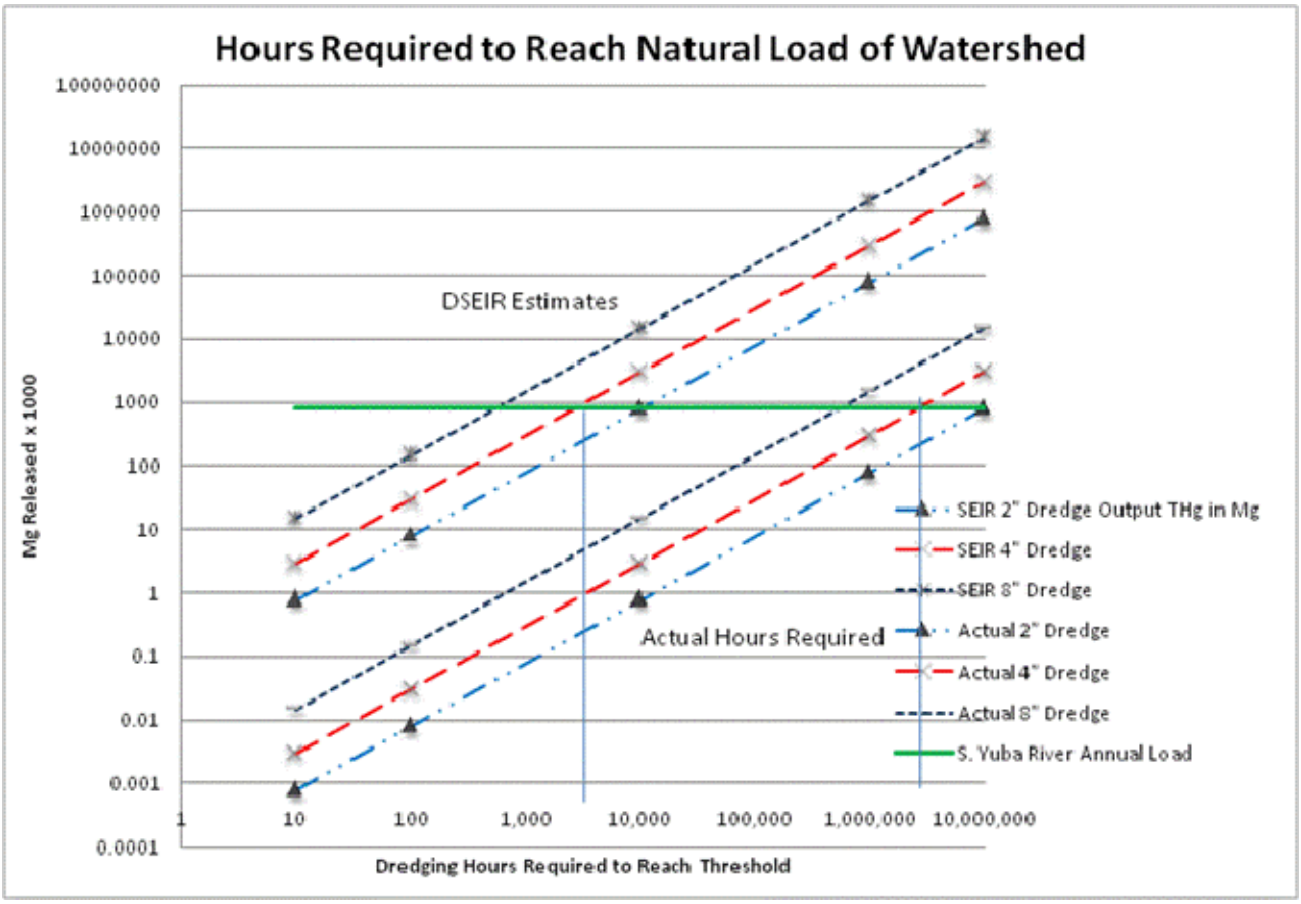
(6) Page 4.2-30, DSEIR – "...with both analyses supporting the conclusion herein that turbidty/TSS plumes would not substantially adversely affect aesthetic and recreational resources." Again, in agreement with (1) above, no impact on water quality from single or multiple dredges that extends beyond the immediate area.

