

Appendix I
PUBLIC MEETING TRANSCRIPTS

SANTA CLARITA: MARCH 23, 2011

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2 CALIFORNIA DEPARTMENT OF FISH AND GAME

3 PUBLIC COMMENTS

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9 TRANSCRIPTION OF AUDIO RECORDING

10 MARCH 23, 2011

11 SANTA CLARITA, CALIFORNIA

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1 P R O C E E D I N G S

2 (CD on.)

3 MS. MONAGHAN: -- microphone. And state your
4 name and start talking.

5 MR. CESERE: My name's Tony Cecere. I think
6 something that you're not taking into consideration is
7 the amount of money that we're spending in these small
8 communities and what it's going to be doing to them.

9 Is it on now? No?

10 I don't think you're taking into consideration
11 what you're doing to a lot of these small communities
12 around money that we are putting into them.

13 This last -- I have worked in this state for
14 over 30 years. And when I decided to retire, I knew
15 what I wanted to do. I went out and decided to go
16 prospecting. I spent about \$30,000 on mining equipment,
17 \$200,000 on a motor home that I would go out dredging
18 in, and I'd go to small communities up north. And every
19 summer I would spend between 3 to \$5,000.

20 Now, this last year being that you've stopped
21 dredging, I've gone to Alaska. And now I go up to
22 Alaska and spend my money, and which I'll probably do
23 this year also.

24 I think what you're doing with limiting us to
25 four-inch dredges on specific things is making it

Cesere, Tony

Cesere, Tony

1 difficult to small miners that go out on these small
2 streams and prospect. Thank you.

3 MALE VOICE: (Inaudible).

4 MR. LAROSA: Mr. Mark Stouffer, thank you for
5 having this meeting. First, my name is Dion Larosa. I
6 would like to comment on this draft supplemental
7 environmental impact report. I've been a resident in
8 the state of California for 38 years, and I enjoy
9 mineral pursuits outdoors.

10 I'd first like to address the terms you use,
11 significant and unavoidable impacts, as well as negative
12 impact stated throughout certain chapters within the
13 DSEIR. I submit to you, and anybody else who is
14 concerned, that all the streams and rivers are geologic
15 ongoing provisions of erosion. Erosion within this
16 environment is a combination of weathering, which is a
17 chemical or physical breakdown of the minerals and rocks
18 in a hydrological environment and gravity with the
19 occurring condition currently.

20 The warm or atmospheric temperatures governed
21 over the past decade are expected to lead to a more
22 vigorous hydrological cycle, including more extreme
23 rainfall events.

24 Studies on soil erosion suggests that
25 increased rainfall amounts and intensities will lead to

1. Larosa, Dion

1 greater amounts of erosion. Thus, if rainfall amounts
2 and intensities increase, natural erosion of the rivers
3 and stream beds will -- excuse me -- will also increase
4 up to and including suspension of the entire bed load
5 during flood stages being transported downstream as we
6 have seen in the recent past.

7 Studies by Prusky and Nearing (phonetic) in
8 the Journal of Oil and Water Conservation, 2002,
9 indicate we can expect an approximate 1.7 percent change
10 in soil erosion for each 1 percent change in total
11 precipitation under normal climate change.

12 Therefore, I have concluded any dredging
13 activities defined within Section 228 in such a
14 geologically transitory environment are not significant
15 and would not have a negative impact generally.
16 Respectfully, I also find these terms are intentionally
17 deceptive and misleading.

18 My second point, I direct your attention in
19 the 85-page document, the draft, page 35, block 4,
20 Section 19, as it applies to the Los Angeles County
21 area, San Gabriel River, East Fork, main stem and all
22 tributaries upstream to Cattle Canyon Creek.

23 I recently visited the East Fork and noted
24 from the reservoir upstream to Cattle Canyon Creek as
25 written is approximately 4 and three-quarters of a mile,

1. Larosa, Dion

1 two miles of which are private property and
2 approximately two miles of which are inaccessible. This
3 leaves approximately just over a half mile (inaudible)
4 dredge within a 100-mile radius to the next county
5 north.

6 I also noted the area is multi-use by
7 swimmers, campers, hikers and fishermen as well as
8 people just wanting to get outdoors by driving through
9 the mountains.

10 In order to alleviate crowding by all user
11 groups enabling everyone to have an educational or
12 memorable experience which is in line with the current
13 administrations, outdoors initiative campaign with the
14 boundary of Cattle Canyon Creek be amended to a location
15 known as Shumaker Canyon.

16 This new boundary of Shumaker Canyon is
17 approximately two miles upstream on the East Fork from
18 Cattle Canyon Creek, and it is far downstream of the
19 wilderness boundary as it joins the main stem at
20 approximately Allison Gulch.

21 The area proposed is not designated scenic or
22 critical habitat, and is consistent with Title 14,
23 Sections 550 and 630, CCR, as it relates to dredging and
24 wildlife areas and ecological reserve. I also request
25 that the area be re-amended to the Class A size it is

1. Larosa, Dion

1. Larosa, Dion



1 currently. Thank you,

2 MR. BELEY: My name is Eugene Beley, and I
3 would like to make this first question to Michael.

4 Michael, and -- I want to know how does it
5 feel to work --

6 MS. MONAGHAN: (Inaudible).

7 MR. BELEY: Oops. How does it feel to work
8 for an organization that received a 30 percent increase
9 in funding, which your organization is clearly causing
10 at least a 30 percent decrease in dredging activities in
11 the right of Americans to pursue minerals in this
12 country as U.S. citizens.

13 And here I'd like to say that during
14 regulations -- or the regulations that are stated on
15 page 17 through -- through page 67, which gives all the
16 regulations wherever you can and can't dredge, and what
17 particular times and seasons and all this stuff, the
18 whole thing.

19 And I'm just wondering where would that
20 information -- why other additional demanding pieces of
21 information needed listed in page 3, Section C, through
22 page 5, Section G, things like a list of up to six
23 locations where you'll be dredging, counties, river,
24 stream, lake name, range, township, California mining
25 club number, approximate dates of proposed dredging.



Beley, Eugene

1 And in any changes that the above permit applicant must
2 be amended with the Department of Fish and Game. I
3 mean, wow, these kind of (inaudible) -- these kind of
4 (inaudible) are a failure in fear of citations at the
5 discretion of the Department of Fish and Game personnel
6 based on what is clearly based in nature.

7 MS. MONAGHAN: (Inaudible).

8 MR. BELEY: Okay. I'll try to speak up a
9 little bit more, but --

10 MS. MONAGHAN: Yeah. (Inaudible).

11 MR. BELEY: I'll start over with the
12 regulation part, not the part with the mic there. I
13 think we're okay on that.

14 Again, the regulations have always been
15 regulated as to when, where and how you can dredge
16 according to the Classes A through H.

17 Well, I've got previous dredge permits and
18 information from years past, and it's always been the
19 same. With these new regulations, you're also adding on
20 there -- and all these regulations are all worked around
21 to the spawning of fish and endangerment of their eggs
22 and that kind of stuff. That's why there's certain
23 seasons that you can dredge and can't dredge.

24 Well, now you're -- now you're asking, you
25 know, for all of this additional information that

Beley, Eugene

1 includes, you know, locations -- six locations, county,
2 river, stream, lake, name, range, township, meridian and
3 center point, longitude, latitude of where you're going
4 to be dredging.

5 And here's the thing about that, too, is you
6 get all of this information that's documented on the
7 permit and Department of Fish and Game. That's not --
8 is that a safe and secure place? There are disgruntled
9 employees which are found to be in many companies and
10 corporations that could use this information in a
11 harmful way as to where and when you are, and when and
12 where you're not, given that type of information. It's
13 like a -- an infringement on your privacy. I mean, that
14 I think regulating way too much. Thank you.

15 MS. MONAGHAN: (Inaudible). I think we agreed
16 that we were going to give everybody an equal
17 opportunity, and we're not -- we're not going to
18 applaud, we're not going to jeer, we're not going to
19 cheer. Does that still sound okay to you? Okay. So
20 thanks for your cooperation.

21 MR. WEGNER: I'll let you do that. Can you
22 hear me? Okay. Good. My name's Walt Wegner. I
23 understand that, oh, yeah, this doesn't address federal
24 issues, but the reality is it does. Class A, no
25 dredging any time is a prohibition. It prohibits me in

Beley, Eugene

1. Wegner, Walt

1 I have a mining claim from getting my minerals. It's
2 not a regulation. It's a prohibition. Every one of
3 those classifications up there are a prohibition except
4 Class H. Right? So you're going to see a federal
5 lawsuit against this. I don't know why you don't
6 address it.

7 Another thing, you know, I've -- I read this
8 draft EIR, and I was very disappointed in it. You know,
9 it's -- the whole thing is just a regulatory takings
10 (phonetic). I was expecting a little bit more logical
11 approach to this.

12 Some of the things that I read out of here
13 which I thought were just outrageous, stream ecosystem
14 composition, diversity and resiliency have the potential
15 to be adversely affected by dredging activities. They
16 have the potential.

17 Suction dredging can have substantial
18 short-term and localized adverse impacts on benthic
19 (phonetic) and vertebrate abundance and community
20 composition. Persistent or repeated dredging may cause
21 the benthic (phonetic) community to remain in an early
22 state of suspension which could reduce resiliency to
23 disturbance. Dredging can.

24 These are all vague. There's nothing concrete
25 in any of this stuff that I read. And that's, I guess,

1. Wegner, Walt

1 you know, the way to get out of making -- you know, what
2 I expected from a draft environmental impact report --
3 impact report was real science with conclusive studies
4 that say this does, this doesn't.

5 There's still -- I haven't seen any evidence
6 that a suction dredge has ever killed one fish. Right?
7 But fishermen kill fish, which is cool. I don't mind
8 fishermen killing fish. I eat fish. I happen to buy
9 them from a store. I suction dredge for a living --

10 All right. One minute. I wanted to get on to
11 address -- to address the mercury. You know, a lot of
12 this study talks about mercury and re-suspending it.

13 Well, in the public advisory committee
14 meetings, which wasn't presented in the draft
15 environmental impact report, which was a presentation
16 given by Claudia Wise on the effects of selenium and
17 mercury. And she's a retired EPA scientist, and she
18 brought for us the evidence that there's not ever been
19 one, not one, reported case of mercury poisoning from
20 eating fish in California, ever. Ever. And that's
21 because of the effects of selenium on mercury.

22 Another thing that was brought up at the
23 public advisory committee meetings, which I didn't see
24 in the draft EIR, the effects of scales across the whole
25 river system. Joseph Grown (phonetic) looked at a study

1. Wegner, Walt

1. Wegner, Walt

1 on the Salmon River. And when you took the whole length
2 of the river and the effects of the dredging came to .02
3 percent, well, you take that -- I'm going to finish.
4 You take that and you put it all across the state,
5 and --

6 MS. MONAGHAN: I'm sorry. I think we agreed
7 that we would have a three-minute time limit. So, Walt,
8 I appreciate your comment. If you have more, please add
9 them in a written comment.

10 MR. WEGNER: (Inaudible).

11 MS. MONAGHAN: Because we agreed we would give
12 everyone equal time. So if you, sir, would give us your
13 name.

14 MR. MARTINUV: Not only will I give you my
15 name, I will speak for two minutes and (inaudible) the
16 balance. No mic --

17 FEMALE VOICE: As soon as you finish, we're
18 going to re-do this.

19 MR. MARTINUV: Okay.

20 MALE VOICE: (Inaudible).

21 MS. MONAGHAN: (Inaudible).

22 MR. MARTINUV: All I can manage in a
23 lifetime here. Okay. My name is Marcus Martinuv.
24 That would be Captain Marcus Martinuv with California
25 City Fire Department. I've got 14 and a half years of

Martinuv, Marcus

1 service not only protecting people, but enforcing the
2 law. I'm a law enforcement officer as well as an
3 investigator. So I'm, of course, just like these
4 gentlemen here, sworn to protect and serve on both ends.

5 I'm pretty new to the gold world. I'll be
6 honest with you. I don't want to make this sound
7 belittling when I say old-timers that are in here. I'm
8 42 years old, but there are some people in here that
9 have tons of experience. I have been -- went out
10 panning for the first time less than a month ago.

11 And I have plans. I have futures, and I've
12 got guys on my department that want to get in on this.
13 But more importantly, it's a liberty that appears to be
14 vanishing. And all I'd like to say is good intentions
15 versus unintentional consequences. I've seen it
16 firsthand. They shut down Gorman because of a snowy
17 flower. They shut down Graman (phonetic) and some parts
18 of it. And I am the unintended consequences (phonetic).

19 We have 150 some-odd thousand people show up
20 on holiday weekends to break their femurs, to go crazy,
21 to burn down the desert, and we deal with it all because
22 of good intentions of saving one thing, and we end up as
23 the result of it. So firsthand I can speak to that.
24 And I will leave it on a light note. You said you
25 wanted alternatives. How about 8 to 16-inch dredges

Martinuv, Marcus

Martinuv, Marcus

↑ 1 that spit out fish food, and they run on alternative
2 fuels.

3 MS. MONAGHAN: Thank you. We're going to take
4 just one minute and fix this microphone problem because
5 we want to make sure that everyone can be heard, and --
6 so how are we going to do this?

7 MALE VOICE: (Inaudible).

8 MALE VOICE: (Inaudible).

9 MALE VOICE: (Inaudible) we'll go to 11.

10 MS. MONAGHAN: Oh. So that's why we went --
11 yeah.

12 MALE VOICE: (Inaudible).

13 MS. MONAGHAN: Okay. So we are at asking for
14 numbers 6 through 10.

15 MALE VOICE: (Inaudible).

16 MS. MONAGHAN: Do we have 6, 7, 9 --

17 MALE VOICE: (Inaudible).

18 MS. MONAGHAN: Okay. Then they will have an
19 opportunity after all the individual speakers. So I
20 just want to be clear, you're going to give up your
21 opportunity?

22 MALE VOICE: (Inaudible.)

23 MS. MONAGHAN: Okay. So, sir, if you will
24 step up.

25 MR. BLACKWELL: Hello. My name is Robert

1 Blackwell. And I've been dredging for a little over 25
2 years -- actually, gold mining. (Inaudible).

3 MALE VOICE: Yeah. We'll restart the time.
4 We've got a bad cable here, and we've got an extra one
5 that's out in our videographer's car. So we're just
6 going to take one minute to grab that so we can replace
7 it, because we think people are going to be more
8 comfortable being able to speak into the microphone
9 rather than hold it while they're trying to read. So --

10 MS. MONAGHAN: Okay. So if we can get
11 restarted and give this gentleman your undivided
12 attention, we'd appreciate it. This gentleman has
13 number 8, so I think we're now looking for numbers 9
14 through 15 if you'd be kind enough to line up.

15 MR. BLACKWELL: Okay. My name is Robert
16 Blackwell. And I've been mining now for close to 35
17 years. A little bit -- close to 35 years, but I've only
18 been dredging for about the last 15.

19 And what I feel that this whole thing here
20 came about, you guys really to me didn't even
21 investigate a dredger dredging, because I don't know
22 where you get these numbers from that we're going to
23 kill every fish in this creek, rivers and that.

24 When I go dredging, I dredge maybe four hours
25 a day. That's all I dredge. And that ain't four hours

Blackwell, Robert



1 total. That's four hours on the stream. And I think
2 most miners do that, at least the ones I've been around.

3 You've got a few that have got to make a
4 living off of it, and they have to be there all the time
5 to make a living. I don't make a living that way. This
6 is my recreation.

7 And I'm piggybacking on this man. I also go
8 to Northern California, and I also spend -- in two
9 weeks -- I go for two weeks' time, and I also spend
10 close to \$1800 in that community up there. And that's
11 money -- that's monies that's going to these people up
12 there. If we don't go up there -- and I haven't gone
13 because I can't go -- why should I go? And they're
14 losing all that money. They're losing all that money.

15 And the other thing is, in the investigation
16 they were talking about mercury. And I've found
17 mercury, believe me. I found a lot of mercury. A lot
18 more mercury than I found gold. But I also found lead,
19 and that lead is in that stream, too. And that don't go
20 back in that stream. I bring it home in buckets, and I
21 process it. And I have actually made myself a weight
22 out of all the lead I have found in all of these rivers.
23 So you guys aren't even looking at that.

24 And to the four-inch dredge, now, I have a
25 five-inch dredge. Now you're going to say you're going

Blackwell, Robert

1 to restrict me to a four-inch. And, again, I tell you I
2 go for four hours a day maybe. That's -- if you've got
3 a four-inch dredge running all day long, he outruns me
4 big time.

5 But the biggest thing is, I was up on the
6 Klamath River one year. And they had a huge storm, and
7 it flooded Elk Creek. And it came down there so strong
8 that it took me three days before I could get back in
9 the water. It just inundated that river. It did more
10 harm than any dredger could have done, I think. You
11 can't see that far in front of your face, and it was
12 coming down that river for a good 5 miles -- 5 to 10
13 miles.

14 So personally, I think that Fish and Game
15 needs to do a little bit more studies on actually what a
16 dredger does when he's in the water. Thank you.

17 MS. MONAGHAN: I've got 12 (inaudible). 12?
18 Okay.

19 MR. WEAKLAND: My name is Paul Weakland. I
20 have some great concerns.

21 First of all, I would like to have the costs
22 of this program stated up front in the document. I'd
23 also like to have disclosure on the funding sources.
24 Whose money are you spending for this charade? Is it
25 really relevant and significant? I believe that you

Blackwell, Robert

Weakland, Paul

1 have wrong assumptions and flawed concepts.

2 The cap of permits should be 3,479. That was
3 the total number of permits that were issued in 2009.
4 And that's what the level should be. Only past permit
5 you should get a new permit (inaudible).

6 The reliability of your surveys are in
7 question. What chances of mistakes are there in your
8 findings? What is the percentage of errors in your
9 surveys and studies? You did not produce this. Without
10 these percentage of errors, everything is invalid. We
11 have to know the limits.

12 The statistics are flawed. Your formulas are
13 outdated. The 1994 environmental impact report was
14 conclusive. The one guy said that the new -- the new
15 regulations mirror what was done in 1994. The classes
16 or levels of protection are negligible. There should be
17 only one location allowed for these permits, and that's
18 the state of California.

19 You have everything buried so far down now
20 there is allude to Appendix L (phonetic). Well,
21 Appendix L is a way to camouflage and code the real
22 motivation for this document. What guarantees and
23 certainties are you going to give us that these new
24 regulations are going to do anything but harm us and our
25 ability to make a buck?

Weakland, Paul

1 As was said before, the impacts are vague.
2 Mays and coulds. There is no reliability. What
3 double-checks are there on your flawed concepts, wrong
4 assumptions and formulas?

5 If I still have more time, I'd like to say
6 that there sure are a lot of employees here tonight.
7 How many people does it take to take public comment?

8 These budgetary constraints of the state of
9 California should be of major concern when we see a --
10 what would you call this, and it's a charade because we
11 feel the decision has already been made. And that, you
12 know, the funding, again, the transparency of the
13 disclosures of where the money is coming from for this.

14 The other thing that has not been touched on
15 is the price of gold and platinum. And I believe an
16 investigation needs to be mounted to see if our Fish and
17 Game commissioners, the personnel of the Ocean
18 Protection Council and any employees of the state's Fish
19 and Game are manipulating the supply of gold.

20 And if anybody has been speculating and buying
21 and selling gold in any form or fashion needs to be
22 investigated, because obviously you are strangling the
23 supply of gold on the international market.

24 MS. MONAGHAN: (Inaudible).

25 MR. TROTTER: Okay. I'm Martin Trotter. I go

Weakland, Paul

1. Trotter, Martin

1 by Marty. I am with the Temecula Valley Prospectors
2 (phonetic). I'm a claims director for the organization.

3 At our last meeting we had about 167 people at
4 the meeting, at the club. My concerns with -- and --
5 this is one I've got some issues.

6 One is the width of a stream. Sometimes I've
7 got a claim that the stream is approximately 18 inches
8 to 24 inches, maybe three feet in some places. It
9 varies. Okay? That falls out of this regulational area
10 of dredging, for purposes of dredging.

11 Also on that same stream though, at the same
12 time it is totally dry. I have made note of that with
13 one of the other individuals here tonight, which places
14 that stream in a situation. Okay?

15 Yeah, I can high-bank, but then I've also got
16 to bring my own water supply in the stream and try to go
17 in there and dig. And the grade is -- I'm at 6500 feet
18 in elevation, okay, on that one. The other one is water
19 flow which falls into that -- into that category with
20 water flow if the stream is dry. Okay?

21 Am I going to be -- and to stop me from
22 dredging because it's -- you can't dredge. Okay. If
23 it's an intermittent stream, this is a situation that
24 has to be addressed. If it's an intermittent stream
25 when it's flowing, sure, it can be dredged, but if it's

1. Trotter, Martin

1 only 18 inches or two feet wide. Okay? And there's no
2 fish in the stream. There's no harm to anything that's
3 there.

4 It's -- what's -- and I've got a two and a
5 half inch dredge that I would use on that. I also have
6 some claims on the Trinity River. I have a five-inch
7 dredge that I was using before on that area. Yes,
8 mercury was picked up. But mercury was brought back
9 home. It was retrieved off the -- out of this stream.

10 The other -- the only other thing I can say is
11 a trap in the -- on the -- a trap in my dredge to trap
12 the mercury so that it doesn't go on downstream, and
13 I've got a pretty good system that retraps and
14 circulates out things.

15 That's -- then I've got other comments that
16 I'll write in for long comments that are on here. But I
17 do like -- because I want to know if things (inaudible)
18 so I can take them back to my club and present them to
19 the club, because I've got -- I'm representing 167
20 people effectively. Okay? And more or less, that's all
21 I wanted to be able --

22 Thirty seconds you've got?

23 Okay. Out of that, on this issuance of the
24 permits, if every single member out of that club got a
25 permit, but only one or two people of us have dredges,

1. Trotter, Martin

1. Trotter, Martin

↑ 1 the purpose of the club is to present and show people
2 how to dredge or to -- how to work with finding gold
3 wherever correctly, going out and finding it. I guess
4 like -- and teaching. So it's --

5 MS. MONAGHAN: So numbers 15 (inaudible).

6 MR. THOMAS: Hi. My name's Doug Thomas. And
7 I have heard a lot about protecting a lot of different
8 species, and I understand from Mark that protecting our
9 federal granted rights are of no concern to you.

1. Thomas, Doug

10 Now, you took an oath of alliance when you
11 took your position working for the state, which means
12 you're a public servant that works for us. But it seems
13 like you guys have an hour or two to talk and us three
14 minutes. It's not really a fair deal.

15 Now, this says in the first phrase of your
16 oath that you defend and support the Constitution of the
17 United States of America. Well, it seems that a bunch
18 of environmentalists are funding this whole charade in
19 order for you to stop us from having a federal granted
20 right to prospect.

21 And it's -- everybody knows that your agenda
22 is to completely stop it by overregulating it. It's no
23 concern for the fish or the animals. It's more about us
24 being taken out of the forest and removing our rights.

↓ 25 I think everybody knows that our Bill of

1 Rights in the Constitution has been deteriorating over
2 the last decade or two. And this is just that, going on
3 more. Not being able to move rocks. That's where gold
4 is found. Having to say where you're going to prospect.

5 Prospecting is a procedure of sampling. You
6 dig a hole. You see where the gold is. You dig another
7 hole to see if there's more or less. You work sampling
8 holes until you find a pay streak, and then you work
9 that pay streak. There's no way to know in advance
10 where the gold is going to be. If there was a way of
11 doing that, it would all be gone.

12 A lot of the people here have their welfare --
13 I mean, their income with prospecting. And the other
14 ones are recreational prospectors. We enjoy this very
15 much. And we all feel as though this is public land,
16 not government land. And the republic is the people to
17 the government, not the government to the people. I'd
18 like to donate one minute to Pat King. Thank you.

19 MR. LANE: Good evening. My name is Brent
20 Lane. I'm a resident here of Santa Clarita. I belong
21 to three prospecting clubs. I've been watching and
22 educating myself the last 15 years on TV watching people
23 enjoy. This is a great sport, a great outdoor activity.

24 I've fished for over 30 years. I've hunted
25 for 25 years. And ever since the minute I picked up a

1. Thomas, Doug

Lane, Brent

1 gold pan, I've stopped fishing. I've taken the money
2 away from the state of California as far as fishing.
3 I've taken money away from the state of California for
4 hunting because of my priorities in life, where I want
5 to enjoy myself.

6 I understand a lot of comments that people
7 have made here, they're very educated. There's a lot of
8 knowledge that comes from all these people. My one
9 comment, I've only dredged once. I bought a dredge two
10 years ago. I got to dredge for two weeks. I brought my
11 mercury home. I brought my gold home. I didn't find
12 any lead at that time.

13 But my comment is, as a generalization for
14 everybody, what can we do to better the fish habitat
15 than what already has been done by nature? For example,
16 there's a bar on a river. Can we use the state's
17 knowledge by dredging the bars or fixing the stream or
18 rivers that have bad issues, stagnant water, low flows?
19 Can we help the state and ourselves by picking the right
20 places to dredge? I think we can help the state and
21 ourselves. And with knowledge, what we do we can learn
22 from and get better at. We can help a lot of this.

23 And to follow up with that, I've watched so
24 many pictures of a dredge underwater and all these
25 trouts, and they're feeding off of the dredge. You

Lane, Brent

Lane, Brent

1 can't tell me that's lunchtime, and it doesn't benefit
2 the stream. I've seen it every time. One time I was
3 there. I had fish in my face all day long. I can't
4 kiss fish, but I won't go there. So -- but I think we
5 can actually help the state and ourselves by educating
6 us in fixing the rivers and creeks and streams. We can
7 do it. Thank you.

8 MR. ALLEN: My name's Dick Allen. I've been
9 dredging for a little over 20 years. Some of the
10 comments I heard here tonight I was confused on about if
11 I had to call in every time I wanted to go dredging.

12 And the size of the dredge I want to use when
13 I dredge is going to be a four-inch or eight-inch. The
14 size of dredge usually takes care of itself on a river.
15 You can't put an eight-inch on Pirute Creek (phonetic).
16 But you can't get to the bottom of the Merced River with
17 a four-inch either.

18 And, you know, I hope that's not what I think
19 it is. You're shaking your heads. I hope it's not.
20 But, you know, I did this for an enjoyment, and this is
21 really getting out of enjoyment on this. I hope we get
22 it worked out.

23 MR. ALBRECHT: With all due respect to Mark
24 Stouffer and his staff -- my name is Joseph Albrecht. I
25 have been a small-scale dredger and miner in California

Albrecht, Joseph

1 for over 20 years. I'm going to start out by making one
2 important point. Dredgers are not environmental
3 terrorists, and we don't like being regulated as if we
4 were.

5 To (inaudible), what has caused the demise of
6 various fish and amphibian populations in California,
7 one must first look at DFG's decade-long practice of
8 planting hatchery-raised trout and other species to make
9 up for the annual state fish-killing licenses sold by
10 the DFG.

11 This single practice of dumping thousands or
12 millions of fish in hundreds of water bodies has done
13 more damage to cause near extinction of some fish and
14 frog species than any other scientifically-proven,
15 man-made cause.

16 That's right. DFG's own practices are second
17 only to nature and cause mass extinction of some
18 species. Yet, here we are. A group of 3500 people
19 whose legal activities are about to be further
20 restricted, despite the fact that with our bare hands we
21 create food and shelter for predators and new places for
22 spawning and procreation of the various species that
23 have been decimated by DFG.

24 From what I have read in the DSEIR, the vast
25 majority of so-called proof that dredging causes

Albrecht, Joseph

1 environmental harm in any measurable way seems to come
2 from unrealistic hypotheses based on no actual
3 controlled scientific test results that show any
4 significant impact.

5 This is then followed up by wild speculation
6 of a potential significant environmental impact if
7 dredging continues. The mere fact that DFG would write
8 new regulations allowing dredging at all is a testament
9 that even they do not believe these dire predictions.

10 Now, I think that the current regulation on
11 the books are more than adequate quality to protect the
12 species. In fact, I would have to hypothesize and
13 speculate, just like DFG scientists, that the new
14 proposed regulations actually do more harm than good to
15 California's fish and amphibian populations in light of
16 recent lawsuits and findings regarding planting.

17 Finally, my last and most important point on
18 this public comment process, DFG has proposed around 100
19 new restrictions on suction dredge mining, presumably
20 backed up by sound science, that released an 800-page
21 environmental impact report for our comments expecting
22 us to read the entire 800 pages and guess which part or
23 parts DFG felt supported each new regulation.

24 I believe that common sense dictates it should
25 be the other way around. DFG should provide the public

Albrecht, Joseph

Albrecht, Joseph

1 with a separate document specifically referencing the
2 exact chapters and sections of the EIR that support each
3 new regulation or change, and then ask the public for
4 comments.

5 To make this point, I hereby deliver in
6 writing these 637 pages of backup documentation which
7 contain the reasons I have posed each new regulation.
8 And I hope you can find in this document all of my
9 reasons, and figure out which of my reasons apply to
10 which proposed regulation. Thank you.

11 MR. GRODSKE: My name is Kirk Grodske. And my
12 comments will only be about my personal observation
13 specifically directed at the East Fork of the San
14 Gabriel River. That's the only area that I have any
15 direct observation of.

16 I will state that I think that since there is
17 no direct evidence that dredging hurts anything, it
18 should be allowed to continue until such evidence can be
19 found. I hope -- I will leave all the legal and
20 authority questions and the constitutional stuff to
21 others who are more qualified to address it.

22 I am concerned that the rules that are being
23 applied are a reaction to the actions of a few rather
24 than the majority of the participants. As an example,
25 the rule regarding staying away from the water line by

1. Grodske, Kirk

1 three feet. Specifically, the East Fork of the San
2 Gabriel River water edge ranges between 30 and 75 feet
3 over the course of the season. So the water's edge is a
4 very ambiguous and varied measurement. It doesn't seem
5 to be practical.

6 The East Fork has a time limit sensitivity
7 based on the potential effects on the spawning habits of
8 two types of fish, two species of fish. The current
9 dredging area is only a small part of the entire area.
10 So it limits dredging on the whole river when only less
11 than 3 percent of the river is affected by dredging
12 seems to be overbearing.

13 With respect to potential -- harmful effects
14 to fish, I would think that the use of gill nets and
15 fishing hooks has a much greater effect on the lives and
16 well-being of the fish than anything done by a dredge.
17 I have watched many fish appreciate the opportunity to
18 share my dredge, both for the additional food particles
19 and the deeper, cooler water that this provides.

20 I was surprised and dismayed to find out that
21 there was no actual observation and testing done of the
22 dredge, and yet you are limiting the rights of
23 individuals without actually finding connective evidence
24 of the effects of dredging, negative impacts on these
25 areas. To me that is just unconscionable. Therefore,

1. Grodske, Kirk

1 or thus far, the improving of spawning beds, access to
2 food, removal of heavy metals from the river, cooler
3 pools both for the comfort and security, are all
4 benefits supplied by dredging.

5 Restricting the dredging season in our
6 particular area from September 1 to January 31 is
7 effectively closing the river due to the potential
8 spawning of the fish. There is more than enough rivers
9 so that the impact on the spawning is small.

10 Additionally, there is an increased element of
11 danger to try to dredge during the winter months due to
12 moving rock, reduced vicinity, and the colder water
13 presenting a possible hypothermia risk to the
14 participants.

15 I suggest opening this area from May, April,
16 in other words, year-round. Participants will limit
17 themselves due to common sense. Thank you.

18 MR. HIRLINGER: Hi. My name is Don Hirlinger.
19 And I'm a fisherman, and I'm a dredger. And I've been
20 fishing for 30, 40 years in California. And I've been
21 dredging here in California for a while.

22 Now, I've thought about the positive things
23 that are happening when I'm dredging. And the positive
24 things are in taking whatever metals out of the water.
25 That includes gold, lead and mercury. Those are heavy

1. Grodske, Kirk

Hirlinger, Don

1 metals that don't go back into the water. And if
2 there's 2 percent of mercury that may go back in the
3 water after I've taken out 90, 80 percent of that
4 mercury, that's unfortunate.

5 The other positive aspects is when I dredge, I
6 dredge in a hole. And I widen the area for the fish to
7 spawn. I turn the gravels over for the fish to lay
8 their eggs. And the current rules from the 1994 dredge
9 rule, right, seem to be adequate to protect the fish.

10 Now, I'm also a fisherman, and I can tell you
11 I've killed thousands of fish. But I don't think I've
12 ever killed a fish or caused the death of a fish with my
13 suction dredge. And that's about all I have to say,
14 except that all the money I spend supporting the hobby
15 and the local environment. Thank you.

16 MS. MONAGHAN: Okay.

17 MR. BRADBURY: Well, good evening, ladies and
18 gentlemen. My name is Larry Bradbury. I've lived in
19 California for nearly 64 years. And such a nice state.

20 And what I want to let you know is I started
21 being a prospector, oh, I would say for about the last
22 seven years. I've learned a lot about it by watching
23 these guys in the state of the art going out there and
24 doing their dredging and stuff. And believe me, they're
25 really nice people. They're real, true Americans.

Hirlinger, Don

Bradbury, Larry

1 They're not there to hurt the environment. I love the
2 environment, and they love the environment.

3 And, you know, when I go out there and do my
4 rock-counting, too, I usually cover up the holes after
5 I'm finished digging, and I put it back to the way it
6 was actually found. And when I find some old cans and
7 beer tabs and stuff like that, we pick it up. So we're
8 actually helping the environment, not to try to destroy
9 it, for pete's sake.

10 I have wondered today, what has ever happened
11 to good old common sense. I don't see too much common
12 sense all the way from the President of the United
13 States down to the people who sweep the floors. And I
14 think it's time to bring back good old common sense.

15 And before anybody opens their mouths and say
16 anything, they should have good proof of something first
17 before they bring it up and try to run businesses out of
18 California. And that's why California is having such a
19 hard time because of all of these crazy environmental
20 laws, and they go way overboard. I'm not saying every
21 environmentalist is bad. But we do have some
22 environmentalists that are really way out in space. And
23 they set all of these crazy laws.

24 And, you know, you're just chasing people
25 away, and we need our economy. You know, you're going

Bradbury, Larry

1 to make us depend on more foreign resources, send our
2 boys to war to fight over that crazy stuff when we can
3 do it here in America, oil and lumber and mining and
4 stuff. That's where all our stuff is made from, and
5 you're taking all of that away.

6 You know, I remember reading a book on George
7 Orwell, 1984, Big Brother is Watching You. And today
8 it's 2011, right? Well, it might happen a few years
9 later, but I sure see what George Orwell was trying to
10 put across. Big brother is watching you, everything
11 that you do.

12 And this is the kind of country you want? You
13 want to take our freedoms away? Is that what you want,
14 another Soviet Union, where you're afraid to wipe your
15 butt with toilet paper or anything else? I mean, this
16 is not the country I want to live in.

17 You know, our Founding Fathers were geniuses.
18 You know, that's why they put this country together.
19 It's supposed to be for the people and by the people,
20 you know, and not just for the very few. And we should
21 have the voice to speak any time when these new laws
22 come up. We should know about them, and we should have
23 the right to vote on it.

24 And a lot of times you sneak behind our back.
25 I'm not just saying your organization, but all the

Bradbury, Larry

Bradbury, Larry

1 organizations of this country. There are so many things
2 going on that people don't even know about. And you
3 don't even give us the chance to vote on them, and
4 that's totally wrong.

Callahan, John

5 MR. CALLAHAN: My name is John Callahan. Good
6 evening, Mark and the staff of DFG. I've held a dredge
7 permit within the state of California for the last 22
8 years. And what I'd like to propose tonight is more of
9 an emphasis on reclamation and proper disposal of
10 foreign material in our rivers and streams, including
11 about not limited to lead, steel, iron, plastics and, of
12 course, mercury.

13 The Department of Fish and Game along with
14 other city and county, state and federal agencies has
15 suffered obviously a severe financial cutback. And as
16 far as I'm concerned, that would really create a burden
17 for them to do on-site inspections.

18 One I like to concentrate on is winching. The
19 winching of boulders really has a minuscule effect on
20 rivers and streams as you have proposed now. I think
21 everyone would agree that winching boulders is very
22 small as compared to putting emphasis on removing
23 foreign materials from the rivers and streams. And that
24 should be our responsibility as dredgers.

25 I know all too well being a business owner and

Callahan, John

1 a contractor in the state of California the last 24
2 years how important it is to dispose of materials at
3 proper sites. In doing so, I think our state can be a
4 leader for others to follow in the future.

5 And from an environmental standpoint, again, I
6 think it's much more of a priority to remove those
7 foreign materials from the rivers and streams as opposed
8 to the proposal that you have for winching of the
9 boulders. Thank you.

10 MS. HIRLINGER: Hello. My name is Debbie
11 Hirlinger. And I got my first dredge permit in 2008,
12 got a few good trips in. Then in '09 before I could get
13 in the river, I couldn't. And I'm still really mad that
14 we didn't get our money back.

15 And I also think that the people who have a
16 dredge permit should get one automatically when this
17 goes through. They should just -- I've gotten two or
18 three notices from Fish and Game about the meetings and
19 everything. I think they could just mail me a new one.
20 What's -- that's it.

21 I know that the miners not going to a lot of
22 Northern California towns has hurt them dramatically.
23 Restaurants, gas stations, we spend a lot of money on
24 these trips. And I did have the opportunity to go up
25 there this year, and many businesses had closed because

Hirlinger, Debbie

1 the miners are not coming.

2 And I live here in the San Fernando Valley, so
3 really East Fork is our only place to go because there
4 aren't too many rivers here. And it seems like
5 restrictions up there are getting worse and worse. And
6 it's such a limited space, I think we should open up
7 that part of the river above Cattle Canyon as well.

8 You know, you have bungee jumpers up there,
9 you have -- you know, that take up all the parking.
10 There's a lot of user groups. Most of -- you know,
11 everybody really gets along pretty well. There is a lot
12 of trash from, you know, day picnickers. We do go up
13 there in groups. Actually in June there is a big canyon
14 sweep cleanup. Most of the people there, a lot of them
15 are miners. They are cleaning up after other people's
16 trash.

17 So I think support of these regulations -- I
18 have a four-inch, and I like a four-inch. That's good
19 for me. But I have a lot of friends with a bigger one,
20 and you cannot get down as far with a four-inch. It's
21 restrictive. And all of us have screens and cages on
22 our valves already (phonetic). So I don't know why that
23 would be a problem. Nothing can suck up in there. And
24 I have seen fish around me eating. It's very exciting
25 actually to have the wildlife around you. It was very

Callahan, John

Callahan, John

1 exciting. And the next morning you come back, and
2 there's all fish in your deep hole because they like the
3 cool water. And -- all right. Well, thank you.

4 MALE VOICE: (Inaudible). 24 and (inaudible).

5 MR. MILAS: My name is Martin Milas.

6 I'm the president of the prospectors club
7 of Southern California. And I'm speaking here on behalf
8 of not only myself, but the club and its members. I'll
9 try to just do this in three minutes, but I'll do
10 one-by-one.

1. Milas, Martin

11 First, the three-foot rule. I'm not sure what
12 the Sac State connection is here with the neutral party,
13 but it would probably be most interested in my point
14 here because this requires a neutral person to listen to
15 and understand.

16 So the reason that the three-foot rule should
17 be entirely eliminated is done away with not in the
18 new -- in the proposed regulations. It's because it
19 will criminalize essentially the entire group of people
20 who hold dredge permits. And the reason for this is the
21 legislature already has spoken. The legislature already
22 has made it an illegal act to have a dredger to conduct
23 any dredging within 100 yards of a forbidden area.

24 Now, as you guess -- Mark, you mentioned at
25 the outset that the only appropriate interpretation of a

1 legislative act is a court of appeal in California, a
2 published decision. To my knowledge, no California
3 appellate court has ever construed Fish and Game Code
4 5653 in regard to the 100-yard prohibition.

5 So by creating this rule, the Department of
6 Fish and Game, which is a branch of the executive branch
7 of government, is making a rule which essentially would
8 criminalize people for trying to comply with the rule
9 that the legislature has promulgated.

10 And the way that happens is because you've
11 created this three-foot strip on each side of every
12 river that is a no-dredge zone. And automatically,
13 that's going to be within 100 yards, and a crime to be
14 within 100 yards of this three-foot zone. So unless the
15 river is six feet across, you're going to ipso facto be
16 a criminal. And we wouldn't want to be unfair and make
17 everybody here criminals, would we?

18 So I've got 30 seconds left. I would just
19 make one other comment on this. As far as enforcement
20 of the rules, usually in this country we assume a person
21 is innocent until proven guilty. And, in other words,
22 the old rule which forbids -- woops. Time's up.

23 MS. MONAGHAN: (Inaudible).

24 MR. RUDOLPH: My name is Corey Rudolph. I've
25 been mining, prospecting, dredging for almost 40 years

1. Milas, Martin

Rudolph, Corey

1 now. And, you know, there's a lot of clubs out there.
2 There is a lot of camps. I've heard some interesting
3 comments tonight, so I'm going to keep this kind of
4 short.

5 In these camps that people go to, a lot of
6 times, you know, they'll get their dredge permit. They
7 go to these camps. They meet people. Every year they
8 meet different people. Now, in your regulation there is
9 one of these things there is a problem with here.

10 On the permit it says site specific and it has
11 equipment type. You need numbers on your dredge. Well,
12 these people that just show up at these camps that go
13 out there every summer, they go out there to have fun.

14 You know, I'm a professional miner. There's a
15 lot of guys that go out there just to have fun. They
16 meet other people out there, and they're going to apply
17 for a dredge permit. How do they apply for a dredge
18 permit if they don't know which dredge they're going to
19 be working that summer?

20 They meet different people all the time, you
21 know. I have people that want to go dredging with me,
22 okay, and we don't know when they can get time to meet
23 me or when I can get time to meet them. They just show
24 up. Okay. Well, they don't even know where they're
25 going to dredge, but they've got to get a dredge permit

Rudolph, Corey

1 before they do that.

2 How do they get a dredge permit if they don't
3 know where they're going to dredge or what dredge
4 they're going to be working on? I think you can
5 understand the dilemma. That just seems a little over
6 the top.

7 Now, you said earlier you have six sites. If
8 you need to have an additional site, you can file
9 another letter or ask if you can dredge on the sites.
10 But, you know, the whole thing is, you know, you're
11 dredging early in the season. You know, you're using a
12 little bit larger dredge to get down to the overburden.
13 By the end of the season you've lost a lot of your
14 water.

15 The dredges -- or the rivers are a lot lower
16 where you need a smaller dredge. Okay? Sometimes you
17 might have more water one season than another. So
18 sometimes I couldn't even know exactly, you know, what
19 equipment I'm going to be using. The river is going to
20 dictate that for me.

21 You know, so I think you can understand the
22 dilemma that I'm having here with this site specific and
23 sizes and, you know, boat numbers and everything else on
24 your dredge. That's my issue. Thank you.

25 MR. STANTON: My name is Dan Stanton. And I

Rudolph, Corey

Stanton, Dan

1 have more like a factual comment of common sense, I
2 guess. A few comments actually.

3 Being a former gang member, I'm now a business
4 owner, one of the things that got me out of all of this
5 is, of course, church-going, but getting involved in
6 prospecting and taking through my church (phonetic) and
7 keeping out of trouble and all of that kind of stuff
8 have actually helped me set up my dredge. And now I
9 can't do that anymore because I can't dredge at the
10 moment.

11 But I just kind of wanted to make a statement
12 here that we're all actually environmentalists, you
13 know. It's just that we have this riff between us
14 because of this misunderstanding. I think people get
15 the idea that there's some kind of propeller or a
16 chopping machine in the dredge, which there's not. Lots
17 of miners have said, I have been dredging and see the
18 other fish around me and are sucking up the little worms
19 or whatever. I've never even killed a fish doing that.

20 And the other thing is that, you know, every
21 year the miners are actually taking out pounds of
22 mercury, you know. And I don't see anybody praising us
23 for that. And when flash floods come down through those
24 canyons, they churn up more suspended particles of
25 mercury than any small, little miner can ever do. And

Stanton, Dan

1 in some cases they even rearrange the whole river, and
2 they turn up trees and boulders come down. That's not
3 us. That's just nature, you know?

4 I don't understand how a little dredger can
5 cause that much damage because every season when more
6 floods come down through there, just actually covers
7 things. You can't even see where miners are at. And
8 that's just a couple of things I wanted to mention. I
9 won't be too long, but that was just some common facts
10 about things I wanted to state. Thank you.

11 MR. TACK: My name is Ron Tack. I'm going
12 to be hard to understand as I just had surgery on my
13 mouth. I was born in Pasadena, California, in 1938. I
14 started mining when I was 14. I have almost 50 years of
15 underground experience. I've got 12 years at the metro
16 rail station, and three other stations by myself
17 (phonetic) as the main operator.

18 I have unearthed mastodons, many types of
19 fossils. They're always covered over -- the debris is
20 considered heavy metals. A dredge removes heavy metals,
21 all of them. It's just like the terrible dangers you
22 think there is in dredging (inaudible). Have you
23 considered the dangers of the vacuum cleaner in the
24 house? That's what it does. It picks up the crap.

25 The other thing is my last job, I got laid off

Stanton, Dan

Tack, Ron

↑ 1 because of the permits. Fish and Game came in and
2 decided there was a toad in the creek, and they come out
3 to do a study. They come out with their group of
4 scientists and biologists, and I was interested.

5 Now, I went down to see what was going on.
6 There was a group of six. The oldest man had hair
7 hanging below his butt, and he was the scientist. The
8 rest of the kids were students from UCLA. 25 years old
9 was the oldest man out. Six people. And they said that
10 this frog should only lay eggs in water. And the stream
11 only ran two months a year. There was no frogs. So if
12 you went about your studies the same way they went about
13 the costs of my job problem (inaudible).

14 The next comment I have is when I got my
15 dredge permit in the mail, the next day I got the
16 cancellation. It cost me \$15,000. And that's how much
17 equipment I had acquired to go dredging. And I'm on a
18 fixed income. When they open up the dredging again on
19 those licenses that got canceled, do we get new
20 licenses?

21 MS. MONAGHAN: (Inaudible) comment
22 (inaudible). (Inaudible). (Inaudible) individuals
23 speak. I'm going to invite you (inaudible). Does
24 anybody have any other (inaudible)? (Inaudible).

25 MALE VOICE: (Inaudible).

Tack, Ron

1 MS. MONAGHAN: Okay. (Inaudible) do you have
2 1 through 5 with a red box around it (inaudible)?
3 Anybody else (inaudible)? (Inaudible) red work
4 (inaudible). No, no, I understand. Now as soon as
5 (inaudible) after this gentleman, what I'm hearing from
6 you, if no one else wants to (inaudible).

7 But in any event, now we're going to move to
8 the people who have donated time (inaudible). Okay. So
9 we're going to let this gentleman speak, and then
10 (inaudible). If you have (inaudible) 1 through 5
11 (inaudible) with a red box (inaudible). So your name
12 and comment.

13 MR. WARNER: I can talk now? All right. No
14 problem. Good evening. My name's Scott Warner. I'm a
15 professional prospector. I've been dredging in
16 California over 20 years. I'm an environmentalist, and
17 I love this country.

18 I teach gold mining to fourth-grade children
19 in the school district in Los Angeles County. I teach
20 them about gold mining. I teach them about general
21 mineral hunting. I teach them about all things they can
22 do in our great country. Unfortunately, the
23 environmentalists are trying to shut down what we do in
24 this country. They're trying to violate our rights, our
25 rights to use the land, our right to mine, and our

1. Warner, Scott



1 access to gold mining. There's an agenda out there
2 designed to shut us down.

3 I try to teach the children about
4 possibilities in their lives, about what's available to
5 them. I try to teach them about the American spirit,
6 about what makes America a great country. California is
7 California because of gold, because it was found here in
8 1851. It was founded gold mining, and on the spirit of
9 the American people. And all I see around me is
10 everybody enjoying that spirit at all different levels
11 from federal to state, to Fish and Game.

12 I'd like to address a couple of things about
13 the regulations real quick. 4,000 permits issued you're
14 talking about. There is a serious problem with that,
15 because what I see happening is I see some environmental
16 group buying all 4,000 of those permits.

17 It costs them about \$160,000, which is nothing
18 to them, and buying every permit in this state so they
19 can shut down mining another year for the people who
20 want to go out and use them. All right. So I disagree
21 with you putting a limit on how many permits we have
22 because if they were allowed to do it, Fish and Game
23 would happily give it to them. All right?

24 Why the classes? Why are they lowering the
25 classes? In the EIR report it says that dredging is not

1. Warner, Scott

1. Warner, Scott

1 deleterious to fish, and it's not. So why are we
2 shutting down the rivers and putting more of a season on
3 them? And they were using the salmon reason to try to
4 shut us down. Well, most of these rivers don't have
5 salmon in them. And the trout and other fish
6 populations are attracted to dredging.

7 I spend about \$15,000 a year supporting the
8 mining towns and communities in the Sierra Nevadas, and
9 what I do here is a positive thing. Don't make it a bad
10 thing. All right? Thank you very much.

11 MS. MONAGHAN: Okay. So, Pat, I know you have
12 (inaudible). Come on up. Anybody else have a red tag
13 with a box around it? (Inaudible). How many people --

14 MR. KEENE: For right now I'm speaking for
15 four.

16 FEMALE VOICE: (Inaudible).

1. Keene, Pat

17 MR. KEENE: I will do my best. Okay. My name
18 is Pat Keene. I'm part of a third-generation,
19 six-year-old business which has been the largest
20 manufacturer of gold dredgers in the world. And with my
21 41 years of experience, I consider myself an expert in
22 the gold dredging field, and also an environmentalist.

23 In all the time that I have spent dredging, I
24 have never witnessed any harm or taking of any fish or
25 aquatic life, but have witnessed nature thriving as a

1 result of dredging.

2 Deep pools and exposed cobbles have benefitted
3 aquatic life and have proved to help the environment,
4 and many studies that have been out there. I was also
5 part of the PAC committee for the Department of Fish and
6 Game.

7 Information was gathered and discussed by
8 numerous groups that were for and against dredgers, and
9 the DFG compiled the information to be used in the draft
10 EIR. At this time, there was no peer-reviewed evidence
11 at any time that supported any deleterious effects to
12 fish and aquatic life. Therefore, if there is no cause
13 and negative impacts to the environment, I cannot see
14 any change which has mirrored any change from the 1994
15 regulation alternative.

16 The 1994 regulations address many significant
17 or already addressed significant actions addressed by
18 state and federal laws. I feel that the department and
19 other biased environmental groups have conspired to
20 write regulations to reduce dredging and overregulate in
21 an attempt to stop the average person from operating
22 their dredges.

23 Most of the reviewed changes were never
24 discussed among the PAC committee members, and
25 demonstrates that the authors of the DEIR have zero

1. Keene, Pat

1 experience in dredging but lots of experience in writing
2 environmental regulations along with Horizon
3 Environmental and Water.

4 The DEIR was written in such a manner that it
5 was simply an attempt to reduce the liability of
6 lawsuits from the environmental community and not serve
7 the people of California. The DFG is expected to make
8 decisions based on facts and objective evidence, not
9 opinion. To do otherwise would constitute a type of
10 arbitrary and capricious conduct that state and federal
11 constitutions forbid to govern decision-makers and the
12 DFG.

13 Why does the public have to read an 800-page
14 document, and guess why 30 or 40 regulations are needed
15 without any reason or background information for people
16 to understand or comment on? I stress very little or no
17 background information on reasoning provided in the
18 report.

19 This is a preposterous and unnecessary burden
20 on the public who want to take part in the process. The
21 Administrative Procedures Act information was not added
22 into -- added to the DFG site until Monday. It seems
23 that everything that the DFG has done -- has done is
24 biased.

25 I have read much of the report, and simply

1. Keene, Pat

1 can't understand why the DFG has made these changes
2 which are so drastic and create takings to most miners
3 in the ability to operate on public lands and mining
4 claims.

5 The DFG prolonged the DEIR so that Charles
6 Alpers could add his report, conduct it in the most
7 contaminated, known mercury hotspot known to the
8 government and test it in a fashion which is flawed and
9 biased and not on real-life circumstances and should be
10 removed from the DEIR being used as any scientific data.
11 And this goes the same for Humphrey's study. None of it
12 was peer reviewed. And, again, the information was
13 flawed.

14 I mean, they took material from off of the
15 land, introduced it into water which was already
16 contaminated, and then sucked it up with a dredge. And
17 if the dredge removed 98 percent, these people should be
18 applauded and should be thanked for their part of
19 cleaning up the environment.

20 Metal mercury caused by suction dredgers
21 remains to be tested by scientific studies and peer
22 review literature. Claudia Wise used numerous studies
23 from many peer review studies and eliminated the
24 hypothesis of metal mercury contamination.

25 Suction dredging has the lowest impact to the

1. Keene, Pat

1 environment than any other type of mining where most
2 evidence is simply washed away with winter run-off. The
3 DFG does not have the authority to dictate laws that
4 have already been given under federal laws, such as the
5 1872 mining laws and current laws which establish
6 freedom and give rights to the citizens of the United
7 States.

8 These changes made will substantially affect
9 already allowed under the state and federal
10 constitutions and the 1872 mining law. I urge DFG to
11 use the 1994 regulation alternative, continuation of
12 previous regulations, in effect prior to the 2008
13 moratorium. DFG is showing a clear attention to deny
14 the responsible and sustainable use of the land and deny
15 the people of California additional resources which
16 create economic prosperity.

17 How is it that the DFG can predetermine the
18 outcome, the listing of the yellow-legged frog before
19 it's even listed and have changed all the regulations
20 for the potential ESA protection? This is illegal and a
21 civil rights violation.

22 The DFG is buckling to the environmental
23 lawsuits and others such as the Center for Biological
24 Diversity, which is currently suing the Department of
25 Fish and Game over these issues.

1. Keene, Pat

1 The economic aspect has been overlooked
2 completely, and should be most important to
3 Californians. We have proved that the state had lost
4 over \$2 million -- or \$200 million per year since the
5 moratorium.

6 The environmental attack undermines every
7 American's right which people have fought and died for
8 for these freedoms. Mining is and has always been
9 paramount over any other use of the land, and is needed
10 for our economic survival in the United States.

11 I will address most of the portions in a
12 written response, but everyone here needs to study the
13 draft EIR and comment on specific findings. That's very
14 important. Since I've got a little bit more time, I'll
15 talk about the four-inch intake. Let's talk about the
16 pump intake first.

17 Three/thirty-seconds of an inch, which is too
18 small and too difficult to put these things on a dredge.
19 It would basically vacuum -- it would vacuum these foot
20 valves in where the dredge cannot operate. You would
21 have to have something with eight cubic square feet in
22 order to pull enough water into these pumps to make them
23 work. This is unreasonable.

24 The time of -- the time zones of dredging,
25 there's been -- there has been no evidence to show any

1. Keene, Pat

1 reasoning behind changing any of the time zones. And
2 putting this in the water on some of the zones like from
3 September to January the 31st is unreasonable. And it
4 also poses a danger to people.

5 Now, with the limited amount of DFG employees,
6 if we need to do on-site inspections, there will be a
7 backlog of on-site inspections with people waiting
8 months and probably throughout the whole season if you
9 make any changes to your permit or if you need -- or if
10 you want to use anything above a four-inch dredge.

11 Well, in a lot of rivers that I'm working in,
12 a lot of larger rivers that have been currently allowed
13 to operate an eight-inch dredge, there shouldn't have to
14 be an on-site inspection, and if we break any laws that
15 we're going to be accountable for these things.

16 Winching, winching is a state standard to
17 remove rocks to get these looming rocks out of the way
18 so that these rocks don't collapse and fall down on
19 people and possibly leave people stranded underwater
20 until they suffocate. Dredging times have been changed.
21 We still see no evidence why you guys need to change any
22 of it. Another thing, storing fuel 100 feet from the
23 river. Well, most of the claims that I have are -- have
24 very short areas of banks, and then I have vegetation on
25 steep walls. I normally can't put the fuel 100 feet

1. Keene, Pat

1 away. This is very reasonable. I think it should be 20
2 feet. That seems reasonable. So if the container
3 spills accidentally, the fuel can't make it down to the
4 stream.