(7) Page 4.2-31, DSEIR – "Numerous scientific studies conducted over the past 50-60 years indicate there is no sharply defined concentration of turbidity or TSS above which aquatic communities are harmed." The remainder of this discussion in the DSEIR proves that under the current 1994 program there can be no level from a single or multiple dredges that would provide enough turbidity/TSS to harm fish – yet the proposed program restricts nozzle size and number of dredge permits based on not a single piece of scientific evidence or study.

(8) Page 4.2-32, DSEIR – "The turbidity plumes created by suction dredging likely may exceed the applicable Basin Plan objectives..." Again, conjecture. The opposite is likely true as the Basin Plans allow for averaging and dispersion distances of which neither would be exceeded by a dredge.

S228(j) Nozzle Restriction Limited to 4"

There appears to be no basis for this restriction. As shown above the turbidity and TSS issues are proven under the current 1994 program to have no harmful effects on fish. Is this restriction based on fact? An analysis of the number of dredgers required to reach the natural load of the S. Yuba River using the data provided by Fleck [Fleck, 2010] is provided in a separate paper on the Analysis of Mercury, here I provide the results from that analysis using the same data, but taking into account it is impossible under any realistic scenario for dredging to approach the natural load of the river, the below graph shows the striking difference between the DSEIR report and the actual data when applied to the real output from a dredge as measured by Humphreys and Fleck [Humphreys 2005, Fleck 2010].



The DSEIR claims that only 1,100 dredging hours, or as their graph shows – one dredger, could theoretically produce the entire natural load of Hg for the S. Yuba River based on dredging Pit #2 in the Fleck study. This is a clear misrepresentation of the data. Based on the same data it would require over 2.8 million hours dredging the Fleck Pit to create the natural load of Hg, this equates to 14,800 permitted dredgers operating at the confluence of Humbug Creek and the S. Yuba River. It's impossible.

S228(j)(5) Affixing Permit Number to the Dredge

It is not clear what purpose this serves as the regulation states the operator must have a permit – not the dredge. The dredge is independent from the operator so if a dredge is being operated by multiple people does this mean all permit numbers go on the dredge? What useful purpose would this serve? The purpose of providing registration numbers on boats and cars is valid in that each of these is registered, titled and tagged. A dredge is not, a dredge is simply a piece of machinery being operated by a permitted operator.

S228(k)(3) No Person May Dredge within 3' of the lateral edge of the existing water level

The purpose of this rule as state in the DSEIR is to close all streams less than 6' in width. This is based on no scientific evidence or studies that show harmful effects to smaller streams and disregards the diversity of stream types in the State.

The DSEIR provides two examples of an aesthetic issue (not harmful issue) resulting from a person dredging a small stream –

The DSEIR states [Ch. 4.1, page 4.1-15] *"whereas dredging activities on smaller tributaries had a disproportionally larger and more significant area of disturbance. For example, dredging activities conducted by a single dredge on a smaller tributary of Butte Creek resulted in flow diversions that transformed riffles into exposed gravel bars within 10 days of operation. These substrate changes were not observed in Butte Creek the following year."*

The second example (observation) provided was a comment letter from the USFS;

"The U.S. Forest Service provided a comment letter (2009b) that described observations from Dutch Creek, a small creek in Trinity County, where multiple dredge operations resulted in several negative effects to the stream channel. Abundant mining on this small creek (average width of 8 feet, and a 2 cubic feet/second summer baseflow discharge rate) destabilized the channel resulting in the downstream transport of gravels. The creek became entrenched within and below the areas of mining activities." [DSEIR, page 4.1-24].