5 I've got a lot of things. Another thing I
6 want to talk about, the inappropriate description of
7 water. Wild and scenic. People are already using it,
8 such as the forest service, and they're using the laws
9 of wild and scenic which have a whole different set of
10 laws which dictate any type of use.

11 Mechanical or motorized equipment, I can go on
12 and on and on, but I can't understand why none of this
13 stuff was discussed in the PAC meetings. I can't
14 understand why none of this is even in the study.

15 I think that the 1994 regulations have served
16 the community well. I think that there's an
17 underlying -- underlying agendas that are driven by
18 environmentalists to do away with the dredgers. And I
19 think everyone needs to take a close look at this, and
20 everyone needs to comment on it. And more than
21 anything, if people don't comment on the yellow-legged
22 frog by April the 1st, this yellow-legged frog and the
23 ESA is going to come through and take even more rights
24 away from us. They've already gotten it all written to
25 the draft environmental impact comment document.

1. Keene, Pat

1. Keene, Pat

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1 So if anyone wants any papers or flyers and
2 some comment information on it, come see me after the
3 meeting. I might come back again after I hear a little
4 bit more, but thank you very much for your time. Thank
5 you.

6 MR. KEENE: So how much time have I used?

7 MALE VOICE: (Inaudible).

8 MR. KEENE: I will wait a few -- I will wait
9 a few minutes to calm down a bit. I will give you
10 three.

11 MS. MONAGHAN: (Inaudible). But I do need
12 your speaker card, please.

13 MR. KEENE: Okay. I'll give you your card
14 back. I'll get another card from someone else.

15 MR. MILAS: All right. This is Martin Milas
16 again. And last time just before I ran out of time I
17 was talking about the rule proposed 228 K-3. That's the
18 three-foot rule. A couple of more comments here.

2. Martin, Milas

19 There's no exception made for strips of the
20 riparian riverways that have bedrock. In other words,
21 there's a lot of parts of the Salmon River here in the
22 East Fork and the San Gabriel River where you've got
23 nothing but shear bedrock coming down into the water, so
24 there's no rational reason why a person couldn't be
25 closer to that edge of rock than three feet. It doesn't

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1 destabilize anything.

2 There's no functional relation to the time of
3 year for the three-foot rule. In other words, we've got
4 this list of different classes of water that are open at
5 different times of the year, yet the three-foot rule is
6 uniform, one-size-fits-all rule. So there's no
7 empirical evidence, in other words, that goes -- that
8 went into the analysis that came up with those
9 designations that would apply to the three-foot rule.

10 Okay. Let's go on to the 228 K-4. The old
11 regulation defined it as woody, riparian vegetation.
12 The proposed rule does away with that and substitutes in
13 its place damaged stream-side vegetation.

14 Now, I think that the older rule is much more
15 empirically observable and has a rational relation to
16 holding back stream banks, woody materials, root
17 systems, that sort of thing. Algae doesn't do that, but
18 it's a plant. Lilly pads don't do that, but it's a
19 plant. And if a person steps on one, is that damage?
20 It's not defined in this rule.

21 Moving on to the 4,000 permits, it would seem
22 that at least priority should be given out of those
23 4,000 permits to the people who had permits that were
24 not allowed to complete their year.

25 Moving on to another subject, the -- one

1 minute left? Okay. I'm going to go faster.

2 The requirement for pre-designation of
3 locations, to me very unreasonable, especially for
4 residents of Southern California who wish to dredge in
5 Northern California because you have no idea, no way of
6 knowing where when you get there you're going to be able
7 to fit in.

8 And it's also, I think, beyond the ability of
9 ordinary citizens to comply with. You know, we have
10 people that have to have 24 different languages just to
11 vote, let alone try to figure out latitude and
12 longitude. I think that is beyond the pale of
13 acceptability.

14 The requirement of requiring cobbles to be
15 redeposited into the wetted waterway, this would
16 restrict the fish movement within the wetted waterway as
17 opposed to it's better to leave deep dredge holes than
18 to fill them in. All right. Thank you.

19 WALT WEGNER: I'm pretty angry, and so I get
20 pretty passionate. So I'm going to try to wrap it up
21 before three minutes. I'm Walt Wegner.

22 I just want to make an observation that these
23 proposed new regulations are totally biased against
24 suction dredgers. I can't prove it scientifically, but
25 I can tell you right now I have not seen one person from

2. Martin, Milas

2. Wegner, Walt

1 the extreme environmental organizations from the Sierra
2 fund or for the Carook Tribe (phonetic) come here and
3 complain about them. None of them.

4 If this room was half full of people who
5 didn't want us dredging and half full of miners, I'd say
6 that was a very fair assessment of what needs to be
7 done. So to me, that's proof in itself that Fish and
8 Game is in bed with the environmentalists. This is all
9 an environmental thing.

10 And getting back to my effective scale, there
11 was a study done -- of course, it wasn't put in the EIR,
12 where this was a -- a scientist went in and measured
13 dredge holes, measured dredge holes and tailing piles
14 (phonetic) on the Salmon River. Did a whole scale of
15 it. And when you looked at it you said, wow, they moved
16 a lot of materials, those dredges, in that season.

17 Well, Dr. -- or Joseph Green plugged that into
18 the scale of the larger river, the whole linear length
19 of the river. And it came out to .002 percent was
20 affected of this river. Now, if you want to affect less
21 of the rivers here, open up all the rivers. Open up all
22 of them. That percentage is going to go down. It's
23 going to go down. The effect that suction dredging has
24 on the total state is going to go down.

25 Oh, boy. There's a lot that I -- you know, I

2. Wegner, Walt

2. Wegner, Walt

1 want to talk about, but I probably won't get in to it.
2 Oh, one thing. You did not address incidental take.
3 Every other user of the river has an incidental take.
4 Fishermen have an incidental take, but they don't have
5 officially-granted rights.

6 Why wasn't the incidental take for suction
7 dredging addressed in the draft EIR? We should be
8 allowed as the fisherman is allowed to go in and say
9 he's a catch-and-release only. Well, say he pulls the
10 mouth out of the fish when he pulls it in. I would
11 imagine that would fall under incidental take given the
12 fishermen. Dredgers, of course -- I've never killed a
13 fish. Where is my incidental take? I don't get any
14 incidental take at all, and you assume that suction
15 dredging is deleterious to fish when we still haven't
16 seen the signs of it?

17 Now, the '94 regs were prohibitory -- I'm
18 going to get to the end before 30 seconds. They were
19 prohibitory, but miners lived with them. We thought
20 they were fair, though it prohibits us. These are twice
21 or three times more prohibitive. And the streams that
22 are flowing right now in flood stage are moving more
23 material than all the suction dredgers could move in a
24 thousand years, right? In one week those streams more
25 material than we could move in a thousand years.

2. Wegner, Walt



1 Nature. And we're getting beat up over this. So thank
2 you.

3 MALE VOICE: Does anybody else want
4 (inaudible)?

5 MS. MONAGHAN: Do we have anybody else
6 (inaudible) donated time?

7 MALE VOICE: (Inaudible).

8 MS. MONAGHAN: (Inaudible). You are going
9 to -- do you want six minutes (inaudible) second time?
10 Okay. Then I'm (inaudible).

11 MALE VOICE: (Inaudible).

12 MR. LAROSA: Ah --

13 FEMALE VOICE: Go ahead and line up if you
14 want to speak (inaudible). Go ahead and line up.

15 MR. LAROSA: Going into the -- my name, again,
16 is Dion Larosa. This is the second part of the
17 amendments and/or request of the draft supplemental
18 environmental impact report, which I gave earlier.

2. Larosa, Dion



19 My third point, as I was reading the draft of
20 the DSEIR, noting its overall tone I saw many other
21 proposed restrictive measures had no basis or reasoning
22 for additional restrictions from the current
23 regulations, such as the applicant listing information
24 similar to a plan of operation or a notice of intent,
25 which is not normally required with up to a four-inch

1 dredge without inspection, if you can get one in only
2 4,000 permits issued annually in a state of over
3 millions of residents.

4 If I may suggest, Mr. Stauffer and other
5 members within the Department of Fish and Game, I would
6 caution keeping your current strategy while deciding the
7 final draft. I'm citing such proposals are oppressive
8 to the citizens of the state of California. Also, I
9 find they are unconstitutional and in violation of
10 current mining law.

11 In closing, I think the amendments which I had
12 spoke of earlier, as well as everyone this evening, the
13 amendments which show your office is working for the
14 greater good for all user groups, and not unjustly
15 regulating one or another, creating an unnecessary
16 hostile environment in light of there being no findings
17 of deleterious effects to fish or scientific proof
18 supporting the term significant and unavoidable impacts
19 or negative impacts found from the studies within the
20 DSEIR itself on suction dredging.

21 My earlier suggestion on moving the east fork
22 San Gabriel River area north boundary would alleviate
23 recreational crowding and unnecessary impact from being
24 in a confined area, and also is away from the main
25 traffic flow and main campsites along East Fork Road.

2. Larosa, Dion

2. Larosa, Dion

1 I would ensure -- excuse me. This would
2 ensure minimal inconveniences to the dredge operator who
3 can be more in compliance with suction dredge
4 regulations and in line with DFG's best management
5 practices. Thank you. Good evening.

2. Trotter, Martin

6 MR. TROTTER: I'm Martin Trotter again. I'm
7 with the Temecula Valley Prospectors. Like I said, I've
8 got 100 -- at the last meeting was 167 people.

9 When -- if all of these individuals would like
10 to get a dredge permit to come out and exploratorily
11 (phonetic) learn how to use the equipment, which our
12 primary purpose is to train people to use different
13 equipment, and how to teach good environmental issues,
14 and teaching mining of all types, whether it be
15 high-backing, whether it be dry-washing or whether it be
16 with a puffer or different kinds of systems out here in
17 the deserts on the multiple claims that we have, these
18 different issues, but for the suction dredging area of
19 this, if all 167 people want to get a permit, but they
20 don't have any equipment, maybe 20 people might have
21 equipment, maybe four or five people would have the
22 equipment set up.

23 If we all -- if they all got these permits to
24 come out and use, then this limitation of things like
25 this, they may only use it once, they may come out and

1 use it twice in the year. But it helps the Department
2 of Fish and Game if they all have permits, but the
3 regulations of limits on it and the limits on size and
4 where the locations are that we're going to be going out
5 to dredge, whether we would be on the east fork or
6 whether we would be up -- I have claims on the Trinity
7 River that I will sublease to the club, one of them. So
8 we can go up and enjoy the Trinity, and can also use
9 some of the other areas that we've got our own claims
10 which are dry desert claims.

11 We do, like I said, moving rocks and stuff
12 like -- even out there on the desert we're going to be
13 moving rocks. You're going to be moving rocks any way
14 you go. So this thing with the moving of the rocks, the
15 stream bed, it is -- we're not moving that much.
16 It's -- the water flow itself moves. So these are
17 regulations that I think are way over -- way overbound
18 and should be removed.

19 The water movement, the stoppage of the fish,
20 the decline of the fish, talked earlier about that
21 issue.

22 There's no time limit now. Take the seat over
23 here. I won't talk that long.

24 But the issuance of water movement in the
25 stream, lack of water, good flowing water and waterflow

2. Trotter, Martin

1 trapping the fish from going up streams with the high
2 dams that are on the stream flows that have stopped the
3 fish from going back to their stream beds with the
4 migratory-type fish, is the primary number one reason
5 why fish are not -- have been slowly depleting out of
6 the streams.

7 And if we have fish ladders on all these major
8 dams, the major dams that stop the fish from going back
9 up to their spawning grounds, and you have a 20-foot
10 high level of a discharge point, because a fish isn't
11 going to jump 20 feet if he's got a running stream of
12 fish ladders to go up from the discharge point to get
13 rid of the sedimentation that is behind the dam, they
14 release the flow. You will have a fish flow going up
15 the fish ladders.

16 If you have -- I realize some of the dams are
17 used for irrigation purposes in maintaining water flow
18 to the cities. But I'm sorry, we also have the -- the
19 fish want to have -- we want to have fisheries. I'm a
20 fisherman, too. I haven't bought a fishing license last
21 year, and I'm not buying one until I have a dredge
22 permit again. And I know over 100 people who won't buy
23 a fishing license that can't dredge.

24 So it's -- it's a small dollar figure, but
25 it's -- why support an activity that's going to destroy

2. Trotter, Martin

1 my livelihood? Yes, I have probably over 45, \$50,000
2 worth of equipment in mining claims that I've spent. My
3 wife is a little perturbed at me for that. But without
4 having much resource -- I mean, much of it coming back,
5 but it's also going out and enjoying the environment.

6 I'm not spending that money here. I'm
7 spending it in other areas. I'm going to be spending it
8 in Oregon. I'm going to be spending it in Alaska. When
9 I go out I'll spend 2500 to \$3,000 on a trip, and I may
10 be gone for a week to two months. But like I say, it's
11 not being spent in this state. I have to spend some
12 money because I live here.

2. Trotter, Martin

13 But it's on this environmental impact of not
14 being able to dredge and going out is an enormous burden
15 for the individuals in the area where we go because
16 we're not dropping that money. Gas stations, food, the
17 things that might break on your system, you want to go
18 into town to the hardware store and buy repairs and fix
19 it.

20 And that's some of my major issues, but
21 there's other things that I'll write into -- like I say,
22 a complete comment list. So thanks.

2. Warner, Scott

23 MR. WARNER: Scott Warner again. I'm sorry,
24 you know, I feel compelled. I want to take a minute to
25 talk about the honesty or integrity of the Fish and Game

1 department.

2 And I say that, about two months ago I watched
3 a program on TV called Wild Justice. Two -- two
4 officers from Fish and Game from Plumas County did their
5 best to go in on a miner on a mining claim and portray
6 him as an evil environmental-destroying person.

7 And I watched this program in horror and what
8 these two officers did. They not only violated the
9 civil rights of the two gentlemen that they went in on,
10 but at no time did they mention that they were going
11 into a mining claim. And I guarantee you they violated
12 some official mining laws in what they did.

13 But the gist of the story is, they showed
14 their true colors to me. And they showed they had an
15 agenda, and their agenda was against miners in this
16 state. And these two officers did their best to portray
17 mining in a negative light on national TV.

18 They showed a dead fish on the property. We
19 don't know if that fish was even on that property. But
20 while they were doing it, they showed a gold dredge.
21 The man was doing a Trammel operation. He wasn't
22 dredging. But for whatever reason, they chose to show a
23 gold dredge in the river. I don't even believe that
24 gold dredge was on that claim. But in my opinion, they
25 showed their agenda. They showed what they're about.

2. Warner, Scott

2. Warner, Scott

1 Now, you're asking me to abide by some new
 2 regs that have a four-inch maximum on it, and I have to
 3 ask them for permission to run a six or to use a winch.
 4 And I can tell you now, I already know what the answer
 5 is going to be when I ask them. It's going to be no,
 6 because they definitely have a hidden agenda that maybe
 7 you're not aware of. But it's out there.

8 Now, I mentioned this is America. I want to
 9 ask a question to the crowd here. How many people in
 10 this room support the new regulations? Show me your
 11 hands. I don't see any.

12 MS. MONAGHAN: (Inaudible).

13 MR. WARNER: Scott Warner, I am commenting, and I
 14 don't see any hands in this room that support it.
 15 There's 50, 60, 70 people here. Myself, I would support
 16 the '94 regs. Even though they are prohibitive, I would
 17 still support it. And I believe everybody else in this
 18 room would support it, too.

19 But let the record show that not one person in
 20 this room out of 60, 70 people support these new
 21 regulations. And these are the people that you are
 22 impacting. All right. Thank you very much.

name.

3. Milas, Martin

23 MR. MILAS: Thank you. Martin Milas I heard my
 24 Good. I just want to come back to where I was -- ran
 25 out of time last time, and that was -- I was talking

1 about dredge holes and the benefits to fish life that
2 dredge holes offer. The migratory fish, which have to
3 rest -- I mean, it's a lot of hundreds of miles to the
4 ocean up to where they lay their eggs, and they can't
5 make it all in one swim. And so it's important for them
6 to have places to rest.

7 And when the dredgers open up these dredge
8 holes, rather than forcing them to fill them back in,
9 which doesn't make any sense, it would make a lot more
10 sense to leave them there, because this is like
11 providing little islands of refuge for the migrating
12 salmon to make their way up to where they're going to
13 lay their eggs.

14 There's another aspect of this, and that is
15 thermal refusion (phonetic). Now, I don't know to what
16 extent I would like to go. It would be a question, I
17 suppose, that I would like to have Fish and Game address
18 in the final. And that would be to what extent has it
19 been taken into account that in addition to creeks that
20 spill snow-melt water -- cold snow-melt water into the
21 larger rivers like the Klamath or the (inaudible).

22 When dredgers remove these thick cemented
23 gravels from bed rock and expose bed rock cracks,
24 oftentimes you can feel -- you can actually feel the ice
25 cold water coming out of those cracks. The reason is

3. Milas, Martin

1 that the snow that is way up there 8,000 feet high is
2 percolating down, is in an aquifer that is trapped and
3 prevented from reaching back into the river, but the
4 dredgers open this up, and so that cold water that fills
5 that dredge hole up, thereby enhancing fish life as
6 opposed to being detrimental. So I don't think dredge
7 holes should be filled up. I think they should be left.

8 Secondly, I want to address the gravel bar
9 issue. When nature has high rainfall periods, you have
10 increased velocity of the river. That's because of
11 increased pressure. Pressure is the only thing that can
12 increase the velocity of a river. So the iron gate dam
13 opens, at least it re-routes water. You notice that the
14 velocity increases because there's more pressure.

15 A dredge cannot -- no single dredge can
16 increase velocity of a river, because it's only taking
17 water from one place and putting it back over here.
18 It's not adding to the volume of the river. And,
19 therefore, it can't add to the pressure and, therefore,
20 it can't add to the velocity.

21 But what it does do is it oxygenates the
22 things that are in the water, gravels. And so when you
23 have a gravel bar after the winters subside, the last
24 thing to settle on those gravel bars are silts. Silts
25 are these little -- well, everybody knows what silt is.

3. Milas, Martin

1 It's kind of a sludgy clay-like material, and it harbors
2 parasites and bacteria that attack fish eggs.

3 And so if you've done like I have, and I'm
4 sure you have, observe the salmon as they are migrating
5 up looking for a place to spawn, and they actually fight
6 each other over the privilege of nesting on a freshly
7 dredged gravel bar. Could it be that they sense that
8 this is clean because it's been oxygenated? So rather
9 than preventing dredgers into these gravel bars, I would
10 think it would be beneficial to allow them to do that.

11 When I was in law school, I helped pay for my
12 law school education by raising tropical fish. Hybrid,
13 veil tale angels when they first came out, first
14 patented back in the 1970s. And the first thing you
15 know, if you've ever had an aquarium, is if you don't
16 stir up the bottom once in a while, all your fish die.
17 You've got to stir that up to get the oxygen down there
18 to help nature with this process of cleansing the bottom
19 of the river and the lake.

20 As far as the east fork, that is something
21 that members of my club are very, very interested in
22 since they're Southern Californians and since there's
23 very few places you can go dredge in Southern
24 California. And I would absolutely be thrilled if Fish
25 and Game would extend for two miles up from Cattle

3. Milas, Martin

1 Canyon Creek areas re -- re-open areas to dredging.

2 And I'll tell you from personal experience --
3 because annually we do a cleanup of the San Gabriel
4 River. And I've been on many of these. And I'll tell
5 you what the most commonly found object is when we clean
6 up that river. Disposable diapers.

7 Now, what do you suppose is inside those
8 disposable diapers? I wouldn't want to touch my mouth
9 to it. Bacteria. And I'm sure the fish eggs are not
10 helped by this stuff either. But by allowing dredgers
11 in that two-mile stretch, all of that sludge would be
12 cleaned up. You would be able to re-oxygenate and get
13 rid of a lot of these diseases.

14 I think that just about does it. Let me just
15 check here. Oh, yeah, yeah. No, that's it. Thank you
16 very much for listening, and I look forward to your
17 final report.

18 MR. BELEY: Hello. Eugene Beley. I have a
19 few other questions and comments here. One thing is it
20 was mentioned a little bit about what about a stream
21 that runs dry after a rainfall, and it's past 100 yards
22 of a restricted area river. Is that something that we
23 can dredge without the boundaries of three feet on
24 either side?

25 Myself, and I'm sure others believe that

3. Milas, Martin

2. Beley, Eugene

1 should be determined by river gravel, not river level,
2 as to where we can dredge or where we can dredge to.

3 Dredging is the most effective way of
4 retrieving gold for a claim owner. Taking away this
5 process of mining or prospecting would be devastating to
6 more than just miners and prospectors.

7 Another thing that kind of bothers me is that
8 we see this all the time, is where people that end up
9 trashing the place, like the east fork, with all their
10 trash and diapers, bottles, cans, everything else and
11 things like that, I've never slighted for any kind of
12 littering.

13 And the reasons I've gotten from the rangers
14 is that they're probably not of legal status of this
15 country, and aren't able to pay for the fines that would
16 be given to them. However, for people like us that look
17 the part that can pay are constantly being harassed, and
18 we're the ones that clean up after their messes. Our
19 dredges clean up all kinds of environmental hazards.
20 And then we've got the environmentalists trying to
21 regulate us, Department of Fish and Game and others, as
22 being environmentalist terrorists.

23 We should be hailed, hailed, maybe even paid,
24 for the things that we do and clean and retrieve from
25 the forest and the rivers. We're very -- we're very

2. Beley, Eugene

1 conscious-minded as far as keeping everything cleaned
2 and doing what needs to be done to appreciate the forest
3 and things that we are allowed to have.

4 And not only that, we have a federal right to
5 be able to mine our claims. We pay \$140 a year for each
6 claim we own. And then we're told by environmentalists,
7 regulations and others that we can't work these claims
8 because of some whatever or environmental protection
9 thing.

10 I think it's a darned shame that the
11 environmentalists who received a 30 percent increase
12 this year from Barack Obama's administration to further
13 regulate our -- not privileges -- our rights. So, I
14 mean, it's got to stop. It has to stop. It's not fair
15 that someone that is destroying our livelihood, our
16 rights, get a 30 percent increase and we're just totally
17 10 percent taken away here, 5 percent taken away here,
18 20 percent taken away from here, 15 percent taken away
19 from here, and we've got nothing.

20 I mean, we really depend on being able to
21 retrieve gold and other minerals from our claims as a
22 way of supplementing income. And I appreciate everybody
23 keeping in mind that that's what it was meant to be for
24 as a U.S. citizen in this country to own minerals in
25 this country, which has made this country what it is

2. Beley, Eugene

2. Beley, Eugene



1 today. Thank you.

2 MS. MONAGHAN: Thank you for your comment. I
3 want to just check, is there anyone who has not spoken
4 yet? Who has not spoken who would like to? Okay. I
5 want to make sure that everyone has an opportunity who
6 wants to make a comment. Okay. Then if anyone else
7 wants to -- you are pointing at --

8 MALE VOICE: (Inaudible).

9 MS. MONAGHAN: Okay. If people want to come
10 back and add additional comments -- Pat, I don't know?
11 Walt? Line up -- we're going to go till -- it's a
12 quarter to nine. We'll go to nine, do another check-in
13 and see where we are.

14 MALE VOICE: (Inaudible).

15 MR. MILAS: My name is Martin Milas, and it's
16 my fourth trip to the vineyard here. And this is --
17 this one's for Mark.

18 On that three-foot rule, I've thought of a way
19 that perhaps legitimately a three-foot rule could
20 reasonably be imposed. And this is how it would work.
21 If somebody is messing up, if you have the bad dredger
22 who doesn't follow the rules, and they're caught, they
23 get a hearing, much of the new regulations has to do
24 with the hearing process.

25 And at the end of that process if, in fact,

4. Milas, Martin



1 they're guilty, there are sanctions. And as a
2 sanction -- usually you try to do -- you don't -- you
3 know, you don't escalate it to nuclear warfare of
4 dredging and just revoke the license right away
5 necessarily. Sometimes you can suspend it.

4. Milas, Martin

6 And one penalty that I thought of that could
7 work would be somebody who is cutting into the bank and
8 that sort of thing, one of the possible penalties would
9 be in the future they have to stay at least three feet
10 or five feet or something away from the wetted
11 waterline.

12 That would make it really clear, you know, and
13 would allow your guys to enforce the rule on the ones
14 who are violating the rules, not the rest of us who
15 don't violate the rules and don't need to have that
16 arbitrary kind of limitation put on us. Thank you.

17 FEMALE VOICE: We should have asked him what
18 he meant by just a second.

19 MR. KEENE: Pat Keene. I'd like to add a little
20 something to the three-foot rule. You know, you have
21 many users that use the stream. You have rafters where
22 they might have 10, 12, 13, 14 rafts. And these people
23 are getting out of the river. They're stepping in these
24 little shallows where also tadpoles or frogs or whatever
25 it may be, and they trample along the edges of the

2. Keene, Pat

1 stream. Same thing with most fishermen. Most fishermen
2 are wading along the edges of the stream. They don't go
3 deep into the water, but they work a lot on the edges of
4 the streams and in knee-deep water, or less in most
5 cases.

6 Well, dredgers are kind of a single-point
7 entry where they go into the stream and where they exit
8 the stream. We're not -- we're not going in or out or
9 hanging out and walking up and down the stream in the
10 shallows of that three-foot area.

11 So it seems to me that a lot of the other user
12 groups would have a much greater impact than the
13 dredgers. And I don't see regulating the dredgers to
14 that three-foot area. You know, I understand if they're
15 dredging into the bank. There are laws set for that,
16 and you can get nailed for 1602 or 1604 stream
17 alteration violation. And these laws are already on the
18 book (phonetic).

19 But I don't think that the Department of Fish
20 and Game should set that three-foot perimeter. Because
21 if you have narrow streams or creeks, it basically puts
22 you out of the picture completely, and it takes away
23 people's ability to work those areas. I don't think
24 that alternative is going to work.

25 Another thing I wanted to mention is about the

2. Keene, Pat

1 east fork of San Gabriel. Now, you have what's called a
2 stickleback fish, and this is a fish that they want to
3 protect. When one of the gentlemen from the Friends of
4 the River worked in conjunction with the Department of
5 Fish and Wildlife, the report talked about above Cattle
6 Canyon -- in Cattle Canyon itself they did the test, and
7 there were barely any stickleback fish at all.

8 And they said that that was a result of the
9 dredging. But the fact of the matter is you were never
10 allowed to dredge in Cattle Canyon itself. So the
11 information that -- they published it and got it on
12 the -- I think threatened endangered species list was
13 flawed.

14 But the area where the stickleback fish is is
15 in the area that's trampled by millions of people every
16 year. They say that there's 12 million people every
17 year that visit that small section of the river.

18 Now, the dredgers only have a half mile of
19 that river, and there's all kinds of areas for that
20 stickleback fish to have its -- for it to have its
21 habitat -- thank you.

22 And in spite of all the dredging activities
23 that have occurred, we believe that that is a reason why
24 that stickleback fish is doing so well in that area.

25 The area that has been so trampled by men, it's in spite

2. Keene, Pat

2. Keene, Pat

1 of, not because of the dredging that these fish are
2 there. And I think the fish on the east fork of San
3 Gabriel, since we only have a little half mile stretch
4 where you try to concentrate all the dredgers, you
5 probably would have more disturbance.

6 But if they opened it up to I think Allison
7 Gulch or below the wild and scenic area, and left more
8 of that area open, I don't think -- I think you could
9 mitigate a lot less damage by allowing more people to
10 dredge in that area.

11 Another thing -- let's see here. I've got so
12 many things I wanted to mention. A lot of it's going to
13 be in my written comment. And -- okay. I think I will.

14 MS. MONAGHAN: Okay.

15 MALE VOICE: You don't want to take my card,
16 do you?

17 MALE VOICE: I'm cardless.

18 MS. MONAGHAN: (Inaudible).

19 MALE VOICE: Sure.

2. Grodske, Kirk

20 MR. GRODSKE: Kirk Grodske. I have been
21 listening, and I've just got something I wanted to
22 retouch on a few points. As I was numbering them I had
23 one or two or three or four. I'm up to 14, but they're
24 really short.

25 We've talked about how not only do the

1 dredgers or the miners, which I would call them, because
2 some people aren't dredgers -- they work sluice boxes.
3 They work a device called a high-banker or a power
4 sluice or they just pan. And they're coming out and
5 they're spending the day. But all of these people
6 contribute to removing heavy metals. By heavy metal, I
7 don't mean just mercury.

8 A lot of buzz words (phonetic) around mercury,
9 and basically -- I'm reading some of your documentation.
10 Basically the dredges have a very minimalist effect on
11 mercury, but it's always a benefit. It won't make a big
12 dent, but the dent is a beneficial dent. The more
13 things that we seem to take out are trash metal. Things
14 that people have thrown in, the picnickers, the bottle
15 tops, the beer can lids and things of that nature, the
16 nails, rusty fish hooks, old lures, and fishing weights
17 that are made out of lead. All of those things are
18 pulled out almost on a daily basis by dredgers and other
19 prospectors.

20 They mentioned earlier -- and this is a little
21 bit outside of the east fork area, but it's the local
22 economy. A reduction of people that can go and
23 participate affects the gas stations, the local
24 restaurants, the hardware stores and so forth. And I
25 would like to just reiterate, re-emphasize that current

2. Grodske, Kirk

1 injunction against dredging has drastically affected
2 several communities financially.

3 The ability to augment income in difficult
4 times, we are facing another actual depression. And
5 east fork has a history of people during The Great
6 Depression going there and getting bold enough to keep
7 their family going. And to be prohibited from doing
8 that now in as sufficient a manner as possible is also a
9 very negative impact on the economy of individuals as
10 well as the local neighborhoods.

11 One of the comments regarding the six-site
12 requirement on the permit, how big is the site? I think
13 that needs to be more clearly defined, if it hasn't been
14 already. Because I go to east fork, I've got to go
15 somewhere, wherever I can park my equipment. And as I
16 start testing, I may follow, well, there's a site. Is
17 it a three-foot area? Is it a six-foot area? It's hard
18 for me to under -- to know exactly where it is I will be
19 digging.

20 There are -- the question about permit cap,
21 4,000 permits. There are a lot of people who
22 currently -- the old rule was if you wanted to touch the
23 nozzle and dredge, you needed a permit. So if you
24 didn't own a dredge, you still needed a permit. It
25 might be better to -- they're talking about putting

2. Grodske, Kirk

1 numbers, like a boat registration on dredges. So maybe
2 the dredge is permitted and anyone can use a permitted
3 dredge. That might be an acceptable way to go. But
4 otherwise, there might be 5 or 6 or 10 or 20 people that
5 might buy a permit, use it once or twice a year, but
6 they've effectively reduced the amount of people that
7 can get a permit. So I think that cap is too low.

8 I also think as time goes on and our
9 population increases or the economy continues to go down
10 the -- in the tank, maybe more and more people will
11 actually eat to dredge or look for gold to try to make a
12 living.

13 I talked about that one.

14 And then the comment that somebody else raised
15 about possibly environmental groups going down and doing
16 a bulk purchase, like scalpers do at Laker games of all
17 the good tickets. There ought to be a way to address
18 that. I didn't buy a dredge permit in 2009 because I
19 knew you guys were planning on canceling it. It was all
20 the discussion and debate.

21 It wasn't dredging season yet. I kept waiting
22 and I kept waiting. And I said I'm going to do it, and
23 then that was the very next day you terminated selling
24 permits, and then you closed the dredging season. So my
25 last permit was 2008. So if it's only people in 2009

2. Grodske, Kirk

1 who get permits, I'll get shut out again, and I don't
2 think that's fair.

3 And I'm kind of curious -- again, going back
4 to my earlier comment at how appalled I was that there
5 was actually no science involved in actually doing any
6 tests to create an actual direct link between dredging
7 and the damage to either environment or fish or mercury
8 level.

9 Was there also an advocate for the dredging in
10 the process on your board? I heard Pat talk briefly
11 about the PAC group. I never went to some of those
12 earlier things. So I can't refer to what it was called.
13 You know --

14 MALE VOICE: (Inaudible).

15 MR. GRODSKE: There was? Good. Because it
16 just doesn't seem like there was a lot of positive input
17 as far as dredging looking at the regulations as they're
18 currently written.

19 Gold, by the way, is a renewable resource.
20 Each year any holes that the dredgers have dug in the
21 east fork of the San Gabriel River are filled in just by
22 the fact of the winter floods. And new gold is
23 re-deposited. So we can go back and dig again and find
24 some more. So to close that area seems to be also kind
25 of pointless because, again, there is absolutely no

2. Grodske, Kirk

2. Grodske, Kirk

1 damage being done. There is no permanent damage. It
2 reloads itself so we can have another year of experience
3 and fun, either mining or prospecting.

4 There was some mention about the impact of
5 dams on fish viability, reduced stream rates, which
6 reduce oxygenation, which increase the temperature, and
7 make it an unhealthy place or it's too shallow for them
8 to swim because they're controlling water for other
9 things. I think that does a lot more to hurt fish than
10 dredging.

11 There was a comment several people made, well,
12 I'm going to go out of California to spend my money.
13 I'm going to go to Oregon. I'm going to go to Alaska.
14 Those are very expensive propositions. Not everybody
15 can afford to go to Oregon or Alaska. So some of these
16 onerous regulations and area restrictions are affecting
17 people in a very disenfranchised manner. Poor people
18 aren't getting much of a say.

19 I have a question for the DEIR regarding the
20 three-foot rule as it pertains to sand bars, that sand
21 bars that are in the middle of the stream. Sometimes we
22 will have the stream banks, and then we'll have a sand
23 bar in the middle which creates two parallel paths
24 through the stream. So is it the outer streams, or is
25 it the ones in the upper banks? That seems to be vague,

2. Grodske, Kirk

1 and also an unrealistic limitation.

2 In previous documents Mark Stouffer said it
3 was okay to do booming on the banks of the rivers. And,
4 yet, some of the regulations currently in place and some
5 of the wording here talks about keeping suction dredge
6 devices 100 feet or 100 yards away from the river.

7 Some members of the Department of Fish and
8 Game, the sheriffs and so forth, are harassing members
9 of our prospecting community for having pumps and water
10 pressure devices to do booming, which is said to be
11 allowed. If you're doing booming, and here's the creek
12 bed and here's the edge of the creek, and you come over
13 here to create a settling pond, are you now in violation
14 of the three-foot rule for operating the settling pond
15 even though you're actually going to be working over
16 here? That also doesn't -- I think it needs to be
17 clarified.

18 And the thought of giving -- of not ticketing
19 potentially undocumented aliens because they don't have
20 the money to pay for the ticket, we'll just take their
21 trucks, their boom boxes and their beer. I think it's
22 absolutely unacceptable for them to enforce laws that
23 are not -- you know, only apply to the citizens of the
24 United States or to potential noncitizens. And I don't
25 want to lump every Hispanic person as old or

2. Grodske, Kirk

2. Grodske, Kirk

↑ 1 undocumented because that's not correct either. But if
2 they're littering, they should get a ticket no matter
3 who they are.

4 MR. STOPHER: Okay. What's most useful, folks,
5 is sharing with us comments that are relative to suction
6 dredging and comments that have not already been made,
7 particularly as it gets later tonight. Thank you.

Tack, Ron

8 MR. TACK: Ron Tack. I have one comment. I
9 got through listening to everybody. And I know the
10 Department of Fish and Game is on the right track with
11 this cap of 4,000. But to be fair, you ought to cap the
12 driver's license, the fishing license, and should only
13 allow 4,000. Look how many people behind you could save
14 (phonetic). Good idea.

15 MS. MONAGHAN: It's 9:00 o'clock. I just want
16 to do a brief check-in. We want to make sure everyone
17 who wants to speak has an opportunity. Are there more
18 people? Pat?

19 MALE VOICE: (Inaudible).

20 MS. MONAGHAN: Okay. Well, you've got -- is
21 there anyone else besides Walt --

22 MALE VOICE: (Inaudible).

23 FEMALE VOICE: Well, no. Walt gets first
24 crack at this. You get to be next after Walt.

25 MALE VOICE: (Inaudible).

1 MS. MONAGHAN: Yeah, we heard about that one
2 before. Okay. So we're going to do Walt, and then this
3 gentleman, Marty, and then Martin.

4 MR. WEGNER: Okay. My name's Walt Wegner.
5 I'm nice and calm and relaxed, and I'm going to speak in
6 a nice, calm voice so I can make this through.

7 The one thing that I did not see in the draft
8 environmental impact report was any beneficial effects
9 of suction dredging that wasn't looked at, as I've read
10 it, at all. And what it appears is that Fish and Game
11 assumes right away that suction dredging is harmful by
12 their directive of they will issue a permit if it is not
13 deleterious to fish.

14 MS. MONAGHAN: Can I ask, I realize that
15 people are leaving, if you could do it quietly because
16 we really want to get -- capture Walt's comments. Thank
17 you.

18 MR. WEGNER: But in the public advisory
19 committee meeting, there was a lot of discussion about
20 oxygenation, and there was a lot of discussion about
21 removing of heavy metals.

22 And in the draft environmental impact report I
23 did not see any sort of -- you know, when I looked for a
24 non-biased study, I want to see both sides. What's the
25 good side? What's the bad side? I didn't read any of

3. Wegner, Walt

3. Wegner, Walt

1 the good side of suction dredging. It appears to me
2 that Fish and Game came at this let's just look at all
3 the potential bad stuff here.

4 And, you know, once again -- and I brought
5 this up before -- we don't like to bring things up
6 twice. But the groups who are against suction dredging
7 are not here because they got what they wanted. And
8 that's why they're not here. And suction dredgers are
9 here because we ended up getting prohibited from our
10 private property.

3. Wegner, Walt

11 The private property means if I have this
12 lighter, it's mine. It's my own private property. I
13 put it in my zipper pocket. And you make a regulation
14 saying, no, that's yours, you can definitely have it,
15 but you just can't unzip that pocket to get it, that's
16 Class A. Class B would be, no, that's yours, but you
17 can only have that private property between July and
18 August.

19 Now, there's ways we can mitigate with Class
20 A. And like I say, the miners lived with the '94
21 regulations even though they were a prohibition. But we
22 thought, you know what, we can live with them, we like
23 them. And I request that we return to the '94 regs
24 because that's something that if we return to the '94
25 regs, you probably won't see litigation at least from

3. Wegner, Walt



1 us. Thank you.

2 MR. TROTTER: Marty -- or Martin. Okay.

3 Martin Trotter. Okay. There are two real industries in
4 the world. There's two industries in the world. Mining
5 and food production. Mining and food production, those
6 are the only two real industries in the world.

7 Everything else is -- lives off of those two industries.
8 I don't care if it's mining for oil, mining for coal or
9 anything else like this. As a miner, it is an industry,
10 and we're being prohibited from functioning, for
11 supplying a need for this nation.

12 Also, food is a production. That's the other
13 industry. Everything else, sure, trees are -- trees are
14 part of the gray area between mining and food. You're
15 either mining the trees or growing the trees for
16 harvesting for whatever use, whether it's paper, whether
17 it's for building houses. But those are the two real
18 industries.

19 And when you start prohibiting those two
20 industries from functioning, this country starts
21 starving, and that's what we're doing right now today.
22 And with all these rules and regulations, if we go back
23 to the '94 regs, we will be able to function to a degree
24 if there's some prohibition, but we can live with those.
25 But with the ones that are here are extremely -- are way



3. Trotter, Martin

3. Trotter, Martin

↑ 1 extreme. They're way overboard. So Marty?

2 MS. MONAGHAN: (Inaudible).

3 MR. MILAS: I can and will. Martin Milas,
4 time number 5? Okay. So something occurred to me as I
5 was sitting here that hasn't really been addressed or
6 hasn't really been covered. I averted to it, but we do
7 these annual clean-ups of the east fork. And we find
8 all of these disposable diapers, and that's
9 quantifiable. I know some of the folks who do it are in
10 the room, and maybe we can get an estimate of how many
11 cubic yards of just used disposable diapers we pull out
12 of there.

5. Milas, Martin

13 Now, that usually happens around late June or
14 July, June -- mid June, and that's when water levels are
15 kind of down and they stay down for the next -- until it
16 starts raining again, really until probably about
17 November or December.

18 Now, it occurred to me that you don't have the
19 same -- I've never seen this in the Salmon River. I've
20 never seen this in the Klamath River. I've never seen
21 it in the Scott River. I've never seen it in the
22 Trinity River. I have never seen this in other parts of
23 California probably because there are so many millions
24 of people that live down here and so few places to go in
25 ↓ the summer to cool off. It looks like the Conjees River

5. Milas, Martin

1 (phonetic) during Ramadan actually.

2 If you go down in July or August day,
3 that's -- it's the color of coffee. And I think the
4 point I'm trying to make here is there's a good case to
5 be made for mitigating that artificial accumulation of
6 bad stuff that gets in the river by expanding the
7 amounts of the east fork that is dredgable.

8 That's my point. And that's what I don't
9 think has been addressed so far. And the way of
10 collecting factual estimates, I leave that to others who
11 drive the trucks to haul the stuff out of there. But I
12 know it's in many, many cubic yards. So that's it.

13 MS. MONAGHAN: Comment?

14 MR. THOMAS: Yes.

15 MS. MONAGHAN: Okay.

16 MR. THOMAS: I just --

17 MS. MONAGHAN: Name?

18 MR. THOMAS: Doug Thomas. I just want to say
19 that everybody here seems pretty passionate about this
20 right that they have that they feel is being taken away.
21 And a lot of these people are here late, and they need
22 to work tomorrow. And the reason they're here is
23 because this is so important to them. And I think
24 you've probably learned a lot, and get the gist of what
25 we really are trying to say, that the '94 regs are fine.

2. Thomas, Doug

2. Thomas, Doug

↑ 1 These are unacceptable.
2 And I'm not really too sure how far you did
3 push people and take their rights away before they
4 really stand up. You can see that in Egypt and other
5 countries around the world, that people want their
6 freedom. And when they have rights, they don't really
7 care to have them taken away. Thank you.

8 MS. MONAGHAN: Okay. I really want to --
9 really appreciate all the great comments that we got.
10 You gave a lot of stuff for Fish and Game to think about
11 and address in the next version -- final version of the
12 EIR.

13 Mark is willing to stay around, as will
14 Michael, to answer any questions. Again, we really
15 appreciate your taking your time to come out and share
16 your thoughts with us. Goodnight. Drive safely.

17 (End of proceedings.)
18 (CD off.)
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1 CERTIFICATE OF TRANSCRIPTION

2

3 I, Diane Dearmore, Certified Shorthand
4 Reporter, and a disinterested person, hereby certify
5 that the foregoing taped proceedings were transcribed by
6 me, to the best of my ability considering tape quality,
7 and reduced to typewriting, by computer, under my
8 direction and supervision.

9 I further certify that I am not of counsel or
10 attorney for either or any of the parties to the said
11 proceedings, nor in any way interested in the outcome of
12 the cause named in said caption.

13

14 DATED: May 16, 2011

15

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18 _____
DIANE DEARMORE
CA CSR NO. 12736
TX CSR NO. 4947

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FRESNO: MARCH 24, 2011

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CALIFORNIA DEPARTMENT OF FISH AND GAME
PUBLIC COMMENTS

TRANSCRIPTION OF AUDIO RECORDING

MARCH 24, 2011

FRESNO, CALIFORNIA

1 PROCEEDINGS

2 (CD on.)

3 MALE VOICE: -- name.

4 MR. HOUTZ: My name's James Houtz. I've been
5 a miner since I was 10 years old, suction drainage
6 miner. Since I have the right to get up and talk, it's
7 great that I can -- it's nice to have the ability to be
8 able to stand up and talk about my dear love, too.

9 My father and I have a bond together for gold
10 mining, and ever since like I said I was 10 years old.
11 And I'm 43 now, so that's a lot of years of dredging.
12 And we've had different disputes with MID and BLM on
13 different occasions, you know. I wasn't too happy about
14 it on a few points of it or whatever.

15 But the main thing I wanted to talk about was
16 the bond between a father and a son and be able to go
17 out and enjoy that recreation, to be able to mine gold.
18 And we both have a strong passion for it, and we've sunk
19 a lot of money into it. I have over \$20,000 worth of
20 equipment that I use on my dredging teams. I usually
21 have two, three, four, five different guys with me
22 dredging on different operations.

23 I also wanted to mention the -- it's not heard
24 very often, but under the MID, Merced Irrigation
25 District, all the downs (phonetic) were voted in by the

Houtz, James



↑ 1 people in the Grunsky Act of 1962 that nondiscretionary
2 recreation is provided to the public for having those
3 downs (phonetic) in place. And I just wanted to bring
4 up that. I don't have the documentations or anything
5 with me right now, but discrimination on recreation is
6 what I wanted to stand up and talk and be heard about.

Houtz, James 7 I really don't like talking in front of people
8 and stuff, and I have a hard time with it. But my
9 passion for gold mining gives me the power to stand up
10 and talk about it, and I'm grateful to have this time to
11 do so.

12 Like I said, the Grunsky Act of 1962 made it a
13 right for them to put in the down (phonetic) and for all
14 of us to enjoy recreation. That's fishing, camping,
15 rafting. There's all kinds of different recreational
16 things that we are allowed to do under the Grunsky Act
17 of 1962, and I just wanted to bring that up, also. And
18 that's about all I have to say.

19 MS. MONAGHAN: Thank you, James. Now, are you
20 speaking on full-time, or are you doing --

21 MR. GOODWIN: No. Just once.

22 MS. MONAGHAN: Okay. Great. Thanks. Now,
23 you have (inaudible).

Goodwin, Rodger ↓ 24 MR. GOODWIN: My name's Rodger Goodwin. I've
25 been an avid dredger for almost 40 years. The one thing

1 I've noticed before the moratorium took effect two years
2 ago, there was a lot of questions about when we were in
3 the water should we stay, should we go. And it just
4 ruined the whole season because it took so long to
5 implement.

6 There was no question -- no answers to our
7 questions at that time. And now we're getting the
8 answers, but what I suggest is that I'd like to see the
9 people that had those permits during this year be given
10 a preference to first-time permit -- I mean, the first
11 permit issued this year for next year because you should
12 have a list of all the names of the people who had
13 permits that year. And I feel they deserve to have the
14 first option to get that new permit without -- without
15 any question. And that's all I have to say about that.
16 I'd like you to answer that. Thank you.

17 MS. MONAGHAN: Thank you.

18 MR. STOPHER: Thanks, Roger.

19 MALE VOICE: (Inaudible).

20 MS. MONAGHAN: Okay.

21 MR. AUBY: My name's Chris Auby, and I have
22 a mining claim in Mariposa County on Maxwell Creek,
23 which is just east of the town of Coulterville.

24 I'm going to be -- I've had an opportunity to
25 look at the new proposed regulations, and my mining

Goodwin,
Rodger

Auby, Chris

1 claim will be directly affected by these new
2 regulations.

3 In Mariposa County, all of the areas outside
4 of the national forest were classified in H, which was
5 open to year-round dredging. With the new
6 classifications, areas below 1,000 feet have been
7 reclassified as a class F, which is only open to
8 dredging between July 1st and September 30th.

9 On Maxwell -- I view myself as an
10 environmentalist and a sportsman, and I want to make
11 sure that we have fish and habitat for all species
12 because I'd like the opportunity to go out fishing and
13 hunting.

14 So I don't want to harm the environment.
15 However, with these new proposed regulations, Maxwell
16 Creek runs completely bone-dry starting in June, just
17 about the same time dredging will be allowed, which will
18 effectively negate the ability to dredge on my own
19 claim.

20 I would like to see the department amend the
21 new proposed rules to keep such dredging in Mariposa
22 County and throughout the mother lode region a class H,
23 open to year-round dredging.

24 The yellow-legged frog and the Hardhead, which
25 have been identified in the Environmental Impact Report,

Auby, Chris

1 won't be affected as the yellow-legged frog lives within
2 three feet of water. If the creek that I'm mining on
3 and other creeks in the mother lode are bone-dry during
4 the July through September, it is a nonissue because the
5 Hardhead fish and the yellow-legged frog aren't present
6 at that time. So I'd like to see you take another look
7 at seasonal creeks in the mother lode region,
8 specifically in Mariposa County.

9 Another issue I have is with Section -- in the
10 proposed rules -- 28, Section C-2. And it states a list
11 up to -- you need to list up to six locations where
12 permit applications -- where permitted applicants plan
13 to suction dredge. When you get a fishing license, I
14 don't really know where I'm going to fish.

15 When I buy a fishing license in January, the
16 mere -- the mere part of suction dredging is prospecting
17 and exploring new lands. I don't have all those answers
18 when I buy my suction dredge permit in January. I'd
19 like to see the department not have that section in
20 there, and keep it fun.

21 MS. MONAGHAN: Thank you. Do you want to pull
22 that up for the video, and can you say -- 6 through 10,
23 do you want to find that?

24 MALE VOICE: (Inaudible).

25 MS. MONAGHAN: Okay. Next comment?

Auby, Chris

1 MS. FRAUENHOLZ: My name is Rachel Frauenholz.
2 I've been a dredger since 2000. And I have
3 three or four points here, my first one being that I
4 went yesterday to the local fish and game department
5 here and stood for about an hour before anyone could
6 produce a copy of your report.

7 And even here tonight when I was discussing
8 with the gentleman in the back, the appendixes were all
9 available, but the other book was not available to find
10 out specific questions that I had to give him answers.

11 And no one at the office was willing to
12 download and copy the H-24 page (phonetic) summary so
13 that I can review it. And when I have questions about
14 it, oh, go to the building next door and ask them, but
15 you can't take a copy of this with you because they
16 can't leave the office. So I found it very difficult to
17 review it. I ended up spending about four hours in the
18 office yesterday getting up on that.

19 My issue is the limiting of 4,000 permits.
20 What I read in the proposal was that it's because you're
21 afraid that the -- because of the price of gold is up,
22 you're going to have so many people out there in the
23 river, and that that would be deleterious to the aquatic
24 life.

25 However, the same department, the Department

Frauenholz,
Rachel

1 of Fish and Game, sells over 2 million fishing licenses
2 every year. The sole purpose of those fishermen is to
3 be deleterious to the fish in the rivers. To me this is
4 a conflict entirely.

5 Why should there be a limit of 4,000? History
6 shows you've only been giving about 3,000 to 3,500 lent
7 to the population to control that rate themselves, or at
8 least build in increasing increments through the years
9 following induction of this proposed regulation.

10 Another issue I have is talking with a lady at
11 the office yesterday about the stream alteration
12 program. If you have a four or five-inch -- or
13 five-inch dredge, which I have -- my husband has, that
14 it's \$288 and up to apply for an in-stream alteration
15 application.

16 Being retired, my husband being retired, that
17 is an exorbitant fee to have to pay that for the
18 application fee, not even knowing if it's going to be
19 approved. And that would create a hardship in our
20 family and our recreational -- I know. I'm trying to
21 hurry.

22 Another thing that wasn't mentioned that
23 bothered me in the report is that a lot of could bes,
24 would be potentially harmful conclusions were drawn, but
25 it was not also added in there it could not be

Frauenholz,
Rachel

↑ 1 potentially harmful. So it was only giving the negative
 2 side of the reports and not the possible not negative
 3 aspects in the report. And I also -- there was a
 4 discussion in the back -- okay. Sorry.

5 FEMALE VOICE: Thank you very much for your
 6 comments.

7 MR. FRAUENHOLZ: My name is Blaze Frauenholz.
 8 I'm her husband. I've been dredging for 27
 9 years. The SEIR (phonetic) has found dredging to be
 10 nondeleterious to the aquatic life, yet fish and game is
 11 proposing dredging changes to both equipment and
 12 licensing.

13 We're living in hard times, real hard times.
 14 Money is tight. I suggest that any changes that impact
 15 the dredgers monetarily could be phased in over a three
 16 or five-year period rather than tomorrow. This will
 17 give us time to find the money to make some of these
 18 changes happen.

19 Also, maybe you should consider grandfathering
 20 some of us in that have been dredgers for many years,
 21 and were dredgers in 2008 when the moratorium hit.
 22 Thank you.

23 FEMALE VOICE: Thank you very much.

↓ 24 MR. BAUER: Hi. My name is Jim Bauer, and I'm
 25 with the (inaudible) Prospectors Club. We're about, I

Frauenholz,
 Rachel

Frauenholz,
 Blaze

Bauer, Jim

1 don't know, 100-something strong now. And we have two
2 claims in Madera County and four claims in Mariposa
3 County. And all the claims in Mariposa County dry up
4 generally by June 1st.

5 And the two in Madera County, the one at
6 Little Sandy you can step across any time of the year.
7 It's not three-feet wide, so I guess we can't use that
8 one anymore. It's also about 4,000 feet. Now, the fish
9 that are up there, the people -- it's the fish that
10 people plant up there. There is no natural species that
11 live there, as far as I know.

12 I'm also a fisherman. I've been a dredger for
13 over 30 years. I've taught my grandsons how to fish; my
14 son how to dredge; my friends how to dredge; probably
15 500 little kids how to pan for gold at schools. So I've
16 been into this for a while because I'm retired.

17 But I've talked to Mark today about some of
18 the problems we have and another gentleman that -- with
19 the pink shirt on back there about biological problems.
20 He said we are killing fish, but I haven't seen any
21 proof of that.

22 Another question is why is California the only
23 state that blames the loss of salmon on dredging when
24 there are clearly many other reasons? And I mean mega
25 reasons. And I'm not just talking about stirring up the

Bauer, Jim

1 water, folks. I'm talking about the boats out there
2 that suck up all the fish. The Indians (phonetic) take
3 their share. The cock-eyed seals take their share, when
4 they quit harvesting seals over 30 years ago. And now
5 all they do is sit out there and eat our fish. They
6 live on the docks, our piers, our boats, you know. I
7 mean, this -- there's a lot of reasons that the salmon
8 are down.

9 But most areas are off limits during the
10 spawning season. So why are you trying to change the
11 time of dredging? Like I said, four of our claims are
12 dry by June 1st. Two claims in Madera County still have
13 water. Don't have a lot of gold, but it's a place to
14 go. It's a place to camp. You know, it's recreation
15 for kids, people, anything.

16 People our age -- I'm getting older nowadays,
17 but I used to walk a long ways to look for gold. And
18 it's just -- be easy on the rules. Okay? This is still
19 public land I hold. Thank you.

20 MALE VOICE: Thank you.

21 MALE VOICE: Amen.

22 MS. MONAGHAN: Thank you. Do you want to make
23 whatever changes -- how about 11 through 15, if you'd
24 line up. And then do you have --

25 MALE VOICE: I think we're okay if everyone

Bauer, Jim

1 stays close to the mic.

2 MS. MONAGHAN: Name and --

3 MR. HALL: My name is Kenny Hall with
4 Porterville Prospectors. A few questions. I was
5 wanting to find out what was the reason for the
6 determination of the four-inch nozzle and shutting it
7 down, because I have a six-inch dredge that I use quite
8 a bit. And you guys are wanting to shut it down to a
9 four-inch dredge on some of the creeks.

10 The determination -- let's see. Okay. You
11 guys -- if I believe this is right, I read there when
12 you guys took your dredging test for the sediment, Bill
13 670 was in and you couldn't really do a good test. I
14 wanted to find out when you did this test, was this a
15 reliable -- or a dredgeman that was doing this test.

16 Then the very -- one of the other last
17 questions is if all of your rules come in effect, and
18 who is going to teach fish and game, or the forestry or
19 whoever, the new rules? Because the time you go
20 dredging or something, each fish and game person has a
21 different thought of the rules.

22 They make up their own or, you know, they
23 don't have the qualifications of saying this is the new
24 rules. I want to know who was going to teach them the
25 new rules when they come in effect.

Hall, Kenny

1 MALE VOICE: Good question.

2 MS. MONAGHAN: Thank you.

3 MR. BARTON: My name is Dave Barton. I've
4 been, I don't know how long, a dredger. I've dredged in
5 Alaska, California, different areas. One of the things
6 I saw while dredging in Alaska -- I don't know all the
7 rules that are out there in those books, that thick.

8 While dredging in Alaska, I had a grading come
9 alongside and kick up a lot of food for the fish while
10 you're dredging. To have fun, I sucked in the grading.
11 Well, you might think that's messing with the fish or
12 harming them some way.