While the activities on the creek may have been aesthetically displeasing, was there environmental impact that harmed a fish, or species of fish for more than one reproductive cycle? Wouldn't we have to follow the criteria we have established to close this type of river to dredging? Shouldn't there be documented significant environmental impact, or is the mere observation sufficient under CEQA?

The imposition of this rule will close a large percentage of claims to dredging and render them worthless without proving there is any greater impact on a small stream than a large stream. While the DSEIR goes to great lengths to try to provide some association between mercury loading and dredging it

provides a single instance of a dredge hole in a small creek and the "observations" of a few people while ignoring the studies and evidence that small creeks recover at exactly the same rate as large streams.

Secondly, this rule disregards gradient, flow and velocity of the creek. A small stream in the central valley would have significantly different characteristics than streams in higher elevations. Streams at higher elevations have much steeper gradients and can only be dredged early in the season when runoff is still present. Figure 1 provides a typical example of a higher elevation gold bearing stream and what I consider to be an average water flow and gradient for this area – yet this stream is treated the same as a slow moving heavily vegetated stream elsewhere in the State.

Figure 1. Small Stream with Existing Claim

Figure 1 provides two views of a small stream, elevation about 5,000' where I dredge with a 2.5" dredge. As this stream is proposed to be closed due to the Mountain Yellow Legged Frog AND because in parts it's less than 6' it is a good example of the impact of this proposed rule. As shown it is highly unsuitable frog habitat and it is impossible to affect this stream with any sized dredge. As shown the stream edges are solid bedrock, even if I crawled out of the water and dredged my way to the nearest ridgeline I could have no impact. The imposition of this rule unduly closes hundreds of miles of watershed based on a "Statewide" program. Each stream is different. As shown in the DSEIR there has been no negative impact from dredging and no difference between dredging small or large streams. There is no consideration that a large dredge simply could not work this stream it requires the use of a small nozzle size by my choosing – not by regulation.

The premise that prohibiting dredging within 3' of the bank will mitigate erosion is based on assumption that suction dredgers are currently doing this and it is causing harm. As stated in the DSEIR only 7% of sites were observed to be undercutting banks. A 93% compliance rate with the existing regulation is pretty good when you consider most dredgers are in some very remote areas and yet they are still complying with the regulation.

"Of the 200 suction dredging operations surveyed throughout the Mother Lode region of the Sierra Nevada by McCleneghan and Johnson (1983), 14 (7%) were documented to be undercutting banks." [DSEIR, page 4.1-21].

But what if the bank is solid rock? In figure 2 I provide a picture of a claim that I currently work – what value is the rule when applied to this creek?

Figure 2. Another View of an Existing Claim

The DSEIR uses conjecture when speaking to the impact of suction dredges on small streams. On page 4.1-24 they state,

"In many cases dredgers are working in sections of stream with shallow bed rock, which would limit the potential for large-scale modification of the channel profile. However, knickpoints formed by destabilization actions may migrate upstream until they encounter erosional resistant material, or until the channel profile adjusts to a new equilibrium gradient. If the mainstem of the river becomes incised, tributary streams would then also likely incise as they adjustment to meet the lowered receiving stream. Hence, destabilization of the channel profile that occurs at the on-site or localized scale can manifest beyond the immediate reach and extend to the broader sub-watershed and watershed scales."

The above statement is pure conjecture and not backed up by a single scientific study where impacts were documented. In an Environmental Impact Report CEQA requires that it be based on fact – not personal conjecture. If we're going to use the term "knickpoint" we should define precisely what it is,

how it occurs and what specific scientific studies found that a suction dredge could create one of these that somehow "migrated" upstream. How would we differentiate between this "knickpoint" and a "boulder mark." This paragraph needs to be removed from the DSEIR as completely unsubstantiated by fact.