13 Well, I got to the surface just in time to see
14 my two comrades fall over backwards because the fish
15 come wiggling down the switch box. We all had a good
16 laugh.

17 How does the Department of Fish and Game get
18 (inaudible)? How do you transplant fish? You suck them
19 up with a dredge-type system. You put them back in the
20 water. Similar way. I don't see any way of hurting the
21 fish with a dredge.

22 I've seen a department in Alaska milk the roll
23 (phonetic) from the salmon, take some of their funds and
24 replant the salmon in the same stream. They did a
25 little-bitty job with this, with the funds.

Barton, Dave

1 One of the things with our funds I noticed,
2 you've mentioned it took a little while to get these
3 things passed because we didn't have enough money in the
4 funds to do so. I'd like to see our Department of Fish
5 and Game do something with our money that goes from
6 hunting, fishing, gold-dredging, stay in those
7 departments, not the general fund. That's about all I
8 have to say. I don't know what you do with that, but
9 that's --

10 MS. MONAGHAN: Thank you, Mr. Hall. Lines
11 16 through 20 go ahead and stand up.

12 MR. PATE: Hi. My name is Ed Pate. How do you
13 like me now? I've got about three quick comments here I
14 want to make.

15 MR. STOPHER: It's a little bright up here, Ed.

16 MR. PATE: What's that?

17 MR. STOPHER: It's a little bright up here.

18 MR. PATE: Oh, I imagine. Can you dim the
19 lights? First of all, the 4,000 permits, I have a real
20 problem with that. Whisper Bend, wacko (phonetic)
21 groups going out and buying up all 4,000 permits for
22 less than \$200,000 and nobody gets to dredge.

23 You know, are there any safeguards in place?
24 I don't think so. I think there needs to be some type
25 of safeguards that dredgers get the permits and not

Barton, Dave

Pate, Ed

1 groups that are living in San Francisco and never leave
2 town.

3 The three-foot rule, I have a problem with
4 that. It's fine for rivers with small streams. A lot
5 of streams that I dredge are only eight, ten-foot wide.
6 I'd like to see some provision for seasonal streams that
7 dry up. You know, maybe the center of the stream you
8 can't dredge within a foot of a ten-foot wide stream.

9 You know, I'm old. I think it's elderly abuse
10 that I can't dredge in my little streams. I'm disabled,
11 you know. I'd like to see it changed. I think there
12 ought to be some more study done on the small streams.

13 And finally, this one is kind of a specific to
14 Madera County. No dredging above 4,000 foot. We've
15 done several claims on Jahito Creek (phonetic) that now
16 are null and void.

17 You know, you've just taken our claims away.
18 They're worthless. There is no other way to extract any
19 gold out of those other than dredging. And supposedly
20 it's due to the yellow-legged frog. Fish and Game is
21 still planting trout in there, which is supposedly the
22 number one predator for the yellow-legged frog. And as
23 late as last summer, my friend signed a petition, I
24 guess -- no, not a petition. A statement that the Game
25 and Fish guy did put fish in the stream. So if that's

Pate, Ed

Pate, Ed

1 the number one predator, why are we putting fish in
2 there and not allowing dredging?
3 Maybe we can go back and look at Madera
4 County. It sounds to me like that 4,000-foot rule came
5 right out of Sierra National Forest and not the Game and
6 Fish. I don't think the Fish and Game had done a study
7 here. I think it came from Sierra National Forest. I
8 think Game and Fish ought to look at it. And that's all
9 I have, and I thank you for the time.

10 MALE VOICE: Thanks.

11 MALE VOICE: Amen.

12 MR. THOMAS: My name's Robert Thomas. I live
13 in Kern County. My concerns are the new regulations
14 that are proposed on the Kern River, specifically the
15 dredging dates from July 1st through September 30th.

16 I live there near the river and am pretty
17 familiar with it. At that time of the year it's at full
18 capacity. The water level is at full capacity. And you
19 can't really dredge the river unless you get on the
20 edges and dredge into the banks, which you don't want us
21 doing.

22 MALE VOICE: Right.

23 MR. THOMAS: So it seems like you're forcing
24 us to do something that is illegal, and we don't really
25 want to be doing it in the first place.

1. Thomas,
Robert

1 In comparison, the dates on the Klamath River
2 start July 1st, but they run until the 31st of January.
3 And it seems that the Kern River not having any salmon
4 in it, the Klamath having the salmon, and being the
5 concern I think initially with all this, it seems
6 backwards. I would think the Klamath would be a shorter
7 season than the Kern River.

8 And now I spoke to a few of you here. There
9 was a concern with the yellow-legged frog, and maybe the
10 breeding season is sooner than later or what have you.
11 But I think four months is a little exaggerated as far
12 as the breeding season.

13 So my concern would be to extend the season on
14 the Kern River so that we don't have such a fast-flowing
15 river for the choice (phonetic) to go in and to do our
16 dredging. It would be a major safety factor at that
17 point. Allowing us to come in later in the year when
18 the Kern slows down makes a lot more sense, and would
19 probably be a lot more dangerous -- less dangerous to
20 the public, to the dredgers.

21 One of the other concerns I had was the
22 questions on the application. You know, things nowadays
23 are just -- the paper trail is just crazy in what we
24 have to live with nowadays. And you guys are only
25 making it tough on us to come up with the latitude and

1. Thomas,
Robert

1 the longitude and every place you want it made.

2 And as the gentleman mentioned before, before
3 the season starts we don't really know where we're going
4 to go. It's hard to say. Initially we do. If it's
5 good, we're going to stick around. If not, we might go
6 someplace else. But we don't really give a whole lot of
7 thought to the time frame where we're going to be in
8 four or five months. We're just taking it day by day
9 how things are going to go.

10 So to predict and give you a list of six
11 different streams that we're going to be dredging might
12 be kind of difficult. There are a lot of different
13 things involved that are maybe just a little bit too
14 excessive.

15 And then I was also wondering, the tributaries
16 on the Klamath River, why all of them have to be closed
17 also. It seems like we could probably fit in some type
18 of a season on those. I know the salmon do run in it,
19 but those were all figured into the initial studies many
20 years ago, and we had a season that protected them.

21 Thank you very much.

22 MS. MONAGHAN: Thank you. Is there anyone on
23 1 through 25 (inaudible)?

24 MALE VOICE: Sure.

25 MS. MONAGHAN: You're over --

1. Thomas,
Robert

1 MALE VOICE: Okay.

2 MS. MONAGHAN: So name your part and name --

3 MR. SCHMITT: My name's Carl Schmitt. I'm a
4 political consultant and a miner. And I've had a couple
5 of concerns. One of them was I heard two different
6 numbers. One was I heard 15 permits were going to be
7 issued, and then I heard 4,000. So I'd like
8 clarification on that.

9 MR. STOPHER: 4,000.

10 MR. SCHMITT: Okay. Then another concern I
11 have that's really in my business, we see political
12 shenanigans all the time. I kind of feel like we're
13 kowtowing to the environmentalists. You know I
14 appreciate you guys being respectful and thoughtful and
15 so forth, but it -- I would like to see a more proactive
16 approach that supports what we do.

17 I don't know if you understand the process.
18 When you fill up the sluice box with material, you get
19 old, rusty nails. You get tons of weights. I get
20 bullets all the time. And I think that we do a lot of
21 environmental -- we actually do a lot more green than
22 some of the environmentalists out there that aren't
23 doing anything to help the rivers.

24 And they're talking about mercury, and then we
25 have to -- we're being forced to buy lights -- light

Schmitt, Carl

Schmitt, Carl

1 bulbs with mercury in them. So what's the business
2 about cleaning up mercury when we have to have these
3 light bulbs, are forced to buy them? If it breaks in
4 your house, what do you do? Do you call the Hazmat
5 Team?

6 So I look at the environmentalists as being
7 a -- I think it's a political problem, and I think that
8 we should see it now as a big part of it. And I'd like
9 you guys -- to see you guys make a more proactive
10 approach in working with miners instead of creating more
11 regulations. And actually, you're probably making it
12 more difficult. So that's all I have to say.

13 MS. MONAGHAN: Thank you, Carl. Do I have any
14 more people, single speakers? Let's pick up -- get 20
15 to 30. How about 20 to 35?

16 MALE VOICE: (Inaudible).

17 MS. MONAGHAN: We've got to figure out a
18 number. What number are you, sir?

19 MALE VOICE: 33.

20 MS. MONAGHAN: And you, sir, are?

21 MALE VOICE: 28.

22 MS. MONAGHAN: Okay. And you are 20 --

23 MALE VOICE: 6.

24 MS. MONAGHAN: Okay.

25 MALE VOICE: Next up --

1 MS. MONAGHAN: So kind of sort yourself out
2 by number. The number and then --

3 MR. STAPLES: Very good. Hello. My name is
4 Dan Staples, and I've been asked to ask some questions
5 for the record on behalf of the Coastal Prospectors Club
6 (phonetic). I'm simply just going to read the questions
7 to have them on the record. Seven quick questions.

8 Number 1 is: If the problem is salmon on the
9 Klamath River, what is the purpose of the added
10 restrictions stated by such dredging? Why are you not
11 addressing the specific area where there is an issue?

12 And question 2 is: What is the purpose of
13 requiring additional information on a dredge permit as
14 is outlined in Section 228, Subsection 2?

15 And, of course, number 3 is: What is the
16 purpose for restricting the number of permits so they
17 can be issued each year?

18 Number 4, again, using this for the record:
19 Why would you not use a colored sticker system for
20 identification of the current permit or run three-inch
21 waterproof numbers and letters on the side of the
22 dredge? And you've seen S-I-T-E stickers, the
23 watercraft stickers (phonetic).

24 MALE VOICE: Uh-huh.

25 MR. STAPLES: (Inaudible). As many

Staples, Dan



1 recreational prospectors have access to numerous claims,
2 what is the purpose of limiting them to only six per
3 year without numerous trips to the department to make
4 changes? That opens up that one pretty good.

5 Number 6 is: What is the purpose of
6 restricting all dredging below 4,000 feet? Been
7 covered. No more vote on that.

8 7: What is the purpose of moving the open
9 dredging boundary from Highway 49 to I-5? I mean, we
10 all think about that, too.

11 So, again, it was just my purpose to ask the
12 questions for the record. I thank you for your time.

13 MALE VOICE: All right.

14 MS. MONAGHAN: Thank you.

15 MR. GOODE: Hi, there. My name is Jack Goode.
16 I'm a recreational dredger. I got involved in dredging
17 five years ago. I would have had five years' worth of
18 dredging, but I only got three in. The permit was
19 canceled about three weeks before my trip plan date.

20 I would like to say I've got some of the most
21 expensive gold in California. Probably got \$500 worth
22 of gold and 10 or \$12,000 in gas, beer and groceries.

23 The only place I've ever dredged has been
24 Mariposa County, although I'd like to have the
25 opportunity to get up and go -- maybe go up on the

Staples, Dan

Goode, Jack

1 Columbia (phonetic), the next state, if I meet a friend
2 instead of having to go back to DFG and do another
3 claim.

4 I've never seen better stewards of the land
5 than gold dredgers. I'm a hunter. I'm a fisherman.
6 I'm an avid boater. And I can tell you along the Merced
7 River, I've never seen a cleaner, more beautiful,
8 pristine place that has quite a bit of use, not just by
9 gold dredgers.

10 I go up in the Sierras here. I like to ride
11 motorcycles. There's a certain spot on Big Creek I used
12 to like to ride on, and we could camp up there. Now you
13 can't even have a vehicle up there unless it's licensed,
14 and no camping is allowed. We used to go in and dig and
15 bury trash that people would leave, or haul it out. And
16 it was a weekly basis every time we went up there.

17 But, again, I want to get back to the fact
18 that what's happening now where you're restricting the
19 elevation and the season in Mariposa County is just
20 detrimental. I'd like you to review that process.

21 Chiquita Creek, I've been up there in the
22 middle of July, and there's not a fish in the creek
23 because they've all been fished out. I've panned up
24 there. I found a little color. But the only people you
25 have up there are campers -- campers and fishermen. I

Goode, Jack

1 didn't even know you could dredge up there until a
2 couple of years ago after reading the claim guide.

3 But, again, if you look at the trash that all
4 those people leave around, it's just -- it's pathetic.
5 So gold miners, these guys are hard-working guys. Most
6 of them are retired. Two-thirds of them don't have a
7 six-inch dredge. I think a five-inch dredge is more
8 than adequate.

9 I personally have a friend who has been
10 retired for maybe eight, ten years. He had to save for
11 several years. He finally went down and spent about
12 \$4,000 on a five-inch dredge, and now look what
13 happened. Not only does he not get to use it now
14 without additional money. He bought it and never even
15 got to use it the last two seasons.

16 These laws and regulations that people make,
17 you've got to consider the people that you're doing this
18 to. We're only 4,000 people strong. As a political
19 voice, we don't have one. Somebody else out there does,
20 and I think we all know it's the engine tribes
21 (phonetic).

22 So I would really like you to take the little
23 guy into consideration and review some of these things.
24 It's ridiculous. You can't dredge above 4,000 feet.

25 And --

Goode, Jack

1 MS. MONAGHAN: Thank you very much.

2 MALE VOICE: (Inaudible).

3 MS. MONAGHAN: Okay. 35 through 45. Let's
4 try that. Your name and your (inaudible).

5 MR. EFSEAFF: My name is Dave Efseaff. I'm
6 one of the executive officers of the Central Valley
7 Prospectors. We have approximately 200 members, plus or
8 minus, in our club.

9 One of the issues that I want to sort of
10 comment on a little bit is the permit number on the
11 dredge. If we -- we have dredges that we rent out to
12 our club members. Do we have to put 200 numbers on each
13 dredge? It's making me re-think how to use licenses --
14 how to license a dredge like you license a car. And
15 then have a permit -- to use a license like we drive, a
16 license to drive a dredge. That's one of the things you
17 might want to consider on that.

18 And then the issue has been brought up the
19 three feet in the bank should not apply to small
20 streams. I want to reiterate on that because most of
21 what we have is small streams that are practically dry a
22 good portion of the year.

23 Mother Nature will change those streams in a
24 heartbeat. We've witnessed the tsunamis. We've
25 witnessed the floods that are happening right now up and

Effseaff, Dave

1 down the state. If the issue is the banks were in the
2 way, Mother Nature doesn't have a whole lot more than a
3 few (inaudible) would do during that season. And that
4 self-corrects.

5 The other thing they have an issue with is
6 you're making a lot of rules here on evidence that was
7 hearsay for you. You didn't actually do scientific
8 studies using a scientific method. I don't know if you
9 researched, whether you did a scientific method on this.
10 But if you didn't even use a dredge to say what the
11 dredge does, I do have a problem with that. And those
12 rules should be not necessarily put in force until
13 you've actually done that. Thank you.

14 FEMALE VOICE: Thank you.

15 MR. BISHOP: My name's Jeff Bishop. I'm a
16 painting contractor, but I substitute my income by
17 dredging and also by building and selling mining
18 equipment at times. I've dredged from this county all
19 the way up to the Oregon border. I've run eight-inch
20 dredges.

21 My question is, one, did you take into
22 consideration the 1997 study done in Alaska on turbidity
23 and water quality? You mentioned that as one of the
24 problems. In their study, they found there was no
25 problem.

↑
Effseaff, Dave

↓
Bishop, Jeff

1 My next question would be you mentioned
2 suspended mercury. And BLM did a study on the Yuba
3 River, I believe in 2008 or 2009, in which they found
4 there was no problem the mercury. They spent a great
5 deal of money doing that study. Did you take that into
6 consideration in your study?

7 The other question I have or whatever is a lot
8 of people I know supplement their income by dredging and
9 by gold mining and stuff. I would be unwilling to pay
10 \$250 on the prospect that I might get permission from
11 Fish and Game to use an eight-inch dredge on the Klamath
12 River, which I've done for many, many years. Because
13 usually the reason I'm doing that is I'm out of work.
14 And so that's why I'm going up there to dredge is to
15 supplement my income.

16 My only goal was that a price was actually
17 reasonable to go up there and assume that I'll actually
18 make some money. But now you have pretty much shut down
19 that avenue of income for me and the other people that
20 I dredge with and stuff and that I was involved with.

21 If you take a look at it, what is going on in
22 any one of these rivers right now with the mother lode
23 and all the run-off, it's creating a great deal more
24 turbidity, a great deal more stream renovation and
25 everything else than all the dredges put together over

Bishop, Jeff

1 the last 30 years.

2 You know, if you look at the Fresno River as
3 you go up 99, you'll see it's mud. I've been behind
4 eight-inch, ten-inch dredges, you know, 100 yards
5 downstream. There's no turbidity. There's no mud.
6 There's no nothing. It all falls out.

7 As far as wildlife goes, you're on the end of
8 an eight-inch dredge in the Klamath River. You see fish
9 down there eating. They're having a great time. They
10 may be overfed, if anything, but they're not getting
11 hurt by it.

12 Other than that, you know, you've made your
13 rules and regulations -- if you've actually done any
14 dredging is unreasonable. A four-inch dredge is just a
15 toy if you're actually wanting to make some money at
16 dredging. It doesn't work. Thank you.

17 MS. MONAGHAN: Thank you.

18 MR. ROHDE: Hi. My name is Phil Rohde, and
19 I'm one of the new kids on the block, and have actually
20 dredged down the south King River.

21 You might want to re-evaluate the main stem of
22 the flow below Reddinger (phonetic) because we're seeing
23 anywhere from 10,000 feet to 40,000 feet per second.
24 Could go down the river in between the 1st and September
25 30th.

Bishop, Jeff

Rohde, Phil

Rohde, Phil



1 And we were wondering -- we have a claim on
2 both. It's claimed on both sides of Madera and Fresno
3 County. It is one that's open all year. One is only
4 open on certain dates.

5 MALE VOICE: Which river is that?

6 MR. ROHDE: The San Joaquin.

7 MALE VOICE: Thank you.

8 MR. ROHDE: On Reddinger. That's all. Thank
9 you.

10 MS. MONAGHAN: Thank you. Are you
11 (inaudible)?

12 MALE VOICE: That's --

13 MS. MONAGHAN: I need to look at the
14 individual stickers before we do. We're on singles.

15 MALE VOICE: Oh, okay.

16 MS. MONAGHAN: Yeah. Thank you. Soon.

17 MR. THORNTON: My name's David Thornton. I'm
18 going to keep this brief. The first issue I have is the
19 proposal that states that we cannot dredge within three
20 feet of the existing water line is kind of becoming
21 redundant.

Thornton,
David

22 Severity limits or close the small stream
23 suction dredging, I understand it's to preserve the
24 stream bank, but there needs to be a provision for small
25 dredges and small streams.

1 The proposal requiring the permit numbers to
2 be displayed on the dredge needs to address dredges
3 belonging to clubs with multiple users, individuals with
4 multiple dredges, borrowed equipment, and/or equipment
5 modified or purchased after the permit has been
6 purchased.

7 Number 3: The proposal that would require
8 permit applicants to provide a list of proposed dredging
9 sites and dates needs to address the fact that
10 prospecting is a mobile past-time. And in order for new
11 discoveries and new metal discoveries to be discovered,
12 we cannot be locked to one area.

13 Additionally, people's schedules change, so
14 does the ability to dredge with changing water levels,
15 weather conditions and other recreational users in
16 certain areas. That's all I have to say.

17 MS. MONAGHAN: Thank you.

18 MR. LOFORTI: Gene Loforti. I've been a
19 dredger off and on --

20 FEMALE VOICE: Your name first.

21 MR. LOFORTI: Oh. Gene Loforti. And I've
22 dredged off and on about 15 years and soon to retire.
23 And the gentleman before me had done a real good job of
24 what I want to say. I'll add my weight to the same
25 issue with the elevation.

Thornton,
David

Loforti, Gene

1 My family has some property at Grell Gulch
2 (phonetic) of 2,000 feet. The only time the creek is
3 running up there is maybe for a month, and it's not
4 three-feet wide. So that means on your own property you
5 can't take a three-inch dredge up there.

6 What I suggest is if people can agree with me
7 is to turn that over to the regional fish and game
8 department and let them make a decision on the smaller
9 creeks. It's mostly elevation and the width of the
10 creek.

11 Now, I didn't see anything on the drill of the
12 Chinchilla River. I don't know if that's still going to
13 be in force. But if we went up to Chinchilla River now,
14 it's going to be 30, 40-feet wide. And normally when
15 you're dredging it's three-feet wide.

16 If there is any high drilling, that's scaled
17 out right there in this storm we have now. So -- but
18 it's below the 1,000 feet for that year-round stream.
19 But in June the water is even gone there. Fine Gold
20 Creek (phonetic) is another one in Madera County. In
21 June the water is gone. I think the elevation is 12,
22 1300 feet. So we would like a little more consideration
23 concerning the elevation and the size of the bank and
24 address the size of the creek issues. Thank you.

25 MALE VOICE: (Inaudible).

Loforti, Gene

1 MS. MONAGHAN: Thank you.

2 MR. MILLER: My name is Harry Miller. And I've
3 been a dredger for some years, and I'm a claim owner. I
4 have two claims. One along Eagle Creek up in San --
5 Tuolumne County (phonetic), actually, along the south
6 fork of the Stanislaus.

7 If you are dredging probably -- what was it,
8 the fourth week -- the fourth Saturday in May, what it
9 used to be, the river might be only two-feet wide. But
10 as soon as the dredging season started, they seemed to
11 release water into the river. And the river would come
12 up, and you couldn't get into the river.

13 But the point is that river varies anywhere
14 from 20 to 40-feet wide in places to by August it might
15 be as little as six or eight inches wide. You are
16 completely shutting down the use of that river for
17 dredging based upon the rules that are proposed. Eagle
18 Creek is never that width, so you could not dredge it
19 under the proposed regulations.

20 Let me put it this way, too, as far as the
21 number of permits. The claim I own is a mile in length.
22 That's 1760 yards. If I am lucky, I might dredge 30
23 feet or 60 feet of that particular creek a year, if I
24 do. That would mean it would take me 176 years to
25 dredge that entire claim, if I did it, 10 yards a year,

Miller, Harry

1 and 83 years to do 20 yards.

2 I think that the regulations as proposed just
3 do not make sense. But the number of permits are
4 self-limiting because of those who own claims are going
5 to be very careful about who goes on our claim, who
6 dredges our claim. And, therefore, the number of people
7 that can actually access claims is limited in and of
8 itself. It has been stated a number of people feel that
9 certain people might come in and try to buy up all
10 permits. I think that's true.

11 So I'm against the limitations of the 4,000
12 permits, and I think the three-foot limitation does not
13 make sense. You're going to have to let people enforce
14 themselves or enforce not digging into the bank. I
15 think you have shut down literally 99 percent of the
16 waters in California. Thank you.

17 MS. MONAGHAN: Thank you. I have 45 through
18 50. Do you want to stand up in line and state your
19 name?

20 MR. OXLEY: Hi. I'm David Oxley with -- I'm
21 from Kern County, and I'm pretty excited about tonight.
22 I just found out we're going to have salmon in the Kern
23 River (inaudible) to the ocean.

24 I'm here to complain a little bit. I bought a
25 permit, did it 30 days before you closed it. I ordered

Miller, Harry

Oxley, David

1 custom equipment to the tune of about \$25,000. It's
2 never been in the river. It's being stored in my shop.

3 The fish on the Kern River have to be stocked.
4 I don't know that there's any natives there. It's
5 totally fished out every day. I've been absolutely
6 denied my right to bond with my kids to learn how to do
7 this, having restrictions on locations.

8 I'm a novice. What locations am I going to
9 pick? I don't know where there's any gold. So if I go
10 and I put down six locations, good luck. I don't even
11 know. So that denies me the ability to go out and
12 explore and find anything anyway.

13 Limiting the permits seems like it limits the
14 rights of the citizens of the United -- of California to
15 be able to go out and enjoy the lands that they want to.
16 So only 4,000 are the chosen few? And if there are
17 4,000 bought up, how do you stop the business of now
18 renting your permit because you've got one of the golden
19 tickets? You want your family to go out and learn?
20 Come on, pay me money. You're starting a whole new
21 industry.

22 The Kern River, the season that was brought
23 up, it's the only river I know that has a running death
24 toll. Do you know that as you drive into the Kern
25 River? It keeps track of how many people died up there.

Oxley, David

1 You want us to go in and dredge during the peak of the
2 flow?

3 I've got one minute. Once they open up the
4 dredging, are you guys going to go back in and then
5 start some testing on the six and eight-inch dredges?
6 Now that it's open, you can go in and confirm.

7 And that's all I have to say. I'm a novice.
8 I don't know much. I don't know how to tell you much.
9 But it seems like you don't create laws from mod rule or
10 special interest. And you do it on principle. Thank
11 you very much.

12 MS. MONAGHAN: Thank you. What number are
13 you?

14 MALE VOICE: 45.

15 MS. MONAGHAN: Okay. 45 -- 46 through 55,
16 individual speakers. So name and (inaudible).

17 MR. EDDY: I have my notes.

18 MS. MONAGHAN: Okay.

19 MR. EDDY: Yes. I'm Ken Eddy. I live in
20 Madera County. I've been dredging since the '70s. I
21 bought a place up in (inaudible) Hill Creek just so I'd
22 have a place to dredge according to the schedule over
23 there, that would fall under zone F, which dredging is
24 allowed from like July 1st through September 30th. This
25 thing's bone-dry.

Oxley, David

Eddy, Ken

1 Usually it goes dry sometimes the end of May,
2 and usually the first two or three good rains end of
3 October, November, then it's dredgeable. But according
4 to these -- the new rules, it's undredgeable. I can't
5 dredge a place that I bought to do that with. It falls
6 under the 2,000, 1,000 foot, to the yellow-legged frog.

7 So the three-foot rule, that's not really
8 feasible for these small streams. I think you guys are
9 realizing that now. A five-inch dredge rule, the four
10 versus the five, I think the five is a lot more common.
11 How many people have got fives or more? I mean, a lot
12 of people. It's not quite half, but almost half.

13 So we're going to be coming in the office and
14 getting our permit for the five. Maybe you need to
15 reconsider that, you know. An eight and ten, you know,
16 I can see the regulations on a dredge like that. But
17 for a five, you know, the yellow-legged frog in that
18 area, I've never seen one. I don't think they do too
19 well in creeks that totally dry up. There's not even
20 any moisture in that creek.

21 You know -- and I don't know where we got off
22 on this craziness, where a yellow-legged frog kind of
23 mandates what we do. It's crazy. As far as me, my life
24 would never be impacted if there was never a
25 yellow-legged frog left in the world. And I don't think

Eddy, Ken

1 any of these guys would be impacted with the
2 yellow-legged frog being gone.

3 So the suspended mercury, some of the other
4 people brought up how do we get this information without
5 dredging and actually doing the testing. It seems like,
6 you know, that's -- somebody mentioned hearsay if it's
7 based on the study we have in the '90s. Maybe we should
8 just go back and adopt the '90 regulations we have.

9 So -- but anyway, that's the gist of what I
10 wanted to say. Just please reconsider the five-inch
11 rule. The Madera County zone app, that just effectively
12 shuts down Madera County. I don't know if that's the
13 intentions, but that's what it's going to do.

14 MS. MONAGHAN: And (inaudible). Thank you.

15 MALE VOICE: Thanks.

16 MS. MONAGHAN: Do we have any more individual
17 speakers? Okay. Do you want to do that just now, or do
18 you want to wait until the end?

19 MALE VOICE: (Inaudible).

20 MS. MONAGHAN: Now those having multiple
21 cards, if you want to go and line up, go with your
22 smallest number, whoever has got the smallest number, if
23 you would line up in that order I think we're good. We
24 can do it in twos but -- how many cards do you have?

25 MALE VOICE: 10.

Eddy, Ken

1 MS. MONAGHAN: Okay. So you have up to 30
2 minutes.

3 MR. HANSEN: I can sit down while I make my
4 spiel.

5 MS. MONAGHAN: That would be a good idea.
6 Okay. Name and comment -- excuse me, excuse me. We
7 want to give this gentleman his whole 30 minutes. So if
8 we can be respectful of his time, I would appreciate it.

9 MR. HANSEN: My name's Ed Hansen, and I'm here
10 on behalf of myself as well as the Federation of
11 Independent Miners. And I want to thank the -- thank
12 you for the opportunity to say something, and I would
13 ask that nobody from the Horizon Water people or Fish
14 and Game take any of this personal. But I am pissed
15 off.

16 Okay. Having reviewed the one page of the
17 above report, the comments under Related Documents, a
18 lot of time and taxpayer money was spent trying to
19 educate the public and the DFG personnel about mining.
20 And more specifically, about the subject of dredging.
21 Education is never a waste, but in this case it may have
22 been.

23 It is apparent from the conclusion side that
24 significant and unavoidable environmental impacts, that
25 analysis of the collected data has been twisted to

Hansen, Ed



1 places to what appears to be self-serving and biased
2 findings. Throughout the report, there were premature
3 assumptions and faulty analysis of the dredge problems
4 because the real answer was not known or available data
5 would not support the desired conclusion.

6 In such instances, the problem was simply
7 declared significant and unavoidable. Despite all these
8 pitfalls, surprisingly there were parts of the report
9 that itself made a good argument for why more restricted
10 regulations were not justified.

11 Beginning with the very first paragraph of
12 Section 228 of the DFG proposed regulations relate to
13 suction dredging. It states in part:

14 (TRANSCRIBER'S NOTE: THE FOLLOWING SEVERAL
15 PAGES OF TEXT WERE READ INTO THE RECORD BY THE SPEAKER.
16 PORTIONS OF THE TRANSCRIPT MAY BE INAUDIBLE AND
17 NONSENSICAL.)

18 The department finds that suction dredging
19 will not be deleterious to fish. Notwithstanding that
20 published conclusion, the DFG proceeds to propose
21 implementations of the prolonged and continuous number
22 of changes affecting the manner in which suction
23 dredging is performed.

24 Even more disconcerting to the finances of the
25 claim owners, the proposed restrictions on dredging
contained in the DFG EIR take away the property rights

Hansen, Ed

1 granted by the Menlo State (phonetic) Trust Act of 1866
2 and the Mining Law of 1872.

3 Particular such (inaudible) violations of due
4 process granted by the Fifth Amendment of (inaudible)
5 Federal Government and the Fourteenth Amendment that
6 applies to states. The taking of property without just
7 cause or compensation is illegal, and will continue to
8 be pursued in lawsuits filed by the Public Lands for the
9 People, PLP. The PLP will continue to pursue these
10 lawsuits regardless of the outcome as proposed in the
11 legislations contained in the DFG EIR.

12 Notwithstanding the violations and the legal
13 entanglements (phonetic) referenced above, let us
14 address the alleged significant and unavoidable impacts
15 referenced in Chapter 6.2.3 of the DFG EIR. Impact
16 W 2-4 (phonetic), effects of mercury via suspension of
17 discharge from suction dredging.

18 This impact deals -- details analysis of Hg
19 mercury discharge and transport resulting in both
20 dredging operations and water sources such as rainfall
21 and run-off. Nobody disputes that there is mercury
22 present in historical mining areas as is a result of
23 gold-mining efforts.

24 But as the report indicates, this mercury
25 continues to sloth into the river without regard to

Hansen, Ed

1 dredging activity. The report clearly points out on
2 page 4.2-38 that, quote, in the contrast to Hg discharge
3 of suction dredging, the majority of Hg and from
4 background watershed sources during the winter and wet
5 season with run-off conditions contribute to high flow
6 that (inaudible) with Hg. Yes, Mother Nature creates a
7 significant disturbance in dredging without a permit.

8 The report further cites a series of mercury
9 samples there were taken once a month in the summer
10 while preparing this report. The conclusion at the
11 bottom of page 4.2-38 says that, quote, it's impossible
12 that -- it is possible that suction dredges were
13 contributing to the annual AC load and calculated -- low
14 calculated (phonetic). But AC levels do not appear to
15 reflect unusually high concentrations during their dry
16 season. Given this, there were inherent uncertainties
17 as to the Hg loading estimates.

18 In other words, they weren't sure. The
19 present report itself stipulates that there were
20 uncertainties as to the cause of Hg loading that was
21 present. So the conclusion stated very clearly in the
22 report that nobody knows anything for sure about the
23 movement of Hg and screen base (phonetic).

24 Even more indicated to this conclusion on page
25 4.2-40 which reported that Hg particles less than 63 UM

Hansen, Ed

1 do not remain suspended during summer loads (inaudible)
2 and, thus, are deposited back into the river. This
3 conclusion is no surprise to dredgers.

4 Even further on page 4.2-41, it is finally
5 concluded that transport of elemental Hg that is
6 (inaudible) discharged in suction dredging is largely
7 unknown as (inaudible) based has been observed to float
8 initially, but subsequently sink or float until they are
9 dissolved. Yes, what goes up must come down, and nobody
10 knows how much mercury is discharged by suction
11 dredging. The report makes it clear that (inaudible) H
12 is the biggest contributor.

13 The report also defines the low-flow summer
14 months of dredging as between March and October.
15 Therefore, the question presents itself as to why the
16 proposed dredging regulations are decided to cut short
17 the dredging season for most dredges to three months
18 between July and September. W-4 is unfounded and should
19 be corrected to read a less than significant finding.

20 WQ-5 affects the resuspension and discharge
21 and other trace minerals and suction dredging. This
22 area details results into determining the impact of
23 other sediments that occur with dredging (inaudible)
24 such as copper, lead, zinc and so forth. Again, the
25 conclusions on page 4.2, 58, 59 are that dredging has a

Hansen, Ed

1 negative impact. It is reported that suction dredging
2 would not be expected to increase levels of trace
3 minerals, nor result in substantial long-term
4 degradation of trace mineral conditions that would cause
5 adverse effects.

6 Finally, it is further reported that the
7 potential to localize the trace minerals, metals would
8 not substantiate increased health risk to wildlife.
9 Everything sounds good for dredgers so far. However,
10 then the report begins to speculate. It reaches out in
11 desperation to suggest that if dredging at a known metal
12 spot -- at known metal hotspots actually contain acid
13 (inaudible) issues, low pH levels, high sediment and
14 poor metal concentration, there may be a potential
15 significant impact. Well, there are too many ifs and
16 maybes in that assumption.

17 Yet, despite the lack of data or knowledge to
18 actually identify where such conditions might actually
19 exist, the report suggests that the unknown itself
20 present a significant and unavoidable impact. This is
21 pointless analysis at its worst.

22 The conclusion imagined that it's a perfect
23 storm of conditions that might exist out there
24 somewhere, that it would affect the trace mineral
25 conditions. This is like saying somewhere in those

Hansen, Ed

1 (inaudible) scope impact WQ-5 is unfounded and should be
2 corrected and read less than significant finding.

3 Impact WIO-102, effect on the special status
4 (inaudible) associated with riparian habitat. This
5 impact details the results to determine whether impacts
6 special status pasturing species by often behavior,
7 movements and distributions (phonetic).

8 Pasturing (inaudible) birds that are adapted
9 for perching, this means that they primarily live in
10 trees. The specific continuance of the reported concern
11 is noise from dredging or encampment activities. This
12 whole discussion is prejudicial against miners without a
13 scintilla of scientific proof to back it up.

14 Further, the report totally ignored any
15 discussion or considerations for the local noise
16 generated by hundreds of fishermen, campers, hikers,
17 recreational vehicles and other outdoor activities. On
18 a scale of noise-makers, suction dredgers have to be far
19 and away the minority number to increase the least
20 amount of impact on the environment. This whole
21 argument is a stretch and complete overreaching by the
22 report-writers.

23 The report tends to support its position by
24 stating that even a small disturbance could be
25 substantial. Where is the scientific data for that

Hansen, Ed

↑ 1 conclusion?

2 There are pasturing creatures that live in the
3 outdoors and expect noise that cause other disturbance
4 all of the time and are at a wide range of levels.

5 In addition on page 4.3-49 of the report, this
6 suggests an act of determination of any potential
7 impacts on these special status pasturing even might be
8 studied (phonetic) using poll surveys by qualified
9 biologists to determine their locations using the
10 California National (phonetic) database and other
11 sources.

12 So the report is really saying that nobody
13 knows where these alleged pasturings live. Well, if the
14 locations of these pasturings are important, then the
15 DFG needs to submit a proposal funding research for
16 qualified biologists to pinpoint locations and see what
17 kind of funding support is present for that. In fact,
18 Bioworld-2 is unfounded. It should be corrected and
19 read less than significant finding.

20 California OL-1, substantial number of
21 changes, number of adverse changes when considered
22 statewide and significance of historical resources
23 (phonetic), this impact was to consider how dredging mud
24 affected the historical and quality resources. Here's
25 ↓ another example of when we don't really know anything

Hansen, Ed

1 unless it's to assert that dredging is the cause.

2 How do we know this to be true? Well, on page
3 4 and I-12 it discusses the potential impact of dredging
4 on historical resources. It states, quote, whether this
5 impact would have a substantial adverse change in the
6 significance of a resource when considered statewide is
7 the function of the likelihood of the disturbance of
8 these resources and their individual and collective
9 significance.

10 And it is unknown whether suction
11 dredging/mining would affect significant historical
12 resources to a level that would be considered
13 significant statewide. In other words, such impact
14 cannot be attributed to dredging, yet nonetheless,
15 again, the writers of this report use the same old
16 (phonetic) as used previously to conclude that since the
17 impact cannot be supported by scientific data, we'll
18 simply label it potentially significant impact,
19 attributable to dredging.

20 Further on page 4.5-13, the report also
21 confesses that the only way to know for sure about the
22 location of any historical resources would be to conduct
23 an archival research using the California Historical
24 Resources Information System, CHRIS. Well, by all means
25 DFG is proposing a research team to be assembled to be



Hansen, Ed

1 able to conduct this perceived by the research
2 (phonetic) and send it along with the aforementioned
3 study on pasturings.

4 Clearly this whole issue is, again,
5 overzealous and inaccurate while trying to reach a
6 preconceived conclusion when no data exists to support
7 it. Impact COL-1 is unfounded and should be corrected
8 and read less than significant.

9 COL-2 says: Substantial adverse changes when
10 considered statewide the significance of unique
11 archaeological resources. This impact was to consider
12 how dredging/mining affect archaeological resources
13 listed in the California register of historical
14 resources. This is not the case as detailed previously
15 where COT has put the cart before the horse. What
16 impact and where are the archaeological resource sites?
17 Well, again, the report clearly describes that nobody
18 really knows.

19 Distinguishing on page 4.5-14, the report
20 states whether this impact would have any substantial
21 adverse change in the significance of the elite
22 archaeological resource would consider statewide that
23 the function of the likelihood of disturbing such a
24 resource and its individual (inaudible) significance.
25 It is unknown whether suction dredging/mining would

Hansen, Ed

1 affect the archaeological resources to a level that
2 would be significant statewide.

3 The report goes on further to suggest that
4 there's no way to know if any archaeological sites would
5 be needed to perform archival research using the
6 California Historical Resource Information System.

7 Well, this sounds like another budget proposal that the
8 DFG would need to submit for funding. The fact is that
9 if these allegations were true and verifiable, the DFG
10 or some environmental group would have performed this
11 research and published this information a long time ago.
12 The impact COL-2 is unfounded and should be corrected to
13 read less than significant finding.

14 MD-1 exposure to noise to public noise levels
15 in excess of city or county standards, this impact
16 considers whether operating dredging equipment exceeds
17 noise standards. If this entire study were not so
18 serious and to its potential impact on miners, this
19 particular impact would be laughable for lack of support
20 and scientific merit.

21 First of all, we're under the (inaudible)
22 standards that apply to conditions and equipment and
23 animals found in Mother Nature. There is a mountain
24 lion, wolf removed by an unknown standard when they
25 sound a mating call (phonetic). The fact is that this

Hansen, Ed

1 particular impact is another pie in the sky (phonetic)
2 three-month problem (phonetic) and blame the problem on
3 dredging.

4 However, again, the report tells us what we
5 need to know. The report states that while dredging has
6 the potential to generate excess noise, the existing
7 regulations do not authorize permit owners to use their
8 equipment in a manner that violates existing noise
9 standards.

10 Further on page 4.7-9, the report states that
11 all recreationists are equally required to abide by all
12 local noise ordinances. Violations can be reported at
13 any time to local authorities to have a jurisdiction to
14 enforce political regulations (inaudible). Nonetheless,
15 absent any concrete data to support that dredgers
16 violate recognized noise standards, regardless of this
17 report, they use the same (phonetic) as in the other
18 situations where they lack any scientific data.

19 The report-writers claim that the impact would
20 be significant enough and unavoidable using nonexistent
21 proof (inaudible). This is an outrageous conclusion
22 totally unfounded. Impact MP-1 should be corrected to
23 read less than significant finding.

24 KM-2, effects on wildlife species and their
25 habitats, this impact considers the extent of dredging

Hansen, Ed

1 operations would have on nonricher (inaudible) aquatic
2 invertebrates, reptiles, birds and mammals. Mainly the
3 report finds that dredging does not have any
4 considerable killing impact on any of these creatures,
5 and declares a finding of less than significant in these
6 cases.

7 However, in the case of several bird species,
8 the report expresses a concern that the so-called
9 incremental effects of the proposed program, this is on
10 page 5.2-23 of the report, it states that similar to the
11 fish species, a decline in nonfish species populations
12 are largely due to long-term degradation of the
13 environmental conditions, with the few exceptions with
14 declines in population of nonfish species are the result
15 of synergistic effects of anthropogenic activities and
16 not the single cause of engaging from the project
17 (phonetic), end quote.

18 The word "anthropogenic" means caused by
19 humans, so the report is merely saying that it's not
20 dredging per se that impacts nonfish species, but a lot
21 of unknown human factors.

22 The report acknowledges that there are other
23 influencing factors besides dredgers affecting the
24 environment. That's not the fact that dredgers are in
25 the water and birds are in the trees. Yet, this report

Hansen, Ed

1 contends that all the thousands of birds, plants and
2 nonfish species in the report, the eight nonfish species
3 listed in table 4.3-3 are endangered to dredging
4 operations. This is like fully (inaudible) the needle
5 in the haystack.

6 It is the opinion of miners that these eight
7 species are no less impacted than the other hundreds of
8 species determined in the report to be less than
9 significant. This impact is not based on any scientific
10 proof, but mere conjecture. The impact California M-2
11 is not founded and should be corrected to read a less
12 than significant finding.

13 Down to UM-6, (inaudible), discharge and
14 suction dredging. This impact considers less turbidity
15 impairments and dredge discharges impacting fish
16 (phonetic). It is a shame that the writers of this
17 report haven't actually dredged themselves or even know
18 firsthand the nature of this argument. Fish are around
19 dredges, when they were around dredging came to know
20 that the food was on the menu again. Yes, Folks,
21 turbidity on the dredgers (inaudible) have spawned into
22 an argument for closing and restricting dredging
23 operations.

24 References made again to the report today on
25 Section 228 of the DFG amendments to the proposed

Hansen, Ed

1 regulations related to suction dredging where it makes a
2 bold statement that the department finds that suction
3 dredging will not be deleterious to the fish. Further
4 on page 5.5-28, the report references past, present and
5 future turbidity, sources of turbidity which include
6 agriculture, aquaculture, effluent pollution,
7 recreational fluctuation, urbanization (inaudible),
8 harvest and wildfire, (inaudible) and fuels management.

9 In essence, total maximum daily load GMPL
10 where it talked about turbidity outlined in the report
11 has many causes, and least of which is caused by
12 dredging. This impact is overstated and embellished to
13 serve (inaudible) impact CUM, and rather than speak the
14 truth (inaudible). California UM-3 has been found to be
15 (phonetic) and should read less than significant.

16 CMU-7, cumulative and (inaudible)and
17 discharge to suction dredging, this impact considers how
18 dredging affects existing concentrations of mercury
19 present in sediment of the historic gold mining and
20 gold-bearing regions. There is no getting around that
21 mercury was left behind by historic miners and mining
22 operations. However, it was discussed the impact of the
23 EQ-4 and detail on 4.2-8 of this report transported Hg
24 discharge (phonetic) suction dredging is largely
25 unknown. The (inaudible) Hg is usually and subsequently

Hansen, Ed

1 sank or float until they dissolve.

2 Now the report suddenly mentions a new
3 mysterious field study conducted by the USGS, Society of
4 the Yuba River system. First, who are these alleged
5 scientists and Hg experts? What are their
6 qualifications? This new field study just seems too
7 obvious and too convenient. It is too premature to be
8 accepting this as reliable data also.

9 On page 4.2-19 of this report it clearly
10 states that the information provided by these unknown
11 experts with preliminary results. In other words, if
12 this study is (inaudible), it has not undergone any peer
13 review or been validated. And validations are necessary
14 since USGS has chose a location where the Hamberg Creek
15 (phonetic) meets the confluence of the south Yuba River.
16 This is a prejudicial cite and representation of field
17 (phonetic) since this is a location of the (inaudible)
18 where heavy (inaudible) mining occurred and is likely --
19 not likely to result in data that can be repeated in
20 field research.

21 Pointing to the fact on page 4.2-23 of the
22 report it states the south Yuba River water shall
23 experience the most intensive level of (inaudible)
24 mining in which more people have contaminated
25 (inaudible) mining produced and dislodged (phonetic) in

Hansen, Ed

1 the watershed. Reasonably, this is not a scientific
2 representation location for which to extrapolate a
3 conclusion about the effects of mercury being dispensed.

4 This explains on 4.2-54 of the report it
5 concludes (inaudible) all the locations -- elemental
6 mercury deposits are known, diffusibility with which
7 sites contain mercury to be identified at a level of
8 certainty, this is sufficient to devote foreclosure
9 areas (phonetic) or other restrictions for a lot of the
10 dredging activities is uncertain at this time.

11 Further, on the same page of the report it
12 states a conference and set of effects to mitigate the
13 potential impact to avoid submitted minimization of
14 mercury discharge has not been determined at this time
15 (phonetic), nor is it likely -- nor is it likely -- the
16 effect is known (phonetic). So we don't know exactly
17 where this mercury resides. And even if we did, the
18 effect of trying to mitigate the impact is unlikely.

19 And finally, on page 4.2-36 of the report it
20 states mining equipment may result in less flowering
21 (phonetic) as discussing the impact of mercury. So the
22 idea to support this impact is based on inconclusive
23 field results, and while the problem itself made
24 admitted at being (inaudible). We do know that mercury
25 can be disturbed in any waterway will find its way to

Hansen, Ed

1 the bottom. Mother Nature knows more -- knows more to
2 disrupt mercury sediments than any dredger could
3 (phonetic). The impact CUM-7 is unfounded and should be
4 corrected to read less than significant.

5 I just have some notes, too, on this. I feel
6 much of this report has a lot of evidence in it that
7 they couldn't really prove their point. So they just
8 said, well, wait. We'll just do something. Dredging is
9 bound to improve it. No nexus was made and no
10 connection as to how, if they did this change or that
11 change, it really was going to impact that. And the
12 yellow-legged frog is an excellent example of that.

13 I don't think we should be using studies that
14 have not been validated. This report was just too
15 obvious, and it came out of the blue. I'm not going to
16 say that I know who did the report, but I think I do,
17 how it was funded. And I don't think that that kind of
18 report should be put into an EIR if there is not
19 something there to show that it was -- went through a
20 review -- peer review and it has been validated and
21 repeated. And I don't think that this will stand up to
22 that. I think the data, it may even be slanted.

23 The number of permits, I think we've talked
24 about that. On this permit issue, I don't think that
25 the number of permits is really even the relevant issue.

Hansen, Ed

1 I don't think we should be chasing fountains (phonetic).

2 You know, we don't see a snake, but we're
3 trying to kill one here. The largest figure I saw in
4 the report was something like in the 8s. It was
5 something like 8,000 permits issued or something like
6 that. And we haven't come close to that number, but
7 there is a problem with trying to put numbers on them as
8 mentioned earlier. And I just think that hasn't been
9 supported at all.

10 As far as trying to reach conclusions on
11 solutions for this report, I really think there should
12 be more miners involved in trying to come up with
13 compromises or ideas for trying to resolve these
14 problems.

15 A lot of problems mentioned total are about
16 some stream areas and elevations that haven't been
17 properly considered. I think it's very hard for an
18 organization like this Water Horizon (phonetic) to try
19 to untangle stuff like that. I think you need to put
20 something -- some dredgers in relevant areas and have
21 them actually give their ideas to explain what their
22 problems are. Maybe the (inaudible) can reach a middle
23 ground there. But there's a lot of areas that have been
24 cut off for a seemingly unknown -- no good reason. So I
25 would recommend that we work on that.

Hansen, Ed

1 And the last thing I want to say is with
2 regards to the scoping meetings, I really think that --
3 I think this approach you used here is much better than
4 that. I think the scoping meetings were -- to me they
5 lack credibility. They were very intimidating. They
6 made people feel like they couldn't talk. I don't think
7 that the cards that were turned in were all answered.
8 There was just a range of problems.

9 I think it projected the worst kind of image
10 for the Department of Fish and Game to conduct a meeting
11 like that. We also recognize and we have control over a
12 meeting (phonetic). We have to have organization to it.
13 But how to write on the card, and then you guys get to
14 sort and decide which one you're going to address, quite
15 honestly, I just think it made it look like you were
16 scared to talk and scared to just have a good
17 discussion. And the discussion is what's needed.

18 Anyway, I definitely would not use that format
19 in the future. Thank you very much.

20 MALE VOICE: Thank you.

21 MS. MONAGHAN: We have people -- I know you
22 have multiple cards. Is there anybody else with
23 multiple cards?

24 MALE VOICE: (Inaudible).

25 MS. MONAGHAN: I have number -- and if we

Hansen, Ed

1 could have your attention just so he can also be heard,
2 that would be great. I'll take these. And state your
3 name and comment.

4 MR. EDWARDS: My name is Gerry Edwards. I'm
5 from Mariposa County. I've got over 300 natures of
6 claims up there that the new regulations really had
7 affected. Actually, they extended my season.

8 I'm sitting here listening to what's been
9 going on, good input from everybody. I'm a co-owner of
10 a resurrected precision dredge company. I'm
11 manufacturing four, five, six-inch dredges, as well as
12 our old eight and ten-inch dredges, which we ship around
13 worldwide. This has had an economic impact on our new
14 company that we're reforming. So I have a little bit of
15 an income in what happens in this state, as well as my
16 recreational claims that I work on.

17 I've been dredging for about 15 years. I
18 consider myself a newbie at it, but I've been
19 prospecting for about 25 years. I've written over 150
20 articles for various treasury magazines, and consider
21 myself having somewhat of a bit of knowledge doing some
22 of the things that were discussed tonight.

23 I'm a bit amused after reading the proposed
24 amendments on the subject that's been brought up about
25 streams being open at certain times of the year when

Edwards,
Gerry

1 they're bone-dry. I believe that was really said in
2 there because there would be no dredging in those
3 streams when there's no water in them.

4 I've got some concerns on the proposed plan of
5 operations, and I want to know how restrictive those
6 plans of operations are to be, how you fill them out.
7 I've pretty much stayed out of the phase of my first
8 meeting, watched it for the last two years, inputting,
9 listening to what people say on both sides, pros and
10 cons. I'm pretty much a middle-of-the-road person when
11 this comes to this whole thing.

12 What I'm finding kind of interesting, and I've
13 brought up with Mark, is that all this restriction
14 that's being put on suction dredging, I can go over to
15 my claims, build myself a 15-foot sluice, three-foot
16 wide, hire four or five of my buddies to come in there,
17 put a 20-horse, four-inch pump on it and shove all the
18 dirt I want out of the bank, out of the tertiary area,
19 run it into the creek, and there's no rigs on it
20 whatsoever. But they're picking on the dredgers
21 (phonetic). And I can do far more damage with a piece
22 of, you know, machinery like that than dredgers ever
23 thought of doing to a creek.

24 My claims are also located on the seasonal
25 creek depending on the flow of water every year, how

Edwards,
Gerry

1 much water I'll have this year, if I have a lot of it.

2 Some years they are bone-dry by October.

3 So it was my concern a little bit on that,
4 with a three-foot -- my creek itself, like I say, is
5 three-foot wide at certain times of the year. Other
6 times it's eight-foot wide (phonetic), depends on the
7 water. These are concerns I have.

8 I work with a biologist at BLM. I let him in
9 every year to look over my claims for a nonexistent
10 salamander, an endangered salamander that in three years
11 that I've let him in, they've never even been able to
12 find one. There are restrictions on my creek with the
13 dredge size where you wouldn't be able to dredge certain
14 portions of it because, supposedly, there's a salamander
15 that, for that I know of, and the input that I have,
16 nobody has even seen there for 10 years. So I have some
17 concerns about these endangered species that Fish and
18 Game talks about.

19 I know for a fact in the reports that I've
20 read that yellow-legged frogs in certain streams haven't
21 even been seen since the early 1900s. And that's about
22 all I've got to say.

23 MALE VOICE: All right.

24 MS. MONAGHAN: Okay. Thank you. Do --

25 MALE VOICE: (Inaudible). Sorry.

Edwards,
Gerry

1 MS. MONAGHAN: (Inaudible). Do we have
2 anybody else with cards that wishes to speak? Great.
3 Thank you. I have one, two, three, four, five, six. My
4 (inaudible). So name and comment, please.

5 MR. PLATA: Roger Plata from Lemon Cove,
6 California. There's a couple or three things I'd like
7 to kind of get on here that other people have mentioned,
8 if I could elaborate a little bit.

9 The dealing with the prospecting, you know, on
10 putting these six different locations on your permit,
11 according to the 1872 mining law, it gives you the right
12 to go out there and prospect on public land. When you
13 go prospecting, you quite often do it with a dredge
14 nowadays. You don't know where the gold is going to be,
15 so you're out there looking. So why put all of these
16 other locations out there when you don't know where they
17 are?

18 The dredge numbers, you know the numbers on
19 the dredge, they don't make you register fishing poles.
20 They don't make you register guns if you're a hunter.
21 What's the deal with dredges? I mean, you know, the old
22 system was just fine. You have a dredge permitted in
23 your possession. You're out there with whatever dredge
24 you want. You know, you have your hunting license. You
25 have your fishing license. You have your dredging

Plata, Roger

1 license. Same game.

2 I'm going to talk about the yellow-legged
3 frog, to begin with, and one other item later on here.
4 If I could tackle a number of problems with the draft,
5 the Environmental Impact Report, but in the interest of
6 remedy, I'll only cover two of the items and let others
7 address the numerous problems in the report that I have.
8 I might be the last one here.

9 My first one has to do with the frog. I want
10 to address this whole issue of the Foothill
11 yellow-legged frog, because this is one of the key
12 critters responsible for determining class A dredging an
13 area in our Sierra Nevada range.

14 Regardless of how this report may attempt to
15 paint dredgers and miners as destroyers of the entire
16 environment, including all animal life, such attitudes
17 and conclusions only highlight how biased and uninformed
18 the environmentalists can be.

19 We read that the yellow-legged frog is in
20 decline, and then we pile on top the dredgers as being
21 the cause of the decline. First we need for you to
22 understand that most amphibian species are experiencing
23 severe population declines around the world.

24 According to available data, 32 percent of the
25 world's 5,743 recognized amphibian species are globally

Plata, Roger

1 threatened, and at least 43 percent of all amphibian
2 species are experiencing declines.

3 We can also agree that this is not good news.
4 Nobody, especially miners, probably want to see
5 intentional harm come to any of the planet's species.
6 Let's look at things intelligently.

7 According to the Center for Biological
8 Diversity, an article published on January 25, 2010 --
9 and I'm quoting here -- widespread stocking of non
10 (inaudible) high elevation Sierra looks like the
11 California Department of Fish and Game have been the
12 primary cause of decline of the yellow-legged frog.
13 Other guys had mentioned that also here.

14 This article explains that the trail
15 introduced (phonetic) and prey on tadpoles and juvenile
16 frogs changed the food web of aquatic ecosystems frogs
17 depend on. Where in this report are we addressing the
18 significant and unavoidable impact caused by the
19 guardian agency that is funding this report?

20 Jeff Miller from the Biological -- Center for
21 Biological Diversity writes: There are a number of
22 other causes for the decline of the yellow-legged frog.
23 For example, recent research has linked pesticides that
24 drift from agriculture areas in the central valley to
25 major declines of many amphibians in the Sierra Nevada.

Plata, Roger

1 Pesticides and other pollutants can directly
2 kill frogs and also act as the environmental stressors
3 that render other amphibians more susceptible to
4 disease, including Citra red fungus (phonetic), I guess
5 is how you say it.

6 Citra red fungus feeds on dead and rotting
7 organic matter, but it is definitely to over 1,000
8 species of amphibians. Researchers also find that the
9 decrease in ozone layer which causes adverse interaction
10 between (inaudible) ultraviolet and other environmental
11 factors (inaudible) and negative effect on frog
12 populations.

13 There is evidence that ultraviolet V
14 (phonetic) radiation has negative influence in regards
15 to a decreased rate hatching success and increase in the
16 rate of embryonics. Yet, despite all of these causes
17 which can account for the decline of the population of
18 the yellow-legged frog, the report-writers have singled
19 out dredgers and dredging.

20 This report then uses the decline of the
21 yellow-legged frog population as support, and one of its
22 key considerations for establishing class A areas which
23 is suction dredging (phonetic) at all times. There is
24 no symmetry or understanding how this class A
25 designation is used.

Plata, Roger

1 For example, in Fresno, Kern, Madera and
2 Palermo County (phonetic), all rivers and streams above
3 4,000 feet elevation are class A, but for some odd
4 reason, in Mariposa County, for instance, all rivers and
5 streams above 5,000 feet are class A. Clearly it should
6 be one or the other for all of these counties, assuming
7 for the sake of argument that such classifications were
8 valid in the first place.

9 The second note that I want to go on is for
10 the entire methodology used to identify species of
11 animals and plants that were at risk. This is going to
12 be kind of a little long-winded here. It's not going to
13 make much sense, but I think that's the point of it
14 here.

15 The methodology defined on page 4.3-20, use in
16 the selection of specific animal and plant species,
17 identified for consideration in the Environmental Impact
18 Report is flawed, and all of the plants and animals
19 listed in Appendix J are all flawed, in my opinion.

20 These flaws invalidate much of the data, and
21 assumptions were used by the report to formulate its
22 conclusions and defined areas of impact. The
23 methodology uses shaped files -- I don't know what that
24 word means -- from the USGS national hydrographic data
25 said -- I'm just going to call that the NHD, later on

Plata, Roger

1 here, not trying to say that name again -- which in turn
2 were overlaid on species, occurrences contained in the
3 California National Biological Diversity Database. I'll
4 call that the CD -- CNBDD.

5 The point, in fact, the CNBDD is the same
6 database which on page 4.3-49 of the report, which when
7 it discusses effects on special status pasturings, which
8 are the birds, of course, it states that accurate
9 determinations using this database require field surveys
10 by qualified biologists. We find no evidence that the
11 writers of this report are qualified biologists or
12 performed any of the field surveys. So right off the
13 bat, we were stunned to find that the use of this system
14 to support the writers' conclusion is in question.

15 That point aside, the methodology and dispute
16 involves how the data from the CNBDD and the NHD
17 database were defined and used. First of all, for
18 assessment purposes, these unqualified report-writers
19 established an arbitrary 500-foot buffer around all the
20 perennial water bodies used in their comparisons. And
21 this arbitrary buffer was, according to page 4.3-20, to
22 account for in part a lack of accuracy of the NHD
23 system.

24 Many questions arise from this methodology,
25 beginning right here. Where is the scientific

Plata, Roger

1 foundation and support for the arbitrary creating of the
2 500-foot buffer? What exactly is a buffer? It would
3 seem that the buffer in this case is the cushion and
4 (phonetic) of a complete lack of knowledge on how the
5 use of systems being deployed and to cover mistakes is
6 interpretation of the data or, perhaps more correctly,
7 the buffer is to ensure that plenty of species are roped
8 into this (inaudible), and so that they can later be
9 used to support data which would otherwise be
10 unsupportable.

11 Let's go further into this observed
12 methodology. In fact, the CNBDD occurrence, which
13 allegedly intersected with the perennial water base --
14 database and the mythical buffer were considered to be
15 the species with the potential to be impacted by
16 dredging. However, on page 4.3-1, a seemingly small
17 point is divulged. It states: The CNBDD included
18 (inaudible) for which there is no (inaudible) data
19 regarding their locations. Let's pause here.

20 The words no (inaudible) data sounds innocent
21 but, in fact, means that there were no occurrences in
22 the record for some of the species used.

23 So we have, in fact, used this broad overlay
24 of data with a 500-foot barrier, and it's snared all
25 kinds of plants and animals, including some who do not

Plata, Roger

1 exist or live in the buffered area. This is further
2 confirmed by the report-writers themselves.

3 On page 4.3-21, the report continues and
4 boldly confesses that species that currently have no
5 occurrences in the CNBDD, but opted by aquatic in a
6 riparian habitats were also included (phonetic). That's
7 like saying that these species don't exist here, but
8 we -- but were included anyways because they must exist
9 somewhere. How and who determine that which of these
10 species who have no occurrence of the CNBDD have any
11 relevance at all (phonetic)?

12 Finally, the result of all of this
13 questionable data query generates a list of 625 animal
14 species, and 12,087 plant species all detailed in
15 Appendix J. And then used for comparative purposes in
16 the report.

17 I personally am not sure anyone can follow
18 what the heck just took place in this CNBDD system when
19 they collided with the NHD system, but it sounds like
20 something out of Star Wars as equally unbelievable.

21 I submit that the foundation of all the animal
22 and plant species used in this report need to be
23 invalidated because nobody can support or follow its
24 specific merit.

25 In closing -- I don't want you to take this

Plata, Roger

1 personally. You're the guys that are here. Taken as a
2 whole, this makes no sense how this report developed its
3 list of animal and plant species other than two issues
4 (phonetic) that were not understood, and were used by
5 untrained and unknowledgeable writers to build a case on
6 quicksand.

7 The yellow-legged frog is but one small
8 example of how data can be used to point the finger in
9 one direction. However, as the old saying goes, you
10 point your finger at someone, you have three fingers
11 pointing back at you. In this case, one of those
12 fingers is pointing back directly at the Department of
13 Fish and Game, because (inaudible) and all the dredgers
14 in all the states of this entire country. Thank you
15 very much.

16 MS. MONAGHAN: Thank you. Do I have anyone
17 else with cards that wishes to speak? Okay.

18 MR. GUARDIOLA: My name is Robert Guardiola. I
19 am president-elect of the Delta Gold Diggers
20 Association. I also host an on-line forum at
21 www.viaduct.com/goldprospectors. I also am a member of
22 the East Bay Prospectors. Delta Gold Diggers has about
23 160 members. The on-line forum has about 203, and East
24 Bay has about 300.

25 It's funny. I started this once maybe years

Plata, Roger

Guardiola,
Robert

1 ago in this very same room, and it was full. And the
2 comments that I've gotten from our members, our on-line
3 forum, is that they don't feel represented.

4 All of the comments that was made back when
5 this started are being made today. So what it tells me
6 is that most of the stuff that we spoke about, which was
7 supposed to be included in your report, is not in the
8 report (phonetic).

9 I have a lot of things here that have been
10 mostly covered. But two real things, we're prospectors
11 and miners. You're obviously not. You haven't included
12 any real miners in this study. How can it be a peer
13 review of us if you don't know what you're reviewing?

14 I understand that you're here to protect fish.
15 It's been pointed out that you do more damage than we
16 do. We're a very small group, and we're being picked on
17 by very large groups, and that is unfair. As government
18 officials, you are designed to help protect us. In this
19 case, you are not.

20 You basically -- just personally, my income,
21 you've had the potential to limit my income of up to 10
22 and \$15,000 a month. And that impacts other people
23 around me; the grocery store I stop at to get gear, the
24 gas station I stop at to get gas, the guys here that I
25 buy dredging equipment from or pans, the books that I

Guardiola,
Robert

1 buy, the memberships that I go to. This is a much wider
2 thing.

3 And in this economy, how can you sit there and
4 put this kind of restriction on our livelihood? This is
5 not a hobby. If it is, it's the only hobby that pays
6 you back. And you've taxed us, in my opinion, and
7 several others, without representation.

8 So I would encourage you to come to our forum,
9 come on to our associations and talk to us before you go
10 any further, and put some real info into there and some
11 real regulations that don't take us out of our primary
12 gold spot. Three feet from the edge of the water? Come
13 on, Folks. You've just eliminated all of the spots
14 where a dredger is going to find gold. That's
15 ridiculous.

16 MS. MONAGHAN: Thank you very much.

17 MALE VOICE: Good job.

18 MS. MONAGHAN: Do I have anybody else with a
19 number who wishes to speak?

20 MALE VOICE: Can I have a few seconds?

21 MS. MONAGHAN: No. I'm sorry. Everyone had
22 an equal amount of time, so we appreciate that. I'm
23 going to turn this over to Mark in just a minute. I
24 really want to thank you all for your very thoughtful
25 comments. We appreciate your taking your time. I know

Guardiola,
Robert

1 that this was your time to come out here, so we
2 appreciate that. Mark, I'm afraid you're going to have
3 to use this.

4 MR. STOPHER: I can use the wireless. I just
5 had the volume down. That's fine.

6 MS. MONAGHAN: Oh.

7 MR. STOPHER: I'll use this one. As Michael
8 said earlier, the comment period here is an opportunity
9 for you to register your opinions, ask your questions
10 that you want to make sure that we consider. Runs
11 through May 10th. So this is -- tonight is not the only
12 opportunity you had to make the record.

13 We provided an email address and a mailing
14 address, and we'll be collecting those comments. We
15 have four more public hearings. The closest one to here
16 is going to be in Sacramento. The first one is next
17 month -- pardon me. Next week on Tuesday. And then
18 we'll be meeting again on -- it's a little bit of a
19 different format on May 10th.

20 We will -- I'll stick around for 15, 20
21 minutes if you want to have other questions of myself or
22 other folks here. I do thank you for coming. There
23 were some new things said tonight that we didn't hear
24 last night. And you've given me a lot of things to
25 think about before we go forward further. And some

1 things that were most important to you we've tested and,
2 you know, people feel very good about telling us what
3 they thought about it. Some things that we're going to
4 have to look at some more. So again, thank you. Thank
5 you for coming tonight, and we'll be around for just a
6 little bit if you have any other questions or what you
7 want to say.

8 MALE VOICE: Go ahead.

9 MR. THOMAS: My name is Robert Thomas. I just
10 wanted to present the lead, the battery acid, the rusty
11 spark plugs, the nails, the lead that comes out of the
12 rivers that we dredge. Fishermen pay fishing licenses
13 to take lead and to throw lead into the rivers.

14 All this lead comes out of the rivers by gold
15 dredgers. A fisherman throws it in and leaves the toxic
16 lead in the river, and then the dredger comes back and
17 he drives it up and he sucks it back up out of the river
18 and cleans the river up. So he's doing the environment
19 a big favor. The Department of Fish and Game is
20 benefitting by us cleaning up the streams. But on the
21 same token, there's no limit to the amount of licenses
22 that are given to the fishermen to throw this into the
23 river. But on the other hand, they want to limit the
24 amount of dredgers that can pull this out of the river
25 to clean it back up.

2. Thomas,
Robert

2. Thomas,
Robert

1 I think all that should be taken into deep
2 consideration, that the dredgers are really benefitting
3 the rivers. And to limit the amount of numbers that are
4 cleaning this out of the river would be very detrimental
5 to the environment. On the other hand, maybe we should
6 start limiting the amount of fishing licenses to allow
7 people to throw this in the rivers in the first place.

8 MALE VOICE: Amen. Say it again, Brother.

9 MALE VOICE: Thank you.

10 (CD off.)

11 (End of proceedings.)

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CERTIFICATE OF TRANSCRIPTION

I, Diane Dearmore, Certified Shorthand Reporter, and a disinterested person, hereby certify that the foregoing taped proceedings were transcribed by me, to the best of my ability considering tape quality, and reduced to typewriting, by computer, under my direction and supervision.

I further certify that I am not of counsel or attorney for either or any of the parties to the said proceedings, nor in any way interested in the outcome of the cause named in said caption.

DATED: April 14, 2011

DIANE DEARMORE
CA CSR NO. 12736
TX CSR NO. 4947

SACRAMENTO: MARCH 29, 2011

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CALIFORNIA DEPARTMENT OF FISH & GAME

PUBLIC COMMENTS

TRANSCRIPTION OF AUDIO PROCEEDING

MARCH 29, 2010

SACRAMENTO, CALIFORNIA

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P R O C E E D I N G S

MS. MONAGHAN: Okay. So I want to welcome you very, very much to this evening. This is the Fish & Game's public hearing for the suction dredge permitting program and the subsequent Environmental Impact Report.

My name is Jodie Monaghan. I'll be your facilitator tonight. I work for the Center for Collaborative Policy. We're an off-campus department at Sac. State, and we are third-party neutrals. My job is to make sure that everyone has an equal chance to speak and be heard.

I'd like to just briefly -- this is not working -- okay, sounds good.

I want to review the purpose of the hearing, go over the agenda and ground rules quickly. We have a lot of people. We want to get to the public comments as quick as we can.

The purpose is for you to provide comments to Fish & Game to help them finalize this program. Your comments are going to be very instrumental in that.

I'd like to go over the agenda. Did everyone get this brown handout? Okay. So that's our agenda for tonight. You all had a chance, I hope, to participate in the open house. I saw a lot of good conversations going on. I'm doing the welcome right now. Mark

1 Stouffer, project manager for Fish & Game, will be doing
2 the opening remarks. Then Michael Stevenson will hit
3 the highlights of the suction dredge program and give
4 you some suggestions on how to comment. Then we will
5 briefly get into the ground rules for the actual comment
6 period and then start the comment period. And I'll go
7 into more detail then.

8 Briefly, we have an awful lot of people who
9 want to speak tonight, and I think that's absolutely
10 wonderful. I appreciate your coming out, taking your
11 own time to come out. So this is great.

12 The important thing is that -- I think we
13 passed out over 200 numbers. We know a lot of people
14 want to speak. Each speaker will be allowed to speak
15 three minutes, and those who are speaking just for
16 themselves, taking three minutes, will speak first.
17 Those using donated times, where somebody gave them
18 their cards, will speak after that. That way, people
19 who just want to make individual comments are free to
20 leave, should they want to.

21 The ground rules are on the back of your brown
22 paper. Basically, ground rules are nothing more than
23 just common courtesy and I think we all know what that
24 is. One thing though, would you take a minute and check
25 to make sure your cell phones are off?

1 While the presentations are going on, if you
2 would be kind enough to focus your attention. If you
3 want to have side conversations, I know sometimes you
4 want to, just please go outside so you don't disrupt
5 your neighbors.

6 We'd appreciate it if you're respectful of
7 each other. All opinions have value, and we want to
8 hear from everybody. The important thing is that I
9 promised you all the opportunity to speak and be heard.
10 And for that, I'm going to ask that when speakers are
11 speaking that you don't interrupt them, you don't
12 applaud them. You don't cheer, you don't jeer, because
13 we want to make sure that we hear them.

14 These proceedings are being recorded, and we
15 have cameras up here. We've got the audio. We have to
16 create a transcript, and the least intrusive way of
17 doing that was just to video record it.

18 Real quickly on how to comment. It is
19 entirely possible that we are going to run out of time
20 tonight. We have to be out of this room at midnight.
21 We have no choice. For those of you who potentially, if
22 we -- let's see if I can get this right.

23 If you don't have an opportunity to speak
24 tonight, you also got the white piece of paper. That's
25 a comment form, and on the back of the gold form, you'll

1 see other ways to do it. You can do written comments,
2 you can mail them, you can fax them, you can e-mail
3 them. We also have two more hearings. Tomorrow night
4 we'll be in Yreka. The day after that, we'll be in
5 Redding. So more details on comments on the gold piece
6 of paper.

7 So I'd like to introduce Mark Stouffer. He is
8 the project manager for Fish & Game.

9 Okay, thank you. For those of you who came
10 in, I do need to have you take a seat. We have seats
11 down here. People are raising their hands. We are not
12 allowed to have standing room. So please find a seat.
13 Thank you.

14 MR. STOUFFER: Good everything, and thank you for
15 trying to find a seat. If we can't get everybody
16 seated, the alternative is that we have to set up a
17 video camera and broadcast it into another room. So
18 this is better.

19 If you did the arithmetic on 200 speaker
20 cards, three minutes per person, it comes out to 10
21 hours. So we do want to speak with -- you know, as
22 concisely as you can. And if a point has been made,
23 two, three, 15 times before, we have it. It's been
24 recorded and will be put in the transcript and we will
25 consider every comment. Hearing a comment 60 times is

1 no different than hearing it two times, one time.

2 So how did we get here? Previously, suction
3 dredging was regulated under regulations adopted by the
4 Department of Fish & Game in 1994. There was an
5 intention at that time to make some modifications,
6 amendments to those regulations, and the Department
7 published a Draft Environmental Impact Report in 1997 to
8 do so.

9 I can hear music playing. Okay. Thank you.
10 Thank you very much.

11 We circulated that EIR. It was a document
12 that was done in-house; in other words, we didn't have
13 any additional resources to do it, either expertise,
14 money or anything else. And based upon what was pretty
15 overwhelming public comment, the Department made a
16 decision then that they were not going to go further
17 with that process.

18 So there was an understanding as long as 1994
19 ago that the regulations were going to need some
20 additional attention. In or around 2005, a lawsuit was
21 filed challenging the Department's continued issuance of
22 a suction dredge permits with respect to their effect on
23 fish.

24 There have been lots of employment
25 opportunities for attorneys since then. Nearest count I

1 have is about eight lawsuits relative to suction
2 dredging, everything from challenging the efficiency of
3 our regulations to meet the mandate of the Fish & Game
4 Code Section 5653, to claims with respect to conflicts
5 between state law and federal mining law to claims
6 looking for refunds of permit fees from 2009.

7 So it's had a rich litigation history that's
8 not over yet. It includes a court order from Alameda
9 County Superior Court for the Department to prepare an
10 Environmental Impact Report and update its regulations
11 based upon new information.

12 And one of the comments that I hear a lot is:
13 There's nothing wrong with the 1994 regulations, and
14 there's no need to do any additional work. Well, I
15 respectfully disagree with that.

16 In 1994, there were a number of species that
17 were not at risk, not threatened, not endangered that
18 are now at risk. Coho salmon is a great example of
19 that. It was listed by the State of California in 2005
20 and by the federal government in 1996. It wasn't
21 recognized as a species at risk in 1994 when those
22 regulations were adopted.

23 In addition, we have much more information
24 about the distribution and condition of other fish
25 species throughout the state than we had back then. So

1 there are good biological reasons to take a look at
2 those regulations. The principle reason though is that
3 we were told to by a judge. That tends to get our
4 attention.

5 So we have -- legislature provided us funding
6 to begin that activity and we have done so. That
7 product of that, to date, is this meeting, the
8 Environmental Impact Report that's available on our Web
9 site that many of you have seen.

10 Meanwhile, as you know, there was a moratorium
11 established in August of 2009, SB 670, and it closed
12 suction dredging instantly. So -- but there was also
13 the Alameda Court telling us that we couldn't sell
14 permits any more either using any general fund money.

15 So SB 670 imposes a moratorium on suction
16 dredging until three things happen: The first one is
17 the Department of Fish & Game completes an Environmental
18 Impact Report and certifies that document. The draft
19 document is -- you saw copies of it out on the lobby and
20 it's available on our Web site.

21 The second thing that needs to happen is we
22 adopt those regulations; in other words, the director of
23 Department of Fish & Game adopts our final regulations.
24 And then they have to take effect. For them to take
25 effect, we submit them to the Secretary of State's

1 office and they publish those regulations. On our
2 current schedule, I anticipate that we'll complete all
3 of those actions on or around November 1. And under
4 the -- once the moratorium's lifted, and as long as the
5 court does not have an order prohibiting the sale of any
6 permits at that time, we'll anticipate that will be the
7 basis for lifting the that court order, we'd be able to
8 start selling permits.

9 Many of you have looked at the regulations and
10 what we have proposed in these regulations would be that
11 if you wished to buy a suction dredge permit, once they
12 go on sale, even though it's November and it's cold and
13 the water's high out there, you could do so, and that
14 permit would be good through the end of 2012.

15 So that's the Reader's Digest version of how
16 we came to be here this evening.

17 I want to also address federal mining law,
18 because it's something that many of the folks here
19 tonight -- you might also know we did meetings in Santa
20 Clarita and Fresno last week. And after tonight, we
21 will go -- we'll take this show up to Yreka and Redding.

22 So we've heard from a lot of people at those
23 meetings before. We heard from some of you at the
24 scoping meetings. Some of you call me frequently. I
25 get lots of e-mails and snail mail as well. So folks

1 have not been shy about communicating their interest to
2 me. And I think I have a pretty good list. And I won't
3 be surprised if I hear a couple things tonight that
4 we've not heard before.

5 One of those has to do with a perceived
6 conflict between the state's authority under Fish & Game
7 Code Section 5653 and federal mining law. And I suspect
8 that we could come away from this agreeing to disagree.

9 Our view, the advice of our counsel is that
10 the California Constitution requires us to implement
11 state law as it is written. And Fish & Game Code
12 Section 5653, as written, says the Department of Fish &
13 Game shall sell permits for suction dredging in
14 California where we determine that it's not deleterious
15 to fish. It doesn't say private land. It doesn't say
16 state land. It doesn't say tribal land. It doesn't say
17 federal land.

18 So that's the literal interpretation of the
19 law. And our understanding of the Constitution is that
20 is our obligation.

21 And secondly, the Constitution also directs us
22 that if there is a conflict or an apparent conflict, we
23 are still to implement the law, as written, until an
24 appellate court has told us otherwise. That has not
25 happened.

1 Now, you may disagree with that. You're
2 welcome to have that disagreement. That's our view.
3 That's how we are proceeding. And you may wish to
4 comment on that in the EIR, but it will not make any
5 difference. The EIR are the regulations. We can't
6 address federal mining law and won't.

7 I want to address refunds of 2009 permit fees.
8 I have it on personal knowledge that many people are
9 still mad about that. There was a piece of legislation
10 that was introduced that did not pass which would have
11 provided a refund of those fees.

12 There's also currently a piece of legislation
13 before the California legislature, SB 657, which would
14 ostensibly do several things. One, it would lift the
15 moratorium; two, it two exempt suction dredge permitting
16 from the California Environmental Quality Act for a
17 short period of time, few years. It would provide a
18 partial refund of fees, and it would require the
19 Department of Fish & Game to do an economic impact
20 report on the moratorium.

21 I have no idea whether or not that legislation
22 will pass. We are going to proceed on the course that
23 we have until we're told otherwise. And if there's
24 still a question -- and this is one that you might --
25 that even if this bill passed, I'm not sure the

1 moratorium would end because of the Alameda County
2 Superior Court might have a view on that. I'm just --
3 this is a complicated matter, and there isn't one simple
4 way to unravel all of it.

5 So, you know, that's possible out there. Our
6 view is that unless a judge tells us to refund permit
7 fees, we don't have the authority to do so.

8 So all of those matters that I just addressed
9 are matters that maybe have great import to you. You
10 may feel passionate about those. And you can comment on
11 that, if you wish. But it will not change either the
12 regulations or the EIR because they are not within the
13 scope of our authority. Our authority derives mainly
14 from 5653, Fish & Game Code Section 5653, which
15 currently implies a moratorium.

16 Whatever authority and responsibility we have
17 under the California Environmental Quality Act, and
18 California Environmental Quality Act makes us
19 responsible for evaluating a full range of impacts of a
20 proposed action to determine if they are potentially
21 significant. CEQA, California Environmental Quality
22 Act, does not give us any authority that we don't
23 already have.

24 For example, just because we did an EIR
25 doesn't mean that we have the authority to regulate

1 noise in California. We do have to disclose potential
2 effects. We don't have the authority to regulate it.

3 So for those things that we didn't have
4 authority, except under 5653, we didn't write
5 regulations for them, even if the impacts we believed
6 were potentially significant. And those include --
7 well, Michael Stevenson will get to that in a little
8 bit.

9 We have a team of Fish & Game biologists
10 around the state who have been working on this, a law
11 enforcement division, general counsel and other
12 participants.

13 We also have a consulting team who have done
14 most of the heavy lifting in preparing these documents.
15 We hired them because of their expertise and their
16 competence, and they are here tonight as well to take
17 your comments.

18 And looking forward to hearing everything you
19 have to say. Is this kind of a big room. The other
20 rooms that we've been in were a little bit more -- I
21 hate to say intimate, but they were smaller anyway. And
22 I had an opportunity to -- this feels a little more
23 formal than I prefer, but it is what it is.

24 So with that, this is -- the only other thing
25 I'll say is that this is a formal public hearing to take

1 your input. If you were at the scoping meeting, you'll
2 remember that we collected questions from the
3 participants in the audience, and I did my level best to
4 try to answer those questions. We spent an hour outside
5 trying to interact with you, got to meet many of you,
6 and tried to answer your questions to best of our
7 ability.

8 This section will begin with you giving us our
9 testimony, and we will not be answering questions during
10 that because we make sure everybody gets a chance to
11 speak, and we're simply taking in your comments and
12 suggestions and recommendations and so that we can
13 consider them as we go forward. So it's going to go,
14 pretty systematically.

15 We do thank you for coming. We had about 80
16 people in L.A., about 75, 80 in Fresno. This crowd
17 obviously dwarfs that, and I expect large turnouts in
18 Yreka and Redding as well. Michael.

19 MR. STEVENSON: Thank you, Mark.

20 My name is Michael Stevenson, and I'm with the
21 company, Horizon Water Environment. We've been
22 assisting, along with a team of other consultants, been
23 assisting the Department in preparing the Environmental
24 Impact Report that's out for public review right now.

25 So I'm going to be talking a little bit about

1 that Environmental Impact Report, what it contains, what
2 some of the key conclusions are. I'm going to be
3 talking a little bit about the regulations that the
4 Department's proposing, what those contain. And then
5 I'm going to talk a little bit about the process and the
6 timeline that we're on, and also talk a little about
7 commenting through the CEQA process. California
8 Environmental Quality Act is the law that is requiring
9 us to prepare this Environmental Impact Report.

10 And there are good ways to comment, ways that
11 you can be more effective. And we want you to be
12 effective in your comments. So I'm going to be talking
13 about that.

14 You can see is this a diagram here. And Mark
15 talked about the existing regulations back in 1994 and
16 the court case that caused the Department to embark on
17 this current process.

18 We started this process last summer with a set
19 of scoping meetings. We prepared an initial study,
20 actually preceded that with a literature review where we
21 collected all the data we could since 1984 about the
22 effects of suction dredging on the environment. And the
23 initial study was kind of a first look at what some of
24 the key issues might be. And it allowed us to winnow
25 away at some of the some things we weren't that worried

1 about. For instance, agriculture wasn't something that
2 we were particularly concerned about, and we were able
3 to dismiss that in the initial study and focus our
4 efforts on issues that I think were perhaps more
5 important.

6 We used that as the basis to do our public
7 scoping. We had public scoping meetings last summer,
8 three of them throughout the state, received a lot of
9 comments from you all about what we should be thinking
10 about in terms of the regulations and the environmental
11 analysis. And on that basis, prepared an Environmental
12 Impact Report, which evaluated a set of proposed
13 regulations.

14 And so those two things we're ready for you
15 all to look at, so it was released last month. And we
16 are here now. You can see public review, we're in the
17 public-review period. So we're going to be receiving
18 comments from you all until May 10th on this. And
19 following that, we're going to be preparing what's
20 called a Final Environmental Impact Report, a Final EIR
21 and that's going to contain responses to all the
22 comments that we hear from you, including the comments
23 you're giving us tonight.

24 So in a nutshell, I'm going to talk about the
25 timeline a little more, but that's, in a nutshell, the

1 process.

2 So what's in the EIR? Well, it's about a
3 600-page document. It's got another 2000 pages worth of
4 appendices. So it's not small. Good nighttime reading,
5 if you want it.

6 But if you want a short version, we've got an
7 executive summary. That's the very first part of the
8 Environmental Impact Report.

9 Chapter 1 is Introduction.

10 Chapter 2's pretty important. That's where
11 all the proposed regulations are contained. And when I
12 was out in the hall talking with some of you, I had a
13 lot of questions about that. So if you're wondering
14 where your mining claim is with respect to those
15 regulations, that's where it's described.

16 Chapter 3 talks a little bit about suction
17 dredging and what it is, how it's done. And then the
18 following chapters go into the environmental impact
19 analysis, and those environmental impacts are evaluated
20 in the context of the regulations the Department's
21 proposing. So if those regulations are implemented,
22 what might be the environmental effects of those
23 regulations and suction dredging under those
24 regulations. Also considered alternatives, and I'm
25 going to talk a little bit in just a second about what

1 those alternatives were.

2 But finally, I think it's important to point
3 out the appendices to the document. And there's a
4 couple of key ones: Appendix K and Appendix L. Because
5 they really help explain the basis for how the
6 Department came up with the regulations that they have.

7 And Appendix L, in particular, in case you're
8 wondering well, my water body's a Class E, and why was
9 it designated that way? It was a Class B before. It
10 describes the primary species that the department was
11 concerned about, the primary threatened or sensitive
12 species that they base the decision on.

13 Appendix K then talks about the life history
14 of that species. So when does it breed, what's its life
15 cycle. To try and help explain the basis for why they
16 selected the regulations they did.

17 So that's just a brief guide to the EIR, and
18 we do have some Table of Contents that you guys can grab
19 if you want them.

20 So under CEQA, the Department is required to
21 evaluate alternatives. And so they didn't just come up
22 with the proposed regulations, they considered a variety
23 of different approaches. And one thing that's required
24 is to look at the no-program alternative. That was the
25 first thing. And that's required under CEQA.

1 And the no-program alternative, in this case,
2 if the Department were to do nothing, the moratorium
3 would continue, there would be no suction dredging. And
4 so the impacts of that were evaluated. What would be
5 the adverse, what would be the beneficial effects of
6 that.

7 Some of the other alternatives that we
8 considered were a 1994 regulations alternative. So what
9 would be the effects of continuing on with the '94
10 regulations as they were written. I think the
11 Department had a pretty good sense that they couldn't
12 necessarily stick with those because the court already
13 told them they need to take another look.

14 But we did evaluate them because we know -- we
15 got a lot of comments during the scoping period that
16 people were pretty happy with those the way they were.

17 We looked at a reduced intensity alternative.
18 And as you probably are aware, the Department's
19 currently proposing a cap of 400 permits. Or I'm sorry,
20 4,000 permits per year. The reduced intensity
21 alternative considered what would be the effect of only
22 issuing 1500 permits per year. So looking at a reduced
23 number and what effect would that have.

24 And then finally, a water quality alternative.
25 And what this is looking at is there's a variety of

1 water bodies throughout the state that are designated as
2 impaired for mercury. And the collection of mercury by
3 suction dredges as well as the potential for it to
4 resuspend mercury into the water column was a key
5 concern related to the suction dredge program. And so
6 we evaluated what the effect might be if we closed all
7 of those water bodies that are listed as impaired for
8 mercury to suction dredging.

9 So this is the range of alternatives the
10 Department looked at, and there was the proposed
11 program. I guess that was at the top of the list. I'm
12 going to talk about that a little bit more right now.

13 So they are structured pretty similar to the
14 1994 regulations in that they've got some general
15 requirements that apply to everybody who's suction
16 dredging throughout the state, no matter where you are,
17 what time of year you want to do it. And then there's a
18 set of seasonal and permanent closures of water bodies.
19 That's what there was in 1994 and the Department went
20 about updating those.

21 So key things: I talked about the 4,000
22 permits. In each permit, you identify -- you would
23 identify six locations throughout the state where you
24 would be suction dredging. One important note on that
25 is that these permits can be amended under the

1 regulations. So if you were to finish up with your six
2 sites, you want to add one, drop one, you could submit
3 an amendment and change that throughout the year. So,
4 in effect, you can suction dredge in more than six
5 sites.

6 There's requirements related to operations and
7 equipment. One of those key things being that 4-inch
8 dredge is kind of the largest that would be allowed
9 under a standard permit, and there's a separate
10 permitting process for larger dredges that I'll talk
11 about in a little bit. But there's also requirements
12 related to dredging in proximity to stream banks, making
13 sure that vegetation's not being damaged, kind of best
14 practices for suction dredgers, and I'm sure many
15 suction dredgers are already observing. And finally,
16 seasonal and year-round closure for various water bodies
17 based on sensitive aquatic species.

18 So in addition to that, there's -- there's
19 another overlay here. And it's under a particular part
20 of the Fish & Game Code called Section 1600. It's the
21 Streambed Alteration Program. And for certain
22 activities, the Department determined there's a
23 potential for a substantial modification of the better
24 bank of the river. And for those activities, in
25 addition to getting a suction dredge permit, which is

1 kind of the standard permit, you also would need to
2 notify them under Section 1602.

3 And under that -- under that notification, the
4 Department would evaluate whether or not there would,
5 indeed, in their purview, be a substantial modification.
6 And if they determine there wasn't, you go about your
7 merry way with your standard permit. If they determine
8 that there was, they would issue what's called a
9 Streambed Alteration Agreement. And that would be
10 site-specific and would help identify any site-specific
11 requirements that they would -- they would ask of
12 suction dredgers as they do their dredging.

13 So there are four key provisions that would
14 kick you out to the 1600 program. The first is use of
15 a -- motorized winches to move large boulders. So if
16 you want to use a hand winch, that wouldn't require a
17 1600 notification, but if you were to use motorized, you
18 would need to do that.

19 Temporary permit diversions of flows,
20 impoundments, you're going to concentrate flow to a
21 particular part of the stream, those are things they are
22 going to want to take a closer look at.

23 Dredging within lakes and reservoirs. Just
24 because of the fluvial process, the fact that you don't
25 have flow moving through lakes and reservoirs the same

1 way you have in a stream, the effects of suction
2 dredging may not get eliminated over the course of a
3 winter season. And so they'd like to take a closer look
4 at that.

5 And then finally, use of a dredge larger than
6 4 inches would require notification. The maximum size
7 of the dredge actually stays the same as it was under
8 the existing program, and that was -- a 6-inch dredge is
9 kind of the standard dredge that was under the 1994
10 regulations. And I believe there were 10 different
11 rivers where an 8-inch dredge would be allowed. That
12 stays the same. The only difference is if you want to
13 use a dredge larger than 4 inches, you need to make a
14 notification.

15 So that's kind of a really brief summary of
16 the regulations. And I encourage you, if you're
17 interested in finding out more details, and there are a
18 lot of them, you can look at the regulations themselves.
19 You can read those. We also have a summary, executive
20 summary of the document. So I encourage you to look
21 there as well.

22 I'm going move on little bit to talking about
23 some of the key impact finding related to the program.
24 And as I said before, this is looking at what would be
25 the effects of the -- what would the environmental

1 effects be of suction dredging compliant with these
2 regulations? And so the document found that there were
3 a lot of effects that would be either beneficial or
4 considered less than significant. And "significance" is
5 actually a term in CEQA, California Environmental
6 Quality Act. If an impact is considered to be less than
7 significant, then you don't need to worry about it any
8 more. You can essentially assume that it's not a
9 problem, go forward. Significant impacts are really
10 kind the focus of more attention and concern.

11 So some of the key things that were found to
12 be less than significant were geomorphic effects on the
13 river. So the idea that winter storms come, and really,
14 they move a lot more sediment than any of the dredges
15 possibly could. And that would erase the primary
16 effects of suction dredging.

17 Another beneficial fact that was found was the
18 removal of heavy metals from the water, lead and
19 mercury, which is deposited on the bottom of the stream,
20 gets captured in the sluice box and suction dredgers,
21 you guy remove that. So that was something identified
22 as beneficial.

23 And there's a variety of other ones. I'm not
24 going to go through all of these, but, you know,
25 esthetics, recreation, a lot of less-than-significant

1 impacts.

2 There were several significant and unavoidable
3 impacts. Primarily, the reason why these are
4 significant and unavoidable is, as Mark was saying, they
5 have a very focused statutory authority. They are
6 focused on, through this program, the effects on fish.
7 And there's a broad definition of "fish" in the Fish &
8 Game Code. It refers to really any native aquatic
9 species. But for certain of these issues, it was beyond
10 their purview. There's really nothing that Fish & Game
11 necessarily -- maybe under the jurisdiction of another
12 agency, but it's not within Fish & Game's power to
13 regulate.

14 One of those things was the potential to
15 affect nesting birds in a streamside area was something
16 that we were concerned about, specifically certain very
17 endangered species like Least Bell's vireo, very few of
18 those throughout the state, and loss of these and one
19 breeding pair was considered by Fish & Game to be
20 actually a significant effect. So we found that.

21 Effects on resuspension of fine mercury. So
22 what we're talking about here is the really small, fine,
23 particulate mercury which is picked up by a dredge. And
24 because of its properties, it stays in suspension. It
25 passes right through the dredge, would not get captured

1 by the sluice box. And through some modeling and some
2 primary data collection on the amount of mercury in the
3 sediments and the particle sizes, it's determined that
4 there is a potential for the suction dredge to result in
5 the output from the dredge. The back of the dredge
6 would actually violate the state standard for mercury in
7 the water column. It's a pretty low standard. And so
8 it was found to be exceeding that.

9 Mark talked a little bit about noise
10 ordinances. There are some pretty restricted noise
11 ordinances where a lawn mower exceeds them. Well, that
12 being the case, a suction dredge might too.

13 So that's briefly some of the findings. I
14 really encourage you to look at the Environmental Impact
15 Report and read it. Especially if you're making
16 comments, you know, really do look at this, because
17 there's a lot of detail in there, and we really can't
18 talk about all of it in the meeting, but we do want you
19 to be educated.

20 So in terms of next steps, as I said before,
21 the public comment period closes on May 10th. So we got
22 a little bit of time left here to write your comments.
23 And we do really encourage you to write those comments.
24 We want to hear them.

25 The final EIR's going to be prepared here in

1 the fall, and towards the end of the year. The intent
2 is that the final EIR will be certified, adopted. As
3 Mark said, assuming everything else goes according to
4 plan, there would be new regulations in effect.

5 So what's in the final EIR? Well, the first
6 thing it's going to contain is all the comments that are
7 submitted, all the comments that you guys submit tonight
8 verbally, all the comments that are submitted in
9 writing. And then there's going to be a response to
10 each of those comments. So there will be a written
11 response to every comment that you provide.

12 And then finally, the third part -- and this
13 is important -- will be the revisions to the document in
14 response to those comments. So if the Department
15 decides, hey, we actually do need to take another look
16 at this or change some things around, they are going to
17 change that, and that will be in the final EIR. So that
18 includes the regulations. The regulations aren't
19 finalized yet.

20 And I can guaranty already that there's going
21 to need to be some modifications. People pointed out
22 one place where one river that's bordered on two
23 counties, it's one color on one side of the river and a
24 different closure code on the other side of the river.
25 That doesn't make any sense. So we know there's a

1 couple of modifications needed.

2 So talking about commenting 'cuz, you know,
3 it's -- CEQA can be kind of a complicated process, and
4 we want to make sure that you all have the best
5 opportunity to -- I know that people feel very
6 passionately about this subject, and we want to make
7 sure your comments are effective as they can be.

8 The first thing is be specific. When you're
9 making a comment in the Environmental Impact Report,
10 tell us what page you're talking about. We have line
11 numbers in the document on the left-hand side of the
12 margin. Tell us what line. Page 16, line 2. That's
13 going to help us focus on what you're talking about.

14 And when you're making a comment, suggest
15 something to do to fix it. It is helpful to us to know
16 whether you like something or don't like something, but
17 if you don't like it, help us fix it.

18 Another thing is that CEQA is based on the
19 idea that there's substantial evidence. And so when
20 somebody legally challenges the Department, as may very
21 well happen at the end of this process, the Court's
22 going to be looking at whether or not there was
23 substantial evidence to support their decisions to
24 determinations in the environmental document.

25 So when you're making your comments, if you

1 want the Department to update their analysis or make
2 changes, substantial evidence is going to be key to
3 support your argument. So please think about that. If
4 you have data, if you have information that has not come
5 to light already, things that can help the Department,
6 think through the issue, please submit those.

7 And finally, you know, CEQA is -- requires
8 that the best available information be used, and there
9 would be a lot of studies that the Department could do.
10 With unlimited time and resources, the Department could
11 do a lot of study of this issue. CEQA doesn't require
12 that. It would make it very difficult for many, many
13 things to move forward in the state, if that were the
14 case. And so the Department -- people may have some
15 very good ideas for some studies that are needed. The
16 Department won't necessarily be pursuing every study it
17 could. But it's, instead, going to base its conclusions
18 on the information that's available right now.

19 So with that, I'm going to wrap up. I'm going
20 to hand this microphone back over to Jodie, and she's
21 going to talk a little bit about the public speaking
22 ground rules, and then we're going to open up to your
23 comments.

24 MS. MONAGHAN: All right. While we're doing this,
25 Austin, Sandy, could you come down and get set up,

1 please? Is Sandy in the room? Okay.

2 So just a couple of things. Security asked me
3 to mention to you, it is warm in this room. I admit it.
4 They said the air conditioning is up as high as it will
5 go. So I apologize if it's the least bit uncomfortable.
6 They are doing their best.

7 The next thing is that if you leave, Security
8 has said you have to go out the front door. Some of you
9 may have come in the back door. But you do need to exit
10 the front door, and you need to turn in your visitor
11 badge. So that's important.

12 I didn't mention it before. For those of you
13 who need it, bathrooms they are out the door and to the
14 left around the corner.

15 And some of you parked across the street.
16 I've been told by some people that the parking garage
17 officially closes at 9:00 o'clock for an attendant --
18 wait, don't panic. The attendant leaves at
19 9:00 o'clock. So what you need to do is, when you
20 leave, there are machines down on the ground floor. And
21 you need to pay your ticket. It will take cash, credit
22 card or debit card. I know this from personal
23 experience yesterday. And pay for your ticket before
24 you go up to your car, and then there's a thing that you
25 can stick your card in and get out. So just want to

1 make sure nobody's stuck in the garage.

2 Question?

3 (inaudible question)

4 Yes, there is a box. There was a box out at
5 the front desk. And maybe, Austin, I could ask you --
6 we have a box that says "Written Comments," and they are
7 all very secure. So thank you. Good question.

8 So I think that was all the important things.

9 What we'll do is everybody who wants to speak,
10 did you all get a blue speaker card and a number?

11 Anybody who needs one? Great.

12 Okay. So what we're going to do is I'd like
13 you, before you get up to speak, fill out your speaker
14 card so we can read it, please, because it is part of
15 the official record. And then I'm going to ask, for
16 instance -- and this will be for people speaking
17 individually, so only speaking for three minutes. If
18 you will line up according to numbers. Sort of think of
19 the Southwest Airline thing where they call numbers.

20 Comments will be given from this podium. So
21 when we get started, like people holding the numbers 1
22 through 5 that will just be speaking individually, not
23 people with donated time, and then as you see us getting
24 to No. 5, then maybe 6 through 10 line up. And we'll go
25 through that.

1 When you're ready to speak, you're going to --
2 I'll be right here. If you'll hand me your speaker
3 card, step up, state your name, just so we have it for
4 the record, and then start.

5 Sandy has the timer. Each person has three
6 minutes. And we are going to be very strict on that
7 because I really want as many people to speak as
8 possible.

9 So when we have one minute left, Sandy's going
10 to hold up this sign. When we have 30 seconds left,
11 you'll see this sign. When your time is up, you will
12 see this sign. Plus there is a little tone that you'll
13 be hearing. And again, not meaning to be mean, what
14 it's meaning to be is very fair. I will cut you off at
15 the end of three minutes so we have as many people.

16 Question?

17 (inaudible question)

18 You can do that, but understand, individual
19 speakers will all speak first before those with donated
20 time, okay? Because that way, if you want to leave, we
21 want to give you that opportunity.

22 (inaudible question)

23 No. If you have donated time, then you will
24 go after all the individuals. And then you will get up.
25 So everybody who wants to speak for just three minutes

1 will have that chance. Then those speaking more
2 than three minutes, then we'll start with that group,
3 okay?

4 Okay. So do we have issues? Okay. Eric.
5 Could we frantically, quickly get you to get a -- some
6 place to plug in something. Okay. Eric's our AV guy.
7 He's up in the booth. Yes.

8 (inaudible question)

9 I'll keep track of them. So when I see
10 people, I'll just ask for 1 through 5. If, let's say, 3
11 and 5 donated their time, then we'll just have 1, 2, and
12 4. If nobody else is there, then we'll keep going.
13 Does that make sense?

14 Okay. So again -- what else do I want to tell
15 you? Again, I just want to make sure that we're really
16 clear. This is a public hearing. There are very strict
17 laws regarding it. We hope that you will ask
18 questions -- I mean if you ask questions as part of your
19 comment, the answers will come back in the final
20 environmental document.

21 One last thing. We have -- very likely, you
22 can see how many people want to speak. You know how
23 long it is til midnight. If you have a comment that's
24 already been made, it will not give it more weight to
25 say it again. So in the interest of giving all the

1 participants in this room a chance to speak, we hope
2 that if somebody else has made your comment, please, if
3 you will, forgo it. Because it is made, it is on the
4 record. It doesn't need to be repeated. And then we
5 have that much more opportunity for others to speak.

6 Do we have people in the other room? Oh, my.
7 Okay. So -- good. I got to tell you. I am delighted
8 so many people came. I really appreciate it. And I
9 know you came out on your own time and this is
10 wonderful.

11 Okay. So are we set to go? Okay, let's have
12 Nos. -- Ken, question?

13 (inaudible question)

14 Okay. Okay. What Ken was saying was there's
15 a little time delay between talking and the people next
16 door hearing.

17 So let's start with people who have numbers 1
18 through 5 that will be speaking just for the three
19 minutes. If I can have you line up. In fact, given
20 this list, let's go with 1 through 10. Because I'm
21 thinking that it's going to take a little time, and I
22 want to minimize the transactional time.

23 One, thank you. Okay. So you are going to --
24 as soon as I turn this on -- step up. Your name and
25 then start talking.

Hutchinson,
David

1 MR. HUTCHISON: My name is David Hutchison. My comment
2 is about the yellow-legged frog.

3 My comment is about the -- my comment is about
4 the yellow-legged frog in Sierra County. I've been
5 dredging for almost 30 years up there. I know people
6 who lived up there longer than that. We have never seen
7 a yellow-legged frog. It doesn't exist up there.
8 Unless, like the wolverine that was imported from Idaho,
9 the wild turkeys that all of a sudden this year
10 mysteriously showed up in Sierra City, they're being
11 imported by someone.

12 I want to see and talk to the actual
13 biologist, whoever did the study in Sierra County,
14 because there is no yellow-legged frog up there. If no
15 one has seen one in 30 years, how come it's now there?
16 It doesn't make sense.

17 And I know you can't answer it today, but that
18 part of the study, no matter what you say, it's false.
19 Because there was no yellow-legged frog before now. Now
20 all of a sudden, we have a yellow-legged frog and
21 dredging is being closed -- (inaudible). If something
22 isn't there, just because it's the habitat, doesn't mean
23 it's there. Or the Yuba River and all that, same
24 habitat for the Northern Pike, we don't want it. The
25 mudsucker (inaudible), we don't want it. It's not

Hutchinson,
David

1 native. We don't want the yellow-legged frog because
2 it's not native. We've got it now, I guess.

3 Oh, yeah, and some of the other regulations on
4 the size of the screen on the bottom of your dredge, 1.7
5 millimeters, you know, you cannot suck any water through
6 that. Believe me. It doesn't (inaudible). On a dredge
7 pump, you're just going to take that screen, you're
8 going to crush it like a tin can and nothing's going to
9 happen. You really need to actually send someone out,
10 put them in a wet suit, put them in a dredge and see the
11 benefits that dredging does.

12 I can cite how many fish in my hole all day
13 long. And before, there was hardly any fish in that
14 part of the river. Now there's thousands of them -- not
15 thousands, hundreds. All by my dredge. If it's such a
16 detriment, why do I have so many fish? We actually help
17 fishes.

18 The worst thing is catch and release. I can't
19 tell you how many fish I see floating down the river
20 with a hand print from being caught and released. That
21 goes on every day, all day long. And we're the ones
22 causing the environment problem with the fish? I think
23 not. You need to have someone under the water watching
24 the fish, dead fish, roll down the river. Thank you.

25 MS. MONAGHAN: Eric, can we turn this mic up?

1 Hello Eric? (inaudible)

2 MR. McMASTER: My name is Ken McMaster, and I'm an
3 active professional dredger, and I have been since 1979.
4 I own Mallow mining claim, both the North Fork of the
5 Trinity River, which is an unpatented mining claim, on
6 the South Fork of the Salmon River, which are patented
7 mining claims. On those claims, I believe that on the
8 North Fork Trinity River, it has been closed to
9 dredging. And it was in 1994 also. Though in the 1994
10 document, it was closed because it was due to being in
11 wilderness, which is above Fish & Game's pay grade, I
12 believe, because only Congress can do that.

13 Right now they have closed it due to Coho
14 salmon. And I have on-site dredge inspections by their
15 Fish & Game biologist, Bernie Aguilar, that state that
16 I'm there when there's no reds present, there's no
17 salmon heads, and that the time frame I'm able to dredge
18 is fine. And I just wondered why it's being closed,
19 especially when I'm the only person in that entire
20 drainage that has active mining claims within a
21 wilderness area.

22 I'm also opposed to the closure of the river
23 within three feet of the lateral current water level. I
24 think that is taking away our mining rights, especially
25 where there's areas of bedrock and there is no stream

McMaster, Ken

McMaster, Ken

1 bank alongside that. Sometimes during the middle of --
2 middle of summer or end of the summer, you can have an
3 area that might only be six or seven feet wide in the
4 river. And that's, in essence, a total closure.

5 Also opposed to same 3-foot closure within
6 end-stream gravel bars.

7 I'm opposed to it being illegal to have dredge
8 near or within 300 feet of closed areas, although I
9 understand that that happened to be a Fish & Game Code
10 that will have to be addressed through legislature.

11 Opposed to the proposed mandate that all
12 licensed dredgers must have 3-inch lettering, in
13 essence, a tattoo on their equipment. It's a dredger
14 who's licensed, not the dredge. That must be removed
15 from regulations.

16 Opposed to the limit of the 4,000 dredge
17 permits.

18 I'm also opposed to the 4-inch suction dredge
19 intake provision.

20 I'm opposed to the mandate that dredgers can't
21 disturb any vegetation along the banks. This seems to
22 be in conflict with federal law, which allows access to
23 our mining claims. We have to be allowed to be able to
24 access through some trees and vegetation to get to that
25 area.

McMaster, Ken

1 Dredging, to me, is a right that's guaranteed
2 through the mining law, and it's the taking of federal
3 protected property rights if my rights are taken away.

4 And that's my comments. Thank you.

5 MR. DUNST: Bob Dunst. I have been an active
6 dredger in California and the other Northwest states for
7 about 15 years. In the State of California I have both
8 patented and unpatented mining claims.

9 I really wanted to make a comment on two
10 areas. First, the 4,000 permit limit. The limit --
11 there doesn't appear -- and I read through the EIR. It
12 does not appear to be any science that would determine
13 that that's a number. It appears that picking a number
14 is discriminatory towards dredgers as opposed to any
15 other users of the waterways, whether they be kayakers,
16 boaters, fishermen. Nobody else seems to be impacted or
17 regulated by that other than the dredgers.

Dunst, Bob

18 I guess my suggestion would be no limit. We
19 haven't had one. It doesn't appear -- if we actually go
20 out and look at any of the rivers right now, we'd see
21 that, you know, there's enough stream flow that, you
22 know, no number of dredgers that we've ever had licensed
23 in this state would ever create an impact greater than
24 what's going on right now.

25 The second area I'd like to address was also

Dunst, Bob

↑
1 talked to by the last speaker, and that's the riparian
2 protection along the streambeds. Again, it seems that
3 it's discriminatory towards dredgers, particularly if
4 you have a limit of 4,000 dredgers, that they would --
5 they would have some regulations about how they could
6 access the stream, how they would deal with the banks
7 when fishermen have no such regulations. They can
8 access -- they are actually much more bank oriented than
9 any of the dredger users who spend most of the time in
10 the water. And it doesn't seem -- it seems that the
11 definition of that being a protection of riparian is
12 actually being done in way that's discriminatory [sic]
13 towards dredgers at the expense of the other users of
14 the waterways.

15 The last area -- I have one minute left,
16 yeah -- is there doesn't seemed to be any -- well, a few
17 items were mentioned as beneficial impacts of suction
18 dredging. There are reported studies from Alaska and
19 other states really showing an improvement of fish
20 habitat. And there seems to be some opportunity to
21 essentially have the Fish & Game help miners understand
22 what are the ways to actually dredge in a way that would
23 actually promote improvement of the streams and the fish
24 habitat as opposed to assuming that everything would be
25 negative. Thank you.

1 MR. KISSELL: My name is Michael Kissell, and I
2 have placer mining deposits. I've mined them in
3 California over the past 40 years. I started when I was
4 six years old. I've been suction dredging for about 15
5 years.

6 I currently have mining rights on over
7 500 acres of placer deposits in California. I believe
8 CDFG's conclusions are significant, and unavoidable
9 environmental impacts are based on its own extreme and
10 internally biased beliefs of potential environmental
11 impacts and limits of its regulatory authority rather
12 than scientifically verifiable and actual adverse
13 environmental impacts.

14 It believes it's protecting the public
15 interest in this ultra conservative approach. The
16 public would be better served by an objective, complete,
17 representative and truthful suction dredging DSEIR as
18 Fish & Game is charged by law and court order to
19 perform.

20 While some of the proposed regulations are
21 reasonable and I agree will protect the environment, I
22 object to limitations of only six locations of planned
23 operation. Where I work is a trade secret, and it's not
24 to be made public.

25 I object to 4,000 permits issued annually.

Kissell, Michael

Kissell, Michael

1 The last time gold was at a record high, as it is now,
2 you issued over 13,000 permits or roughly 13,000
3 permits. That's not enough, and there's no reason to
4 cap the number at 4,000.

5 Intake nozzles with inside diameter larger
6 than 4 inches are not to be allowed is completely
7 unreasonable. The studies in Alaska using two 10-inch
8 dredges side by side by the USGS concluded there were no
9 environmental impacts. And I suggest you review that
10 and take that to heart.

11 Tailing piles shall be level prior to leaving
12 the site. This is a natural process. If you require us
13 to level these piles, it's going to create greater
14 impacts.

15 Most importantly, the seasonal year-round
16 enclosures of various water bodies throughout California
17 I object to. This is going to cost us \$180,000 in lost
18 claim value and millions of dollars in lost mineral
19 wealth.

20 I especially object to your specials -- your
21 species of special concern status and the removal of
22 those waters when you don't have any legal or regulatory
23 authority to do so.

24 I object to limiting dredging to sunrise to
25 sunset during -- in areas where -- under hydro

Kissell, Michael



1 influence. We need that time to work productively.

2 To not permit work in state wildlife refuges,
3 ecological reserves and federal wild and scenic areas,
4 you don't have authority to regulate.

5 And finally -- thank you.

6 MS. MONAGHAN: Thank you. We're going to make a
7 slight adjust to this.

8 We had agreement that we were not going to
9 clap. And what happens is your clapping is going to
10 override the recording. And you potentially are going
11 to cause the speaker not to be able to be heard.

12 So are we still in agreement that we are not
13 going to clap and applaud and jeer and cheer and stuff?
14 Does that work? Because I think everybody has the right
15 to speak and to be heard, and I really need your help to
16 make sure that that happens. Does that work?

17 Okay. I think we've got this squared away
18 now. So thanks.

19 MR. ZALLAR: Yeah. Russ Zallar from Downieville
20 way. I've been dredging a long time, and its not true
21 that we don't pick all the mercury up. I just have a
22 6-inch Keene dredge, standard dredge, no modifications.
23 And I pick up gold and mercury so small I need a
24 10-power magnifying glass to see it. So I know we're
25 getting it. We're getting it all. I get a little

Zallar, Russ



Zallar, Russ

1 bucketful of fisherman's lead every year and square
2 nails. Any kind of junk you can think of, it ends up in
3 the front of my dredge.