Higher gradient streams have less material on the bedrock, this is why they are targeted for dredging. Figure 3 provides another example of the limited amount of material present in a high gradient stream. An argument can be made that the impact on a stream like this is negligible and certainly not a significant impact. It is impossible to divert the flow of these creeks as they are so channelized by the steep sides that the flow has nowhere to go – short of using dynamite.

Figure 3. View of Shallow Bedrock

Figure 3 provides a view looking down at the bedrock bottom. The view shows the almost lack of gravel within the stream and the gravel that is present is relatively loose and very shallow. These are short pools within the creek where the gradient flattens out between drops. The creek may drop some transient gravel during flooding, but this gravel typically is moved on the next flood. I could do no harm to this creek with any size dredge, but I choose to use a 2.5" dredge and target exposed bedrock. As shown the sides of this creek are solid rock. Clearly there is no impact from sediment, turbidity or dredging into the banks, so now we're left with knick marks?

Finally, smaller streams require the use of smaller dredges. On a claim where I have more space I use a 4" dredge, but on the small streams I typically use a 2" or a 2.5" depending on size, water flow and depth. My preferred dredge for a small stream is a 2.5". While these dredges don't move much material, they don't have to. The method of operation in a small stream is to target the bedrock – not to move overburden.

The DSEIR does not provide the justification for a 3' setback. All literature and scientific studies show the turbidity and TSS issues are less than significant. Basing the closure of hundreds of miles of rivers solely on the "observations" of a few people would not meet the criteria of CEQA.

RECOMMENDATION. A reasonable alternative is to:

(1) Allow dredging within the high water lines (as is currently allowed).

(2) Prohibit the removal or dredging into the bank – where it destabilizes the bank (current 1994 rule).

(3) Consider that different areas of the State have different geographic characteristics which are self mitigating.

The size dredge used on various creeks is dependent on the water flow and depth of the creek – as well as the difficulty of packing it in for remote areas. The nozzle size is self-regulating. I'm not going to pack a 6" dredge into a rugged canyon

I would not propose regulating the nozzle size based on the width of the stream. Nor would I propose CDFG attempt to categorize and classify every single stream or feeder stream in the State. I simply propose that it is self – regulating and the majority of small streams are fairly hardened to the effects of dredging due to the shallow bedrock and steep gradients.

S228(k)(15) Level Tailing Piles

The DSEIR states that all evidence of dredging is removed from the stream after the next flood event or approximately every 1.5 years. There is no basis within the DSEIR where the leveling or leaving of tailing piles has negative impact on any fish, or the stream in general.

The DSEIR cites Stern in reference to the impact of dredges on the streambed. Stern's study also states

"The autumn, winter and spring peak flows of WY 1985 Canyon Creek were adequate to disperse dredge tailing piles and fill in dredge holes. Less than 9% of the holes and tailings from 1984 mining were visible at the start of the 1985 dredge season. Only two sites from 1984 had clear remnants of holes and tailings in 1985. Both of these were far from the stream's thalweg. At a few sites large cobbles and boulders piled along the shore remained visible one year later. Thomas (1985) reported that piles of cobbles remained along the shore one year later at Gold Creek, Montana, but holes and instream tailings had vanished. Harvey et al. (1982) found virtually no evidence of dredge mining the following year in the American River, California. Most streams with mobile beds and good annual flushing flows should be able to remove the instream pocket and pile creations of small suction dredges, although regulated streams with controlled flows may not." [Stern 1988]

There is no environmental impact from leaving the hole or filling the hole and there is some scientific evidence that says it is better to leave the hole as a refuge for spawning fish. From Stern...

"Dredge tailings are often referred to as good salmonid spawning substrate. In the Trinity River, chinook salmon have been observed spawning in the tailing piles of suction dredges (E. Miller pers. comm.). Steelhead in Idaho streams have been reported to spawn in gravels recently disturbed by human activities (Orcutt et al. 1968). In the American River , Prokopovich and Nitzberg (1982) have shown salmon spawning gravels have mostly originated from old placer mining operations." [Stern 1988]

In reference to the dredge holes [Again Stern]...