4 And we don't have salmon on the North Fork.
5 So we can't be hurting the salmon.

6 And as far as -- I've never heard of a dredger
7 killing a fish, but I see dead fish floating down many a
8 times I'm there every day all summer. I see dead fish
9 floating down with hook, line and sinker in their mouth,
10 belly up. So it's actually the fishermen that are
11 killing the fish. They kill them legally and they kill
12 them illegally when they catch undersize or when they
13 lose one, you know.

14 Just a couple of comments. I've never heard
15 of a dredger killing a fish with a dredge or a
16 yellow-legged frog. Thank you.

1. Dunn, Rachel

17 MS. DUNN: Hi. My name is Rachel Dunn. I've
18 responding first as a citizen. I'll come back and
19 respond as a invited PAC member.

20 This is your cover page of your document,
21 SEIR. This photograph is also referred to inside the
22 document. This dredge is 35-year-old technology. We
23 talked to you about this in the PAC meeting. There's a
24 huge difference between water coming into this
25 mechanism, right here, which was called a crash box.

1. Dunn, Rachel

1 It's now been traded for a piece called a jet flare.
2 It's a mathematical equation. You could look into that
3 and understand that there's a very different turbidity
4 level coming out of the sluice box. We told you about
5 this a year ago, but it's now on the front of your
6 report and it's also referred to. If you've done
7 mathematical extrapolations in the report based on this,
8 then you have to go back and revisit them.

9 This is a -- these were taken this morning.
10 These are screenshots of the Department of Fish & Game
11 Web site. This is the 2009 public review period. Do
12 you see the picture, the image there of the man dredging
13 into the bank? Show the camera. This is the 2009. I
14 took this screenshot this morning.

15 This was the draft scoping report that was
16 issued February 2010 with the same image of a dredger
17 dredging into the bank. I talked to you about this in
18 the PAC meeting. It's on the cover of this report. And
19 this morning, this is the 2011 suction dredge
20 (inaudible) SEIR, updated March 18th of '11, with the
21 same image of the same dredger dredging into the bank.

22 My comment about this is if I sent my child to
23 the Department of Motor Vehicles to pick up a handbook
24 How to Drive, and on the front cover it shows a guy with
25 a can of beer open between his legs, I would feel like

1. Dunn, Rachel

1 justice was not being served. This is three
2 opportunities to change the picture. Are you promoting
3 an illegal activity unknowingly, or are you showing that
4 dredgers do this illegal stuff and we shouldn't be there
5 and we're felons?

6 I'll be back. Thank you.

7 MS. MONAGHAN: Could I have 21 through 30 lining
8 up, please?

9 MR. BOGGS: Hello. My name is Shawn Boggs, and myself
10 and the local Maidu up near Camptonville, have been
11 working at Indian Valley outpost, Carlton Campground, on
12 the government reserve of mercury that was left in an
13 old mining site.

14 It's our position to remove this stuff because
15 it's leaching from the campground into the river. The
16 forestry tolerated me dredging up next to the shore
17 barely. I showed them the mercury that I've been taking
18 out of there and they chose to not say anything about it
19 so far.

20 I've obeyed the law, taken my equipment out,
21 but still gone back there with a shovel and my hands and
22 injuries and done this by hand and moved some mercury
23 from this river.

24 The people I know are dredging anyway. They
25 are going out there and waiting for the helicopters to

Boggs, Shawn

Boggs, Shawn

1 drop the notes with the rock. These people are combat
2 veterans. Give them a break. Put your boots on, march
3 out there and write them a ticket. Please stop the
4 helicopter.

5 What the local Maidu and I have done is we
6 made a catalytic converter for a gold dredge. We bought
7 a patent in process. The illegal dredgers said they
8 weren't going to stop dredging. I told the Maidu. The
9 Maidu said we can offer them a bounty to get the mercury
10 out of river. They are going after it anyway. Many of
11 the people in this room know where the mercury is. They
12 agreed to run this experimental device, the catalytic
13 converter, that operates on broms (phonetic) and removes
14 ambient microscopic mercury from the sluice box.

15 We then take this device and we bring it to
16 UNR, the Mackay School of Mining, have them report it,
17 return the gold to the miners and we get an accurate
18 display of what kind of pollution's happening. It's our
19 intention to take this mercury out no matter what. You
20 guys want to go ahead and take our tool, fine. Some of
21 us will use it anyway. Personally, I don't.

22 I'd like to leave my position and my paper and
23 my device so you guys can think about possibly doing a
24 similar study. If not, we're going to do it anyway.

25 Thank you for your time.

1 MS. MONAGHAN: Anybody with No. 10 up. So I've got
2 17.

3 MR. CONRAD: Hi. I'm James Conrad. I'm the
4 president of the Santa Rosa Gold Diggers Club. I'd like
5 to make a brief addition to what this last gentleman
6 said.

7 I too have some technology and ideas about a
8 trap system that helps collect mercury at the end of a
9 regular riffle system that you use for mining like a
10 Keene system might be.

11 Also some of the fish species that you have
12 noted in there were species that were introduced to
13 California, and they are nonnative species, I think some
14 of the salmon species. And so what is the benefit of
15 what they are doing? We also know that especially some
16 of the brown trout are very aggressive trout and they
17 are eating the frogs.

18 And also I'd like to comment on the fact that
19 initially you decided not to look into the agricultural
20 issues. Well, agriculture adds millions of gallons of
21 chemicals to our waterways everywhere. And I've lived
22 in other states around the United States, and it's a big
23 deal to their Department of Natural Resources. And in
24 Europe they actually have complete filter systems below
25 some of the farming specifically to protect the water.

Conrad, James

Conrad, James

1 So I think that's kind of what -- you're maybe
2 ignoring a large majority of the problem in the first
3 place.

4 Also to add to that, I have a report that I
5 don't have with me, but was put out by the forestry
6 department, about illegal pot farming and meth -- what
7 are they manufacturing. And that has contributed to be
8 the No. 1 pollution problem in many counties in every
9 single state in the United States. That is, the No. 1
10 environmental impact right now are illegal drugs that
11 are being introduced to our water system. And they are
12 being brought here by professional criminals that are
13 coming from other countries to do that. And that is a
14 report put out by the forestry department.

15 Also what about things like sun screen? How
16 many millions gallons of sun screen are being dumped
17 into our water every single time people go swimming?
18 They suggest you do it; people do it. You put one drop,
19 a squirt of sun screen in the water and it kills all the
20 little bugs that are swimming around there, and the fish
21 eat those bugs. I think you've ignored a huge majority
22 of the problem. And I think -- I know you're not
23 obligated to do another study, but I definitely think
24 that is the issue. We are less than 1 percent of the
25 people that use the waterways. And the other people

Conrad, James



1 really are not being considered as the contributing
2 polluters. Thank you.

3 MS. MONAGHAN: We are trying to do it. Eric, I
4 think he had to run around.

5 MR. BOGGS: I'm Ron Boggs. I have a mining claim
6 on the North Yuba. And this is -- part of this is from
7 federal EPA guy. I'm sure that you guys have been in
8 touch with the Feds on some of your studies, right? I
9 would think.

Boggs, Ron



10 It's been proven that suction dredges are
11 ideal for safe recovery of lead and mercury from stream
12 and river beds. In fact, they do such a good job that
13 rather than disparage them, it should serve the public
14 good and increase the effectiveness by encouraging even
15 more suction dredge activity and providing safe and
16 secure disposal sites for mercury and other recovered
17 metals such as lead.

18 It also says that in August of 2000, they had
19 a mercury milkrun where the -- they got 230 pounds of
20 mercury. And a lot of that was from the dredgers. They
21 had dropoff sites in north San Juan. It was so
22 successful that in 2001, they wanted -- the state
23 agencies wanted to extend the program to six other
24 counties, but that didn't happen. We need a place to
25 drop off our pollutants. And we need it, when we drop

1 it off, to say it came from the miners so that it will
2 be an accurate thing of what we get. And then somebody
3 will have an accurate study.

4 This '99 report, 40-mile river study from
5 Alaska, same guy. He's a federal biologist. The values
6 of dissolved mercury action were greater upstream of the
7 dredge, suggesting the effects of the dredge was likely
8 within a range of natural variations as far as
9 micromercury and stuff.

10 The 4,000 permit thing, I live up in the
11 hills, I don't have a computer. My claim's in the
12 middle of a campground, and everybody's getting the
13 reservation from the computer now. They click a
14 computer. And if you don't have a computer, you don't
15 even get to go in there and pay your \$25 to camp. And
16 so I mean I don't want to stand in line like a deconter
17 (phonetic) to get my permit. And there's no way --
18 today we were snowed in. I didn't get out until
19 yesterday afternoon. I need to be able to come down,
20 get permit, not to try to run to a computer to where I
21 can get a permit. 4,000 seems really small. Okay.
22 Thank you.

23 MS. MONAGHAN: Could I have 20 through 30 lining up
24 now or anybody the re for -- (inaudible).

25 MR. BAILEY: My name is James Bailey. I'm a claim

Boggs, Ron

Bailey, James

Bailey, James

1 holder and dredger on the Rubicon River. And these are
2 specific questions about the Rubicon River.

3 On your guideline, Page 26, Section 1, it
4 says: Rubicon River's main stem and all tributaries
5 upstream from the Placer, El Dorado County line should
6 be classified as Class A. Well, first of all, the El
7 Dorado County line and the Placer County line is the
8 river. Where does that line begin? And especially for
9 Class A, which is no dredging at all.

10 Page 45, Section 3, "Rubicon River, Placer-El
11 Dorado County line." It says, "Main stem and all
12 tributaries upstream of Oxbow Dam to Placer, El Dorado
13 County line. Classification E." That's Rubicon River.
14 Rubicon River is the county line. So once again, where
15 is that line? And especially from Class E to Class A.

16 Okay. As far as my area above the Oxbow
17 Reservoir, the PCWA, Placer County Water Authority, has
18 recently completed a multi-year biological study on
19 aquatic life on the Rubicon River. They were forced to
20 do this because of their power-withdraw status. And
21 they have the Oxbow Reservoir, Oxbow Dam, the Ralston
22 Powerhouse, which empties right into the Rubicon River.

23 My claim of 25 years sits directly within this
24 power reserve, and it's PL-359 status, Public Law 359.
25 All of these waters, hydrology, is controlled by Hell

Bailey, James

1 Hole Reservoir and Dam, thus mandated the PCWA's
2 biological study.

3 This study concluded approximately two years
4 ago. It took place in the midst of my dredging
5 operations. And having spoken to the biologists on site
6 over the years, the studies -- the studies their
7 consensus -- the biologists' studies and their consensus
8 is the aquatic life on the Rubicon is healthy and
9 prolific. Okay.

10 Well, that's good enough for me then since I'm
11 down to like 10 seconds. "Still healthy and prolific,"
12 that's what the biologists said.

13 One just last thing, please give the river and
14 E classification.

15 MS. MONAGHAN: Thank you very, very much.

16 MR. SANDERSON: My name is Craig Sanderson. And
17 first of all, I'd like to say I'm an avid fisherman, and
18 just recently I've been taking up the prospecting.

19 And I don't know if you're aware of what a
20 prime lie is for a fish. A prime lie is a place where a
21 fish can find shelter, he can find food, and he can find
22 protection and rest from the current from the stream.

23 A dredge hole, what's left when they are done
24 dredging, is a perfect prime lie. It allows the fish
25 the opportunity for all of those things in one place.

1. Sanderson,
Craig

1. Sanderson,
Craig

1 Other types of lies the fish has to move around, but in
2 a dredge hole, that is a perfect place for a fish to do
3 this.

4 My next comment is on the 400 permits. This I
5 feel like is preventing the -- our industry from
6 growing. It would be like saying we can only have three
7 car salesmen in Sacramento. And that's it. And no one
8 else can come. I'm a new person to the -- two years ago
9 I bought a permit. I got to dredge two times, and you
10 sent me a nice little letter saying: Thank you for your
11 money but you're out of luck. So this 400 -- 4,000
12 permits would prevent new people from entering.

13 Also, is there -- if you implement that, will
14 there be some stipulation to prove, in fact, if you're
15 buying a permit you are a dredger? My point is, is if
16 there's 4,000 people that don't want us to dredge, they
17 buy permits, we can't dredge.

18 Are you familiar with outcome base where you
19 know what you want the answer to be and you gather the
20 data to support the answer? To me, this report is
21 outcome based. The section in there about wild fires,
22 it refers to the number of wild fires that are caused by
23 campers, and then it goes on to say that dredgers camp.
24 So you're insinuating that the dredgers are the cause of
25 the fires. You have no data on how many dredgers cause

1 fires, but you include that in your report.

2 The other issue, I have is six places, if
3 that, in fact, becomes part of it, will there be a
4 timeline for amending that if I want to put in. I don't
5 have a claim. I belong to a club. I have access to
6 many claims throughout the state. If I want to move
7 around and go to different places, is there a timeline
8 that will be in the reg. in two days you have to
9 respond, or I can go somewhere else.

10 The other -- one other issue is out here
11 you're talking about -- one of the posters out there
12 you're talking about boulders removed. Under current
13 law we're not -- we're not allowed to remove boulders
14 from the stream. We can move them down, but anything
15 that's coming out of our dredge is required to go back
16 into the stream.

17 MS. MONAGHAN: Thank you very much.

18 Eric, if I can get your attention, the
19 projector in the other room is set to go off. If you
20 could figure out how that will work. And if I could
21 have 20 through 30 in line, thank you.

22 MR. HOPKINS: My name is Patrick Hopkins. And mine
23 is about the 4,000 dredge permits. I think if you had
24 one in 2009, you should be able to get one, if they
25 start issuing them again, irregardless of what time of

1. Sanderson,
Craig

Hopkins, Patrick

Hopkins, Patrick

1 year you go to get it. Because you older, like myself,
2 something might happen the first year and you might have
3 to wait until later. And that three feet away from the
4 bank is like another gentlemen said, some of these
5 creeks are pretty small. So if you go, say, 18 inches,
6 it would be a lot better than (inaudible). Thank you.

7 RAY NUTTING: I'm up here as an El Dorado County
8 supervisor, and I'd like to be able to come back as an
9 individual. My name is Ray Nutting.

10 First of all, gold has been extracted out of
11 these rivers for thousands of years. According to
12 Professor Ken Owens, from California State University,
13 Sacramento, he states that "Gold has been gathered by
14 the natives for thousands of years and found its way to
15 the Aztecs." So you guys can research that and take a
16 look at the validity of it.

17 Secondly, "Settlement brought the great
18 Gold Rush that brought hundreds of thousands of people
19 to California." The Gold Rush was what brought
20 California into the union. That's the history of
21 California.

22 Have you evaluated the number of miles, the
23 suction dredging mining, the ones on the list and the
24 ones with the new rule of the three foot from the bank
25 is not delineated on an individual river basis. So you

1. Nutting, Ray

1 cannot get a local perspective or regional perspective
2 and a statewide perspective. So if that's delineated
3 out, you really need to evaluate those impacts because
4 we could not find those documents, how they are
5 delineated out on a map.

6 In the South Fork of the American River, the
7 flows in the summer months change hourly due to hydro
8 operations. How do you regulate a river level when it
9 changes sometimes as much as nine feet in a day? Also,
10 this area of the bank is void of most amphibians due to
11 the fluctuations in that river system. The river's
12 being used to hold back the water during the night and
13 releasing the water for the river rafters.

14 El Dorado County has documented thousands of
15 pounds of human trash that has been cleaned up by
16 suction dredgers. Mercury has been collected out of the
17 rivers, and the new clean gravels for spawning were
18 created.

19 My question is: How will you mitigate the
20 loss of improvements to the river environment by the
21 dredgers? Capping the number at 4,000 permits is taking
22 economic opportunity away from the citizens of
23 California and the people of the United States.

24 Please take into consideration the biological
25 studies on the South Fork, North Fork, Middle Fork

1. Nutting, Ray

1. Nutting, Ray

1 Consumnes, the Rubicon and its tributaries into
2 consideration to take a look at its environment.
3 Lastly, the cause of fire, catastrophic crown
4 fire, because ground fire is not the problem, it's
5 catastrophic crown fire, that's due to the mismanagement
6 of fuel loads.

7 MS. MONAGHAN: Thank you, Ray. I appreciate it.

8 Can I have it back before you leave okay?

9 MR. BLANCHARD: Mike Blanchard. I have a claim on
10 the North Fork of the Yuba. In regard to the 4-inch
11 requirement for the dredges, I believe it needs to be --
12 it needs to be larger than that because the river is a
13 very big river. It's 80 feet across. Four-inch dredge
14 is really not big enough to mine it.

Blanchard, Mike

15 And in regards to the permit, the
16 classification change, the old class worked much better.
17 The fact that you would have to go in and apply for a
18 permit twice in the same season is a little bit awkward
19 because if the Forestry Service comes out to the dredge
20 and I don't have a current sticker that they won't
21 release until after January 1 and my dredge doesn't have
22 a current sticker on it, then I get a fine. Right? I
23 mean I can't -- you know, I can't -- unless that permit
24 sticker says -- it's good till January 31, right? Then
25 I'd only have to do it once a year. But just a note.

1 Thank you.

2 MR. WHITTEN: My name is Tommy Whitten. I'm a
3 dredger. I've been dredging since 1979. I own half of
4 a patent mining claim which is in Placer County. It's
5 an old 60-acre patented mining claim. And it's what
6 I -- to my knowledge, that I own to the middle of the
7 river as compared from the mean high watermark on each
8 side of the river. That's in answer to the other guy's
9 question about where the county line was. It's the
10 middle of the river when compared to the mean high
11 watermark.

12 Also on the Middle Fork of the American River,
13 there is no -- the bank there is the solid bedrock
14 that's up each side of the river. What we're dredging
15 into are maybe bench gravels which are gold bearing and
16 should be allowed.

17 I wanted to say something about the silt
18 content. During a normal flood state, the slurry that's
19 in the river, the bottom of the slurry is where the silt
20 layer is and also where the gold is. And that -- if
21 you're dredging to get any gold, you have to dredge that
22 silt layer. You know, as you go down through the layer
23 there's different silt layers depending on the, you
24 know, the level of the water for that winter. And the
25 first layer that you come through is the layer that has

Whitten, Tommy

Whitten, Tommy

1 all the mercury in it. If you get down to the bottom of
2 the river, there is no mercury. It's all nice, fresh,
3 clean gold.

4 And as far as the silt impact, that silt is
5 what the farmers want downstream to enrich their
6 topsoil. It's your dams that are keeping that silt from
7 going downstream. If you want to take more mercury out
8 of your sluice box, we should be allowed to have a
9 copper amalgamation plate in the sluice box because the
10 mercury is -- likes copper as well as gold. So it would
11 stick to the copper.

12 When you have your permits, you're required to
13 have it in your immediate possession. Now, that's
14 pretty impossible to keep any kind of paper document dry
15 when you're working with a boat where there's water
16 splashing up all over. Why not have some kind of a
17 permit like a boat license where you stick the permit on
18 the side of the dredge? Thank you.

19 MS. MONAGHAN: Thank you. Name and -- and then
20 could I have 30 through 35 line up, please.

Waldhaus, Joe

21 MR. WALDHAUS: My name is Joe Waldhaus. And
22 first of all, I disagree with what Mark said about
23 repetition. I think 4,000 is too few, and basically, if
24 you hear it enough times, maybe it will start to sink
25 in.

Waldhaus, Joe

1 Partly because there's -- there's arbitrary
2 and capricious pitching this number because, hey, we had
3 a high way back when gold was up. What needs to be
4 done, in my personal opinion, is looking at how much
5 rivers are dredgable and how many dredgers per linear
6 mile, and do something along those lines.

7 You already take hunters and put limit on the
8 numbers of deer that can be done in any particular area,
9 and some of those areas have 10- or 20,000 tags
10 available and they never go all that one year. Other
11 areas where the buck count is real low, you only make
12 it -- eh, you got a special lottery, you got to pay
13 extra for this. So from the standpoint of 4,000, that's
14 no good.

15 The other thing you talked about was noise.
16 And that really bugs me because you got a data chart in
17 there that says here's how much noise comes from small
18 engines, and it's dated 1971. You mean to tell me,
19 since 40 years, you guys haven't found out that the
20 mufflers are making those engines quieter? Give me a
21 break.

22 Lastly, you talk about economics or lack of
23 economics. I mean this is an anecdotal scenario where
24 I've had folks say well, hey, yeah, Joe, we want to come
25 to California, but we ain't coming until the dredging's

Waldhaus, Joe



1 opening. Thanks a lot. There goes the money again.

2 MS. MONAGHAN: Thank you very much. Could I have
3 your number, please, okay. Name and comment, please.

4 MR. CARNAZZO: My name is Bill Carnazzo. I'm a
5 full-time fishing guide, have been for many years. My
6 comments are going to be strictly limited to the
7 environmental document. And -- thank you.

8 First of all, your analytical approach in
9 assessing the significance of impacts, you do that on a
10 statewide basis. I don't think that's appropriate. And
11 you'll see written comments on this from others, too,
12 that you need to assess impacts on a stream-by-stream
13 basis. In other words, I've heard a lot of speakers up
14 here talking about the North Yuba River, and this is a
15 small stream. I don't think you can -- I don't think
16 you can assess the impact of suction dredge mining on
17 that stream by using a statewide analysis. I don't
18 think that's appropriate under CEQA.

Carnazzo, Bill

19 Secondly, the criteria are lacking in the
20 document for making determinations, the Fish & Game
21 Department making determinations of both how and when
22 they will be granting permits for hoses that are larger
23 than 4 inches. I searched the documents and couldn't
24 find any place where either a dredger or somebody --
25 another citizen could find out what the criteria you

1 would use are to determine whether, say, an 8-inch hose
2 is appropriate. I think those should be taken into
3 account and put in your regulations and talked about in
4 the Environmental Impact Report.

5 This last gentleman mentioned an issue about
6 the limiting of number of dredges on a particular
7 stream. I think that might be a good way to reduce the
8 impacts in any particular period of time. So that's a
9 potential -- another mitigation measure you might want
10 to consider.

11 Another thing that I've noticed over all the
12 years, and it's about 50, of hiking around in canyons
13 and places where dredging occurs is that many of these
14 people, once they leave their area, do not remove
15 equipment. And it sits, including gasoline and
16 oil-filled engines in the waterway. During the time
17 when storms happen, they wash through that area and
18 bring with them all the hydrocarbons. Hydrocarbons and
19 fish and bugs don't mix well.

20 Lastly, I think there needs to be a mitigation
21 monitoring plan of some kind adopted in connection with
22 those impacts that are found significant. Thank you.

23 MR. SUTER: My name is Bob Suter. I'm a
24 Registered Professional Forester. And I would just like
25 to comment on what I feel is the inadequacy of the

Carnazzo, Bill

Suter, Bob

↑ 1 statewide analysis of the impacts dredging rather than
2 on individual streams.

3 And I would just use an example to follow up
4 on what the previous gentleman said. If I prepare a
5 timber harvest plan, I have to do an analysis of any
6 stream crossing that affects that watershed. Now, if I
7 had -- was logging 40 acres and had to cross a stream
8 twice, I would have to get a 1600 permit, which costs
9 \$1,200 for a logging plan. And there would be no
10 impacts on that -- you could say there would be no
11 impacts if that was considered on a statewide basis,
12 just logging 40 acres.

13 But there's a significant impact on logging in
14 that particular stream or that particular watershed. So
15 I think your analysis should be on at least a watershed
16 basis, if not an individual stream basis, not just the
17 entire state or one application. Thank you.

18 MS. MONAGHAN: Could I have numbers up through 45
19 to line up, please.

20 MR. RETTKE: Good evening. My name is Herb Rettke.
21 And thank you for taking our comments.

22 In 1963 of February, 1963, I backpacked down
23 the Green Valley Trail to the North Fork of the American
24 River for the first time. I've been hiking and
25 backpacking in there along the entire river from there

Suter, Bob

Rettke, Herb

Rettke, Herb

1 upstream since then.

2 And what I saw in '63 in February was this
3 massive river, rot wall or rock wall, roaring, full
4 trees floating down it. You could hear the rocks
5 banging on the bottom, the water was so forceful. Now
6 you can look up the Clementine data for February '63 to
7 understand what the CFS was. The color of the water was
8 milk-chocolate brown. It was totally loaded with silt,
9 various other sediments, leaves, et cetera.

10 Up river from there let's say, from Wabena
11 Creek down to Wild Cat or actually down at the Beacroft
12 Trail, there's a huge flood plane. The river yearly
13 rips out banks, downs huge trees. As the river flow
14 changes, serpentines, it wipes out additional trees that
15 are growing out in the streambed. The damage from this
16 natural occurrence every year is extreme. It's
17 exaggerated. And to compare dredging to any natural act
18 such as this, the dredging damage is minimal.

19 I've also rafted this river from Ukabar down
20 to the second bridge out of Colfax. A couple of years,
21 we've come through the prospecting camps where they were
22 dredging, and the waters were relatively clean. And
23 that was interesting to me because I could compare it to
24 the milk-chocolate brown rivers of springtime.

25 In another situation, I did have a suction

Rettke, Herb

1 dredging permit, and I dredged way up on a stream, and I
2 noted that as my silt went down river, downstream, it
3 settled out quite quickly. I've seen fish feeding at
4 the back end of my dredge.

5 And basically, I find that this requirement to
6 end or ban dredging in California is incorrect, and it
7 should not be instituted. Thank you.

1. Tyler, Steve

8 MR. TYLER: My name is Steve Tyler. I've been
9 mining in El Dorado County for the last 32 years and
10 produced over -- contributed over hundreds and hundreds
11 of ounces to the California economy while employing one
12 or two partners during all that time. I have production
13 logs and income tax records going back over 24 years.

14 On Page 12 of your Introductory section, the
15 writers of this DSEIR suggest that the socio-economic
16 report is flawed by memory recall problems or strategic
17 bias on the part of suction dredge miners and industry
18 support people and mining claim owners. I, for one, do
19 not like being labeled a liar. And in a previous life
20 maybe that person would have required some dental work.

21 The introduction of this type of opinion as to
22 the character of the miners in this room and throughout
23 California is not acceptable in any type of public
24 document. These biased opinions must be eliminated from
25 all pages of this draft.

1. Tyler, Steve

1 Next, your new prohibition of dredging within
2 three feet of a wetted edge of any stream is
3 unwarranted. Responsible dredgers have for the past 50
4 to 60 years refrained from dredging into stream banks as
5 previous rules have prohibited.

6 This new prohibition will effectively
7 eliminate every small stream in California from the only
8 economically viable way to produce the mineral wealth
9 contained in them.

10 This will affect the complete taking of the
11 mining rights property estate contained in federal
12 mining claims as well as private property throughout the
13 state with streams running through them. This is not
14 acceptable and will result in hundreds of millions of
15 dollars in lost economic activity as well as a
16 comparable amount of lawsuits based on the property
17 protections guaranteed by the Fifth Amendment to the
18 Constitution of the United States and the California
19 Constitution itself.

20 Any rate regulations have to be reasonable and
21 are not to conflict with the law of the land. And I
22 might add that you have omitted or minimized the effects
23 of natural processes throughout this whole EIR.

24 In spite of what you showed on the screen, a
25 study, Cooley 1995, showed that over 14,000 percent more

1. Tyler, Steve

1 material is moved by natural processes than suction
2 dredge miners in a heavily dredged area of Siskiyou
3 National Forest. Thank you.

4 MR. McCOY: Kelly McCoy. I dredge the South Fork
5 at this time. I want to address the EIR in 1994. Part
6 of my favorite statement in that is "Suction dredgers
7 might annoy the fish."

8 Fortunately, DFG realized that such a
9 statement was slightly off base, and to preserve some
10 dignity and integrity, you guys dropped it from the
11 final ERI [sic]. However, my partner and I, when it's
12 time to return to work after a break or lunch always
13 repeat the phrase: Well, let's go annoy some fish.
14 It's good for a chuckle.

15 Now, we are in another ERI [sic] process, and
16 we ever been confronted with "dredgers might possibly
17 disturb the passerines," if I'm pronouncing that right.
18 Now I think this means perching birds. That's what the
19 dictionary says anyway.

20 So let me see. There are at least -- there
21 were less than 3,500 dredge permits in 2009 scattering
22 out over thousands of miles of river and streams. These
23 well-regulated operations using well-muffled engines in
24 a very site-specific locations have been -- have never
25 been proven to annoy a fish or disturb a bird.

McCoy, Kelly

McCoy, Kelly

1 It may be well considered that over a million
2 fishermen or over a million campers, hikers, swimmers,
3 boaters, rafters and other outdoor recreationalists were
4 more likely, due to the sheer number, to tromp on them
5 or to disturb or kill the fish or to squish a frog.

6 I think that maybe a ERI on these other groups
7 is in order and would be more effective in saving the
8 environment. The whole thing is disturbing.

9 And as far as the number of dredge permits,
10 you need to up it. Over 4,000. Well over 4,000. Thank
11 you.

12 MR. BRUBAKER: Yes, my name is Rick Brubaker. I've
13 been dredging for over 30 years, and I've changed my
14 topic -- everybody's seemed to mention previous
15 things -- to the salmon.

16 I believe this whole fiasco started on the
17 Klamuth River. I happened to work on a commercial boat
18 this past year doing a scientific study as the salmon
19 returns. It appears the Smith River has record returns.

20 If the numbers on the Klamuth River are down,
21 if you've ever gone along the mouth, you'll notice
22 wall-to-wall seine nets. And it's really hard for the
23 salmon, especially when they are using smaller mesh, to
24 get upstream to reproduce.

25 They are going to reopen possibly commercial

Brubaker, Rick

1 fishing off the coast for salmon. The numbers have come
2 back. I don't know their know.

3 The regulations as far as the winch goes, I
4 dredge on the South Fork of the Yuba. There's a lot of
5 large boulders. If I'm refused the right to be able to
6 use the winch, the dredge and I'm hurt or injured or
7 somebody else is, I'm assuming the State of California
8 or Fish & Game is going to be libel. That's all.

9 MR. VOGT: My name's Bill Vogt. I'm here
10 representing the Comstock Gold Prospectors of Reno,
11 Nevada. Our group is made up of 400-plus some-odd
12 members in both Nevada and California, and we have
13 members all over the United States for that matter.

14 We probably provide a good percentage of your
15 out-of-state dredgers or we did. You don't want to hear
16 repetition, but since I represent so many, I have no
17 choice but repeat.

18 I have agreed with just about everything I've
19 heard today except the yellow frog. I'm not familiar
20 with the yellow frog. I don't know if we have them in
21 Nevada.

22 We particularly don't like or are wondering
23 about the three-foot limit. The restriction on the mesh
24 on the pump seems like it's a bit too small, that it's
25 going cause problems with the pumps. I assume somebody

Brubaker, Rick

Vogt, Bill

Vogt, Bill

1 has looked into that.

2 I have read the documents that you've put out,
3 almost all of them. They obviously weren't written for
4 the common person. They are very confusing. But in
5 them I found nothing to support why you're changing the
6 rules or very little to support why you're changing the
7 rules.

8 Some of the things that bother us in
9 particular that I've been hit by my members where you're
10 asking for so much information concerning exactly where
11 we're going to be dredging, where we're going to be
12 dredging. If that's a public information, then I'm
13 putting a big sign on my head that says "Come rob me,"
14 either at my claim or at home because I'm not going to
15 be home. I don't understand, we don't understand why
16 you need that information.

17 Why do you need the information concerning the
18 serial number of my engine? What's that all about?

19 What I see in the documentation is you're
20 laying a trap for me. You're making it almost
21 impossible for me not to violate some rule when I'm out
22 there dredging. And that's unfortunate. We should make
23 this stuff simple so that everybody understands it.

24 I asked the question tonight of two of your
25 people out there and I was shoved off to a third person

Vogt, Bill

↑ 1 because they couldn't answer my question. You got it so
2 confusing your own people can't answer the questions.
3 Thank you.

4 MS. MONAGHAN: Thanks, Bill.

5 Could I have through No. 50, if you would be
6 kind enough to line up.

7 Are you going speak for more than three
8 minutes?

9 (inaudible response)

10 MS. MONAGHAN: Okay. I need for you to sit down
11 and we'll do all the individuals first and then we'll do
12 those with donated time, okay, thanks.

13 49, come on up -- 46. How about through 55
14 line up, please. And if you want to stand over here
15 because you're speaking into the mike.

16 MR. ROBINSON: You can hear me okay? So I have an
17 introductory statement first. I'm Don Robinson, the
18 president of Mother Lode Gold Hounds, and I'm going to
19 make it quick.

1. Robinson, Don

20 The introductory statement is: We are in a
21 war. And there are two fronts in this war, if you think
22 about it. The first front is the reduced intensity that
23 we've gone through with the limitation on dredges, on
24 time. You're a great general. I have great respect for
25 you. But we have that front.

1 We have the second front, which is the
2 executive summary. So we're fighting that battle and
3 we're trying to be successful in winning the rights for
4 dredgers.

5 And in the meantime, with respect to Mark
6 again, they are behind us cutting us to pieces. And
7 that's with the eight classifications and then within
8 those eight classifications, the reduction of streams
9 and rivers and limitations on time. It's really
10 serious. It's really important that all of you submit
11 your letters. We've got to be able to stand up and
12 fight for our rights. That's my introductory statement.

13 Now, I'll try not to talk about things that
14 have already been talked about. On the limit on
15 dredges, there was someone said maybe the maximum, Mark,
16 was for 13,000 before.

17 The price of gold is tremendous. There's a
18 great demand. Great economic opportunity for Fish &
19 Game to make some income. I don't understand this. You
20 have an opportunity to get more money for Fish & Game
21 yet you're trying to limit the number. I recommend that
22 you either go to 13,000 or beyond.

23 I don't understand what the purpose of six
24 locations are. I'd like to know that answer. And this
25 is a question that's a really tough one and I have great

1. Robinson, Don

1. Robinson, Don

1 respect for the out-of-state people because I know a lot
2 of them. We don't have any priorities when you set a
3 number of 4,000 or 5,000. Why isn't there a priority?
4 Should there be a priority for California residents?
5 Why isn't there? Why isn't there a priority for those
6 who have mining claims? How about those who have
7 private land, like I do in which I have a stream that
8 runs through my land? Can I have a right of a priority?
9 Something I think you need to look at.

10 I think our rivers should return to 1994
11 standards. The mountain yellow-legged frog -- 30
12 seconds -- we're using that as a limitation. On the
13 other hand, we're putting trout into the stream that are
14 eating the tadpoles and the eggs. So aren't we seeing
15 Fish & Game actually do more destruction in terms of
16 anything that the dredgers are doing by the addition of
17 new trout that are actually eating up the yellow-legged
18 frog? Thank you.

1. Stanford, Chad

19 MR. STANFORD: My name is Chad Stanford. I'm a
20 professional dredger, as we all are. We all are
21 professionals if we've had more than five years
22 experience by law. So, therefore, my question to you
23 is: Do you have any professional dredgers on your
24 consultation board, or is it all biased -- biologists
25 that are biased?



1. Stanford, Chad

1 Next approach is you said the appellate court,
2 you must follow California law until it's addressed in
3 the appellate court. U.S. versus Lex Wagner (phonetic)
4 specifically states: As a result of the multiple use
5 act, owners of unpatented mining claims must comply with
6 government regulation of the service of their claims so
7 long as that regulation does not materially interfere
8 with prospecting or mining operations. I believe your
9 regulations are materially interfering at this point.

10 Next issue, I got an example here. This
11 clipboard is federal law. This quarter on this
12 clipboard is my gold on my mining claim. This cup is
13 California law. How can I access my gold without
14 violating some sort of law?

15 Next one. Okay, the three feet I know has
16 been addressed before. I just want to make it apparent
17 that this is a complete prohibition of small stream
18 flows during the time of low water flows during
19 summertime.

20 Another address, has temperatures been
21 addressed? How does dredging affect the water
22 temperatures? I know on the Salmon River, the water
23 temperatures increase. And when dredging creates deep
24 holes, those holes are cold-water holes, and fish tend
25 to gather in cold-water holes. That cold-water area

↑ 1 contributes lower temperatures to the flow and assists
2 the fish, okay?

3 Another issue is 4,000 permits. I know it's
4 been addressed before. What prevents the corporations
5 and the extremist environmentalists from buying blocks
6 of permits and preventing gold miners -- law-abiding
7 gold miners from mining their mining claim? What
8 prevents them from buying our permits that we should
9 have that right to? Okay.

1. Stanford, Chad

10 As you mentioned, number of species are at
11 risk, I agree. Small miners are endangered. Small
12 miners are at risk. Small miners founded this state.
13 This state is founded from gold. Why are the extremist
14 environmentalists taking control and criminalizing the
15 small miner?

16 Fish have been abundant throughout the periods
17 of extreme amounts of mining, 1849 to 1970s. Since
18 mining has dwindled, so have the number of fish. This
19 is ironic. Mining has decreased, so has fish. Why are
20 the miners being blamed for it? Okay? Countless
21 species have gone extinct through geologic history.
22 Extinctions will continue. Which is more important?
23 The survival of me or the survival of that little
24 yellow-legged red frog that no one knows, no find.

25 MS. MONAGHAN: Could I have through 55 lining up,

1 please.

2 MR. STANDFORD: Mark, I'm Bill Stanford. You got
3 this thing turned on? Okay.

4 One of the things I want to bring about is
5 mainly this whole fiasco was brought over a lawsuit,
6 okay? Now, this is a political problem in the North
7 Fork of the Salmon River is what I'm saying. The issue
8 is our individual rights are being taken away through
9 political activism and minority groups under the color
10 of law. Where is my rights as an American?

11 How can I continue on making my -- I'm a
12 disabled veteran. I was a licensed trapper up until
13 '96. They made rules and regulations so confusing for a
14 layman such as myself, I can no longer trap. I had to
15 look at another way of making a living. So I went
16 full-time gold mining. Now, then they are eliminating
17 that. What do I do next? Go to welfare? That's the
18 question I would like answered.

19 And thank you very much.

20 MS. MONAGHAN: Could I have through 65 to line up,
21 please?

22 MR. PUTMAN: My name is Pat Putman, and I have
23 claims in Tuolumne County.

24 One of my claims is on a stream that is dry
25 for approximately six months of the year. Subsequently,

Stanford, Bill

Putnam, Pat

Putnam, Pat

1 there aren't any fish because they have a hard time
2 breathing on dry land. But you are now telling me that
3 I cannot start dredging. For the 15 years I've owned
4 that claim, I've only been able to dredge on that claim
5 for the first three weeks of the season that I used to
6 have because I sometimes had water there. Now you're
7 going to change that and make sure that the stream is
8 dry before you open the season and then wait until
9 there's frost on the ground and snow in every nook and
10 cranny to allow me back in there in December and
11 January. This isn't very -- you know, I know you're
12 trying to save fish, but there are no fish in this
13 stream.

14 Two, the limit on the number of permits is
15 crazy. It's absolutely insane. You say that you want
16 to cap it at 4,000. Even if you did cap it at 4,000,
17 there would not be 4,000 people out there dredging at
18 one time. There's only a fraction of the number of
19 permits that you issue are being utilized at any one
20 time.

21 The size of your intake hose, that's
22 ridiculous. That's controlled by the size of the
23 stream. You don't have to tell me that I can't run an
24 8-inch dredge in a stream that's only three feet across.
25 I can't do it, you know, I mean I can't run a 4-inch

1 dredge in a stream that's three feet across. So you
2 don't have to have a regulation on the size of hose.
3 The size of stream is going to regulate that for you.
4 What else? I haven't seen any frogs on my
5 claim either. I've seen one turtle though. I've seen a
6 lot of water snakes. I don't know if you're trying to
7 save them, but, you know, I did my best. I didn't kill
8 them.
9 I really don't see where the 1994 regulations
10 were so bad. I understand you were told you had to look
11 at them. You said it yourself. You were -- you were
12 mandated to look at the 1994 regulations. You were not
13 mandated to change them. Thank you.

14 MS. MONAGHAN: Thank you.
15 Could I have through -- you're No. 63. Could
16 I have through 75 lining up, please.

17 MR. SOLINSKY: Hi there. Nice day, huh? I've got
18 possibly a solution --

19 MS. MONAGHAN: Your name?
20 MR. SOLINSKI: Oh, Rick Solinsky.

21 I've got possibly a solution. Since 1994
22 regulations have been strictly followed by the majority
23 of miners for over 17 years and us miners typically want
24 to do the right thing and we've had over a 17-year
25 history of doing so, rather than locking us down with

Putnam, Pat

Solinsky, Rick

Solinsky, Rick

1 stringent regulations, let's try to find some common
2 ground here where we can work together for a common
3 cause.

4 Some ideas: In lieu of increased regulations,
5 let's create a B&P manual that addresses a lot of the
6 common issues within the watershed. Topics within the
7 B&P manual could include all the significant and
8 unavoidable impacts such as WQ4, what to do when a
9 mercury hot spot is encountered; CUL-1 and CUL-2,
10 protocols to be used when discovering historical or
11 cultural resources; NZ-1, suggestions of ways to
12 minimize engine noise and ways to be less intrusive on
13 the rivers; CUM-6, ways to minimize turbidity or
14 possible mitigative techniques when dredging muddy
15 locations.

16 Other suggestions: Show us what to look for
17 and ways to mitigate sensitive environmental situations.
18 Show us ways to create and develop habitat that is
19 beneficial to trout. Private contractors make a lot of
20 money doing essentially what dredgers do for free. Give
21 us the guidelines and we can help develop better trout
22 habitat as a byproduct of our dredging efforts.

23 So other than creating animosity between all
24 parties involved by further regulating law-abiding small
25 miners, let's keep the dredging regulations as they are,

Solinsky, Rick

1 and let's then utilize the bootstrapping ingenuity of
2 the miners and create a B&P booklet which gives the
3 miners the tools to further help improve the environment
4 so we can voluntarily create a workable solution for all
5 parties involved. Thank you very much.

Rosenthal, Janet

6 MS. ROSENTHAL: Janet Rosenthal. I would just like
7 to address the issuing of the permits. In 2009 we were
8 on vacation. My husband for the past 40 years has been
9 going to the same mining camp, starting with his father.
10 I have been going the last 20 years.

11 Last year, we brought in five new cabins. In
12 2009 in the middle of our vacation, he was tapped on the
13 shoulder and said he had to get out of the water. When
14 it comes time to issue these 4,000 permits, should
15 people who have a 2009 permit that became invalid have
16 the right of first refusal to a new permit?

17 Along with that, we're speaking about the fish
18 and the toads, frogs, whatnot. There's another side to
19 this.

20 On this three-week vacation, our one vacation
21 we take a year, we spend \$5,000 to our trip to the
22 Mokelumne River. That revenue will be lost. There's a
23 person that spends six weeks there. That revenue is
24 lost. There's two other people, two other groups that
25 spend each three weeks there. That revenue is lost to

Rosenthal, Janet



1 the Roaring Camp Mining claim. And that's what I'd like
2 to say.

3 MR. ENCKE: My name is Mark Encke, and I'm a
4 recreational miner.

5 Most of all, I love being out in nature with
6 my dog. But the time that I'm out dredging will be
7 maybe three or six times a year. So the number permits,
8 4,000, I'll be taking one permit for being out only six
9 times.

Encke, Mark

10 And I must address the issue: The amount of
11 mercury and lead that I found back when dredging was
12 legal was amazing. You know. Okay.

13 Locations, the six location, I never know
14 where I'm going to be at the beginning of the season.

15 And the number of permits I address. I'll be
16 taking up one permit for maybe being out, if I'm lucky,
17 six times a year.

18 And three feet to the bank. I live up in an
19 area where the streams are not even six feet, and they
20 dry up. So that's about the three issues that I wanted
21 to bring up. Thank you very much.

Evans, Steve



22 MR. EVANS: My name is Steve Evans. I'm
23 conservation director, Friends of the River, which is a
24 statewide river conservation group based here in
25 Sacramento.

Evans, Steve

1 First of all, I wanted to acknowledge and
2 thank the woman who generously gave me a lower number to
3 speak. And I just want to say I hope you don't regret
4 your generosity, given that I'm probably one of the few
5 nonminers speaking tonight.

6 But regardless, I think there's a lot of
7 shared views here. And I think one thing that's coming
8 out from all the comments is these regulations are not
9 ready for prime time.

10 Let's look at how they are organized. They
11 are organized by county. Now, if you're a fish or if
12 you're a critter or you're just water quality, you don't
13 recognize administrative boundaries. They are
14 arbitrary. They don't have any meaning in terms of the
15 resources you're trying to protect and the activities
16 that are going on.

17 It's already been mentioned, Feather River is
18 a great example. Feather River downstream of Oroville
19 Dam in Butte County is closed to mining. In Sutter
20 county, it's -- I forget -- then it becomes the boundary
21 between two counties. One side it's closed; one side
22 it's open.

23 And that's the problems you run into when you
24 use county boundaries as your sort of framework for
25 these. There's lots of other examples. You know, good

1 for Fish & Game for saying that Deer and Mill creeks in
2 Tehama County should be closed to suction dredging
3 because they are the best last refuge for our endangered
4 spring-run Chinook salmon. But a critical habitat for
5 spring-run salmon, it's open to dredging. Or it doesn't
6 seem to be any rhyme or reason to why some streams are
7 closed and others are not.

8 In some cases, the reasoning behind closures
9 are simply incorrect. And that's true on the McCloud
10 River, which the SEIR says that McCloud is closed to
11 protect McCloud redband trout. In fact, the McCloud
12 redband trout area on McCloud is further upstream than
13 what's described. And that section is open to dredging.
14 So there's mistakes rampant throughout these regulations
15 that have to be fixed.

16 We are going to be submitting detailed
17 comments, river by river, and I hope those will be taken
18 to heart and that -- in terms of the agency looking at
19 making changes because whatever regulations are adopted,
20 they should make sense, and currently they simply do
21 not. Thank you.

22 MS. MONAGHAN: Thank you. Could I have through 85
23 line up, please.

24 MR. SANDERSON: My name is Craig Sanderson.
25 Someone else give me a ticket too.

Evans, Steve

2.Sanderson,
Craig

2. Sanderson,
Craig

1 I didn't get an address earlier and it's to
2 you, not to them, is this closure issue. The way they
3 have it set up, we need to be careful that doesn't
4 divide us. We look at ours and say hey, I can mine and
5 you're good. You're next year. Remember that. We need
6 to stay in strong as a group, not individuals.

7 The other issue I'd like to bring up is the
8 definition of a "bank." When I applied for a permit
9 in 2009, I was in the office here in Sacramento, and I
10 said: Okay, what's the bank? Is that where the river
11 is or where the high water is, the current river? They
12 couldn't answer me.

13 The person that could answer me was out. I
14 called in the next day. She couldn't answer me. I
15 never got an answer of what the bank was.

16 What I was told basically is it's the
17 interpretation of the officer that comes to where you're
18 at. We need to have very clear definitions of what the
19 bank is, where it is, not the variable of the water
20 level, high water, flood water. What it is. What is
21 the bank?

22 The other thing is I see with this whole
23 situation is back in the early '70s, I was a -- my uncle
24 hired me. I was a kid, to -- he was a logger, and we
25 couldn't allow one branch in the creek downhill from the

2. Sanderson,
Craig

1 logging. So he hired me and my brothers and we were
2 down there, and we would pulling all the limbs out of
3 the creek.

4 And guess what happened next year? Fish &
5 Game hired us to put them back because we stripped the
6 creeks.

7 And this is what I see this as we're going to
8 look back on this in a few years and say oh, yeah, we
9 probably could have done a better job. We kind of -- we
10 kind of -- we didn't do it when we should have in 2006,
11 and then we got in under the gun, we pushed it, made a
12 lot of bad mistakes, didn't use any science, and now
13 we're going to have fix it again. So I suggest we do it
14 right.

15 MS. MONAGHAN: Thank you. I wasn't very clear.
16 Those using donated time will speak second, but also, if
17 you want to speak a second time, that's afterwards. So
18 if -- even if someone gave you a number, we want to
19 allow everybody the opportunity to speak one time before
20 we start having people come back the second time.

Mathers, Steve

21 MR. MATHERS: I'm Steve Mathers. I've been a
22 placer miner for 47 years and a dredger for over 30
23 years.

24 I'd first like to talk about turbidity and
25 mercury resuspension. Both would be reduced by using a



Mathers, Steve

1 flare jet, which one woman partially mentioned before,
2 as opposed to a header or a crash box. The silt and
3 clay do not break up through flare jets as they do in a
4 crash box. This leads to less turbidity. It leads to
5 less mercury suspension. It leads to less flowering of
6 mercury. As somebody else also said, copper plates, you
7 could put in your sluice boxes. That would catch
8 additional mercury down to less than 100 mesh.

9 I would hope that CDFG would address these
10 types of possibilities rather than reducing nozzle
11 sizes. Reducing a nozzle size from 6-inch to 4-inch is
12 not a reduction of one-third, is a reduction of
13 approximately 60 percent of the capacity that we're able
14 to use.

15 After spending \$25,000 on a claim 30- to
16 \$40,000 in equipment, just prior to being told we can't
17 dredge, even though I had a permit, will not be able to
18 profitly [sic] mine our placer claims.

19 Secondly, if you're going to use sunrise to
20 sunset, you need to list those in a set of tables and
21 not leave those to individual interpretation.

22 Thirdly, if you use stated projection rates in
23 the SEIR by Keene Engineering or other manufacturers of
24 dredges in terms of cubic yards per hour by a 4-inch,
25 5-inch, 6-inch or 8-inch dredge, your data's flawed. I

1 suggested that to you earlier. I see no change even
2 though I made those suggestions.

3 Dredgers take breaks. We fill up gas tanks.
4 We get tired. We are not moving loose gravel. We're
5 moving gravel that's cemented. There's rocks in that
6 gravel that we have to move by hand. Compacted gravel.
7 None of these are calculated in what I see. I estimate
8 that the total number of cubic yards we use is
9 approximately or less than 20 percent of the stated
10 rates by manufacturers.

11 Flare jets, mostly set under water type
12 dredges, also submersible dredges, you can't possibly
13 put a sticker on that dredge. I suggest you also be
14 able to -- or to be able to put a permit number on the
15 side of the river so somebody can read it.

16 Positive dredgings. We remove algae from the
17 river, both between below Rawlins Reservoir and the next
18 reservoir downstream. Above Rawlins Reservoir, the
19 water's perfectly clear. There is no algae. We act as
20 mini flood and create clean gravel beds without 6 inches
21 wide, 30-foot-long algae in which the Colorado River
22 Authority --

23 MS. MONAGHAN: Appreciate it.

24 MR. LOFORTE: Hello. My name is Tony Loforte. And
25 I'm a hobby dredger, you know, but I love it. The 4,000

Mathers, Steve

Loforte, Tony

↑ 1 permits issued a year will not be enough. And I can
2 pretty much guaranty a special-interest group will come
3 in and buy them all up. We'll be SOL.

4 And when I was hearing that older gentleman
5 who was talking about not having a computer and not
6 being able to get there, it made me feel bad. And I'll
7 be honest, I'll camp out like it's a Stones' concert. I
8 don't care, I'm going to get a permit. If I've got to
9 kill somebody, I'm going to get a permit. But a guy
10 like that he's not going to be able to do that. You
11 know, oh, I'm sorry. I like you guys better. Just
12 kidding, just kidding.

13 And then, you know, I was outside and when I
14 was having my questions fielded -- well, they were
15 trying to field my questions -- I brought up the topic
16 of mercury. And you know my partner that I work with,
17 you know, he mentioned that the storms stir up mercury
18 as well. And the comment I got from the gentleman was,
19 well, the state can issue permits on storms.

20 Well, I'll tell you something. The storm is
21 not going to redistribute mercury that I took out with
22 my dredge. No matter what, it's left in the river. And
23 even if my micron mercury ends up back in the river, the
24 storm is still going to wash it downstream. But the
25 stuff that's in my sluice box is going to be gone. And

1 that's it.

2 MS. MONAGHAN: Thank you. Could I have through 95
3 line up, please.

4 MR. YOUNG: My name is Robert Young. I have a
5 claim on the West Nelson on the Middle Fork of the
6 Feather River. I take this stuff personally. Everybody
7 here is worried about the frickin' Indians or the
8 blue-haired mouse, or whatever the hell is going on with
9 this.

10 I have rights. I've earned them. I put six
11 years in the United States Army to earn them. I don't
12 believe that any bureaucrat or anybody else or one
13 environmental statement has the right to take my rights
14 away.

15 Now, my claim is not impacted at all. It
16 hasn't changed -- you didn't seem to think that just
17 because it's at 4200 feet and there's probably 30-foot
18 of snow there that I could have year-round dredging
19 permit. It would be a little tough.

20 As far as the state giving 4,000 permits, it's
21 going to be like the Stones' concert. You're going to
22 be outside trying to beg a permit. It should be an open
23 permit like your fishing license or hunting license.
24 And then if you want to regulate it from there, fine.

25 Some of the regulations I think that you have

Young, Robert



Young, Robert

1 are excellent. I think the one about gas is very
 2 apropos. Some of the others, I think are just
 3 completely out to lunch.

4 As far as the big and the small rivers are
 5 concerned, each river system is completely different.
 6 It seems like this environmental impact took everything
 7 as one river system. The Trinity has nothing in common
 8 with the Feather. They are completely different
 9 systems. They're bigger, they're smaller. Stuff that
 10 comes in should be looked at on an individual and more
 11 so than you have already. Thank you.

Stapp, Terry

12 MS. STAPP: My name is Terry Stapp. I have a
 13 mining claim in the Yuba River area. I have some in the
 14 North Fork and also on a creek called Downieville.

15 These EIRs that you're putting out right now,
 16 like you said, you're supposed to look at them, not
 17 destroy them. This is a definite attack on the miner.
 18 You are trying to restrict him or cost him more money
 19 than it would be to financially try to make a living.
 20 You don't care. You haven't done anything on these EIRs
 21 to help the miner. You've only restricted the miner.

22 The only difference between you people and the
 23 people at Bell, they rob from their own people and you
 24 are robbing from the miner.

25 I live and work a claim that started out in



Stapp, Terry

1 June, which the water starts out at 56 degrees. It ends
2 up at 52 degrees or less. You say now I got to go in
3 the middle of winter on a creek to mine to make a
4 living? What if everybody told you you couldn't make a
5 living? You're taking the money out of our mouths, our
6 kids, and our families. And you're taking our rights.

7 The permits -- I live on a fixed income. I'm
8 a Vietnam vet and a vet from the Gulf War. I lived a
9 fixed income by month. If I don't get down there or get
10 to be able to -- I don't have a computer. If I can't
11 get a permit, I'm out. I own four claims in the
12 mountains. That is taking away my rights.

13 You sit there and say about the bank. Like
14 these people have said, there's -- most banks aren't
15 even three-feet wide. Lavazolla Creek at the low end of
16 the summer into the winter might be six feet total.

17 You can't winch. Winching is nothing more
18 than a safety. If I can't pull the rocks over my head,
19 I'm going to be dead.

20 You people have changed this time so that
21 people are going to have hypothermia. You're on notice
22 that if a miner dies because of hypothermia or a rock
23 falls on his head, this little thing about you being in
24 Fish & Game will not hide you from being in a lawsuit.

25 Also, gas. My claim, the width of it

Stapp, Terry

1 sometimes is 45 feet. There's no way I can be 100.
2 Fish & Game's rules and regulations about the banks are
3 different than Forestry. Forestry said bank to bank is
4 tree to tree. You get there and say arbitrarily where
5 the bank is at when you come down and you decide.
6 That's not legal. I've had enough, thank you.

7 MR. MATYUS: My name is Frank Matyus. I have a
8 couple of claims myself.

9 I'd like to just do a small address to the
10 mercury suspension. I believe Newton's law still
11 applies to specific gravity of minerals. Gold has a
12 specific gravity of 19. Copper had a specific gravity
13 of the 8. Silver has a specific gravity of the 12.
14 Mercury has had a specific gravity of 13. Nickel iron
15 has a specific gravity of 7. Arsenic has a specific
16 gravity of 5.4. Diamond has a specific gravity of 3.52.

17 While I'm dredging, if I take the time, I can
18 find diamonds in my dredge. No matter how small the
19 particulate is, the specific gravity of their study of
20 the mercury suspended for more than four days is
21 unwarranted.