"During a 1980 diving survey by Freese (1980), an adult spring-run chinook salmon was observed holding at the bottom of an abandoned dredge hole in Canyon Creek and other adult salmonids were found in close proximity to active dredges. No relation between holding areas of spring/summer-run fish and suction dredge mining operations was apparent during this study or in 1980 (L. Freese pers. comm.)."

It appears this topic has been well covered in the literature and there is no evidence that leveling tailing piles is positive or negative.

RECOMMENDATION:

No change to the current rules. The river will level the tailing piles – numerous studies prove this.

S228.5 Suction Dredge Use Classifications

As I can't cover all streams classified as "A" with any level of expertise I will limit my comments to my claims located in Sierra County and specifically the closure of Slate Creek and all tributaries. The pictures in Figures 1-3 are from a tributary of Slate Creek. Providing a representation of the area versus frog habitat described in the literature.

In reference to the MYLF in Plumas and Sierra Counties the DSEIR makes the following statement [DSEIR Appendix K Detailed Life History of Action Species, p.35]...

"Frogs in the northern DPS occupy meadows, streams, and lakes (Wright and Wright, 1933), usually within 1 m of the water's edge." This is confirmed by Knapp [Knapp 1996 and Knapp, 2003]. This is not areas where dredging takes place.

The DSEIR, in arguably what is one of the most important sections of the DSEIR for forming regulations related to frog habitat makes the following statement [DSEIR, Appendix K, p.35].

"The native habitat of the northern DPS is almost entirely outside the range of introduced fish [Knapp, 1996]. The purpose of this statement would appear to be placing the cause of the decline of the frog on

other activities than introduced fish. The DSEIR is wrong and this needs to be corrected, as the location of this frog and causes of its decline are important to the forming of the regulations this would appear to be a critical error. This statement in the DSEIR is actually the opposite of what Knapp says in the 1996 paper and all Knapp published papers. In the 1996 paper Knapp says ***"Christenson (1977) suggested that as many as 95% of California's naturally fishless lakes outside of national parks currently contain fish."***

Knapp also states ***"...the most profound human impacts on aquatic communities in the High Sierra appear to be related to historical and on-going stocking of exotic fish species into High Sierra Waters."*** [Knapp, 1996].

Again, ***"There is substantial evidence that introduced trout have severely reduced the abundance of mountain yellow-legged frogs in the Sierra Nevada."*** [Knapp, 1996].

Finally, ***"My review shows that although trout were historically absent from large portions of the Sierra Nevada, they are now nearly ubiquitous throughout the range as a result of introductions."***

The California Department of Fish and Game has the sole capability to bring about the recovery of this frog by limiting the stocking program – limiting dredging will have no effect. It's ironic the CDFG was not required, nor is required, to prepare an Environmental Impact Report on an activity that has resulted in the near extinction, and probable listing of an endangered species – and yet the activity will continue even if the frog is listed as an endangered species as the CDFG is exempt under a categorical exemption for fish stocking under Title 14, Section 15301.j of the California Code of Regulations.

(1) The MYLF is endangered due to the introduction of non-native trout and there is no evidence dredging has any impact on the frog's current status or recovery. There appears to be minimal overlap in frog habitat and dredging areas. [Personal correspondence Knapp 27 March 2011].

(2) MYLF habitat may be widely varied but restoration attempts that have been successful have focused on alpine lakes, ponds and slow moving streams. It appears that simply prohibiting dredging in alpine lakes and ponds would be sufficient to allow recovery of the frog. [Knapp, et. al 2007].

Figure 4 provides a chart from Dr. Knapp's 2007 paper on probabilistic modeling of frog habitat. As research shows (by a recognized expert on the MYLF) the factors most significant for determining the location of frogs is (1) The presence of non-native fish, (2) The depth of the lake, (3) The amount of silt in the littoral zone (positive correlation between silt and frogs) and (4) The elevation of the lake – showed a direct and negative correlation between lake altitudes above 3500m and the presence of frogs.

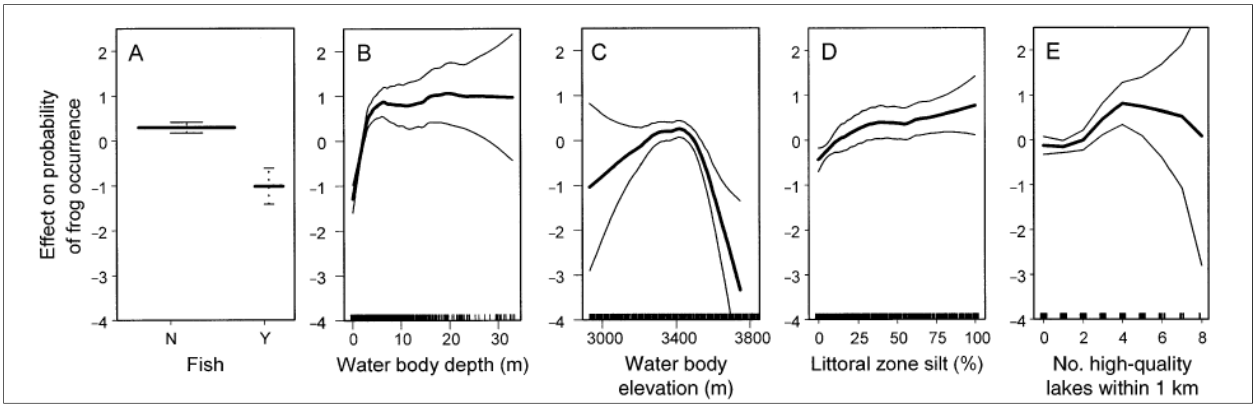


Figure 4. Results of Probabilistic Modeling of frog habitat [Knapp, et. al. 2003]

The existing scientific studies show appropriate frog habitat and the direct cause of the population decline, while no study, observation or anecdotal evidence can show a negative impact from dredging. Why is CDFG closing the entire theoretical habitat of the frog to dredging? This is inconsistent with the CEQA requirement to show "substantial evidence...based on fact" and to "examine the whole record." Lacking any scientific basis or fact the 1994 regulations should remain in place. There is no evidence suction dredging harms frogs (or fish) and scientific studies to date simply prove the opposite – no harm.

RECOMMENDATION

Studies have shown [Knapp, 2003] that the recovery potential of the Sierra Nevada Mountain Yellow Legged Frog is good provided that non-native trout are removed from the habitat. I believe CDFG can achieve the goal of recovery of the frog and not close the number of streams proposed for closure. This can be achieved by:

(1) Establish the highest payoff areas as MYLF refuges and prohibit dredging within them. I am not an expert on the MYLF so I would refer you to the paper on probabilistic modeling of frog habitat – Developing Probabilistic Models to Predict Amphibian Site Occupancy in a Patchy Landscape [Knapp et. al. 2003].

(2) Simply establish a rule that makes it a violation to intentionally kill or harm the frogs, eggs or tadpoles.

Respectfully submitted,

Eric Maksymyk

LIST OF REFERENCES

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3. Knapp, R.A. et al, 1996 "Non Native Trout in Natural Lakes of the Sierra Nevada: an analysis of their distribution and impacts on native acquatic biota."

4. Knapp, R.A. et al, 2007. "Removal of nonnative fish results in population expansion of declining amphibian (mountain yellow-legged frog, Rana muscosa)

5. Knapp, R.A. et al, 2003. "Developing probabilistic models to predict amphibian site occupancy in a patchy landscape."

6. Stern, Gary R., 1988, Effects of suction dredge mining on anadramous salmonid habitat in Canyon Creek, Trinity County, California. M. S. Thesis, Humbolt State University, Arcata, California, 80 pp.