22 And I'd also like to put in that if the
23 removal of lead and mercury is an environmental hazard,
24 then I think the introduction of lost lead by fishermen
25 or mercury by rafters with their cameras and cell phones

Matyus, Frank

Matyus, Frank



1 should be criminal. Thank you.

2 MS. MONAGHAN: Thanks. Could I have through 110
3 line up, please.

4 MR. WATSON: Good evening. My name is Charles
5 Watson. I'm the president, chief geologist, of Advanced
6 Geologic Exploration. I'm a professional geologist,
7 7818.

8 I would like to comment on your -- on a number
9 of different items, including the background studies of
10 mercury, especially by Alpers, 1995, 1993, 1986. He
11 also did a study for the Boston Mine, and I'd like you
12 to research the Boston Mine cleanup program. They
13 anticipated getting 7-, 800 pounds of mercury out of
14 that mine when they cleaned up the sluice tunnels. And
15 he did that -- he estimated that because of a gross
16 estimation of mercury over the State of California's
17 use. He -- the study recovered 7 pounds of mercury.

18 Size of stream versus bank encroachment. I
19 think it should be done on individual streams, different
20 lengths. It should be stream-characteristic justified.

21 I'd like to know the economic impact of these
22 rules. I personally have over -- I have dozens of
23 placer mining claims in the State of California alone,
24 and I think that this has hurt my business considerably.



25 The economic impact is in the hundreds of thousands of

Watson, Charles

Watson, Charles

1 dollars for my business.

2 The 4,000 claim -- 4,000 blanket limit, I
3 think this should be done on a case-by-case basis per
4 stream, how many dredging permits per stream. I think
5 the stream alteration agreements with the stream
6 alteration permits is going to be a waste of time. I
7 can't even get Fish & Game to come out on my jobs right
8 now where I'm making permits for people who want to do
9 mining. And this has been a real big problem. How are
10 you going to justify the economic expense for adding new
11 personnel to handle this workload?

12 Enforcement penalties. Where are you getting
13 your numbers for -- you know, how are you going to go
14 find these people? What's the justification for that?

15 Permit dredges per person. I know my time is
16 limited, but I really want to get into that. I want a
17 refund or I want a permit for the next dredging season.

18 Technology options, mercury scrubbers,
19 mercury -- you know, things that can be done. I think
20 if I was to write an EIR like these guys did, I would be
21 fired. All right? And I write EIRs. You need to be
22 more demanding of your consultants. Thank you.

23 MS. MONAGHAN: Thank you very much.

24 Could I have through 125 line up, please? I
25 need your speaker card, your blue speaker card. I need

1 one before I can allow you to speak.

2 Austin, do you have a blue speaker card you
3 can give this gentleman? Then you can go in and -- oh,
4 I need you to fill it out and line back up again.
5 Here's your number.

6 So through 125.

7 Okay, how about through 150? This gentleman
8 is 121. Let's go through 150.

9 So name and --

10 MR. POWERS: Oh, yeah, my name is Ron Powers. I'm
11 a part-time dredger, whatever, once in a while.

12 My problem is is the time involved in this.
13 It's -- we have a three-year study, and that's
14 1,070-something hours -- I mean days. And then you take
15 away the weekends and you take away your vacation, comes
16 out to 750 days that you guys have to work on this
17 thing. I don't see -- I don't see an end to this.

18 It's like I work for a law firm and they drag
19 things out and new variables come in and all of a
20 sudden, instead of a three-year thing, this can end up
21 being a five-year or 10-year thing.

22 The way we settle things in the courtroom, it
23 always comes down to money. And you turn this over to
24 Governor Brown where he can extract money for his
25 budget, we'll be back in business. Thank you.

Powers, Ron

1 MR. TRAVIS: My name is Danny Travis.

2 Next time you guys go out to do your report,
3 call me up, we'll go camping. I'll tell you guys how to
4 dredge, you know. So I was kind of hoping maybe you
5 guys might call one of us say hey, let's go camping,
6 we'll show you how to dredge, we'll show you how to
7 extract everything out of what we dredge because we
8 don't waste our energy.

9 And when we dredge, we try to get every
10 little, single, tiny bit we can. So I don't like to
11 waste energy. So I live all the way towards San
12 Francisco. I commute all the way up to the American
13 River, you know, weeks at a time. Weeks and weeks and
14 weeks and weeks and weeks and weeks and weeks.

15 I actually really care about what's in the
16 river and all the nature and everything in it. So if
17 you guys could -- you know, like I'm saying, when you
18 guys go out, we'll go camping because I'm sure every one
19 of us care about all the fish that are in there, all the
20 bears and everything else. I love being there because I
21 love them. You know what I'm saying? So --

22 MS. MONAGHAN: Thank you.

23 MS. STAPP: My name is Dee Stapp. And I want to
24 thank you for giving me the opportunity to address you
25 this evening.

Travis, Danny

1. Stapp, Dee

1. Stapp, Dee

1 Back in the late 1990s, one of your DFG
2 personnel attempted to do the very same thing that you
3 are attempting to do right now. Mr. Taylor attempted to
4 put regulations into effect that would be so exhaustive
5 that no one would attempt to even dredge anywhere.

6 This same man was speaker at a mineral
7 officers meeting for the U.S. Forest Service. And he
8 explained that new regs. and when questioned if he had
9 ever seen a dredge operation before, he said I don't
10 know anything about dredging, but I know a lot about
11 writing regulations.

12 When questioned about why he was attempting to
13 do this to the dredgers in the state, he said: There
14 are special interest groups that want the dredgers off
15 the rivers. And I'm going to see what I can do to
16 accomplish their goals.

17 The minerals officer that did the questioning
18 was Mr. Richard Zimbiac, the head minerals officer for
19 the Tahoe National Forest. Mr. Taylor was removed from
20 his position by Governor Wilson.

21 These regulations have the same effect as the
22 previous ones mentioned; not one is backed by science.
23 You have even predetermined to the outcome of the public
24 comment period for the yellow-legged frog. It does not
25 even close until April 1st yet these were published in

1 February.
2 You've changed the season for dredging based
3 on no scientific data proving dredging is deleterious
4 for the frog. And, in fact, Matt from the Center for
5 Biological Diversity doubts the existence of the frog in
6 most areas that you have closed or changed the dredging
7 times for. Most of the frogs exist in national parks
8 where all of the trout have been removed. And I, for
9 one, am getting tired of having to pay the price for the
10 ineptitude of the DFG.

11 You close Piute Creek to dredging after you
12 imported the southwestern arroyo toad. But you didn't
13 stop there. You imported hundreds of -- you imported
14 the rainbow trout which feeds on the eggs and tadpoles
15 of the toad. But you didn't stop there. You imported
16 hundreds of raccoons and possums that feed on the adult
17 toads. It seems to me that the so-called endangered
18 species would be a lot less endangered if the DFG became
19 extinct.

20 And I request that all reference to Humphries
21 in the DEIR should be removed as it was merely a test
22 and not a study and has not been peer-reviewed.

23 MR. GONZALAS: Lorren Gonzales, carpenter,
24 cabinetmaker, and was a general contractor.

25 There's so many regulations now there's a lot

1. Stapp, Dee

Gonzales,
Lorren

1 of people coming from other areas that are escaping
2 tyranny, violence, Mexico, different areas, they are
3 coming here.

4 Now a carpenter that's from this area, from
5 California, it's hard to make a living. I don't want to
6 stop anybody from coming here. Yet, I have a family to
7 support.

8 So when the materials that I was purchasing to
9 build the cabinets was just about the same price as it
10 could be bought in Home Depot, where they're built
11 overseas, you know, it's time to get out and not to be a
12 cabinetmaker anymore.

13 Okay. So I spent my money and I thought:
14 Well, dredging, that's a possibility. That was -- oh, I
15 think it was 1008, okay -- or on 2008. Anyway, I got
16 the permit, got my -- slowly put together my equipment.
17 And that stimulates the economy, you know, buying
18 equipment, going to -- and then the next thing I know I
19 get the dredge in the water, I get this -- I can't
20 dredge anymore after I've gotten the permit. No notice.

21 That's not fair. I have a family to support.
22 I'm a human being. I was born in California. I have a
23 right to make a living. And how would you like it if
24 somebody took away your job? You know, what if you just
25 decided one day -- other people decided that we don't

Gonzales,
Lorren

Gonzales,
Lorren

1 need you anymore and what you're doing is wrong? And
2 you got no notice. That's what happened to most of the
3 people here. That's why we're here.

4 So these little frogs and -- they have plenty
5 of places to live. Dredging only takes place in
6 specific areas. So, you know, human rights are more
7 valuable than animal rights.

8 Nobody wants to hurt the environment. We all
9 love it. But this is just all these regulations for
10 someone who's just trying to make a living. Thank you.

11 MS. MONAGHAN: Could I have through 200 lining up,
12 please.

13 MR. ENO: Yeah, my name is Don Eno. I've been
14 dealing with the federal agencies from a number of
15 years. I actually won a PL-359 contest. It took me
16 about 10 years to actually win. And what did I win?
17 Nothing. Because the Forest Service wants to challenge
18 my validity now. I spent 185,000, wasn't good enough.
19 I've got to spend another 300,000.

20 But on these suction dredge comments here, I'm
21 looking at this and I -- I can't believe this 4-inch
22 suction dredge issue. Are you kidding me? The rule of
23 thumb is for every one inch of streambed, right -- I
24 mean for one foot, you need an inch of suction dredge.
25 So if you have a 4-inch dredge, you're limited to

Eno, Don

↑ 1 four feet. What happens when you go beyond that? It's
2 labor intensive. You can't make money.

3 Now, when I was in my contest action, the
4 PL-395 contest, the Forest Service argued that a 4- to
5 6-inch dredge is a recreational mining tool, low-cost
6 recreational mining tool.

7 If you want to regulate, you know,
8 recreational mining, then you don't regulate claims.
9 Claims are property. Okay, like, look, here. Okay,
10 property.

11 Let's call this bedrock right here. Property,
12 mine, on my mining claim.

13 Regulations. How do I get my property? Now,
14 if you are on say -- say it's a recreational site, you
15 can't locate a claim on it. You can't own the minimal
16 rights. So if you wanted to do some of this, I say
17 fine. But in my case, if I go to my river with 10, 12,
18 14 feet of overburden, you want me to use a 4-inch
19 dredge, I'm all but going to die. You know, I mean,
20 these boulders are 8 and 10 feet in length. I mean
21 stacked up, you know, that's rich ground. But if I
22 can't have a winch, now I got to go beg -- I got to beg
23 to use a winch. You kidding me? This is ridiculous.

24 Literally, at 4 or 6 inches -- when I was in
25 court, they said well, at a quarter ounce a ton, the

Eno, Don

Eno, Don

1 forest geologists calculated three men working a 4-inch
2 dredge could not make a profit. And I said well, you
3 don't need three men. There just happened to be three
4 men. They didn't care. So there's two men. Let's just
5 say there is two men. I said well, I don't care. If I
6 want to dredge two men, you have a 6-inch, I'll have a
7 6-inch. Side by side, we keep an eye on each other. We
8 can be safe.

9 But this whole thing with the winching, people
10 are going to die, and that's it. And basically, you've
11 got us reduced now where we take the river apart with
12 our bare hands and we suck up the crumbs. Now, that's a
13 hell of a lot of work, and it's very dangerous. So I
14 just have to say I completely do not go along with these
15 regulations. I think they are totally unreasonable.

16 MR. WILLIAMS: Good evening. My name is David
17 Williams. Thank you for taking the time to listen to me
18 tonight.

Williams, David

19 Just a couple of things. One, I think is
20 parts of the mercury study, the 13.5 A and B, Section 3,
21 should be thrown out, specifically where the testing was
22 done in a tank where it was recirculated over and over
23 again. That's not natural, that's not how it happens.

24 If I have a peanut butter jar that the kids
25 have put dirt in and they shake it up every time, sure,



Williams, David

1 the turbidity gets high, there's dirt comes up and it
2 settles back down. But if they continue to do that over
3 and over again, it's going to take longer to settle.
4 It's not a true experiment. I think that portion should
5 be thrown out.

6 I do have a question related to the
7 yellow-legged frogs. What is the criteria for reporting
8 the -- when you see one? It's my understanding that the
9 yellow-legged frogs, if somebody sees one, they can just
10 either log into the Web site or get a form from any
11 place and fill it out and send it in and say: Hey, I
12 saw one. What's to prevent anybody's who's against
13 mining to go ahead and just fill out one of these forms
14 and turn it in. I mean where's the fact? Where's the
15 proof? There's possibilities for mistakes and false
16 identifications.

17 Then I want to tell you a quick story about --
18 from my mom and dad who were fishing in Crescent City
19 in 2010. They take an annual trip up to Crescent City.
20 They go out they do a little bit of camping. They do a
21 little salmon fishing.

22 I called my mother. She talked to me. She
23 said: Well, we're not catching any fish up here.

24 I said: Where are you fishing at?

25 We're fishing right at the mouth of the river.

Williams, David

1 I said: You're fishing at the mouth of the
2 river and you're not catching any salmon that are coming
3 up there?

4 My mother tells me: No. Even the Indians or
5 the Native Americans that are fishing this river are
6 complaining because their nets are empty.

7 Why?

8 Well, she said, right off about a mile,
9 two miles off-shore, they can see these trawlers pulling
10 nets, pulling in all kinds of salmon. They can see them
11 with binoculars.

12 Well, if they are pulling in all the fish
13 there, then, of course, the Native Americans are not
14 going to be catching their fish and, in turn, when they
15 do, they are going run their nets as far as they can and
16 stretch them as far as they can and fish as long as they
17 can, then the regular fishermen aren't going to catch
18 anything. Well, that's got to be considered in the
19 study of what's happening to the salmon up there.

20 Last little piece I want to throw out there is
21 history of gold mining is being taught in all the
22 Northern California schools. People go to the gold --
23 Sutter's Fort, Sutter's Mill. They are being educated
24 in this. My children are excited about it. My children
25 are coming to me because they think I'm an expert at it.

Williams, David

1 I'm not necessarily an expert at it. But I enjoy it as
2 a hobby.

3 They go to the river. We talk about more than
4 just gold mining. We talk about the positive effects of
5 dredging. We talk about the positive effects on the
6 environment. We also sit, we study, we talk about what
7 all the natives are. My children know to pack it in,
8 pack it out. We don't leave anything behind. No
9 footprint. Thank you very much for your time.

10 MR. WEST: My name is Dennis West.

11 I've got some comments that haven't been
12 brought up yet. I've been a dredger off and on for
13 about 28 years. And all this I've heard, I haven't
14 heard anything at all about the money that the people on
15 the stores, the cafes, the restaurants or any of that
16 have lost. There was articles in the paper about it.
17 It was up into the hundreds of thousands here just after
18 the dredging stopped.

19 And also, I've got four claims they are all
20 under one claim number, and I pay taxes in two different
21 counties for these. Also, I pay BLM and all that. Now
22 if they are going to limit this to 4,000 dredging
23 permits, the state is going to lose how much money?
24 Have they taken that into consid- -- you know,
25 consideration in that? That could add up to a lot of

West, Dennis

1 money.

2 You know, I've been having mine since 1984 and
3 doing this. It's a lot of money into the state, and
4 it's also a lot of money into the population up there,
5 the public, the businesses and that.

6 And I got, say, too, that I've never seen a
7 yellow-legged frog. But that's my commit. Thank you.

8 MR. DARRACH: My name's Ed Darrach. I'm a
9 fourth-generation Californian. I have a couple of
10 comments I'd like to make.

11 All this seems to me came over the Klamuth
12 River. I've lived from Central California to the
13 Canadian border. I watch a lot of things going on. I
14 just got back from up in that area. If all this is over
15 Klamuth River and dredging is so bad for this salmon
16 population, why is it one of the only rivers open in the
17 state for salmon fishing? Explain that one to me. I
18 need an explanation on that one.

19 Can't fish down there. I don't see anybody
20 dredging on the lower Sacramento or the lower Feather
21 River. It doesn't make any sense. It really doesn't.
22 I don't get it.

23 There are so many things that are crazy about
24 this, you know. It's just -- the boaters do more
25 damage. Are we going to stop people from boating? Are

West, Dennis

Darrach, Ed



Darrach, Ed

1 we going to stop people from walking down by the
2 riverside? They are walking a three feet alongside the
3 bank. I heard that a little bit earlier.

4 You know, the dredging, they are not causing
5 any problems out there. I don't see anybody out there
6 in the places where I dredge. Maybe the streams that I
7 dredge in dry up seasonally. There are no fish there
8 that are going to be survived or be killed because I'm
9 dredging.

10 Talk about the 3-foot bank. I mean don't boat
11 wakes all come up to the 3-footed bank, wash the side of
12 bank away, wash trees away, wash all kids of things
13 away? It doesn't make any sense to me all.

14 You know, all I'm asking for is fairness here.
15 This is not a test tube, a calculated deal. I'm sorry.
16 You can't go in your office and figure this out. Come
17 out and see where we're at. I have not seen anybody out
18 there. Where are you? Where are you? Come out and
19 show me what I'm doing wrong.

20 I go back to the same thing place where I
21 dredged the previous year. You cannot tell where that I
22 was here. But I guaranty, you walk down here by the
23 river, you can see where people have been there time and
24 time again and their mess and their garbage. You cannot
25 see where I'm at.

Darrach, Ed

1 Let's be fair about this. Let's get in line
2 on this. I'm not saying this to you personally but,
3 come on, let's be fair about this. Let's make this so
4 that we can get out there and do our recreation, do our
5 living, whatever we're doing, okay? It's not -- is this
6 politics as usual. Stop the politics of this. And
7 let's get on with the real deal of life, okay? Thank
8 you.

Dunn, Darryl

9 MR. DUNN: Hello. My name is Darryl Dunn. And I
10 bought a dredge, 6-inch dredge in 1976. And I worked
11 below Volcano Creek for three years with my brother.
12 The first year we were there, we used that 6-inch
13 dredge. We worked almost every day for all summer. We
14 never saw any bedrock. It was like going after an
15 elephant with a switch.

16 When we were done, we decided we needed more.
17 We went back to work, worked all winter and went and
18 bought ourselves a 10-inch submersible. Now we had a
19 baseball bat. Elephant still didn't give much but we
20 finally made bedrock. Three years of working that and
21 every year we went back, we couldn't tell where we'd
22 been.

23 The fish became pets because there's nobody to
24 talk to down there except the fish. The large ones got
25 the tailings, the little ones that couldn't keep up the

1 big fish would come and talk with us because they were
2 safe down there.

3 Now, that was the most adventurous thing I
4 ever did in my life for three years. And you're taking
5 a unique California experience away from people. I will
6 never have a dredge again. I'm too old. But you're
7 stopping anybody else from having any fun.

8 And we never dirtied up anything. Our camps
9 were clean. Our latrines were up the hill and dug
10 properly. BLM never bothered us. Fish & Game never
11 bothered us because we just couldn't make a big enough
12 mess to worry about. Thank you.

13 MR. BUCKLEY: Good evening. My name is John
14 Buckley, and I'm with the Central Sierra Environmental
15 Resource Center, a conservation organization.

16 As acknowledged at the beginning of the Draft
17 SEIR, the purpose of the EIR is to provide a reasonable
18 range of alternatives that meet the program objectives
19 but avoid major significant damage.

20 And yet in your document on page 64 of the
21 DSEIR, as has already been pointed out before the
22 program started, there's a number of significant and
23 unavoidable impacts that are acknowledged, which Fish &
24 Game claims it doesn't have authority in many cases -- a
25 regulatory authority to manage, but, as is required by

Dunn, Darryl

Buckley, John

1 CEQA, it is essential for any authority to mitigate for
2 significant impacts when there are feasible mitigations
3 available. But nowhere in your document do you provide
4 those feasible mitigations that can allow suction
5 dredging to go forward.

6 And the challenge is, is that an action
7 alternative is needed, not the no-program alternative
8 that won't stop all dredging. And our center, as an
9 environmental center, is not promoting an alternative
10 that would stop suction dredging.

11 CEQA guidelines 15126.4 specified that an EIR
12 must identify feasible mitigation measures to mitigate
13 significant impacts. And Public Resources Code 21002
14 says the agency should not approve projects as proposed
15 if there are feasible alternatives or measures available
16 that would substantially lessen the impacts of such
17 projects.

18 So whether or not the Department of Fish &
19 Game feels it has authority to regulate the significant,
20 unavoidable impact actions, you have a legal mandate
21 that you have to identify what mitigation measures are
22 feasible and available. Because otherwise, the folks
23 here in this room are going to end up seeing Fish & Game
24 in court and delaying it for perhaps years, like someone
25 pointed out.

Buckley, John

Buckley, John

1 There are a variety -- and just a quick
2 example, just for instance, for the one that people have
3 joked about, the special status passerine riparian bird
4 species. There's a opportunity to identify when
5 breeding season ends and open up those areas after the
6 intense period of breeding ends. So suction dredging
7 could take place in those specific areas. There are
8 lots of other alternatives that are available.

9 So what I'm emphasizing and closing with, is
10 it necessary for the state to take the steps that will
11 help solve the legal gridlock rather than ending up with
12 an inefficient, inadequate final EIR that may not please
13 all the people here, won't please the conservation
14 community, but will just end up back in court rather
15 than providing something that's a middle-ground
16 solution. Thank you.

17 MS. ANDERSEN: My name is Sherry Andersen, and I'm
18 a recreational miner. I'm also a geology major at
19 Sierra College. I'm a secretary of the River City
20 Chapter of the GPAA.

Andersen,
Sherry

21 And today I'd like to address the effects of
22 this on the economy and on history. Now, the economy's
23 bad enough. I work for a local school district as my
24 regular job, and in the past year, I've been laid off,
25 rehired and I'm looking at layoff again. The tiny

Andersen,
Sherry

1 amounts of gold that I've pulled out of the rivers for
2 the last five years has kept my rent paid for the last
3 four months during that layoff.

4 I know of a family whose claim is a
5 dredge-only claim. They lost the income that they got
6 out of that claim and that income helped them pay their
7 house payments during portions of the year.

8 Families use their claims as recreation and
9 vacation time. Sorry, I'm very nervous. They get
10 together. They build memories. The kids go down there.
11 They learn about mining. They learn about the
12 environment. They see the birds. They understand, you
13 know, the value of going down to a river and the quiet
14 and what the outdoors and how to care for the outdoors.
15 A lot of families will lose that because they can't use
16 their claims anymore.

17 The local businesses lose out on the income
18 from those families going down to their claims.

19 Businesses -- mining businesses are impacted
20 because they've got dredges sitting on the floor that
21 they can't sell now, unless they sell it out of state.

22 I teach gold panning to elementary school
23 kids, and a lot of times I go down in period garb, okay?
24 And I'm just wondering if it would be your intent or if
25 you're understanding that your legacy could be making

Andersen,
Sherry

1 these children believe that the image of the
2 Forty-Niners is no longer something to be proud of. The
3 image of a Forty-Niners is going to become the image of
4 a fish-killing river polluter. So I hope that's not the
5 thing that would be in the legacy of the Fish & Game.

6 And I've always respected Fish & Game, but
7 this is just beyond my limited understanding, which is
8 becoming more because I'm going to college. But, still,
9 if you look out here, these are people who care about
10 the outdoors and they took their time to come tonight
11 just -- you know, not to be hostile, but just to help
12 understand the impact and the value of what's going on.
13 Thank you very much.

14 MS. MONAGHAN: Do we have more people that are just
15 going to speak for three minutes? Do you want to come
16 and line up now? Because I, quite frankly, don't know
17 how high the numbers went. So if you'll just line up
18 and sort yourself out by numbers.

Gibb, David

19 MR. GIBB: My name is David Gibb. I'm fairly new
20 to dredging. I've got just a little two-inch dredge.
21 It's kind of like what they call a backpack dredge. For
22 me, I would say the impacts are extremely minimal. On a
23 good day, I'm probably moving, you know, maybe a
24 wheelbarrow full, maybe two on a real good day of
25 material.

1 I think pretty much all of the newer proposed
2 regulations are pretty much way overboard, particularly
3 the weight put on this yellow-legged frog. It seemed
4 that the smaller streams that I would dredge with my
5 two-inch have pretty much just been closed down or the
6 season just shortened to the point where there's no
7 opportunity.

8 And just in general, this protection of the
9 environment is something that we are all for. I believe
10 that, you know, it started off as a good idea.
11 Obviously, if there's acids being washed straight into a
12 river, something like that, it's something that needs to
13 be stopped and cleaned up.

14 But this -- what we've gotten to at this
15 point, and I see this particularly in the species that
16 you're trying to protect, I'm not seeing a connecting of
17 the dots of where the dredger is having any negative
18 effect. It seems that just bring up some species that
19 could or might be affected is enough of a link to
20 severely change the seasons and opportunities for the
21 dredging.

22 I just believe that these regulations should
23 be more fair and take into account the minimal effect
24 that dredging has. Thank you.

25 MR. CONSTABLE: Russell Constable. Mariposa Dredge

Gibb, David

Constable,
Russell

Constable,
Russell

1 Committee. I represent roughly 1300 people.

2 And as you made the statement before -- they
3 didn't hear me -- the one on the lakes there about the
4 dredging there, well, the boats' motion of the water
5 cleans that little bit of mess-up that a 1- or 2-inch
6 makes. Anybody that's really a dredger out here isn't
7 going to go dredging in mud. I've (inaudible). So
8 that's kind of misleading.

9 Second, you were under things to fix the
10 problems of the '94 and stuff, not come in here and come
11 after us again. You said you stopped the '94. Well,
12 you stopped the '94 because you guys got busted putting
13 false information, misleading information, crimes
14 against Public 115, and we threatened to sue the hell
15 out of you personally, not your companies. Now you're
16 back on notice, playing the same games again.

17 Mercury. Which is worse? Me leaving a little
18 minute amount there or the pound of it I take out? What
19 have you done to take and clean our water? So have a
20 nice day. You're on notice.

21 MR. TEETER: My name's Brian Teeter. I'm a --
22 Brian Tetter. I'm a recreational dredger, general
23 contractor. I've taken fire assay class at Sierra
24 College.

25 And I want to address the mercury issue. In

Teeter, Brian

Teeter, Brian

1 my circle of friends, some people refer to me as the mad
2 scientist. I'll look for gold in places most people
3 wouldn't even dream. And I sucked some sediments out of
4 my friend's toilet tank. And there was a lot of mercury
5 in there from the local water supply company. So
6 anybody worried about mercury, they should -- the
7 problem could be much closer to home than they think, so
8 I can open up a few more can of worms, but that's --

Dunn, Mike

9 MR. DUNN: Hi, my name's Mike Dunn. I own Gold Pan
10 California. I'm a dredge manufacturer and fabricator.
11 Also, I've been a gold miner and dredger for about 35
12 years. We've worked pretty extensively on Jackass
13 Creek, Tuolumne County.

14 Got 160 acres out there that we've had for a
15 couple of odd decades. Randy Kelly's come out on
16 numerous occasions to look over the property. I think
17 Randy Kelly's a credit to Fish & Game. He's an awesome
18 fellow.

19 Most people I'm sure are aware of a process
20 called the Prudent Man Test that was used in the past to
21 decide whether or not mining claims could be patented.
22 Of course, there's a moratorium on that.

23 But I think addressing the permit number, the
24 Prudent Man Test was actually an important acid test for
25 most miners. When gold prices dropped after the '80s,

Dunn, Mike

1 most of us went on sampling on kind of a low idle. And
2 I think that's reflected in the low numbers of permits
3 being purchased. Obviously, we had 12,500 permits
4 purchased right around the \$800 spike in the '80s.

5 I think it takes people a little while to get
6 rolling again after low prices like that. In a just a
7 single rise of gold, you know, to initially 14 and then
8 dropping back down to I think it was six hundred
9 some-odd dollars, lowest drop. And now it's been
10 increasing back up. And then, of course, the closure,
11 the moratorium on dredge permits because of SB 670, I
12 think it just didn't get a chance to pick up like it
13 would have.

14 So putting the ceiling of 4,000 is really an
15 artificially low number. I think it really should be
16 considered to be at least at the 13,000 level or
17 something that's considerable.

18 You know, people are -- have some confusion
19 about what happens to gold when a gold miner finds it.
20 I, for one, I go out and buy tires and gas and, you
21 know, do different things that directly impact the
22 economy at the local level. I know in the areas that we
23 have mining claim holdings around the state, which are
24 numerous, the gas station, the little corner stores
25 close. It's not going out of business. It's out of

Dunn, Mike

1 business. So this really is affecting people on a much
2 larger scale than your Draft EIR is showing. I mean we
3 personally worked on some of the socio-economical
4 impacts, along in association with the Mining Journal's
5 Scott Harn, and it was in the \$100 million range, just
6 what we came up initially. Thank you.

7 MR. EFFMAN: My name is Dan Effman. I'm a Karuk
8 tribal member.

9 And there are many tribal people who still
10 mine. We've been doing it forever. And so when an
11 environmental party comes to the tribe or something, it
12 is not necessarily the wishes of all the people within
13 that tribe. We were never asked about any of this by
14 our tribal leaders or anything, and we were not -- even
15 had a chance to vote on this or dam removal or anything
16 else. So we are being represented unfairly.

Effman, Dan

17 And I told the Department of Fish & Game at a
18 previous conference in Stockton that it's kind of like a
19 big scam. I mean it's like who wants the money to
20 restore these places? So they get together with tribal
21 members and try to use their clout to get them to move
22 things along with them, and then once that happens and
23 they accomplish that, then they put in for these
24 billions of dollars for restoration projects. And they
25 are granted it, and that's the taxpayers' money.

Effman, Dan

1 Instead you can ask the miners, which we have
2 scientists, I mean everything, biologists also and
3 lawyers, we can go to let all the stuff that is
4 deleterious to the fish. You probably didn't even look
5 into revamping our equipment. Did you contact an
6 engineer that makes our equipment, Keene Dredging or
7 whoever. And I don't think has been done to solve the
8 problem.

9 With cars, you just say: Oh, that car's
10 polluting. Okay, well what? You go fix it, you know.
11 So if it is doing anything, in a small way or whatever,
12 it can be fixed by these people that have these
13 businesses. And maybe it would be required that we just
14 change our equipment just a little bit. But you can't
15 restrict us because we can't go deep enough.

16 So all these organizations are after the big
17 money to restore. In fact, the truth is that the Sierra
18 Club -- you can look it up online -- after it all
19 happened and the Senate bill, the Wiggins bill was
20 passed, the Sierra Club put in for a permit to go dredge
21 a specific area. So Diane Feinstein was written letters
22 to say well, if we can't dredge, they can't dredge.

23 And how are you going to go keep your canals
24 open and so forth and so on, and you're only going to
25 have 4,000 permits? And you know, regulators like that,

Effman, Dan

↑ 1 they are going to come and attack us and they are going
2 to buy them all up. And then lo and behold, I won't get
3 one, and you're denying me my Constitutional right of
4 prosperity.

5 And you're leaving a door open for people to
6 say -- because we're going to turn around and say: Oh,
7 that company can't get a dredge and dredge that opening
8 for these boats to come in here or so the water's better
9 because there's no more left. So it's not fair to limit
10 how many permits that you give. Thank you.

11 MR. GOTTSCH: My name's Allan Gottsch. I'm a member of
12 the Comstock Gold Prospectors out of Reno, Nevada.

13 I'm also a little unlike most of these people
14 back here. I'm a newbie to dredging. Most of my life
15 I've been an outlaw biker. And I've lived on the dirty
16 side of life. I found prospecting, it's helped me
17 straighten up a lot of things with me and my family.

18 The one thing that I think is missing here is
19 something called plain old common sense. You're going
20 to sit here -- every person in this crowd is trying to
21 play by your rules. You keep changing the rules, okay?
22 In my lifestyle, that would get your face broken.
23 Because you don't play by those rules. You make one
24 rule, you leave it alone, and you just do what you do,
↓ 25 okay?

Gottsch, Allan

Gottsch, Allan

1 Now, you guys want to come along and you want
2 to start playing games again. I'm on the legal side
3 now. But I know a whole lot of boys that aren't in this
4 meeting that are playing on the dirty side at dredging.
5 I know boys that are dredging right now and they are
6 daring your people to come out and do something, and
7 they are armed to the teeth. All you people are going
8 to do is start a really bad war that you will never,
9 ever win. Okay?

10 We're trying to work with you. We're trying
11 to give our aspect of this. We're willing to work with
12 you to an extent. But in the same sense, you ain't
13 going to stick it up our butts. And all this stuff is
14 basically, everybody knows, it's bureaucratic BS. Okay?

15 Some stupid frog. I live in a state where
16 unemployment is outrageous. I haven't worked in three
17 years because I can't get a job because my life doesn't
18 fit society. Okay?

19 I'm out here dredging just to try and keep a
20 little bit of pride. And you guys are taking the pride
21 away. What's going to happen then? I'm going to take
22 your pride away from you. And I'm not joking. I'm
23 working hard -- I'm being civil. But I'm a human being.
24 So you see is this what I'm talking about. This kind of
25 stuff here, telling me that I have to be civil when

Gottsch, Allan

1 you're taking my income away.
2 I don't care about frogs. I don't care about
3 birds. I don't care about nothing. I have to provide
4 for my family just like everybody else. I'm not
5 threatening nobody. If I threatened, there would be a
6 gun out, but I'm not threatening. I'm just letting you
7 know it's not fair and it's not right. You need to work
8 with us. We're willing to work with you. If you really
9 want to go after somebody, go after the bad guys and
10 leave us alone.

11 MR. LEE: Tough one to follow. My name is James
12 Robert Lee, Junior. I live in Auburn, California. I'm
13 a graduate of the Environmental School of Design with a
14 bachelor's of science degree in landscape architecture
15 and a practicing landscape architect for over 30 years.

16 In the early 1970s, I produced both analysis
17 and mitigation proposals for EIRs. My most recent
18 exposure relates to CEQA and storm water management
19 plans as required by California Water Quality Act, and
20 having expert witness status in several court cases.

21 My primary position on the suction dredging
22 EIR review is that it's based on a flawed premise. The
23 would riverine is presented or treated as a relatively
24 stable and frequently changing environment rather than
25 historically dynamic, naturally eroding canyon building

Lee, James
Robert Jr.

1 or depositing environment alluvial.

2 We are spending a million-plus dollars of the
3 people's money in California with the hopes that it will
4 provide enough protection against the fear and extortion
5 tactics of certain agenda-oriented groups.

6 My position is the gold dredging is an
7 activity that does not destroy the environment. It
8 merely alters it minimally in the short term. The
9 alteration, even by a dredge of a large amount of size,
10 is propositionally minute in relationship to the total
11 area of the waterway. And it occurs in a localized
12 area.

13 But more importantly, although referred to
14 within the DSEIR, both in the body and the appendix, the
15 geology and morphology dynamics are understated. This
16 historically significantly proven, observant natural and
17 cyclical process of scouring and transporting fluvial
18 alluvial negates the majority of the significant impacts
19 noted within the report.

20 The Malakoff diggings are a prime example.
21 Within a few years of hydraulic mining, the tailings
22 were naturally transported several miles to the Yuba and
23 tens of miles to the flatlands of the valley where the
24 farmers complained of the flooding caused by the
25 additional material containing mercury into the rivers.

Lee, James
Robert Jr.

Lee, James
Robert Jr.

1 The alternate chapters cites the CEQA criteria
2 and then transgresses into an EIR about regulation, the
3 program. CEQA clearly states that the EIR must meet
4 most of the project objectives, not the program
5 objectives. In the alternatives, the program actives
6 are the mitigation measures relating to the
7 implementation of the project objectives.

8 This, along with the apparent complete lack of
9 understanding that suction dredging, while possibly
10 fulfilling a recreational desire, is a mining activity.

11 Continual reference that the mineral impact
12 remains unchanged regardless of alternative because it
13 doesn't prohibit gold mining, shows a complete lack of
14 understanding of project objectives and the obvious lack
15 of knowledge of placer mining processes.

16 Suction gold dredging represents the best
17 management practice of in-channel placer mining. I will
18 be more specific in my written documents to the DFG.

19 MS. MONAGHAN: Do we have anyone else who has not
20 spoken yet that wishes to speak for three minutes? If
21 you'll just please line up here, this would be great.
22 We want to then move to those using donated time, but we
23 want to make sure everybody who wants to speak for just
24 three minutes and hasn't spoken before, please line up.

Gardner, Dave

25 MR. GARDNER: Hi, my name is Dave Gardner,

Gardner, Dave

1 Fairfield, California. Been doing some dredging from
2 Oregon to California for the past 20 years.

3 I used to spend \$1,000 a year in Mike's Gold
4 Pan California store, but sorry, Mike, can't do it
5 anymore. So there is lost revenue.

6 I have several different points here that are
7 probably going to be repeated, but I'm going to try to
8 elaborate on some of them. One of my questions is: The
9 changing of the season. As I understand it now in our
10 particular area, it's June to, like, Halloween. But now
11 it's being moved to potentially July 1st or
12 September 1st, depending on what section you're in, up
13 to January 31st.

14 I'm trying to understand the justification for
15 extending it into a period where at one time it was
16 illegal. If I dredged outside of that time, I got in
17 trouble. How is it, all of a sudden, that time is
18 extended to January 31st? The only thing I can think of
19 is that starting in July 1st or September 1st, I'm
20 losing between 25 and 50 percent of the prime time that
21 I normally would be dredging, hence good weather. It's
22 a little difficult to be dredging in water and
23 temperatures below 32 degrees. So it sounds like I'm
24 kind of being pushed off.

25 The other issue with regard to permits. As a

Gardner, Dave

1 claim owner, I pay property taxes on that claim. If I
2 don't get a permit, then I can't dredge on my claim. If
3 I don't dredge on my claim, then I can't do my
4 assessment work. If I don't do my assessment work, I
5 lose my claim. 20 years, I lose my claim 'cuz I
6 couldn't get a permit? And the loss of property taxes?
7 Don't understand that, sir.

8 Yellow-legged frog. 17 years of Northern
9 Yuba, I've never seen one. I've seen green frogs. I've
10 never seen a yellow frog.

11 Impact. \$7,000 I spent on a brand new 5-inch
12 dredge, 2009 in June. I got to use it for six days,
13 \$7,000.

14 The inlet screen size. That's mandated by the
15 design of the Keene Engineering Company. If I change
16 that size and I restrict the water flow, I could do
17 damage to my motor.

18 Recreational mining. I think I probably dig a
19 hole probably 20 by 20 by -- fortunately, I sell
20 bedrock -- by three feet, very low impact.

21 The 3-foot rule. The water's high. As the
22 water recedes. When I first get there in the
23 springtime, or should I say June, the water's very high,
24 it's very swift. By the time the season comes to an
25 end, it's pretty well dried up, not completely, but it's

Gardner, Dave

↑ 1 diminished my area. If that 3-foot rule applies, that
2 3-foot rule keeps moving closer to the center of the
3 river. Thank you.

4 MS. MONAGHAN: Thank you. Has everyone, every
5 individual who has not spoken yet had a chance? Okay.

6 Those using donated times, how many of you
7 will be speaking using donated time? So just hold your
8 hand up for just a minute. I'm going to have those of
9 you using donated time or wanting to speak again, line
10 up here, figure out your numbers, what's your lowest
11 number, and sort yourself out by whoever has the lowest
12 number. Okay. I need you to go see -- yeah, Michael.
13 Michael's (inaudible).

14 Okay, the people that are -- if I can have
15 your attention again, please. Thank you. You've been
16 really marvelous. Thank you so much for your attention.
17 It's been great.

18 I know that you've had feelings as the
19 speakers have spoken, but you've been wonderful to
20 contain them. It helps us record it so we get a
21 complete transcript and everyone does have a chance to
22 be heard. So thank you very much.

23 When you step up, if you could give your name.
24 I do need another speaker card, if you don't have it.

25 MS. STAPP: I have a speaker card.

1 MS. MONAGHAN: Tell me how many tickets you've got
2 for how many minutes?

3 MS. STAPP: 9 through 9.

4 MS. MONAGHAN: Okay, so 9 times 3, with my
5 lightening fast --

6 Ms. STAPP: 27. Where I went to school, it was
7 27, I don't know.

8 MS. MONAGHAN: Great. So name and start your
9 comment. 27 minutes.

10 MS. STAPP: My name is Dee Stapp.

11 MS. MONAGHAN: Again, could we have your attention,
12 please.

13 MS. STAPP: Don't start yet, I got interrupted.

14 Okay. My name is Dee Stapp. Don't start yet.
15 I got interrupted.

16 Okay. My name is Dee Stapp. And these are
17 the comments of Public Lands for the People.

18 Having reviewed all 897 pages of the above
19 report and countless other related documents, a lot of
20 time and taxpayer money was spent trying to educate the
21 public in DFG personnel about mining and more
22 specifically about suction dredging.

23 Education is never a waste, but in the case,
24 it may have been. It is apparent from the conclusions
25 cited as significant and unavoidable environmental

2. Stapp, Dee



2. Stapp, Dee

1 impacts that analysis of the collective data has been
2 twisted in places into what appears to be self-serving
3 and biased findings.

4 Throughout the report, there were premature
5 assumptions and faulty analysis of alleged problems
6 because the real answer was not known or the available
7 data would not support the desired conclusion. In such
8 instances, the problem was simply declared significant
9 and unavoidable.

10 Despite all of these pitfalls, surprisingly,
11 there were parts of the report itself that make a good
12 argument for why more restrictive dredging regulations
13 were not justified.

14 Beginning with the first paragraph of
15 Section 228 of the DFG proposed regulation related to
16 suction dredging, it states in part, quote, "The
17 Department finds that suction dredging will not be
18 deleterious to fish." Notwithstanding that published
19 conclusion, the DFG proceeds to propose implementation
20 of a prolonged and tedious number of changes affecting
21 the manner in which suction dredging is performed.

22 Even more disconcerting to the financial
23 interest of claim owners, the proposed restrictions on
24 dredging contained in the DSEIR take away property
25 rights granted by the Mineral Estate Trust Act of 1866

2. Stapp, Dee

1 and the Mining Law of 1872. The taking of such rights
2 is a blatant violation of due process guaranteed by the
3 Fifth Amendment as it applies to the federal government
4 and the 14th Amendment as it applies to the states.

5 The taking of property without just cause or
6 compensation is illegal and will continue to be pursued
7 in lawsuits filed by Public Lands for the People.

8 Notwithstanding the violations and legal
9 entanglements referenced above, let's address alleged
10 significant and unavoidable impacts referenced in
11 Chapter 6.2.3 of the DSEIR.

12 Impact WQ4: Effects of Mercury Resuspension
13 and Discharge from Suction Dredging. This impact
14 details analysis of mercury discharge and transport
15 resulting in both dredging operations and watershed
16 sources such as rainfall and runoff.

17 Nobody disputes that there is mercury present
18 in historical binding areas as a result of earlier gold
19 mining activities, but as the report indicates, this
20 mercury continues to slop into the river without regard
21 to dredging activity.

22 The report clearly points out on Page 4.2
23 through 38 that, in contrast to the mercury discharge
24 from suction dredging, the majority of mercury is from
25 background watershed sources during the winter wet

2. Stapp, Dee

1 season when runoff conditions contribute to high flows
2 that scour sediments laden with mercury. Yes, every
3 winter Mother Nature creates a significant disturbance
4 and dredges without a permit.

5 The report further sites a series of mercury
6 samples that were taken once a month in the summer while
7 preparing this report. The conclusion at the bottom of
8 page 4.2.38 was that it is possible that suction dredges
9 were contributing to the annual mercury load calculated.
10 But mercury levels do not appear to reflect unusually
11 high concentrations during the dry season.

12 Given this, there is inherent uncertainties to
13 the mercury loading estimates. The report itself
14 stipulates that there are uncertainties as to the cause
15 of the mercury loading that is present.

16 So the conclusion stated clearly in the report
17 is that nobody knows anything for sure about the
18 movement of mercury in streambeds.

19 Even more indicative of this conclusion on
20 Page 4.2 through 40, it is reported that mercury
21 particles less than 63um do not remain suspended during
22 summer low flows and thus are deposited back into the
23 river. This conclusion is no surprise to dredgers.

24 Even further on, page 4.241, it is finally
25 concluded that transport of the elemental mercury that

2. Stapp, Dee

1 is flowered and discharged from suction dredging is
2 largely unknown, as flowered mercury has been observed
3 to float initially but subsequently sink or float until
4 they are dissolved. Yes, what goes up must come down.
5 And nobody knows how much mercury is discharged by
6 suction dredging, but the report makes clear that Mother
7 Nature is the biggest contributor.

8 The report also defines the low flow summer
9 months of dredging as between March and October.
10 Therefore, the question presents itself as to why the
11 proposed regulations are striving to cut short the
12 dredging season for most dredgers from three months
13 between July and September or, in a lot of cases, from
14 September to January 31st.

15 It is unfounded -- WQ4 is unfounded and should
16 be corrected to find -- to redefining of less than
17 significant.

18 Impact WQ5: Effects of Resuspension and
19 Discharge of Other Trace Minerals from Suction Dredging.
20 This area details results to determine the impact of
21 other sediments encountered when dredging such as
22 copper, lead, zinc, et cetera. Again, the conclusion is
23 that dredging has a negative impact.

24 It's reported that suction dredging would not
25 be expected to increase levels of trace minerals nor

2. Stapp, Dee



1 result in substantial long-term degradation of trace
2 metal conditions that would cause adverse effects.

3 Finally, this further reported that the
4 potential to mobilize the trace metals would not
5 substantially increase health risks to wildlife.
6 Everything sounds good for the dredgers so far.

7 However, then the report begins to speculate.
8 It reaches out in desperation to suggest if metal
9 concentrations at known metal hot spots actually
10 contained acid mine issues, low pH levels, high sediment
11 and more metal concentrations, there may be a
12 potentially significant impact. There are too many ifs
13 and maybes in that assumption.

14 Yet despite the lack of data or knowledge to
15 accurately identify where such conditions might exist,
16 the report suggests that the unknown itself presents a
17 significant and unavoidable impact. This is pointless
18 analysis at its worst.

19 The conclusion imagines that the perfect storm
20 of conditions might exist out there somewhere to affect
21 trace minimal conditions. That's like saying somewhere
22 in those mountains there's gold.

23 Impact WQ5 is unfounded and should be
24 corrected to a finding of less than significant.

25 Impact Bio Wild 2: Effects on Special Status

2. Stapp, Dee

1 Passerines Associated with Riparian Habitat. This
2 impact details the results to determine whether dredging
3 impacts special status passerines species by altering
4 behavior movements and distributions. Passerines are
5 defined as birds that are adapted for perching. This
6 means they primarily live in trees.

7 The second specific disturbance of reported
8 concern is noise from dredge equipment or encampment
9 activities. This whole discussion is prejudicial
10 against miners without a scintilla of scientific proof
11 to back it up.

12 Further, the report totally ignored any
13 discussion or consideration for the level of noise
14 generated by hunters, fishermen, campers, hikers,
15 recreational vehicles and other outside activities.

16 On a scale of noisemakers, suction dredgers
17 have to be far and way the minority in number and create
18 the least impact on the environment. This whole
19 argument is a stretch and complete overreaching by the
20 report writers.

21 The report attempts to support its weak
22 position by stating that even a small disturbance could
23 be substantial. Where is the scientific data for that
24 conclusion?

25 These are passerine creatures that live in the

2. Stapp, Dee

1 outdoors and expect noise as well as suggest an accurate
2 determination that any potential impacts of these
3 special-status passerines must be studied using field
4 surveys by qualified biologists to determine their
5 location using the California Natural Diversity Database
6 and other such resources.

7 The report is actually stating that nobody
8 knows where these alleged passerines live. Or if that
9 the locations of these passerines are important, DFG
10 needs to submit a proposal for funding of research by
11 qualified biologists to pinpoint locations and see what
12 kind of funding support is present.

13 Impact Bio Wild 2 is unfounded and should be
14 corrected to find -- to read a finding of less than
15 significant.

16 Impact CUL-1: Substantial Adverse Changes
17 When Considered Statewide in the Significance of
18 Historical Resources. This impact was considered how
19 dredging might affect historical and cultural resources.

20 This is yet another example of we don't really
21 know anything, let's just assert that dredging is the
22 cause. How do we know this to be true? On Page 4.5
23 through 12, it discuss the potential impact of dredging
24 on historical resources. The report states, quote,
25 "Whether this impact would have a substantial adverse

2. Stapp, Dee

1 change in the significance of a resource when considered
2 statewide is a function of the likelihood of disturbance
3 of these resources in their individual and or collective
4 significance."

5 It is unknown whether suction dredge mining
6 would affect significant historical resources to a level
7 that would be consider significant statewide. In other
8 words, such impact cannot be attributed to dredging.
9 Yet, nonetheless, the writers of this report use the
10 same old crutch as used previously and conclude since an
11 impact cannot be supported by scientific data, it will
12 simply be labeled a potentially significant impact
13 attributable to dredging.

14 But further on Page 4.513, the report also
15 confesses that the only way to know for sure about the
16 location of the historical resources would be to conduct
17 archival research using the California Historical
18 Resources Information System. Well, by all means, let
19 the DFG propose a research team to be assembled to
20 conduct this perceived vital research and send it along
21 the aforementioned study on passerines.

22 Clearly, this whole issue was again
23 overzealous staffers trying to make a preconceived
24 conclusion when no data exists to support it.

25 Impact CUL-1 is unfounded and should be

2. Stapp, Dee

1 corrected to read a finding of less than significant.
2 Impact CUL-2: Substantial Adverse Changes
3 When Considered Statewide in Significance of Unique
4 Archeological Resources. This impact was considered how
5 dredging might affect archeological resources listed in
6 the California Register of Historical Resources.
7 This is another case, as detailed previously,
8 where the DFG has put the cart in front of the horse.
9 What impact and where are those archeological resource
10 sites? Well, again, the report clearly describes that
11 nobody knows.
12 The report goes on to further suggest that the
13 only way to know if there are unique archeological
14 sites, one would need to perform archival research using
15 the California Historical System or CRIS. Well, this
16 sounds like another budget proposal that DFG would need
17 to submit for funding.
18 And there, again, we find that this is
19 unfounded and should be corrected to find a reading of
20 less than significant.
21 Exposure of the Public -- or Impact MZ-1:
22 Exposure of the Public to Noise Levels in Excess of City
23 or County Standards.
24 This impact considers whether operating dredge
25 equipment exceeds noise standards. If this entire study

2. Stapp, Dee

1 was not so serious in its potential impact to miners,
2 this particular impact would be laughable for lack of
3 support and scientific merit.

4 First of all, where are the noise level
5 standards that apply to conditions, equipment and
6 animals found in Mother Nature? Does a mountain lion,
7 wolf, or moose violate this unknown standard when they
8 give a mating call? The fact is that that particular
9 impact is another pie-in-the-sky, effort to dream up
10 problems and blame it on dredging.

11 However, again, the report tells us what we
12 need to know. The report states that while dredging
13 equipment in a manner that violates existing or -- has
14 the potential -- has the potential to generate excess
15 noise, the existing regulations do not authorize permit
16 holders to use their equipment in a manner that violates
17 existing noise standards.

18 The report writers declare the impact to be
19 significant and unavoidable out of nothingness. This is
20 outrageous conclusion and unfounded.

21 Consequently, Impact MZ-1 should be corrected
22 to find a reading of less than significant.

23 And I think I'm going to let somebody else go
24 on. I will be submitting these in writing. And I'll
25 get some other people a chance to talk.

Hutchings, Jim

1 MR. HUTCHINGS: My name is Jim Hutchings. I'm with
2 the GPAA, Sacramento Chapter. Okay? And I'm also vice
3 president of the Roseville Rock Rollers Gem and Mineral
4 Society. I'm a member of the Mother Load Gold Hounds.
5 I'm an active miner.

6 I have 240 acres of mining claims, over a mile
7 and a half of mining claims in Duncan Canyon, one of
8 those wonderful places that's being scheduled for
9 September through January when there's about two feet of
10 snow on the ground. So what good's that going to do me?
11 But let's not be site-specific.

12 My father-in-law one time told me, he said
13 there's three things out there. There's lies, there's
14 damnable lies, and then there's statistics. Statistics
15 are the most damnable lies because you take them and
16 manipulate them to whatever cause you like. And as
17 someone mentioned in earlier year something about
18 outcome based.

19 Where were the people? Where were the studies
20 of the effects of dredging on mining? You didn't put a
21 dredge in the water. You didn't take an area of a river
22 or several rivers and count the fish, count the bugs,
23 look at the riparian habitat. You didn't do that for a
24 year and boot the fishermen out. You didn't bring a
25 dredge in for a year and watch the effects of dredging

1 as it was being done and then after that spend another
2 year looking at the results of those activities or lack
3 of activities and measure that. You didn't do that. So
4 where is the study about the effects of mining, dredging
5 on rivers and habitat of the fish?

6 Okay, I understand what you did. You took the
7 old studies and you mentioned right side in your report
8 and you said that it says fish have -- there's no
9 evidence, not that there wasn't any impact, but no
10 evidence of impact on the fish and fish habitat.

11 If you were my kid -- I've got five of them,
12 they went through science class -- I don't see nothing
13 but an F here for your study because you didn't do the
14 study. And I understand you're under time and
15 underfunded to do it. Because you didn't do the study,
16 you're sticking us with these old studies and all these
17 biologists who have sat around and theorized and
18 extrapolated, and I heard those comments all night
19 tonight. I'm violating your rules I'm recounting,
20 extrapolation and theorizing about the impacts of
21 dredging on fish.

22 I'm telling you, this earth is far more
23 resilient than the guys and environmental extremists
24 give it credit for. Somebody dumped a couple hundred
25 tons of tank car of toxic chemicals in the Sacramento

Hutchings, Jim

Hutchings, Jim

1 River above Shasta. We all know about that. They
2 stripped everything clean out of that 25 miles of river.
3 That's one of the finest fish habitats today. And
4 they've just opened up dredging again to that section of
5 the river, as I understand it.

6 Okay. So what happened there? The earth is
7 resilient. The fish came back, the bugs, the feed, the
8 birds, the plants all came back. The earth is very
9 resilient.

10 A lot of these guys don't know this, but every
11 one of their dredging operations is an engineered
12 project. I don't go willy-nilly for the last 20 years
13 down in Duncan Canyon and take a bulldozer-size dredge
14 and work my way up the river. I'm looking for specific
15 geological structures. In my case, boulder fields, big
16 boulder fields. And I'm working into those boulder
17 fields and I'm looking at the terrain underneath it
18 because I'm looking for the bedrock down there.

19 I don't see anything in this report that
20 indicates that anybody involved in writing this thing
21 had a doggone clue about dredging and dredging
22 engineering that understands it.

23 You're talking about three-foot limitations
24 into the bank. I won't leave this with you today
25 because I don't think you want it. But my mining claim

Hutchings, Jim

1 I'm working into I guess what you call a bank. You guys
2 need to work on the definition of a bank. I'll submit
3 this with written comments. It shows the boulder field
4 I'm working in. It's right on the bedrock. Is that the
5 bank, or is that not the bank? Of course, it doesn't
6 matter much if you're going shut me down.

7 You say I've got a yellow-tailed frog in
8 there. I've been in there for 20 years. I have five
9 kids and seven nephews. Those kids played with every
10 animal and every creature and every bug in that canyon.

11 I am naturalist since I was a young person,
12 playing in the rural fields around Rancho Cordova. I
13 appreciate wildlife. I understand. I'm curious. I'm a
14 mineralogist. I'm a geologist. I appreciate what's
15 going on in that Duncan Canyon. I know it better than
16 any biologist. And nobody ever came and talked to me
17 about Duncan Canyon.

18 The Forest Service, giving me clean bill of
19 health for a five-year plan of operation. And on that
20 plan of operation it talks about that yellow-tailed
21 frog. But I'm telling you, I've never seen one. None
22 of my kids ever dragged one up. Want some newts? Got
23 hundreds of newts.

24 But that brings up the point about animals and
25 populations of animals. As an avid rock hound in the

Hutchings, Jim

↑ 1 deserts, I can go out one year and not see a doggone
2 horned toad anywhere. And then the last four years,
3 there's horned toads everywhere.

4 You know, your biologists know, this is all
5 about predators and food supplies and vicious cycles
6 over and over and over again. So to blame dredging or
7 to suggest dredging is a static problem for a fish
8 population or a frog population is absolutely incorrect.
9 There are predators and food and all sorts of issues
10 that affect a population of animals.

11 And you send a biologist in there one day, one
12 year or for a week to count frogs or count fish, that is
13 not an accurate picture of what's going on in those
14 streams.

15 So, therefore, stream-specific, you mentioned
16 that in your report, can't do it, can't afford it, can't
17 go out and say region- or stream-specific. So because
18 you don't have the money to go out and carefully look at
19 my stream and tell me what is reasonable and what is not
20 reasonable to do at what time, which I'm perfectly a
21 reasonable guy, I'd buy it and I'd go with it. But you
22 don't have the money to do it so you're shuttin' me
23 down.

24 I'm a small businessman in Placer County,
25 retired from the Highway Patrol. I took up the jewelry



Hutchings, Jim

1 craft. I take the gold. I process it. I refine it. I
2 cast it into gold objects. I sell those objects to
3 supplement my income. And I sell those products. I
4 have products in Germany and Japan from California
5 natural gold. And nobody ever surveyed me about my
6 company when you did your survey. So your survey about
7 economic effects was flawed. You didn't talk to me.

8 If you're going to ask gold miners about how
9 much money they get out of their stream, they're not
10 going to tell you how much gold they are getting out of
11 the stream. They never do. They just don't do that,
12 folks.

13 The BMP. What I do like about the report is,
14 yeah, there are some yahoos out there doing stupid
15 things. I'm a conservationist, I'm a naturalist. And I
16 see stupid things. I think there's room, tremendous,
17 room -- I like your basic what you call it, BMP,
18 Management Practices Plan. The idea that you have some
19 kind of a pamphlet. Guy's going to sign up for a
20 dredge, he better have this pamphlet tells him what he
21 should be, shouldn't do, how to mitigate the
22 possibilities. I like that.

23 I like the idea of being associated with the
24 GPAA and understanding what the new Forty-Niners are
25 doing. And it's ridiculous. You got 15 dredges lined

Hutchings, Jim

1 up row to row. It's impractical. It's unreasonable.
2 It's bad habit. And it should be regulated to where
3 there's only a certain number of dredges per so many
4 feet on a river.

5 So you got this 4,000 permit thing. Somebody
6 mentioned it earlier. Count the number of rivers, count
7 how many dredges could be on those rivers. That's your
8 number. It's not arbitrary and capricious. You've got
9 something to base it on. You count it on how many
10 possible dredges could be on the river minus a few
11 closures that you might have to do because, yeah, there
12 are some places, folks, where there are some threatened
13 creatures and you have to protected them.

14 I think if these fisheries are so doggone
15 infected and impacted and that those fish so seriously
16 damaged, then what the -- why aren't you stopping the
17 fishermen from fishing? Okay? Why don't you dare tell
18 the fishermen stop fishing? Because you can't, you
19 won't. It's politically impossible.

20 You start there first and then I'll be glad to
21 shut my dredge down.

22 And, Mark, I feel sorry for you. I know where
23 you're at. Been with state service for a lot of years,
24 been in your hot seat, and I'm sorry for some of the
25 comments these guys made. Thank you very much.

1 MR. NUTTING: Ray Nutting. I got a lot of cards. I'm
2 going to try to keep it under -- I'm not going to do 27
3 minutes, Mark. I'm going to really try to shorten this up.

4 My first question is this all got started
5 because of Senator Wiggins, and it propelled itself into
6 doing a -- and we all know that this is a process, Mark,
7 and your organization and your consultants are trying to
8 deal with a state law and trying to figure out how to
9 meander your way through this so we don't end up in
10 court.

2. Nutting, Ray

11 I'm going to ask. Is there a representative
12 from the State Assembly here? Is there a representative
13 from the State Senate here? And is there anybody here
14 that represents the multitudes of the urban/suburban
15 areas of the State of California?

16 I would suggest that the 99 percent of the
17 population here is from rural California, and we are
18 reaching out knowing that we are outnumbered in the
19 urban and suburban parts of the State of California.

20 My first recommendation would be to get a copy
21 of these proceedings to every state Assembly member,
22 every state Senate member because there's a crush that's
23 going to occur.

24 Folks, Mark is trying to do his best to try to
25 figure out how to meander through law. He's going to do

2. Nutting, Ray

1 his best to try to deliver good information. The result
2 is you've had two testimonies tonight, one from Friends
3 of the River, and one from somebody from Tuolumne
4 County. You need to know that they step into the
5 political arena at the state level on a variety of laws
6 and that they historically in the State of California
7 have been able to get the votes to get us to where we
8 are today.

9 So if those organizations aren't satisfied,
10 they are going to submit a lawsuit. And if we don't
11 come to closure through this process somehow, we could
12 be in court a long time. And when we're in court a long
13 time, that means it takes longer for you guys to go back
14 to work; is that right? Mark, is that right?

15 Okay. Given that, I want to talk about -- my
16 name is Ray Nutting. I live in the mountains of
17 El Dorado. I live between the confluence of the Camp
18 Creek and the South Fork of the Consumnes River. My
19 have family's been there for five generations. I've
20 walked every inch of the Consumnes, from the Sacramento
21 almost every inch, to the Kitt Carson Pass. On the Camp
22 Creek also. I love my life up there. I love fishing.
23 I love hiking.

24 I will tell that you the impacts from suction
25 dredging on the Consumnes and the Camp Creek are minimal

2. Nutting, Ray

1 to none. There's more impact from hikers, fishermen and
2 campers. I can count on one hand on the Camp Creek to
3 the Carson of how many dredgers are on that system.
4 It's probably maybe just a couple dozen on the South
5 Fork of the Consumnes River, one of the last
6 free-flowing rivers from the Kitt Carson Pass to the
7 Sacramento, and it's one of the most protected river
8 systems. And ecologically, it's working beautifully.
9 It's a river that I learned how to swim when I was five
10 years old. The banks aren't compromised. The fish
11 aren't compromised. It's a system that is working
12 fantastically here, except for a couple of things I'll
13 talk about.

14 Now, on the other hand, the South Fork of the
15 American River from an ecological perspective is
16 mismanaged. The way they are running those hydro
17 facilities and releasing the water is injurious to fish.
18 Those flows going up and down nine feet and the
19 amphibian wildlife in that -- what I call the dead zone,
20 cannot survive. We all know that. But we had
21 overriding considerations for the businesses in El
22 Dorado County.

23 We had a gentleman speak, Friends of the
24 River, today that talked about his concerns. So I want
25 to put this into perspective. If you're going to push

2. Nutting, Ray

↑ 1 environmental rules and regulations, it should be evenly
2 cast among everybody. I love the river rafters, and I
3 want them to continue. I do accept the overriding
4 considerations with the hydro facilities.

5 But you cannot talk both ways. If you want to
6 protect the amphibians, let's protect the amphibians.
7 One decision on that management would protect billions,
8 billions of amphibians, and thus they advocate for other
9 rivers to be managed the way they want and they don't
10 manage their own river, Friends of the River. Okay.

11 I went on as a little boy learning to manage
12 the land for seven generations. I grew up on a timber
13 ranch and a cattle ranch. We lost our cattle herds
14 because of the interpretations of open range, and we
15 became a timber ranch. Why is that important? I
16 learned the value of land management and the
17 connectivity between land management, the precipitation,
18 runoff and why the runoff is important for the delivery
19 of that water into the river system, into the Bay Delta
20 and to deliver it to the metropolitan areas of the State
21 of California.

22 I went on to get my bachelor's of arts degree
23 in history, minor in criminal justice, went on to get my
24 teaching credential, went on to teach, and then went on
25 ↓ into politics.

2. Nutting, Ray

1 Politics led me to be the president of the
2 Regional Council of Rural Counties, an organization
3 where I stepped up in leadership and we worked on water
4 bonds of Proposition 204 and 13.

5 Sat at the table with Governor Pete Wilson.
6 Pete Wilson understood that we needed rural California
7 involved with a watershed approach. Supervisors, rural
8 supervisors got together and we got behind that issue,
9 and we had reinvestment back into the watershed.

10 Why is that important, Mark? You know and I
11 know that there's a big picture here. If you're trying
12 to figure out how to solve a bucketful of problems and
13 you're going after a drop in the bucket called suction
14 dredgers, to try to come with desired outcomes without
15 looking at the holistic look of the entire bucket is
16 simply unfair. To take sitting ducks in a pond, these
17 folks in the audience, then represent the drop in the
18 bucket with cumulative effects with concurrency in an
19 EIR document is simply wrong.

20 It is -- and it's not you guys. It's the
21 state legislature who's not here listening to these
22 proceedings. You guys are just trying to figure out how
23 to get through what you've been directed to do. But to
24 have the suction dredgers sitting on this pond as
25 sitting ducks is absolutely wrong.

2. Nutting, Ray

1 I believe that the state legislature needs to
2 get -- get dialed in what is actually happening out
3 there. If you want to solve a landscape's approach and
4 improve the water system, recognize the strengths and
5 weaknesses of our natural resources.

6 In your documents you talk about camping.
7 It's a small part of your documents and people that
8 camp, suction dredge, et cetera. Wildfire breaks out as
9 a result of camping. It is not the camper. That's a
10 point in which the ignition starts.

11 It is the way we manage the landscape in terms
12 of fuel loading on a per-acre basis that is the most
13 dangerous part of the river system.

14 Catastrophic crown fire -- and I'll give you
15 one example. The Cleveland Fire in El Dorado County in
16 1992 broke loose. 22,000 acres blew up, 22 homes. A
17 plane crashed, two people killed. And we are still
18 looking at the effects of sediment flow, landslides, et
19 cetera. It's in the millions of dollars on one fire.

20 Mark, we talked about this. We know what the
21 solutions are. You're a project manager. And your
22 director's going to make a decision. Based on that
23 decision, lawsuits will ensue.

24 So there's two ways of doing this. I don't
25 see any decision from the director eliminating lawsuits.

2. Nutting, Ray

1 So it's either we go that route, and we're in court for
2 years.

3 Or, two, we have legislative relief. We have
4 a state senator that has a bill that is -- Senator Ted
5 Gains, that has a bill introduced. It is just
6 introductory language. And I know you can't get
7 involved. But maybe through conversations, that
8 introductory language can give short-term relief so that
9 the suction dredging drop in the bucket is a part of the
10 solutions to the bucket of water that needs to be
11 evaluated.

12 I don't know how you guys can help facilitate
13 that other than communicate to counterparts. But the
14 solution is a holistic solution, not a rifle shot at a
15 community that cannot mitigate the bucketful of water.
16 Thank you.

17 MR. GUARDIOLA: Hi. My name is Robert Guardiola, and
18 president-elect of Delta Golddiggers, member of East Bay
19 Prospectors, host of beatup.com, Gold Prospectors, and
20 member of the GPAA.

21 I come before you because of my concerns with
22 your proposed regulations. And I'm going to take a
23 little different tact. I also have a mining claim up in
24 Moccasin, and I'm an active miner.

25 In sitting through the last meeting, I

Guardiola,
Robert

Guardiola,
Robert

1 realized that we as miners and prospectors are not doing
2 a good job of relaying the benefits of the small-scale
3 mining and prospecting. And you're getting bombarded
4 with environmentalists and special groups and even the
5 court's telling you that mining's bad.

6 But, have you ever asked what services the
7 miners and prospectors are providing? We as miners and
8 prospectors are providing a valuable resource probably
9 worth hundreds of thousands of dollars to our treasured
10 rivers and creeks and streams by removing those very
11 things that make them undesirable and deleterious to
12 your wildlife.

13 We remove lead, glass and other various metals
14 and trash that are rusting and dissolving in our
15 ecosystem. It seems to me that all the fuss about
16 turbidity and frogs and birds as well as fish and eggs
17 and erosion, among other things, you're saying may
18 happen. You're losing sight of what is happening.

19 What's happening? Well, I estimate -- and I'm
20 currently working on hard numbers with our members, and
21 we'll have those results for you and make those results
22 available to you. But I personally remove two or
23 three pounds of undesirable foreign debris a week from
24 the bodies of water that I work in. And it costs me
25 about a hundred bucks a week to work in those bodies of

Guardiola,
Robert

1 water -- and that cost is rising like everything else,
2 of course.

3 But I used to remove five to ten times that
4 amount when I dredge. That would mean in a good year, I
5 will and do remove a minimum of 130 pounds a year of
6 this foreign material using a pan and shovel and sluice.

7 With our current technology, most miners do
8 the same, though. If we take your numbers of 4,000
9 miners and we put them out there, which is much higher,
10 of course, if you add in all of the practices of mining,
11 we're removing approximately 260 tons a year of debris.
12 That's 520,000 pounds of dangerous foreign substances a
13 year removed from our ecosystem.

14 If you bring dredging back in a practical way,
15 not the current regulations that you're proposing today,
16 that amount will raise five to ten times that amount,
17 which means we could remove and recover up to 2600 tons
18 a year with just those 4,000 miners of pollutants from
19 our waters and ecosystems. And the nice thing is we're
20 paying to do it. It's a win-win, don't you think?

21 How much would it cost you to remove that
22 amount of pollutants from our waterways? The dump and
23 disposal fees alone would run hundreds of thousands of
24 dollars not to mention man hours and equipment costs.
25 And just on the 260 ton would probably cost you over

Guardiola,
Robert

↑ 1 \$91,000 in dump fees alone and hazardous fees.

2 And let's not forget about the fish, the
3 frogs, and the organisms, the birds and our drinking
4 water. Just like removing lead and other harmful
5 substance from our child's toys and from paint, can we
6 not say that removing lead and other debris from our
7 waterways creates a safer world for wildlife and
8 children who play, swim and drink from these same
9 waters, and therefore imply that other economic cost
10 savings would be gained by mining and prospecting
11 practices. Change for the sake of change is not always
12 good.

13 You said last meeting that you could not just
14 simply reinstate the old regulations because of the
15 courts and possible future litigation. But if that
16 system was providing a greater benefit to our wildlife,
17 our waterways, and our children than the new
18 regulations, what benefit would be derived by change?

19 Mining and prospecting has come a long way in
20 the last 162 years. And although we're not perfect,
21 we're striving to get better. We're improving mining
22 techniques and practices as you've heard here tonight as
23 well as equipment to the point where I believe we're
24 better stewards of the land than most groups could hope
25 to be. And everyday, as you see here, we're getting

Guardiola,
Robert

1 better. We -- did I go blank? Lights off. I don't
2 know. I'm just good. Green lights on. There we go.
3 You got me back. So let me start there.

4 We today are removing and recovering dangerous
5 material from our waterways. We are making our water
6 safer and healthier for water life and our children to
7 live and play in. We're making our waterways safer to
8 pull our drinking water from. We're providing a
9 valuable service that not only saves taxpayers money and
10 generates revenue but also gives other economic savings
11 and benefits to other governmental entities and
12 industries as well that rely on our waterway.

13 We are removing and recovering up to 60 -- or
14 260 tons of debris now of foreign material from our
15 waterways that could increase if you allow reasonable
16 dredging practices to as much as 2600 tons, again, if
17 responsible and practical regulations are reinstated.
18 And that alone would save hundreds of thousands of
19 dollars for our taxpayers a year on top of generating
20 revenue and reducing man hours for your department.

21 These are not may's, could's or should's. This,
22 gentlemen, is happening right now, every day. We're
23 doing this each and every day. These new improved --
24 excuse me, new -- these new imposed regulations will
25 prevent our beneficial practices from being applied and

Guardiola,
Robert

1 will put even more stress on our economy and the
2 taxpayer and added expense of these foreign debris
3 remaining in our waterways.

4 By implementing this policy and regulations,
5 you interfere again by introducing predatation into our
6 waterways by letting special interests who do not
7 understand the benefits of the valuable resources we
8 offer as miners, and you remove, again, another native
9 species, the miner, that is not only beneficial in our
10 waterways but productive as well.

11 And you will lose yet another valuable
12 resources, our children. By not allowing us to share
13 our trade, gentlemen, you will effectively eliminate
14 mining from California's history. And I don't think any
15 of us in this room want to see that.

16 Your minimum of 4,000 permits -- I have to ask
17 this one question before I go any further, as it was
18 asked of me to ask you. What is your cost of
19 distribution and enforcing those new regulations and
20 permits, and is that going the cut into the general
21 budget thus preventing you from even implementing this
22 program?

23 And the other thing I wanted to point out as
24 proof of what miners do. In the last couple of weeks, I
25 went out mining. This represents one day of mining and

Guardiola,
Robert

↑ 1 the debris that I took out of our waterways. This is by
2 a pan and a trowel. There's lead in here and there's
3 old bullets. There's even a little bit of gold. But
4 you can't see the gold, can you? But yet the miner took
5 this out of the stream.

6 Here, again, is another bucket -- and
7 everybody in this audience tonight has these buckets.
8 I've got 5-gallon buckets. I wish I would have taken
9 and measured when I was dredging and not just now when
10 we're panning so you can see the benefit.

11 Out of all of this junk that I collected from
12 our rivers and streams, and this was taken up in the
13 Nights Ferry area where it's a state park, and you've
14 got to love all the stuff that they leave behind and
15 that's what I found. But I still removed the trash as
16 every miner in this room does. How can you throw away a
17 valuable resource like that? I don't know of any other
18 agency that has such few people that remove those kind
19 of debris and provide such valuable resources. One of
20 our biggest problems as miners --

21 (break in the audio recording)

Lindsay, Craig

22 MR. LINDSAY: A couple of corrections need to be
23 made in the document. There are, I think, 14 wild and
24 scenic rivers, they are all listed both California wild
25 and scenic rivers and by federal law. Okay, Mark.

Lindsay, Craig

1 Excuse me. My name is Craig Lindsay.
2 So a lot of -- and is this an example. Palm
3 Creek Canyon is a wild and scenic river. It's not
4 listed in the DSEIR. There's other misconstrued,
5 confusing descriptions. So I really feel strongly than
6 rather than a county basis -- this has been measured
7 before -- a county basis for these restrictions, it
8 should be done on a watershed basis. It makes sense.
9 So I think it's the wrong paradigm being used.

10 There's another idea I'd like to float out.
11 And that's as we do with the Marin Protective Reserves,
12 which I strongly believe in because it's going to make
13 fishing better, is to set up geographic refugia,
14 especially for the mountain yellow-legged frog. There
15 are areas that historically those frogs have been in.
16 If we could remove the trout from those lakes, I think
17 they would pop back. And these are areas that will not
18 be dredged, obviously, if they are set aside. But
19 otherwords, they don't contain gold-bearing streams.

20 So I'll cut it short. Again, I encourage all
21 of you to try to look at these documents. It's really
22 intimidating. There's 900 pages. And a lot of the
23 terminology and a lot of the way it's written is
24 difficult to understand, but it's definitely worthwhile
25 spending some time doing it. And, again, thank you for

1 your time and attention.

2 MS. MONAGHAN: Again, we all agreed at the
3 beginning that one of the ground rules we'd honor would
4 not be applauding or cheering or anything so I
5 appreciate you're continued adherence to that thanks.

6 MS. DUNN: All right. I'm Rachel Dunn, again. I'm
7 an invited member of the PAC committee that was
8 assembled last year, one year ago this month. Actually,
9 February of 2010.

10 I don't know who selected the people to
11 attend. I don't know who -- I don't know how they were
12 determined, how many scientists you need or the
13 geologists or me. I don't know how that panel is made
14 up. But, it was about half-and-half pro-dredging/
15 adversaries, and then the scientists and the geologists
16 and water boards, so on and so forth.

17 I took that responsibility so serious, and
18 I've never been involved in something like that other
19 than testifying at the Capitol and doing things like
20 that.

21 But I took this responsibility absolutely to
22 heart. It's no different for me than testifying at the
23 Capitol. And you stand there with those tall walls and
24 those big curtains and you realize you're casting your
25 vote. You're participating. It's very serious to me.

2. Dunn, Rachel

2. Dunn, Rachel

1 So this is -- these are part of the notes from
2 the PAC meetings that we took. I brought in my box of
3 the condensed other notes in case I needed to refer to
4 them. But on that panel -- I know it's adversarial, but
5 I thought it was very good, and I thought that you were
6 trying to bring both sides together. You told us if
7 there were any lawsuits going to happen, it was going to
8 be from these people in the room. So I took to heart
9 that we would get into dog-eating-the-bone kind of
10 debate, really serious, get down to the nitty-gritty and
11 get our work done.

12 At the end of the third meeting, the
13 scientists had presented their information, Alpers had
14 done his study, Izzy Martin, bummer, but she was
15 knitting.

16 You said -- I took 58 pages of notes, and I'm
17 a great note taker and good observer. You said the
18 draft release will be out in August. It's a thick
19 document. We'll have robust conversations. We'll have
20 input before then. We'll hold five public meetings
21 north to southern California. The final will be out in
22 May of 2011. I have a strong interest on staying on
23 schedule. I have good project management skills and
24 good delivery of difficult projects.

25 I expect to have conversations with all of you
162

2. Dunn, Rachel

1 in the future. Your input has been very appreciated.
2 You have been heard. That's what you told us. That's
3 how we ended that meeting.

4 I expected we would be contacted. I knew our
5 adversaries in the room who are supplying the data.
6 They are supplying input. They are working hand in hand
7 with each other. I thought there was nobody in there
8 that was a suction dredge miner.

9 When we presented the 35-year-old technology,
10 I thought that somebody would be calling and saying can
11 I come to your gold store? We have a gold store. We
12 have equipment. My husband can take you out. I can
13 show you everything. You can ask questions. You can
14 take pictures. You can measure. You can do everything.

15 Can't do it in California? Come to Oregon
16 with us. Come look at our home movies for God's sakes.
17 I mean even more embarrassing.

18 But, anyway, I really took it to heart. And
19 with your closing arguments I thought all right, we're
20 going to be contacted. Then the SEIR came out. And
21 then Chapter 4, Environmental Impacts, I want to read
22 you. This just kind of sunk my boat.

23 Chapter 4, Environmental Impacts, 4.0.2:
24 "Where appropriate, CDFG has used custom significance
25 criteria to assist in better evaluating impacts given

2. Dunn, Rachel

1 the characteristics of the program and to bring as much
2 specificity and/or clarity to the impact discussions as
3 possible. It's within CDFG's discretion to use
4 significance criteria which deviate from those contained
5 in the Appendix G checklist."

6 The Appendix G checklist is a PAC meeting.
7 The Appendix G, it's like all of the work that we did,
8 all of the contribution, all of the seriousness, all the
9 note taking, all of the scientists that flew down here
10 from Oregon, the geologists that came from the -- the
11 professor, from Ray Nutting's side. This section right
12 here says you bypassed us, you bypassed everything.

13 I personally want -- I want the custom
14 significance criteria, okay? That's official. I want
15 that. If we're not going to go stick to scientific
16 norms or baselines or guidelines or game rules. I want
17 to know what the customs significance is, myself.

18 I think we've been negated. I think the PAC
19 group was negated, and it was a drag.

20 Talking about PAC meeting, since I think that
21 this is going to be the only forum I'm going to, of
22 course, put all of my comments in writing. There's a
23 ton of them. And my three-minute cards won't work.

24 But Ray Nutting at the PAC meeting said when
25 Charlie Alpers made his presentation, Ray Nutting said a

2. Dunn, Rachel

1 test is not a test unless it can be duplicated and have
2 the exact outcome. Two times. Claudia Wise said it's
3 three times for USEPA policy. It has to be done three
4 times. The test has to be duplicate. All right?

5 Charlie Alpers brought us this presentation
6 that you began the presentation by saying the Department
7 was going to rely on his science, but we -- or on his
8 report. At the point, it was a report. We're going to
9 rely on the report but we couldn't have a copy of it yet
10 because it wasn't published. So I took a bunch of
11 notes.

12 And at the end of his report, it showed that
13 one 8-inch dredge, one guy for 30 days in the water,
14 moved as much mercury as all the water in all of
15 California for an entire year.

16 And I stood up and I said I'm not a scientist
17 but I know something's wrong with that. Okay. So I
18 took my 58 pages of notes and I typed them up, and I
19 sent them to Dave McCracken.

20 And he sent me this rebuttal, which he also
21 sent to you and Senator Diane Feinstein, et al., to
22 explain where Charlie Alpers got the water for that test
23 or series of tests that he made his report from that now
24 all of the extrapolations in this SEIR are derived from.

25 Let me read to you the title of the project.

2. Dunn, Rachel

1 Dave McCracken was called by the BLM and asked him if
2 he could work on a mercury removal treatability study,
3 project title was "Humbug Creek, South Yuba, Pilot
4 Mercury Cleanup Project."

5 "The project proposes to remove a mercury hot
6 spot consisting of several hundred pounds of elemental
7 mercury contained within the Humbug Creek Delta located
8 at the confluence of Humbug Creek and South Fork Yuba.
9 The South Yuba is a 303 delisted impaired water body for
10 mercury." On it goes.

11 There's a second part to this. There was a
12 revised statement of work. But let's be clear and let's
13 be frank from the get-go. Dave McCracken was called to
14 try to figure out how to get mercury out of a known hot
15 spot, out of a 303 delisted area in California. That
16 water was recirculated in that container at least a
17 hundred times and helicoptered out because it was so
18 contaminated. And that water is what he's used to do
19 the studies on to show what an average dredger produces
20 in California. I don't buy it, and I'm really
21 heartbroken.

22 I came to the table, this table, this PAC
23 table, I came to this willing to work. I'm an American
24 citizen. I'm a business owner. I'm a dredger. We've
25 raised our babies out there. I came to the table

2. Dunn, Rachel

1 feeling like possibly, you know, adversaries getting
2 together, that we would debate and hard stuff, but I
3 thought that you could put all the bones in the middle
4 of floor and figure out, all right, where is the common
5 ground, and what's truth and what's fiction.

6 This doesn't represent that to me. As far as
7 I'm concerned, with the project that Dave Mac was asked
8 to quote on to come and remediate mercury and that
9 Charlie Alpers has made complete assumptions and all of
10 the data that's in there has to be revisited. You have
11 scientists at your disposal. They came down here. You
12 paid for them. Our taxpayer money paid for them to come
13 here. They came, they flew, they talked. They gave the
14 selenium antagonistic to mercury. They gave the
15 turbidity and effects of scale. All of those things are
16 there.

17 So my opinion is where Charles Alpers and USGS
18 report has been used to make all the extrapolations, you
19 got to go back and revisit that math.

20 If there's anything I can do, call me. I came
21 with my little tent willing and I'm still willing, but I
22 want to do real work. I'm not into this kind of stuff
23 at all, and, you know, talking behind the ear and all of
24 that. I've already experienced Sacramento, and it's a
25 filthy game. I've already been there, and I've already

2. Dunn, Rachel

1 seen that. I want to do real work.
2 So I hope somebody will be courageous
3 enough -- Randy Kelly, by the way, coming out of
4 retirement to be part of this program. My hat's off to
5 Randy. I hope he's still here.
6 I hope somebody is courageous enough to stand
7 up to the environmentalists who want us out at all
8 costs. And if it's not the salmon, then it's the eel.
9 And it's not the eel, then it's the mercury. And if
10 it's not the mercury, then it's the sediment --
11 turbidity. And if it's not the turbidity, it's the air.
12 It will go on and on and on. And I'm asking for real
13 participation. And that's it.

2. Tyler, Steve

14 MR. TYLER: This is -- my name is Steve Tyler.
15 Again, I'm from El Dorado County, and I've been dredging
16 for 31 years. I said that before.
17 I've just got a few comments here. I
18 appreciate what Craig Lindsay had to say, and it's great
19 to know we have good allies who really investigate the
20 truth behind studies throughout the state.
21 And I'm more of a nature-based person. I live
22 in the middle of a 40-acre parcel that I've dredged in
23 the '80s. And this parcel was mine also during the Gold
24 Rush. And it was also mine during the '30s, a little
25 doodle-bug operation it was called, went through there a

2. Tyler, Steve

1 small bucket line dredge made little dams and moved
2 forward processed gold. Anyway, this area's been
3 thoroughly mined three different times.

4 The other night, not two weeks ago, I turned
5 off my wood splitter about 6:15. And it was noisy, wood
6 splitter's noisy. And you know what? The sound of the
7 frogs in my seasonal creek was deafening. They were in
8 competition with my wood splitter. Now, I don't know --
9 I can't -- I don't know what color legs they have,
10 whether they are green or yellow or blue. But I can
11 tell you this, all the mining that's gone on in that
12 seasonal crick has not affected them one bit.

13 You know, and there's no evidence whatsoever
14 that we've ever damaged a single frog. There's only a
15 few thousand of us. And the millions of other users,
16 resource users in the state are obviously creating a
17 much greater impact on any of the species. You know, we
18 have never proved to kill a single fish.

19 Now site-specific in El Dorado County, I'd
20 like to address a few issues. And along with your
21 three-foot prohibition from each edge of the creek which
22 eliminates every small creek from extracting the mineral
23 estate, you've also seasonally completely restricted
24 Weber Creek and Rock Creek. Now, Weber Creek and Rock
25 Creek there, I think they are two of the three biggest

2. Tyler, Steve

1 creeks in the county.

2 Now, Weber Creek has some BLM on it. Most of
3 it's private property. So now every private property
4 owner in El Dorado County cannot extract the valuable
5 resources in that creek, you know, and that's part of
6 the mineral estate and the takings.

7 And the Rock Creek itself, it's so isolated
8 and it does have a number of mining claims. Large gold
9 was found on it. And still to this day, I heard of an
10 8-ounce nugget being found not a month or so ago on with
11 a metal detector in the upper part of Rock Creek. I've
12 had claims there myself. And any prohibition of suction
13 dredge mining on Rock Creek will absolutely destroy the
14 private property rights of mining claim owners on that
15 creek.

16 And I strongly suggest that you will
17 reconsider the total ban of suction dredging on both of
18 those creeks until you can absolutely prove that it has
19 some sort of derogative effect on any species, you know.
20 It's crazy.

21 And as for the South Fork of the American, in
22 1994, it was -- before that it was Zone H, which means
23 year round. They obviously knew that it was a severely
24 compromised river. It has multiple dams up its stream
25 courses, and the river fluctuates, like Ray said, from

2. Tyler, Steve

1 two to seven to nine feet, 24/7, eight months of the
2 year. The only time it varies from that is when there's
3 seasonal heavy runoffs, like has occurred in the last
4 few weeks.

5 Now, there's no way any natural amphibious
6 species or fish species can propagate when flows are
7 radically altered in an artificial way like that. And
8 yet, in 1994, you put a seasonal restriction on it,
9 reducing it down to ending the season in the middle of
10 October. I asked Fish & Game what were the reasons.
11 They didn't ever answer me because there are no reasons.
12 Now they have reduced the season another two weeks, you
13 know. So it's crazy.

14 This has taken my livelihood and money out of
15 my pocket and my partners. And unless you can provide a
16 reason that we're doing any damage to that river when
17 there's only maybe five or six of us that dredge past
18 October, and there's like well over 100,000 rafters
19 alone and hundreds of thousands of other river
20 recreationalists, how can we affect the environment in
21 an negative way when all this other activity is going on
22 and the river is going up and down two or three times a
23 day sometimes during the summer.

24 You know, it's all these regulations are so
25 crazy. I would like to see the American River Zone H

2. Tyler, Steve

1 again, like it should be, because it is so compromised.

2 You know.

3 And I like rafting, but come on, let's not
4 blame dredgers for every little thing going on in the
5 river when there's no proof.

6 And now another thing, too, is like I sent
7 Fish & Game and you guys a very good DVD. I've been
8 working a two-mile stretch for 24 years with an 8-inch
9 dredge. I offered you guys access to that property to
10 verify that there's absolutely no evidence I've been
11 there. And I've been working there for 24 years.

12 Now, also I sent you a DVD of a site-specific
13 area in the fall of 1996 and the flood of January 1st,
14 1997 and after the flood, 10 days after it. So it was a
15 very coincidental that I had -- was able to produce that
16 kind of DVD.

17 I hope you guys had a look at it because it's
18 absolutely amazing. The river got up to over
19 70,000 cubic feet per second. I had the best year
20 dredging ever the next year because it moved so many
21 millions of yards of gravel, including boulders the size
22 of buses, you know. And yet it destroyed the vegetation
23 up the side of the canyon walls, 60, 80 feet.

24 The Indians were smart enough that the
25 cultural resources -- the sustainable cultural resources

2. Tyler, Steve

1 that are evident in that canyon are not in the flood
2 plane. So how can we disturb any cultural resources
3 when normal floods wipe everything out, you know.

4 And it just so happened by the grace of God in
5 that fall of 1996, we uncovered a very rare artifact.
6 And we preserved it, got it up on the bank, and we took
7 it and donated it to the Columbia Museum. That's
8 documented. I got pictures of it. And they never did
9 figure out what it was. It was some sort of a threshing
10 machine. It looked like a rocker box with a tumbler on
11 the end. Some sort of the miner's invention of a
12 mechanical washing machine. Anyway, we donated that.

13 If we hadn't taken it out of the river at that
14 moment that artifact would have never survived any --
15 the flood of that magnitude. And that's because of the
16 responsibility that we took to donate that.

17 Also I might add that not -- just maybe four
18 or five years ago, I had a severe plug up in my 8-inch
19 dredge, you know, an odd looking rock about the side of
20 a head, and I threw it off on the tail pile.

21 And I was eating lunch a little later. And I
22 thought wow, that's a portable Indian grinding stone,
23 and that was buried in the gravels of the river. And I
24 took that and donated that to the Columbia Museum.

25 So the positive effects -- we're the only ones

2. Tyler, Steve

1 equipped to recover anything like that. Otherwise, they
2 get lost or destroyed through subsequent flooding. That
3 should be entered in your EIR.

4 And I would suggest that you would open up
5 South Fork to Zone H and keep Weber and Rock Creeks
6 open. And get rid of this three-foot rule. It's pretty
7 ridiculous in the takings of private property. Thank
8 you very much.

9 And I'd like to thank Ray Nutting. He's been
10 active in helping the mining industry for many years in
11 this effort in spite of influence by people who wish to
12 destroy private property in this country. Thank you.

13 MS. MONAGHAN: Real quick, how many people else are
14 going to speak? I know you, you and you. How many
15 cards do you have? And you're going to use the whole
16 nine minutes? Okay. Okay. Okay. So we have a
17 nine-minute, a nine-minute and a ten-minute, plus this
18 lady who has 16 cards but promises to only speak --

19 FEMALE VOICE: 20 minutes max.

20 MS. MONAGHAN: Okay, great.

Frauenholz,
Rachel

21 MS. FRAUENHOLZ: My name is Rachel Frauenholz
22 (phonetic). I live in the foothills of the Kings Canyon.
23 Do most of my dredging in the Merced River at Bagby. I
24 had the privilege of attending the meeting in Fresno
25 and -- and it was a teaching process. So I'm back here

Frauenholz,
Rachel

1 tonight to present specifics that you asked for that we
2 didn't have, coming unprepared and unfamiliar with this
3 process.

4 On Page 22, lines 19 to 34, the application
5 requirements states: At a minimum suction dredge
6 applicants shall include valid identification and
7 contact information for the permittee or assistant
8 permittee at least up to six locations where the permittee
9 plans to suction dredge, providing either the county
10 stream name, township range, quarter section base and
11 meridian or approximate center point using longitude,
12 latitude. As well as the approximate dates of dredging
13 and each identified location and list of all suction
14 dredge equipment to be used under the permit.

15 The information you're requesting about these
16 locations is the information needed to filing a claim.
17 If we're dredging on public properties, why do we have
18 to supply the information that you need for a claim or
19 that the BLM actually needs?

20 That information and requirements for claiming
21 is under the domain and authority of the Bureau of Land
22 Management, not under the Department of Fish & Game.

23 The nature of suction dredging does not permit
24 compliance with the proposed application requirements
25 for listing up to six locations. As written, it is

Frauenholz,
Rachel

1 simply not feasible. It would require every dredger to
2 have a GPS, which usually don't work in the canyon areas
3 anyway. It would require a trip to the location,
4 finding out where you're going to dredge, even if you
5 decide to do all six locations in the same river, same
6 general vicinity, and then a trip back down to the
7 department of Fish & Game local office, of which there
8 are not in every town, not in every location to make
9 your applications and notifications of where you're
10 going to be dredging.

11 And then once you get back up on the river and
12 you sink your dredge hole, you find out someone's
13 already been there. The nature of dredging is you pop a
14 hole in. If it's been dredged, you move up the river
15 100 feet, another 100 feet until you find a place that
16 looks like it hasn't been dredged before.

17 How specific are you wanting these locations?
18 My suggestion is that you -- if you need locations, that
19 county and waterway or body is all that's necessary. If
20 you want an optional more specific, for instance, Merced
21 County, Merced River, Bagby.

22 Why do you need longitude and latitude? I'm
23 not going to tell you where I find my gold. You don't
24 have any reason to know that. I have the right to be
25 out there to find it. I'm not breaking any laws.

Frauenholz,
Rachel

1 Why do you need that specific data? My
2 thoughts are you want that data for future scientific
3 studies. It's not the responsibility or the onus on the
4 dredgers to provide you statistical information for
5 future scientific studies on the effects of dredging
6 operations. If you need that specific of information
7 when you're Fish & Game Department game wardens travel
8 up and down the river, let them take the GPS readings,
9 locations, put in the input of their data into their GPS
10 and download that into a special file for your future
11 use.

12 As I said, seldom does a dredger find one
13 location in one day or dredging in one location. They
14 pop all around the river. And using the information in
15 the application requirements, and because I have a
16 5-inch dredge also, I would have to apply for an
17 instream modification or streambed modification, which
18 takes 90 days at the very least in order to obtain that.

19 And so in the restricted -- now restricted on
20 the Merced River where -- above Snelling Dam where there
21 are no migratory fish but we are lumped in with low
22 Snelling Dam where there are migratory fish, our season
23 has been restricted from July 1st to September 30th for
24 no known reason.

25 Again, comparing dredgers, recreational

Frauenholz,
Rachel

1 dredgers, professional dredgers, miners, however you
2 want to classify them, with fishermen there are also
3 professional fishermen, hunters and professional
4 hunters. They can fish anywhere. They buy a license
5 from you, they can fish anywhere in the state. The
6 hunters are restricted to -- they can hunt anywhere in
7 the state and the tags that they purchase limit them to
8 a certain area.

9 It is discriminatory and prohibitive and an
10 invasion of privacy for you to require us to report
11 exact locations when you're not requiring fishermen to
12 report exact locations where they are catching their
13 fish or hunters to report exact locations where they're
14 killing their birds or mammals or big game.

15 On the equipment restrictions, basically
16 you're asking to have it restricted to a 4-inch nozzle.
17 It is the issue that I'm going to address here. So
18 anything over 4-inch, 5-, 6-, 7-, 8-inch and up -- I've
19 never seen a 10-inch dredge. Someone here said they had
20 10-inch dredges -- that you need a written approval of a
21 proposed for those nozzle sizes. This requirement
22 should be removed from the proposal.

23 On line 36 of the CDF already has limitations
24 on the rivers where 8-inch dredges can be used. You
25 said in your presentation there's about 10 rivers where

Frauenholz,
Rachel

1 they were previously allowed. The size of the dredge
2 8-inch dredge, is going to limit itself in the rivers
3 and streams that it can operate. It can't operate in
4 these small streams. It has to be in the larger rivers.

5 My suggestion is to let the size of the dredge
6 determine the user fee amount and do away with the
7 requirement of a streambed alteration application and
8 its associated fees.

9 And do this by -- I took the chart -- this is
10 the chart from the Suction Dredge Permitting Program,
11 Notice of Per Person, Initial Study of November 2009,
12 information supplied by Keene Engineering of the sizes
13 of the dredge nozzles. Their, the manufacturer's,
14 estimates estimate of the cubic yards per hour -- and as
15 someone previously said, I don't know a dredger other
16 than one or two that I've ever met that dredges seven
17 hours a day. It's hard work. You're down for an hour
18 or two. You're up for three or four hours. And back in
19 for another couple hours a day. I don't know anyone
20 that dredges for seven straight hours in a day on the
21 river.

22 So I took the averages of under 4 inches, the
23 4 inches, 5 inches, 6 inches, 7 inches, split them out
24 and what percentage using these numbers of material can
25 be moved. And basically, it worked out, except for in

Frauenholz,
Rachel

1 the 6- and 8-inch nozzle size, to double basically the
2 amount of material moved.

3 So if the 4 inches is standard and we paid \$47
4 for our dredge permits, the last time we were allowed to
5 purchase them. Okay, let's round that off to a \$50 fee
6 for a 4-inch dredge.

7 Under 4-inch, they do half that amount, \$25
8 yearly fee.

9 5-inch dredge can suck up twice the material
10 as a 4-inch dredge. I'll pay \$100 to put my 5-inch
11 dredge in the river.

12 6-inch dredge was about 1 3/4 the amount of a
13 4-inch dredge. So \$125 for a 6-inch dredge.

14 8-inch dredge is, again, about 175 of that
15 amount of the 6-inch. 225.

16 Instead of requiring the streambed alteration
17 notifications that are personnel prohibitive from your
18 department's perspective, financially prohibitive from
19 our prospective, why not just base the fees to size of
20 the dredge nozzle?

21 In your study of your information returned
22 from the survey, that 2.47 percent of the surveys
23 returned were 8-inch dredges. How significant could
24 that possibly be in the overall pictures of the dredging
25 in this state?

Frauenholz,
Rachel

1 And 6-inch dredge, 6- to 7-inch is what your
2 classifications are, there was 10 percent.

3 And the 5- and 6-inch dredge size, 14 1/2
4 percent of the people -- and these are only the people
5 who responded to the survey. It's not everyone who
6 bought a permit during that time.

7 So 26 percent of the dredgers using -- the
8 respondees, are over a 4-inch dredge. How significant
9 can that impact possibly be in the overall pictures of
10 materials moved in the riverways?

11 Yet you require a streambed alteration permit.
12 The minimum charge for a streambed alteration permit is
13 \$224. We have to submit six of those. So now I have
14 to -- 6 times 244, we're looking at \$1,500 for me to be
15 able to use any 5-inch dredge. How reasonable and fair
16 and equitable is that?

17 The Lake and Streambed Alteration Fee
18 Schedule. Look on your own Web site. These were
19 designed and made for gravel companies who use
20 bulldozers and front-end loaders to gather rock material
21 out of the streambeds for resale and profit. It's also
22 for forestry for resale and profit. It's not for
23 recreational gravel pits. It's not for recreational
24 foresters. This is for -- for commercial industry. A
25 5-inch dredge, a 6-inch dredge, an 8-inch dredge in the

Frauenholz,
Rachel

1 waterways dredging is not a commercial operation.

2 You have special applications and fees for
3 what's considered a commercial dredging operation. So
4 these sizes should be excluded from this process. This
5 process does not fulfill the needs or the requirements
6 of what you're trying to mandate in your proposal for
7 being able to still use our 5-, 6- and 7- or 8-inch
8 dredges.

9 And as I said earlier on that submission
10 there, you submit your application along with your fees.
11 They have 30 days to respond. They'll let you know in
12 30 days, and then they have another 60 days to clarify
13 all that stuff. And then you have another 30 days.
14 We're looking at 90 to 120 days. The season you've
15 restricted me to now is only 90 days long. Unless I
16 submit in January and you send someone out there before
17 the season even starts, I won't even be able to dredge
18 with my 5-inch dredge. It's unfair.

19 It'sunfair to disallow the use of dredges
20 with a larger than 4-inch intake nozzle. By changing
21 the rules, you've also changed the resale market of
22 these now-unuseable dredges. Those who own a 5-, 6- or
23 8-inch dredge have no way to replace their dredges by
24 selling them and purchasing 4-inch dredge. The market
25 is gone if they are not allowed to be used in the

Frauenholz,
Rachel

1 riverways of California. There's no resale value.
2 By using the graduated fee based on amount the
3 amount of the material moved through the dredge, the
4 owners have the option of continuing to dredge with
5 their larger size dredges or to replace them. As
6 written, they have no choice. Graduated fees would
7 satisfy the needs of dredgers and the Department of Fish
8 & Game by not requiring a streambed alteration
9 application.

10 Another comment I want to make is on the
11 leveling your tailing piles. The nature of dredging --
12 what I read in the study was that because it's unstable.

13 You can ask any dredger in this room where
14 they walk on the river. They walk on their tailing
15 piles because the nature of mixing the rocks that go
16 through your hose size and the gravels and the sand
17 creates a level, stable environment to walk on. If you
18 walk across the river, things are popped out of all
19 different places, it's ankle busters. But you walk on
20 your dredging pile because it is stable.

21 The nature of dredging as you move upstream,
22 your tailings are coming off the back of your sluice
23 box. And as you move, it's filling the hole back in as
24 you go upstream. It's not -- you can only make a
25 tailing pile to the level of where your dredge is. It's

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Rachel

1 floating in the water. It's only this far out of the
2 water. There is no mountain you're creating. Those
3 mountains look like that because the lake's coming down
4 or the river's coming down. When they were created, it
5 was under water. If it gets to the level of the sluice
6 box, you sink your dredge. We've all done that a few
7 times I think, too.

8 So the requirement to level your tailing pile
9 is ridiculous because it's the most stable area out
10 there in the river. Requiring a streambed alteration
11 permit is not appropriate. It is cost prohibitive and
12 unduly restrictive due to the fact that Department of
13 Fish & Game does not have the personnel to fill its
14 requirements and the procedures to accommodate the
15 dredgers. This requirement should be removed from the
16 proposed regulation.

17 The number of permits -- okay. These next
18 documents are from the Fish & Game Web site. On this
19 part of it says approximately 2 million anglers purchase
20 a California fishing license each year. 110,000
21 applications are sent in for big game tags. I couldn't
22 find the exact number of applications for hunting
23 license, other than there are 700,000 applications for
24 game birds. So I'm assuming that there are over a
25 million hunters as well out there who now are only

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1 required to have their licenses on their person or in
2 the near vicinity. If they are diving and fishing, it
3 can be up to 500 yards or 1500 feet away from their
4 person.

5 And you're requiring us to put our license
6 numbers on our dredges? That doesn't seem fair unless
7 your going to require the fishermen to put their license
8 number on their rods and reels and have them readable or
9 you're going to require the hunters to put their hunting
10 license numbers on the stock of their rifle or on the
11 barrel of their rifle. You can't discriminate between
12 recreational activities out there when you're charging
13 the same kind of fees -- the amounts are very similar
14 for the fees. But you're requiring more specific and
15 more prohibitive restrictions on the dredger than you
16 are on the millions, over 3 million hunters and
17 fishermen, as opposed to our 35-, 3600 dredgers that
18 apply for applications.

19 These are also charts from your Fish & Game
20 Web site that -- and the reason that we don't have a
21 voice is because in the past 10 years, there's been 1.8
22 to 2.2 million fishing license every year and 2.4
23 to 3.1 million fishing license and fishing stamps sold
24 to the tune of 48 million to \$65.3 million annually on
25 an average for the -- those kind of license. It doesn't

Frauenholz,
Rachel

1 take much to do the multiplication. This is where the
2 money's talking.

3 We, as individuals, this country is based on
4 the individual having equal amount of representation as
5 the multitude of the larger groups. You can't
6 discriminate against the dredgers in favor of the
7 big-money people. And these aren't even the
8 environmentalists, you know.

9 My other question about the -- let me make
10 this comment first. Limiting the number of dredge
11 permits is discriminatory and unfairly restrictive. The
12 amount should be unlimited and available to anyone
13 fulfilling the requirements of purchasing a suction
14 dredge. The amount of 4,000 permits issued should be
15 removed from the new regulations. Let -- let the volume
16 of dredgers be what it is.

17 Historically, except during peak times, it's
18 around 3,000, 4,000. I don't think there's a certain.
19 You're worried that, because gold is at 1400, people are
20 going to come out there in masses. Well, these are hard
21 economic times. They can't afford \$6-, \$8,000 for a
22 dredge. And the masses are out there now with their
23 gold pans, trying to find it with a gold pan, not with a
24 suction dredge.

25 Page 24, lines 13 -- 12, 13 and 14, the

Frauenholz,
Rachel

1 suction dredge operator permit number must be affixed to
2 all permitted dredges in all times in a manner that is
3 clearly visible from the stream bank or shoreline. Are
4 you licensing the dredge or the dredger?

5 Fishermen are not required to post their
6 license. Hunters, as I said, are not required to post
7 their license numbers. Licensing whole numbers on
8 boats, green stickers on ATVs are all the domain of
9 Department of Motor Vehicles, not the Department of Fish
10 & Game.

11 We typically have four people with four
12 dredges in our group. We flip flop from each others'
13 dredges. Are we going to have to put all four of our
14 permit numbers on each of the dredges? Any dredge that
15 you can pick up a nozzle on, are you going to have your
16 dredge number posted on that dredge. What if my son
17 takes my dredge out to the river? What's to stop you
18 from -- someone who doesn't want to buy a dredge permit
19 from copying down my number and putting it on his dredge
20 so that when the Fish & Game comes by and he's doing
21 things that are illegal or not in your regulations from
22 just writing down my number and sending me the fine for
23 it?

24 You don't require fishermen or hunters to post
25 their numbers. You ask to see their license. It's only

Frauenholz,
Rachel

1 reasonable that a Fish & Game warden would ask to see my
2 dredging permit. To identify on that, it says my
3 physical description, so that Caleb Haight, age 22,
4 cannot be using my dredge permit because he's not a
5 58-year-old female.

6 Those numbers don't -- are not a descriptor,
7 and you can't be assured that whatever number anyone
8 puts on their dredge is actually their dredge permit
9 unless you take it and see it and compare it. And if
10 you're doing that, why does it need to be on the dredge?

11 Okay. The requirement to post the numbers is
12 unreasonable and discriminatory regulation that should
13 be removed from the proposed regulations.

14 My last comments are about the tone of the
15 DSEIR. And it's written to -- in terminology that makes
16 it a negative report, negative and prejudicial against
17 the dredgers. Specifically, when conjecture and
18 subjective conclusions are drawn, the wording is might
19 cause, could cause, possible negative impact,
20 potentially significant impact.

21 In all fairness and in writing a neutral
22 report, every time that those kind of terminologies are
23 used when speculation and not scientific fact is used,
24 it should say potentially significant and/or potentially
25 insignificant, could cause and/or could not cause, might

Frauenholz,
Rachel

1 cause and/or might not cause, to keep it a neutral
2 document rather than being prejudicial and biased
3 against the dredgers.

4 The tone of the document should be rewritten
5 to remain neutral unless negative facts are supported by
6 proven scientific method.

7 And I encourage all of you out there that are
8 left and everyone that you know, contact your state
9 legislators, visit them in person, write them every
10 week, phone them on the phone every week, e-mail them
11 every week.

12 Our opponents, the environmentalists and the
13 people that want to shut dredging down, are vocally
14 active with their representatives. And unless you're
15 doing the same, we're going to lose our rights. Thank
16 you.

Butler, James L.

17 MR. BUTLER: Well, last but not least -- Oh, excuse
18 me. My name is James L. Butler. I live on the Yuba
19 River below the Englebright Dam, confluence of Deer
20 Creek and the Yuba River. I've lived there for 35
21 years. I've seen that river flood, drought, winter and
22 every different level that river can be in.

23 I was reading an article that they can
24 fluctuate the temperature of the outflow of Bullard's
25 Bar Dam which creates a perpetual winter in the lower

Butler, James L.

1 Yuba. There's no temperature bell curve in the summer
2 for other organisms to bloom, hatch or grow except slimy
3 moss. And I've dredged for 35 years, and all you see in
4 the bottom of the river is a slimy moss.

5 There's no bugs or creeping things in the
6 river anymore. The river is dead below Englebright Dam
7 because of the damned ice water. You can tap dance on
8 it. I used to skinny dip in the river back before 1970.
9 When Bullard's Bar Dam went online in 1970, the river
10 temperature dropped 20 degrees.

11 That's not equal to or better than present
12 values that the Water Quality Control Board letter sent
13 me the Bullard's Bar Dam was supposed to be operated at.
14 A 20-degree temperature drop is catastrophic for all the
15 organisms in the river.

16 Now, the reason for this ice water -- I'm
17 speaking to everybody. The reason for this ice water
18 is -- I'm told is because fish like colder water, and
19 the salmon like colder water. But what did the salmon
20 do or all the other fish do before dams were built? The
21 rivers flowed free. You had a temperature bell curve in
22 the summer and the went down in the fall, and that's
23 when the salmon came in, in the fall, when the
24 temperatures dropped naturally.

25 But you got a flat 50-degree temperature of

Butler, James L.

1 the river year round. Nothing can live in it. The same
2 would be if it were on land. The same would be if you
3 were on land. If we had a perpetual winter. No
4 blossoms, no butterflies, birds nesting, nothing.
5 Everything would be dormant. The same thing you've got
6 in the Yuba River below Englebright. Everything is
7 dormant, it's dead. All you've got is a sluice flow.
8 Now, another thing, shot rock. When they
9 built the Englebright and the narrow slough projects,
10 the tunnels, the footings, all that drilling and
11 blasting into the bedrock produced 186,000 cubic yards
12 of shot rock. Now, this is a calculation that was done
13 by UC Davis. I calculated about 150,000 cubic yards.
14 This shot rock has migrated down off of the
15 spoil dump on PG&E land and the narrows below
16 Englebright Dam. Now, during flood stage, especially in
17 the '97 flood, a whole big slug of this shot rock came
18 down off of the spoil dump, and it's down on top of my
19 mining claim and has armored over the salmon spawning
20 habitat. But, what do they do? They ban gold dredging.
21 I'm creating spawning bed with my dredge
22 trailings, as that lady said a little while ago. The
23 gravel is clean. The salmon come in. Other fish swarm
24 in. It's like an aquarium down there where I'm
25 dredging. But without it, everything is dead. You

Butler, James L.

1 don't see any fish.

2 The shot rocks scoured off the spoil dump off
3 PG&E lands and the narrows below Englebright Dam during
4 flood stage has migrated down some hundred
5 one-and-a-half miles armoring over Lander's Bar and
6 vital salmon spawning habitat with over 186,000 cubic
7 yards of this alien rubble rock damaging me and my
8 livelihood.

9 UC Davis did a field study and concluded that
10 the shot rock should be removed. I've written dozens of
11 letters to the Fish & Game. I've got a three-ring
12 binder that thick in letters to and from the Fish &
13 Game, congressman, senators, assemblyman, on and on it
14 goes ad nauseam. Nobody will step up to the plate and
15 remove the shot rock.

16 I could remove it if I could get across the
17 river. The '97 flood scoured out the south bank where I
18 was able to cross the river with my tractor and get back
19 to work on my washing plant. I had a little mining
20 claim going, a washing plant going. I was able to work
21 around that shot rock.

22 But now, with the '97 flood, it just
23 completely wiped out everything and it's just one big
24 field of shock rock. It's a mess. And I'm being banned
25 to gold dredge. And you guys created this mess. I

Butler, James L.

1 didn't.

2 With all this damage done to -- all this
3 damage done by governmental agencies which has
4 constantly ignored the ice water and shot rock but only
5 focuses on suction dredging which does no damage to the
6 so-called fishery.

7 That's another word that's being thrown at me.
8 Fishery. What fishery? It's a farce. Fishery, my
9 foot. Disturbing. Oh, we're disturbing the Coho salmon
10 and green sturgeon. Where's this green sturgeon come
11 from?

12 We're stirring up mercury. How do you stir up
13 mercury? We suck it up. The fact is -- all right. Let
14 me find my place here.

15 Stirring up mercury but, in fact, salmon come
16 in to spawn in my dredge tailings and I have photos of
17 it. I've got it right here. Did it? I'm sorry, I
18 didn't know that. There's proof right there. The
19 salmon spawning in my dredge tailings. And again, right
20 in front of that there is all the shot rock. Ah, all
21 right. And then you've got all the shot rock in the
22 foreground there. Salmon aren't spawning there. They
23 are spawning in any dredge tailings.

24 Now there, Englebright Dam, there's
25 Englebright Lake, Fed's budget for Fish Study. How much

Butler, James L.

1 studies they got to do? They've been doing studies for
2 20 years. Okay, Senator Sam Enstad says he opposed this
3 bill and it harms business in the district. Gold miners
4 spend money on mining equipment, four-wheel drive, all
5 that stuff that we're buying to do our gold dredging is
6 now dead.

7 Therefore, the gold dredge ban is
8 un-Constitutional and was dreamed up by a cabal of
9 environmentalists who have never dredged or know what
10 they are talking about.

11 They use a scare tactic that suction dredging
12 stirs up mercury. The fact is suction dredging sucks up
13 mercury, lead and gold and is trapped in a sluice box.
14 At home, I've got a Mason jar half full of mercury.

15 Another fact that is ignored because it
16 doesn't fit their agenda is that gold dredging in the
17 lower Yuba creates spawning beds for the salmon. And
18 the other fish swarm in to feed in the fresh, clean
19 gravels. No demonstrable damage or harm can be proven.

20 In conclusion, it seems to me that the liberal
21 environmentalists are more concerned with preserving
22 their own power and influence than they are of knowing
23 and following the Constitution.

24 Since Lander's Bar mining claim has been in my
25 family over 60 years now, I have a right to dredge. And

Butler, James L.

1 at my age, I should be grandfathered in. And since I'm
2 the only dredger on the lower Yuba from Englebright to
3 Parks Bar. What the hell possibly harm could I do --
4 sorry. I don't know if you've seen this.

5 This is about 3 1/2 miles from Englebright
6 down to Parks Bar. There's no dredging on the upper
7 narrows there. It's just totally rock canyon. And the
8 only place where there's a little bit of gravel there is
9 the confluence there where you see I've drawn my -- you
10 know, the map there. And then you go down into the
11 lower narrows, and it's another steep rocky canyon, fast
12 water and everything else, and nobody can get in there.

13 And I've got the only access to the confluence
14 of Dear Creek and Yuba River, where again, as I said, 60
15 years I've been on this mining claim. My dad found it
16 back in 1927 when he knew the man that owned it then was
17 born there during the Gold Rush.

18 Now, another document I have was done by Peter
19 Moyle of UC Davis. And a dredging study on the North
20 Fork of the American River and Butte Creek concluded
21 that any effects of suction dredging is highly
22 localized, and it's recolonized within 24 hours and fish
23 come back into the area. After you leave out of the
24 water the fish come in.

25 Repeal the gold dredge ban. I got that in the

Butler, James L.

1 newspaper in Nevada City. All right. I was quoting
2 this article on the Castle Line at Bullard's and
3 confirmed what I have been saying about the ice water at
4 Bullard's being drawn off at any level they want.

5 One minute. Okay.

6 Well, their so-called fishery is fake. The
7 ice water has precluded all other fish, frogs, bugs and
8 snakes and trouts and ducks and everything but
9 (inaudible). The whole ecological cycle has been
10 ruined.

11 And again, like I said, I've lived on the Yuba
12 River 75 years, and all I see is a dead river. All I
13 see is a dead river. So gold dredging creates spawning
14 bed and is beneficial for the river bed. Thank you.

15 MR. STANFORD: I'll try to keep it down to nine.
16 Yes, I'll fill out the card for you afterwards.

17 My name is Chad Stanford. I'm a professional
18 dredger. I've been dredging for 20 years.

19 My first thing is the birds. The passerine is
20 then resting. Okay, now by not allowing me to dredge
21 you are disturbing their resting area because they rest
22 on my dredge, and they fish and feed from my dredge when
23 I'm not using my dredge. I use my dredge maybe two to
24 four hours a day actively dredging. The other 20 hours
25 a day, those birds use that to collect food.

2. Stanford, Chad

1 Also rocks when I'm dredging, they rest and
2 roost on the rocks nearby fishing. They are looking for
3 food. And they know we stir up food. They know we
4 create a good environment for food. So I want to know
5 how we disturb them.

6 Okay. The Class E classification. You're
7 reclassifying a lot of the rivers. Okay, that puts the
8 dredge season in wintertime. That -- the DFG or the
9 special interest groups behind all this new regulation,
10 you guys classify those rivers, you're putting dredgers
11 in harm's way by putting them and requiring them to work
12 during the time that the river is usually unworkable.
13 Okay, this is a form of out-and-out complete prohibition
14 of a Congressional right.

15 That leads me to another matter the dredging
16 and mining is a Congressional right issued to the people
17 and American citizens in 1872. Now that Congressional
18 right is being regulated and prevented by a permit
19 process. What authority gives you the right to the
20 regulate and prevent a Congressional right? I'd like to
21 know what authority allows you to do that.

22 Last time I checked, a permit is usually
23 issued to give privileges to those that are
24 unprivileged, such as driving. They determined that a
25 privilege, no a right. Mining is a Congressional right.

2. Stanford, Chad

1 The size issue. Okay, now, you limiting from
2 a 6-inch down to a 4-inch reduces production by
3 75 percent. That reduces the economic feasibility of
4 dredging. What measures are you willing to put forth to
5 mitigate or alleviate that loss in production? That
6 75 percent loss in production, I'd like to know how you
7 are going to make that up to me, the individual miner.
8 Okay?

9 The resuspension of fine mercury in your
10 scientific -- or so-called scientific data, I would like
11 to know what -- in comparison, I'd like it to be
12 compared to the natural processes such as annual floods.
13 How much mercury do annual floods stir up? Do annual
14 floods create spawning beds? Do they destroy spawning
15 beds? Okay?

16 On other factors of dredging causing
17 destructive or being deleterious, I want to know how
18 deleterious the annual storms are to the fisheries. How
19 did they survive throughout geologic history when this
20 earth has been known to go through very drastic changes?
21 And fish are one of the oldest species on this planet.

22 Oh, on the next thing about the possible
23 habitat for the red- or yellow-legged frog, well it's
24 also possible habitat for the sabertooth tiger. We
25 haven't seen any sabertooth tiger there. So are we not

1 allowed to work there because there's a possibility of a
2 sabertooth tiger?

3 Okay. So if you say that we haven't seen any
4 frogs, that would classify them as endangered because we
5 haven't seen them because they are endangered, I guess
6 we haven't seen any sabertooth tigers because they are
7 endangered. No, they don't exist. I would think the
8 yellow-legged frog doesn't exist in a lot of the areas.

9 Your consultants did a lot of this so-called
10 scientific data is based, on I believe, in my opinion,
11 that they are biased, and their science is manipulated
12 by their personal views and their biased opinions. Can
13 you prove otherwise?

14 Okay. Winching, okay, a lot of dredging area
15 is made up of big boulders, concrete and dirt, huge
16 boulders that if you dredge around becomes a severe
17 safety hazard. Especially if you're working by
18 yourself, you get pinned, you get killed. Winching is a
19 safety measure used by dredgers to prevent being --
20 being smashed by huge boulders. What are you going to
21 do to alleviate that safety? How are you going to
22 provide safety measures comparable to winching the
23 boulders out of harm's way -- or winching boulders to
24 where the dredger is not in harm's way? What are
25 measures you're going to provide to provide that safety?

2. Stanford, Chad



1 On-site inspections, what are they going to
 2 cost? Okay? What is the time limit for you to perform
 3 those inspections? And if you do not get those
 4 inspections performed, are you otherwise going to
 5 automatically approve them such as the plans of
 6 operations are supposed to be approved prior to --
 7 within 30 days, otherwise they are automatically
 8 approved.

9 So also dangers in scaring the fish and
 10 possible, possibly harming the fish, possibly disturbing
 11 the fish. I believe kayakers and rafters, they possibly
 12 disturb the fish really bad because they are kayaking
 13 over these salmon during their spawning times. And they
 14 are -- the salmon -- in my opinion, the salmon see them
 15 as natural predators, such as bears and seals and otters
 16 and stuff like that. So they are scared. How are they
 17 supposed to spawn when kayakers are going over them?

18 So what are you doing to mitigate the harmful
 19 effects of kayakers? Some of those harmful effects
 20 being the kayakers themselves poop close to the water
 21 line. They are supposed to go up 150 feet. They very
 22 rarely ever do. Do you issue permits and regulate them?
 23 I know you issue permits for the guides, but not the
 24 individual kayakers. Maybe they need to be regulated.

25 Also, the Streambed Alteration Permit. Is

2. Stanford, Chad

↑ 1 that a way to hinder and prohibit mining since you --
2 and as we all know, the process to do that is a 90-day
3 approval period. That's basically the length of any
4 dredging period. I know that hasn't been addressed, but
5 it sure seems like the streambed alteration agreement is
6 a method to hinder and prohibit mining.

7 Your best management practices or land use
8 practices, okay. Now, best management practices, what
9 are they? Hidden. What are the behind-the-doors best
10 management practices? Is it prohibition rather than
11 management since prohibition is a lot easier?
12 Prohibition through regulation is what it appears to be
13 to me.

14 In your scientific data of the effects of
15 dredging, I would also like to see the effects of the
16 annual floods, such as the geomorphological changes and
17 not compared to the dredging effects. Whereas dredging,
18 in my opinion and guess, would be less than a fraction
19 of a percent compared to annual floods.

20 And again, I'd like to see how much mercury is
21 circulated by storms. The mercury is circulated and not
22 removed by the storms. It is removed by the dredger.

23 With the winching thing, please allow us to
24 work smarter, not harder.

25 MS. MONAGHAN: Thanks, Jeff. And I believe, sir,

1 you are our last speaker for the night. I need --

2 MR. ROBINSON: A time card and 30-second card.

3 I talked earlier. I had a three-minute little
4 spiel earlier. No, I'm sorry. The name's Don Robinson.

5 I want to thank you, gentlemen. I cannot
6 believe that you're still sitting here without going to
7 the room because I've been there three times already.
8 It's phenomenal. I don't know what you got, but it's
9 got to be phenomenal.

10 And -- I'm down to one issue. I can't believe
11 it. I'm down to one thing, and it's going to be quick.

12 I have been on BLM's Resource Advisory Council
13 for eight years. I was appointed by the Secretary of
14 Interior as a private citizen. So I've been involved in
15 all kinds of issues dealing with mining and you name it.
16 I represented minerals and for the BLM on an advisory
17 council.

18 I'm president of the Gold Hounds. The Gold
19 Hounds is a mineral recreation group. It's the largest
20 nonprofit corporation in California that deals in
21 minerals. We're family. We're all family-oriented.
22 Recreational. For fun, for families, for kids. We have
23 a monthly meeting. We have 125 people every meeting.
24 And what does all this mean? Of course, nothing.

25 Right? It doesn't help you guys.

2. Robinson, Don

2. Robinson, Don

1 The one issue that wasn't discussed and
2 represents everybody here is mental health. And I can't
3 say and you couldn't address in the DSEIR mental health.

4 What does it mean? And you see everybody here
5 is here because of that. And you heard one gentleman
6 who was extremely upset because it was going to affect
7 his family and his life. And I don't know how you can
8 address that. But you've seen it here. You've seen it
9 in other meetings. You need to somehow think about this
10 and to try to help the families. And I don't know how
11 you're going to do it. But somehow you've got to try.
12 And I think you are.

13 So I just want to thank you. I want to thank
14 you everybody here for being here and representing this
15 industry. And we really need your help and we need to
16 progress. Thank you very much.

17 MS. MONAGHAN: Thank you. I'd like to turn it over
18 to Mark for a last one. I really appreciate you all
19 coming, participating and staying.

20 MR. STOUFFER: Boy, it feels good to stand up.
21 This is Mark Stouffer.

22 You're impressive to have -- you know, I have
23 to be here. I need to be here. I need to listen to
24 everybody here, but I'm impressed that there's this many
25 people here still at 11:30 at night.

1 I genuinely listened to what you have to say.
2 Some of it we've already heard before. The passion is
3 still there for what you do.

4 And when Don was talking about the mental
5 health aspect of it, what occurred to me is that there
6 has to be a sense of fairness in what we do. And that
7 goes to, you know, any regulated practice in California.

8 We will make a verbatim transcript of this.
9 And there's a lot for us to look at. I've been involved
10 with EIRs where we had over 18,000 people comment on it.
11 So is this not foreign to have to deal with a great deal
12 of public input.

13 But we will address everything that you
14 mentioned, everything that you brought up. And when I
15 say "address it," I mean more than just respond to it in
16 terms of yeah, we considered that or not applicable. I
17 expect that there will be changes in the EIR and that
18 there will be changes in the regulations when we're
19 done. And thank you for coming.

20 Question: Is there one last meeting? Yes,
21 there's going to be a sixth meeting. It's going to be
22 in Sacramento. It will be from 9:00 to noon in the
23 Resources building. And it came about because of a
24 little glitch in the Administrative Procedures Act,
25 which says you don't have to ever have a public hearing,

1 but you have to have a public review period for 45 days.
2 And if you have a public hearing, it has to happen after
3 the 45 days is up. So I'm not going to try to explain
4 that. It's just what is.

5 So we had to add -- we'll be having one more
6 meeting in Sacramento. It will be shorter than this,
7 and it will be sort of a streamlined one to get people's
8 last comments and inputs. We'll be doing a press
9 release. We'll be sending e-mails out to everybody on
10 the e-mail list, and they'll be distributed that
11 information. It's on May 10th. It's the last day of
12 the public comment period.

13 (end of audio file)

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REPORTER'S CERTIFICATE

STATE OF CALIFORNIA)
COUNTY OF SONOMA)

I, Deborah E. Taggart, Certified Shorthand Reporter in and for the State of California, and a disinterested person, hereby certify that the foregoing recorded proceedings were transcribed to the best of my ability, considering audio quality, and reduced to typewriting, by computer, under my direction and supervision.

I further certify that I am not interested in the outcome of said action, nor connected with, nor related to any of the parties in said action, or to their respective counsel.

IN WITNESS WHEREOF, I hereunto set my hand this 10th day of June, 2011.

DEBORAH E. TAGGART, CSR No. 5942

YREKA: MARCH 30, 2011

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CALIFORNIA DEPARTMENT OF FISH AND GAME
PUBLIC COMMENTS

TRANSCRIPTION OF AUDIO RECORDING
MARCH 30, 2011
YREKA, CALIFORNIA

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P R O C E E D I N G S

(TRANSCRIBER'S NOTE: THE FOLLOWING TRANSCRIPT HAS FREQUENT PORTIONS WHICH ARE INAUDIBLE DUE TO RECORDING QUALITY AND, THEREFORE, PORTIONS OF THE TEXT MAY BE NONSENSICAL.)

(CD on.)

MS. MONAGHAN: Ready? Okay.

MR. BUTLER: Hello. My name is Rick Butler.

I was introduced to the Klamath River by my uncle in 1955. I've used the property a lot, was on the Klamath River in 1969. I moved here in 1978. I have owned 16 housing units, have sold the business. And pardon me, but I've watched it all go to hell by government intervention.

In the meantime, I would like to recommend that you go back to 1957, the San Francisco Chronicle, front page in December, about sink the fishing boats. No more fishing fleets. All the fish are gone. This is a cyclic (phonetic) thing if you watch our catches, watch our recessions and you're turning fish. It happens cycling (inaudible).

Go back to when the dinosaurs were around. They disappeared. The largest creatures in all the world disappeared. Man had nothing to do with that, unless you know a different history than I do. The

Butler, Rick



0003

1 (inaudible), five or six, whatever.
 2 The free zone (inaudible) just lost more rain.
 3 But anyway, the recycle (inaudible) are the (inaudible).
 4 We come back. I would like to submit to you that you
 5 said that you wanted to go dredging. You have a dredge.
 6 I just find it incredible that some of those judge what
 7 goes on under the water, what goes on year after year
 8 for somebody who has been dredging.
 9 Fish want a hole. They want loose gravel.
 10 The miner provides that. They dig a hole. If you
 11 haven't been down there to see what it takes to move,
 12 the impact of sediment, the weight of the water,
 13 velocity of the water, impacts them like concrete. The
 14 miners (inaudible) at them so the fish have a place to
 15 spawn.
 16 On the other hand, back to the (inaudible)
 17 intervention in the '80s, just above my house on the
 18 river and below my house, the Fish and Game came in.
 19 They built manmade fish ladders. A truck of gravel from
 20 the city up over the (inaudible) up on the Klamath
 21 River, and to lift -- (inaudible).
 22 MS. MONAGHAN: I'm sorry. One minute.
 23 MR. BUTLER: Anyway, I encourage you, I
 24 recommend that you somehow go dredge. The water comes
 25 into the Klamath River in Oregon, comes in because of

0004

1 volcanic action up there. It comes in with minerals
 2 from the volcanic action. You said the permit fees
 3 don't cover it. Permit fees for hunting, fishing,
 4 dredging have run people out of the business.
 5 We have two places to buy gas in the first 64
 6 miles going down the Klamath River. Everybody else is
 7 shut down, closed, because of restrictions.
 8 I encourage you to fight on the side of the
 9 humans, unless the fish -- unless the fish continue to
 10 move us out of our houses. Thank you.
 11 MS. MONAGHAN: Thank you.
 12 MALE SPEAKER: (Inaudible) distracted
 13 (inaudible). (Inaudible).
 14 MS. MONAGHAN: Sure. So name and your
 15 comment.
 16 MR. MARTIN: My name is Les Martin, and I'm
 17 from Klamath Falls. I'm just a very concerned dredger,
 18 as most people behind me are.
 19 One of the comments I want to make about the
 20 mercury, about the lead, that scares the heck out of me
 21 naturally because it's in a lot of creeks and rivers,
 22 and how are we disturbing that particular mineral worse
 23 than the winter storms? How do the fish survive it?
 24 It's moving the mercury. It's moving the lead, moving
 25 the mud. And all it does is the dredgers (inaudible).

0005

1 And the next comment is that it seems like

Butler, Rick

Martin, Les

Martin,
Les

2 really kind of repeating the same thing, that the
3 dredgers are a benefit to the fish. Don't know if
4 (inaudible) or not, but I've watched the fish in the
5 river, and there's absolutely nothing that I can see,
6 nothing that I've heard that suggests that we're rear
7 (inaudible) to them.
8 Cleaning the gravel -- even based on the Fish
9 and Game department, cleaning the gravel is good for the
10 fish. I'll give you this to remind y'all that you did
11 it. And that's all we're doing. We're (inaudible).
12 The water, we're cleaning the gravel. We're not allowed
13 anywhere near the spawning ground, as it should be.
14 We're already regulated quite well. Maybe you
15 don't get any credit for setting regulations in the
16 past, but you did a real good job with those. Thank
17 you.

18 MR. STOPHER: Thank you, Les.

19 MS. MONAGHAN: And can I have, let's see, 10
20 through 20 line up, please?

21 MR. MCGUIRE: I'm Jim McGuire. My family
22 has been mining since 1952 on the Scott River. And in
23 order to understand the actions that are taking place,
24 it takes a little bit of knowledge and common sense, a
25 little bit of ecology, a little bit of history, a little
0006

1 bit of physics and a little bit of geology. And it
2 starts by knowing the origin of Siskiyou County.

3 Many people don't know this, but Siskiyou
4 County was an island. The San Francisco Bay Area went
5 right up through Oroville. The glaciers, when they
6 melted, they were running north and south and came out
7 to the Cherokee Mine (phonetic). We're very blessed
8 with that. We don't realize we are, but what happened
9 is what -- because we didn't have 10,000 feet of ice
10 over us like they had in Lake Tahoe.

11 And where you can see glaciations (phonetic)
12 on the mountains and stuff like that, glaciers like we
13 knew, were never covered by ice. So what happened
14 because of that 10,000 feet of weight pushing down and
15 because of the tectonic plates pushing in, what happened
16 was the coast ran into the Siskiyou, came up over
17 Ashland -- up over Ashland and see the most beautiful
18 sedimentary rocks that you can see. And other areas
19 didn't get pushed up that high like Mount Shasta and
20 Mount Lassa (phonetic) and Mount Rainier.

21 The ocean water was actually turned in to a
22 sedimentary rock, which was metamorphic. In other
23 words, the calcium carbonate shells that built up into
24 the sandstone and limestone was pushed together. Maybe
25 about that thick, maybe about that far, and then slid.
0007

1 And so we had a lot of the micro (inaudible) carbonate
2 shifts (phonetic).

3 MS. MONAGHAN: Thirty seconds (phonetic).

McGuire,
Jim

McGuire,
Jim

Nash,
Jim

4 MALE SPEAKER: We have it under down at
5 Highway 96. We have (inaudible) same as (inaudible).
6 But at any rate, this was all forced out because of the
7 plates pushing in. And we're worse than that because
8 calcium carbonate rocks when exposed gets rid of all the
9 acid and pollution that comes into our waters.
10 If you look at Lake Shasta right now and it
11 pushed to the fill (phonetic), you will see the most
12 beautiful blue-green lakes you have ever seen, and
13 that's because the water is clear. We don't have the
14 problems with lake destruction and water destruction
15 like they have in New York and up in Eastern Canada
16 where all the lakes are destroyed by acid rain.
17 And four percent of carbon dioxide is actually
18 in the air, goes into the water, and that gets rid of
19 the negative pollutants. So if you have a pollutant
20 that is --
21 MS. MONAGHAN: And thank you very, very
22 much.
23 MALE SPEAKER: Okay.
24 MS. MONAGHAN: If you want to finish the
25 comment --
0008
1 MALE SPEAKER: Oh. Thanks for listening.
2 FEMALE SPEAKER: (Inaudible).
3 MALE SPEAKER: (Inaudible).
4 MS. MONAGHAN: State your name and your
5 comment.
6 MR. NASH: My name's Jim Nash. I've been here
7 since 1970. I started mining (inaudible). My kids are
8 miners. My boys are miners, my grandkids. They don't
9 know that they're fixing to lose their rights to mining
10 (inaudible) new regulations.
11 I would be glad to hear (inaudible) or some of
12 the rules that you're coming up with (inaudible). I
13 mean, we're moving dirt from a bank and taking it out
14 and panning it out, transporting (inaudible)
15 environmental impact (inaudible).
16 Paragraph number 4 is 573 pages. I was a
17 little confused at the end of it than I was when
18 (inaudible) put together and how you put it together for
19 the common person. But I will be (inaudible) four or
20 five pages (inaudible) comments. And thank you.
21 MS. MONAGHAN: Thank you. Again, through
22 number 20. And then, Michael, I need you up here in
23 five minutes. (Inaudible).
24 MALE SPEAKER: Can't hear you.
25 MS. MONAGHAN: Group 25, if you line up,
0009
1 anybody with a number and individual speaker through 25.
2 MALE SPEAKER: (Inaudible).
3 MS. MONAGHAN: Name and comment.
4 MALE SPEAKER: (Inaudible).
5 MS. MONAGHAN: I'm sorry. Could you please

6 give your attention so she has the opportunity to be
7 heard? Excuse me, excuse me. She --

8 MS. BENNETT: My name is Grace Bennett. I'm on the
9 board of supervisors of Siskiyou County. I -- my family
10 settled on the Klamath River in the 1850s. They mined.
11 They logged. They were carpenters. They did farming,
12 ranching, a whole gamut of the things that the people do
13 on -- down the river.

14 I'm here tonight to support the mining
15 community of Siskiyou County. These are hard-working,
16 industrious people that love the land. Our county has
17 been hit hard from all sides to stop people from
18 working. The loss of jobs is growing and is devastating
19 to our community.

20 Mining is part of our heritage, and in times
21 of recession has always provided a source of income for
22 people that are out in recent years. Not only do people
23 make a living from mining, but they enjoy -- but we have
24 enjoyed a surge of tourism in the summer from the dredge
25 miners.

0010

1 The EIR that you have prepared does not
2 address the loss of tourist dollars for mining. Does
3 not address the closing of the campground stores, mining
4 equipment stores. There's a loss of sales tax, and
5 property tax that may be lost if miners start banning
6 their claims.

7 This report used words like "play" or "should"
8 with little or no science to support or confirm your
9 assessment that dredge mining hurts fish or the streams.
10 This report is supposed to be unbiased, only exemplifying
11 facts. It cannot be written on assumption. Clearly
12 that has not been done.

13 These reports must be entered and included in
14 the EIR. I have provided the following documents.
15 There's 11 studies that I will give to you.

16 Effects on Suction Dredge Mining, written by
17 Joel Cornell.

18 Regulating Dredge Mining, written by Dr.
19 Robert Critterton.

20 California State Water Resources Control Board
21 study written on mercury, written by Claudia Wise.

22 News release from the United States Department
23 of the Interior, Mining operations have not hurt Alaskan
24 rivers.

25 Impacts of Suction Dredging on waterfalls

0011

1 prepared by the EPA.

2 MS. MONAGHAN: Thirty seconds.

3 MS. BENNETT: Okay. The Department of
4 Agriculture and the Forest Service, material moved by
5 mining operations in consideration of natural sediment
6 yields.

7 U.S. Department of Army Corps of Engineers,

Bennett,
Grace

Bennett,
Grace



8 the EPA, the general permit process, response to fish
 9 effects from dredge mining and hydraulic mining.
 10 MS. MONAGHAN: Thank you.
 11 MR. STOPHER: Thanks, Grace.
 12 MR. OLIVER: Ken Oliver. So three minutes?
 13 MS. MONAGHAN: Yes.
 14 MR. OLIVER: Okay. I'm going to go in and
 15 show where there are some real problems here, things
 16 that didn't get written down. Table number 4.10-2,
 17 National Forestry Act, mineral collection permits 9799
 18 (phonetic) --
 19 MALE SPEAKER: Can you say your name again?
 20 MR. OLIVER: Huh?
 21 MALE SPEAKER: Can you say your name again?
 22 MR. OLIVER: Ken Oliver. (Inaudible) Trinity
 23 National Forest in those six rivers, no Klamath listed
 24 in those, in those tables.
 25 Let's go to 59-16 on your -- your proposed

Oliver,
Ken



0012
 1 reclamation. We're supposed to do reclamation
 2 underwater, going to double the impact of the impact of
 3 insects and other (inaudible) that are present that have
 4 had more than 30 days to re-establish. Going to go back
 5 and re-disturb them? So that's a double negative impact
 6 that you might be worried about.
 7 Avoiding clay and silt (phonetic), impossible
 8 due to geology, Mother Nature. Info about supply in
 9 your one section of ability of suction dredgers to
 10 (inaudible). Used-car salesmen used the figures, facts
 11 and figures discussed (inaudible) Sacramento are totally
 12 out of line. Nowhere near reality.
 13 A two-inch dredge cannot do a half a cubic
 14 yard or two cubic yards now. An eight-inch dredge can't
 15 do (inaudible). I probably got that straightened out in
 16 Sacramento, but it's obviously in the program here.
 17 Shortened seasons, no need for it. Stream
 18 closures based on what? The three-foot taking, the
 19 taking period of mineral rights, take due to private
 20 (inaudible) claims. We need to talk about it. This
 21 can't be avoided, you know.
 22 I can talk on and on, but I'm not gonna. I'm
 23 going to go ahead and finish up, give you some more
 24 specifics. I've got more listed. (Inaudible) possibly
 25 could be presented. I'll supply the written report.

Parker,
William



0013
 1 MALE SPEAKER: Thanks.
 2 MS. MONAGHAN: Thanks. We're going to take
 3 someone out of turn. It's going to take just a minute.
 4 MALE SPEAKER: Okay.
 5 MS. MONAGHAN: So --
 6 MALE SPEAKER: (Inaudible).
 7 MS. MONAGHAN: (Inaudible). State your name
 8 and comment.
 9 MR. PARKER: My name's William Parker. I've

10 been mining in Siskiyou County for 15 years. And most
11 of my estate is tied up in mining and dredging-related
12 assets, and as a result of mining activities and
13 property ownership.

14 My partner and I have an LLC, which pays
15 substantial taxes, both income taxes and collective
16 sales taxes from which is wholly dependent on mining and
17 mining manufacturing sales, and we are out of business.
18 Our business ended December 31st because of the
19 moratorium. We have hopes of getting back into
20 business.

21 I have studied the thousand-plus pages of the
22 SEIR, and find no new or significant scientific data
23 that substantially changes any knowledge that we had in
24 1994 related to the effects of suction dredging.

25 The seasons and regulations that more than

0014

1 adequately protected our engineering resource,
2 particularly in-stream resources particularly with
3 (inaudible) fish and also mitigated any harm that might
4 be caused. And your studies (inaudible) supports that.

5 There is nothing new. If the problem is fish,
6 if there's a lawsuit that your statements indicated
7 certain facts and conclusions must be addressed
8 (phonetic).

9 Number one, there have been no recorded
10 incidents by the taking of small-scale miners,
11 particularly dredgers. I have researched this for
12 several years, and have found none.

13 Okay. You continue to look at the issue of
14 licenses for recreational fish-killing (phonetic). You
15 apparently ignore the commercial (inaudible) fishing by
16 nontraditional methods. You rigorously protect all
17 natural predators of fish, although their natural
18 predators have largely been taken out of the equation.

19 Neither you do the best to effectively control
20 (phonetic) the offshore taking of fish, and you
21 yourselves regularly (inaudible), at least not that
22 we've been able to find.

23 You have included an economic analysis that
24 sadly has failed to include all of the affected areas of
25 the economy. This includes many small businesses and

0015

1 individuals, including myself. I'm financially
2 devastated by your selected alternatives. Your selected
3 alternatives (inaudible) of the custom and scope of the
4 economic health of entire regions and specific segments
5 of the population.

6 Obviously, I don't have time to finish this.
7 But we're getting to the only reasonable alternative
8 suggested by your study, is to re-implement the 1994
9 dredge regulations. Any of the selection will prove
10 that your actions were only motivated by agenda, and
11 designed to destroy an entire segment of our society by

Parker,
William

Parker,
William

12 an uncompensated taking of our property, livelihood and
 13 culture.
 14 MS. MONAGHAN: (Inaudible). I think we
 15 agreed that we would not applaud, we would not cheer,
 16 jeer, clap. You-all told me you would do it. Does that
 17 still stand? (Inaudible). No, you agreed to it. I
 18 asked for an agreement.
 19 MALE SPEAKER: That was just like --
 20 (inaudible).
 21 MS. MONAGHAN: Okay. So, Michael, are we
 22 ready for the next, or do we want to skip one?
 23 MALE SPEAKER: (Inaudible).
 24 MS. MONAGHAN: Okay. And can I have 25
 25 through 30 to line up, please? Can I have 25 to 30?
 0016

McRobert,
Keith

1 Name and then state your comment.
 2 MR. McROBERT: My name is Keith McRobert. I'm
 3 from Cochise, Arizona. That's a pretty tough act to
 4 follow. I've just (inaudible) new regulations, and I
 5 just have my doubts on the people writing up the
 6 regulations.
 7 I have no knowledge on suction dredging
 8 mining. I'm just picturing somebody sitting behind a
 9 desk somewhere and just picking out stuff to try to
 10 destroy you. And I think the miners are on the
 11 endangered species list. Maybe we should (inaudible).
 12 And sometimes I wonder if we even need a
 13 dredge permit, and sometimes I wonder if the Fish and
 14 Game is qualified to issue this. And some of the
 15 regulations about size of the equipment, most of the
 16 miners use (inaudible) is going to use to mine with.
 17 I used to use the four-inch dredge. And I
 18 remember getting in six feet of water and working
 19 (inaudible). Now I've got a finger dredge (phonetic),
 20 and that's what I'll be using.
 21 And about closing the small streams, I guess
 22 closing the small streams (inaudible), I take it you
 23 want to have fish in the small streams and get some
 24 dredgers working in there and not close it (phonetic).
 25 And then I read something about cold water
 0017

Tucker,
Craig

1 areas. I think if you want fish in cold water areas,
 2 you get a couple of dredgers in there. And (inaudible)
 3 what happened to Japan. If that happens to California,
 4 all of this is going to be (inaudible). Thank you.
 5 MS. MONAGHAN: Thank you. (Inaudible).
 6 MR. TUCKER: My name's Craig Tucker --
 7 MS. MONAGHAN: Wait a minute.
 8 MR. TUCKER: My name's Craig Tucker. I've
 9 worked with the (inaudible) tribe. I've worked with
 10 them on this issue. I have a viewpoint (inaudible)
 11 viewpoint different than what you've been hearing.
 12 Do you think the regulations as proposed don't
 13 do (inaudible) to protect fish? (Inaudible). What

14 you're going to see is on the Salmon River we're going
15 to have comments to talk about fisheries all over the
16 Klamath Basin. But we're going to focus on the Salmon
17 for a couple of reasons.

18 One is in the proposed regs the season on the
19 Salmon River is extended. We think that with
20 (inaudible) this Coho salmon, Green Sturgeon and a
21 limited population of Spring Show salmon (phonetic),
22 used to spend all summer hanging out at the Salmon
23 River. We've got to keep dredges away from (inaudible)
24 fish.

25 I'd also point out that Dillon Creek, which

0018

1 is -- can you dim the lights? Dillon Creek has for the
2 first time in those proposed regs opened suction
3 dredging. Dillon Creek probably has the healthiest and
4 most intact population of the summer Steelhead in North
5 America, and we need to keep dredges away from these
6 fish.

7 Also remark that the regulations as proposed
8 are not consistent with the state MDLs. The state MDLs
9 recently approved as part of the basin plan under state
10 law, and the (inaudible) law requires the department
11 (inaudible) regulations consistent with existing state
12 law.

13 The last point I'll make is that we need not
14 even be here. Litigation that's led to this process,
15 there was a proposed negotiated settlement between the
16 (inaudible) tribe and Fish and Game. That would have
17 had restrictions on mining in the Klamath Basin.
18 They're probably less restrictive than some of the
19 product of this process, and they would not affect
20 mining anywhere else in the state of California.

21 But with the 49ers (phonetic) intervened in
22 that litigation, intervened in the settlement, and
23 forced the point that there must be a CEQA performed and
24 an EIR performed in order for new rules to be approved.
25 So this would all be behind us. Miners across the state

0019

1 of California would not be at risk to losing access were
2 not an intervention of the 49ers. And I'll spend my
3 last 45 seconds letting the film (inaudible). All
4 right. Well, you can go to YouTube and find it, find
5 the link to this.

6 MALE SPEAKER: Okay.

7 MALE SPEAKER: Are we allowed to ask any
8 questions?

9 MS. MONAGHAN: No.

10 MALE SPEAKER: You can ask -- (inaudible).

11 MALE SPEAKER: Okay.

12 MS. MONAGHAN: (Inaudible).

13 MALE SPEAKER: (Inaudible).

14 MS. MONAGHAN: Could you be kind enough to
15 turn the light on?

Tucker,
Craig

16 MR. MALLOY: (Inaudible). How are you
17 tonight? Thank you for coming up here. I just have a
18 couple of points to -- my name is Mike Malloy. I'm a
19 miner. And as most people here are, we're not really
20 recreational miners. We're more doing this for the
21 livelihood. In my case, that's a definite --
22 definite -- in a lot of cases that that is.

23 My concern is with the limitation on the
24 amount of permits that are going to be issued. At
25 4,000 -- okay. It's more than the -- the amount is more
0020

1 than the amount that was issued last year. That's fine.
2 But if you can sit here now, look me in the eye and
3 guarantee me that 2,000 people that are dead set against
4 it, the Department of Welfare, pick up the permits to
5 keep me from getting the permit is the clubs around the
6 state don't pick up permits so that their members can
7 have permits, if you can guarantee me that I will get
8 one of those 4,000, then I think that number should
9 stand. But I think you're setting yourself up for some
10 big problems down the road if you limit the amount of
11 dredge permits.

12 Is there a limit on fishing permits? Is there
13 a limit on hunting permits? There's not. But if you
14 put a limit on dredge permits, there are groups that
15 will go out there and buy these dredge permits just so
16 that we can't get to them. So I think that's something
17 you should definitely take into account.

18 One other thing that I'm going to talk to --
19 there's a lot of people here that want to talk to you
20 about a lot of different points in the draft SEIR and
21 how they need to be changed.

22 What I want to point out right now is that the
23 United States, we're in trillions of dollars in debt.
24 The state of California is billions of dollars in debt.
25 There's billions of dollars of gold sitting out here in
0021

1 the ground. That's free money to help the economy of
2 this country and this state a whole lot right now.

3 There are people out there starving, going
4 hungry, because they can't access their claims or work
5 and make money. I think you should keep that in mind
6 when you put these regulations together, or we're going
7 to be one of those, as Mike put it, sensitive species
8 down the road. I think you should start thinking about
9 human beings and our rights. That's all I have to say.

10 MS. MONAGHAN: Okay. Can I have any other
11 individual speakers up to number 40 line up?

12 MR. McCONAHY: My name's Ark McConahy,
13 wegomining.com (phonetic). And I'd like to tell you
14 guys, this regulation -- that this regulation, when it
15 went into effect last year it killed me. It took my
16 business. I went from over 50 customers the year before
17 to 3.

Malloy,
Mike

McConahy,
Ark

McConahy,
Ark

18 I (inaudible) put three people on (inaudible).
19 I'm hungry, Buddy. You guys hurt me bad, and you hurt
20 all of these people in this room. You're -- are you
21 telling us that we have a problem with fish, and you
22 want to regulate based on that.

23 But tell me how many commercial fishing boats
24 are out there in the ocean right now fishing for salmon.
25 Any one of them is going to destroy more fish with one

0022

1 net than all the miners in the state of California in a
2 year. But you're not stopping them. It's not right.
3 That's about all I have to say.

4 MS. MONAGHAN: Thank you. Okay. Once
5 again, if everyone can turn off their cell phones. How
6 about numbers 1 through 50? Single speakers through 50
7 to line up, please. Name and comment.

8 MR. PARKER: My name is Douglas Parker --

9 MS. MONAGHAN: And I'm sorry. You're
10 speaking to Mark, and so you --

11 MR. PARKER: Is that the rule, that I have to
12 speak to Mark?

13 MS. MONAGHAN: Well, you -- this is a public
14 hearing.

15 MR. PARKER: I'll speak to Mark then, but I'd
16 rather speak to the audience.

17 MS. MONAGHAN: (Inaudible).

18 MR. PARKER: Okay. I -- my voice is plenty
19 loud to be heard without a microphone.

20 MALE SPEAKER: (Inaudible).

21 MR. PARKER: I spent 20 years in the army. 20
22 years --

23 MS. MONAGHAN: Can you hear him in the back?

24 MALE SPEAKER: Yes. Yes, we can.

25 MALE SPEAKER: (Inaudible).

0023

1 MS. MONAGHAN: Some can't, so you --

2 MR. PARKER: All right. I spent 20 years in
3 the army. 20 years teaching school in the state of
4 Oregon. I took up suction dredging to provide my
5 children and grandchildren college education and to help
6 their economy a little bit.

7 And today I'd like to just talk about -- a lot
8 of people talk about a lot of different points. I'm
9 just going to talk about three specific things that on
10 the regulations themselves that I wish that the audience
11 would address when they fill out their subsequent
12 environmental impact comment form.

13 And even though we've been told that repeating
14 ourself (sic) doesn't help, I don't -- I don't really
15 believe that's true. I believe that if there's enough
16 people that object to certain points of the law,
17 possibly that will gain some weight in our arguments.

18 And one point, again, is the arbitrary limit
19 of suction dredge permits for resident and nonresidents

Parker,
Douglas

20 in the state of California for the upcoming season, if
21 it ever comes again. And please object to this on your
22 comment sheet.

23 Number two is the size of -- we're being asked
24 to use on our intakes for our water pumps is down to
25 32 -- three/thirty-seconds of an inch mesh, which is

0024

1 pretty ridiculous.

2 The particulate level floating down the
3 Klamath River in July and August is larger than the
4 number eight screen that they wish to use -- to have us
5 strain our water going into the pump. And I don't
6 really know what the real effect of this is anyway. We
7 don't dredge for fish. We're not suction dredging up --
8 or sucking fish up into our dredges.

9 The third point I'd like to say, and please
10 object to, is the size -- or not the size, but limits --
11 limiting us to six locations a season and to know before
12 the season starts what the six locations that we're
13 going to be dredging at are going to be down to the core
14 section.

15 It very much limits the area that I have to
16 operate in within the state of California. Six
17 locations, and you have to write this down when you
18 apply. So I'd like to -- again, arbitrary limit of
19 miners on the -- or suction dredgers object to the net
20 size and object to the six dredge size limit, and having
21 to put down before the season starts how many or exactly
22 the locations we're going to dredge. I think that's
23 ridiculous. And it's very constrictive on us to know
24 what the water level is going to be like and be able to
25 dredge effectively.

0025

1 MALE SPEAKER: Can you state -- can you state
2 your name so we have it with your comments?

3 MR. PARKER: I said my name a couple of times.
4 I'll say it again. My name is Douglas Parker.

5 MS. MONAGHAN: Thank you.

6 MR. PARKER: Thank you.

7 MS. MONAGHAN: State your name and comment.

8 Thanks.

9 DR. GIERAK: I'm Dr. Richard Gierak. I've been
10 a dredger miner for 40 years. 25 years on the Klamath
11 River. I own a historic mining claim property known as
12 Woodland Bar (phonetic).

13 Since this regulation, I no longer have access
14 to be able to dredge on my own mining claim. Not only
15 that, but this is a totally ludicrous rationale being
16 utilized for, quote, saving fish.

17 In 1950, the total salmon catch in the Pacific
18 Northwest was 149,000 metric tons. At that time 80
19 percent of those salmon were caught in Alaskan waters.

20 In 2007, the total salmon catch was 403,000
21 metric tons with 97 percent caught in Alaskan waters.

Parker,
Douglas

Gierak,
Richard

22 Fish have left California, Oregon and
23 Washington because of the historic rise in temperature
24 of the Pacific Ocean as evidenced by the historic
25 activity, ring of fire volcanic activity. The fish who

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1 have moved north doesn't have a darned thing to do with
2 the reservoirs, with toxic algae, with dredges, with
3 fishermen, with anybody. This is a natural, planetary
4 occurrence. The waters are warm. These are cold-water
5 fish, and they have moved north.

6 Even as we go to just Coho salmon, from 1970
7 -- in 1970 of all of the Pacific salmon, Coho catch, 27
8 percent were caught in Alaskan waters. In 2009, 88
9 percent of the Coho salmon were caught in Alaskan
10 waters, again, clearly delineating that these fish have
11 moved north into cooler waters, which is a more natural
12 habitat.

13 These regulations that are being imposed to
14 save fish are absolutely ludicrous and a total measure
15 of insanity. Let's pay attention to what the planet is
16 doing and quit blaming people. Thank you. Have a good
17 day.

18 MS. MONAGHAN: State your name and comment.

19 MR. Judkins: My name is Curt Judkins, and I live
20 here in Yreka, California. First of all, no disrespect
21 to you, Mark, but the (inaudible) tribe, but these are
22 our waters.

23 These are no one else's waters to make deals
24 with. Okay? We all have our right to be out here, and
25 that's what we're out here fighting for. Myself, I'm a

0027
1 recreational prospector. I don't have it for a living
2 because of my business I have here, but I enjoy it. I
3 think I have a right to do it.

4 One of my first points is 2800 pages of this
5 thing is -- and today you're showing us this structure
6 of the DS EIR. There's no way we can know what's all in
7 that. And for you to tell us that we can't ask you
8 questions on this is wrong. This is dead-ass wrong.
9 Excuse my language, but it's wrong. We should be able
10 to ask questions and not just give a statement and be
11 done.

12 I also believe that this DFG is superseding
13 the 1874 federal mining laws, whether you believe that
14 or not, I believe that is wrong. You can't do this.
15 4,000 permits, no way. That's not enough. You've
16 already heard evidence that people are going to take
17 these permits that don't even want to use them.

18 I agree with that. 4,000 is not enough. And
19 if they're going to be issued a permit, you ought to
20 have -- make sure somebody goes and talks to them.
21 They've got a dredge, and they're going to dredge in our
22 streams and rivers.

23 Six locations, I don't have a problem with six

Gierak,
Richard

Judkins,
Curt

24 locations. But of those locations it should be the
25 whole stream or whole river, not a quarter or a section.

0028

1 That's just not enough.

2 Four-inch nozzle, I disagree with that. Most
3 of us have five to six-inch dredges. What are we going
4 to have to do? Replace everything on them so we can do
5 this? No. That's not good. And five or six inches is
6 not going to make the differences that these people are
7 wanting us to think. There's just no way.

8 Holes that we make with these dredges, we know
9 for a fact that over time they're filled up. We're not
10 hurting anything. These fish go right through these
11 holes and we're done. They don't come into them when
12 we're in there because we're making too much movement.

13 And as far as the money for my permit, yes,
14 you owe that to me and I want it. I think this should
15 be issued to us. I don't think there's any -- there's
16 no mandate for it. That's wrong. That's our money. We
17 ought to get it back. That's all I've got.

18 MS. MONAGHAN: Thank you, Curt. Can I have
19 numbers up to 60? Individual speakers up to 60? State
20 your name and your --

21 MR. COSTALES: My name is Richard Costales. I'm a
22 natural resource policy specialist for Siskiyou County.
23 I lucked out. I got number 49. But I have a couple
24 of -- couple of comments that are substantive in the
25 nature of the sort of comments you're looking for here

0029

1 tonight. And that would be the scoping session I talked
2 to about -- with my boss about the socioeconomic impact
3 (phonetic) and analyzing -- going around to businesses
4 and finding the impacts to those businesses. As near as
5 I can figure out, that's not been done.

6 There's been substantial impact to local
7 businesses that don't show up, and I specifically
8 requested that at those things. It's been a concern
9 expressed by board supervisors numerous times about the
10 impact. And finding no information itself to individual
11 miners (phonetic), but to my knowledge if anybody else
12 that's looked at that document, you can't see where
13 businesses were consulted.

14 The other issue -- technical issue is the
15 5653, definition of "deleterious." It seems that the
16 issue we're looking at, we're looking at individual
17 fish, not populations of fish in terms of what is being
18 deleterious. Certainly a couple of individual fish can
19 be harmed by this. Just as a population, these fish
20 aren't harmed.

21 The department can give a permit based on
22 that. You give fishing licenses. You let people
23 commercial fish. You permit all kinds of things where
24 you know fish are dying. So you can look at them as --
25 the population as a whole. It looks like you're looking

Judkins,
Curt

Costales,
Richard

0030

1 at them individually.
 2 But comments aside from the substantive stuff
 3 are -- to you personally, I think that there's very few
 4 people in this room that don't -- can't clearly see that
 5 this is overkill to what's happening here. And if you
 6 as a government employee or me and everybody in
 7 government service can't find a way to get away from
 8 this constant satisfying, working to try and satisfy
 9 lawyers in nitpicking these individual words of
 10 technicalities of laws, constantly looking after that,
 11 we're going to be setting ourselves up for one train
 12 wreck after another.

Costales,
Richard

13 We need to look at the principle of this.
 14 There's stuff getting stolen from these guys. And if we
 15 can't find ways around that to where we can treat them
 16 fairly, we're asking for trouble for you and me and
 17 everybody else. And I think we owe it at some point,
 18 public officials are going to have to stand up and speak
 19 out against this kind of a thing. Thank you.

20 MR. JOHNSON: Hi. My name's Glenn Johnson,
 21 part-time miner. It's not my only living, but it is a
 22 significant part of my living a lot of the time. I was
 23 in the water and the law passed. It did cost me a lot
 24 more than just losing my dredging permit.

25 I just have some suggestions I wanted to make.

0031

1 I'm not going to get into science. It's not my job.
 2 Just thinking about the -- you are going to limit the
 3 number of permits, select who qualifies for the permits.
 4 I was thinking in the first place that state residents
 5 might have preference.

Johnson,
Glenn

6 I also had an idea that it might be nice for
 7 our county, and the employment in our county, if the
 8 county have preference to dredging on waters, and also
 9 claim owners in our county to be able to dredge here.
 10 That's all I've got for now. I will have to submit the
 11 rest of my stuff later. Thank you very much.

12 MS. DUERR: My name is Carolyn Duerr, and we
 13 reside in Edna (phonetic) during the winter and also
 14 during the summer. First, let me ask, who were the 25
 15 people on the PAC committee? I could not find this
 16 information on the EDD that you sent me, and apparently
 17 the appendixes are not on the EDD.

18 MALE SPEAKER: Should be.

19 MS. DUERR: I couldn't find them. Okay. And
 20 what's the justification for the limiting of dredge
 21 permits to a maximum of 4,000, including those applied
 22 in 2011?

23 There is no limitation on hunting license,
 24 fishing license. There is no limit on how many hikers,
 25 bicyclers, campers, kayakers. To be honest, all those

0032

1 people contribute to some deleterious effect on the

Duerr,
Carolyn

2 environment.
3 Can you explain the process for acquiring a
4 permit to which boulders on Section 1602, how many --
5 how will we be able to be specific about which and how
6 many boulders we need to move with a wench?
7 First, we do not know which boulders we want
8 to move. Plus, if they dredge -- if a dredge crew had
9 three or four young, strong men, they would be able to
10 roll or bar a boulder that only we older folks with one
11 or two people would need to wench.
12 Are you issuing blanket (phonetic) permits to
13 allow us to move unspecified boulders within the
14 boundaries of our claims? We have used (inaudible) and
15 a six-inch dredge with only one. Why are we -- why are
16 you limiting dredges to four inches -- four-inch nozzle
17 size? We could not put the six-inch rule, but four inch
18 is for people who only play in gold dredging. We need a
19 six-inch dredge to move enough material to get to the
20 gold.
21 If your discretion -- if your decision --
22 first, you tell us that according to your survey of
23 dredgers that they tell you that they do not use mercury
24 or nitric acid to process their concentrates. Then
25 you -- chapter after chapter you make it sound like

0033

1 dredgers and gold miners --
2 MS. MONAGHAN: Thirty seconds.
3 MS. DUERR: -- are releasing vapors and toxic
4 chemicals into the air and water. This is my opinion.
5 And as far as I'm concerned, it's an exaggeration and
6 scare tactics. I'll go right to the end. We've been
7 dredging and lived on the river more than 40 years. We
8 started before we were permitted dredges (inaudible).
9 MS. MONAGHAN: (Inaudible).
10 MS. DUERR: Okay.
11 MALE SPEAKER: (Inaudible).
12 MS. MONAGHAN: Individual speakers up to
13 number 70, if you could line up, please. (Inaudible).
14 MALE SPEAKER: (Inaudible).
15 MS. MONAGHAN: (Inaudible).
16 MALE SPEAKER: (Inaudible).
17 MR. KRITON: Hi, everybody. My name's
18 Nicholas Kriton. And I moved here from New York a
19 couple of years ago, so everything I had (inaudible)
20 mining.

21 I was only in the water for a few months total
22 when Department of Fish and Game told us to get out,
23 which naturally all of us miners weren't happy about,
24 because we were actually beneficial to the fish. And
25 all the (inaudible) being done by the Department of Fish

0034

1 and Game, which (inaudible) tactics.
2 Department of Fish and Game (inaudible) a lot
3 (inaudible) Steve McDonald and other people watch the

Duerr,
Carolyn

Kriton,
Nicholas

4 Department of Fish and Game. It would be odd at times
5 (inaudible). I don't feel free out here. I don't want
6 to be corralled and be told where I can go dredging,
7 which spot I can go to.

8 I will choose my own spot to go dredging
9 underneath old federal mining law 1866 and 1872 where I
10 have a right to explore at these federal lands that was
11 granted to me and every one of us here. I don't need
12 the Department of Fish and Game's permission or anybody
13 else's permission.

14 (Inaudible) other miners and you gave it two
15 years. I'm not going to give it another year. I'm
16 going to exercise my rights. (Inaudible) more dredging
17 (inaudible) that was granted to me in 1866 and 1872.

18 And I'm not going to be bullied anymore by the
19 Department of Fish and Game. This is federal land.
20 This is our land. It ain't about the fish anymore.
21 It's about control. Corraling the people here and have
22 them being told what they need to do and what they need
23 where and what they can do. Well, allow us (inaudible)
24 that.

25 (Inaudible) suffering and loss -- (inaudible)

0035

1 can't even use in my contract. Makes me sick. I can't
2 even go out here and enjoy myself, which I enjoy being
3 in the river alone with my (inaudible), being my own
4 man. Forget it. Department of Fish and Game wants to
5 take that away from everybody. They want to come up
6 with all of these rules and regulations. And when it
7 creates benefits from (inaudible), you come out, you
8 can't go dredging in any creek or creeks. Now they're
9 talking limiting the whole dredging. That's insane.

10 MS. MONAGHAN: Thank you.

11 MR. DUERR: My name's Herb Duerr. I've been
12 dredging for over 40 years. It's an activity that I
13 love above all, almost all things, except for one, and
14 you know what that is. So I've devoted much of my life
15 acquiring claims and private properties and (inaudible)
16 went to facilitate my passion.

17 During this time I've seen many changes, for
18 starters, (inaudible) dredging before permits were
19 necessary. And then one year DMGS (inaudible) permit
20 for. It's a formality. No fee involved. (Inaudible).
21 We believed them. The next year it was a charge of 250
22 or 350. I can't remember the exact amount. And then it
23 was 750, 1250, 25. Now it's 47. Then no permits at
24 all. And that's where we're at today, so I'm feeling
25 negative about today.

0036

1 It seems whenever government gets involved in
2 something, matters become worse. These regulations
3 definitely are worse than the prior ones. Above all I'm
4 opposed to every one of these regulations, in particular
5 (inaudible).

Kriton,
Nicholas

Duerr,
Herb

6 First off, DFG state that my property rights
7 by telling me what time of the year, what time I can
8 dredge my own private property. How dare you. Next
9 they tell me I can't dredge within a 500-foot radius of
10 the Mount Jessup (phonetic) of the (inaudible) river,
11 which just happens to be my most productive spot out of
12 three miles of river that I have. It's a spot that I
13 saved for 30 years (inaudible) as my day spot. And I
14 dredge right at the edge of the river, dredge and go to
15 work. It's actually wheelchair accessible.

16 Secondly, I object to limiting the dredge
17 sites to 40. (Inaudible) use for years (inaudible) the
18 salmon. (Inaudible). There are only two or three of us
19 on the north fork. So I use one of my sixes, which was
20 just right for working alone. Those have been
21 (inaudible) from me. Now I have three or four more
22 dredges sitting in the backyard. I can't sell them.
23 (Inaudible). And four-inch just doesn't cut it.

24 Next using power wenchers (inaudible) and age
25 discrimination suddenly I can't lift the boulders from a
0037

1 25-year-old camp. Furthermore, (inaudible) deleterious,
2 DFG trying to undercut (inaudible) gets trapped and
3 drowns. And mark my word. It's going to happen.

4 Another objection is limiting the permits to
5 4,000. Private property, private ownership should have
6 first choice. Claim owners second choice. I'll
7 (inaudible) by paraphrasing Mark (inaudible) separate
8 government agencies were straight out of control with
9 (inaudible) regulations and may he be trained in
10 (phonetic) as he impedes job creation and the financial
11 progress of our people. Thank you.

12 MS. MONAGHAN: Could I have numbers through
13 80? Individual speakers through 80 if you would line
14 up, please.

15 MS. MONAGHAN: (Inaudible).

16 MS. MONAGHAN: Okay.

17 MS. MONAGHAN: (Inaudible).

18 MR. REYNOLDS: My name is John Reynolds. And
19 I want you to look it up on the internet. (Inaudible)
20 so that you understand that what I'm telling you is not
21 just something I'm saying.

22 I've spent four and a half years fighting with
23 the forestry service over my claim on (inaudible) Creek.
24 And took it to the appellate court to get the decision
25 of the federal judge to rule in our favor to become a
0038

1 Ninth Circuit case instead of one federal judge.

2 If you go through with these regulations, as
3 I've read them right now, I promise you we'll go to the
4 United States Supreme Court on your (inaudible) of my
5 right to take my gold out of my mining claim any time
6 they want to take it, and that any way they want to take
7 it. That's a taking under (inaudible) Fifth Amendment

Duerr,
Herb

Reynolds,
John

Reynolds,
John



8 of the Constitution. And as far as I'm concerned, you
9 have no right and the California legislature has no
10 right to give you permission to take it. That's all I
11 have to say.

12 MALE SPEAKER: Don't clap.

13 MR. COLLINS: Hello. My name is Daniel
14 Collins. (Inaudible) background. 10 years in the
15 military. (Inaudible) law enforcement, nuclear
16 security.

17 Just decided it's time to retire and come back
18 and gold-mine. I moved out here and they decided to
19 take it away. Now, I don't know how other people feel.
20 I'm kind of hearing it. I fought for this country. I
21 fought for my right to do this thing under the
22 constitution. I defended it. Just to have you take it
23 away is wrong.

24 But most of the things you've been saying
25 about fish, I love fish. I love to eat fish. But most
0039

1 of us, we ain't hurting no fish. You want to talk about
2 hurting, let's see (inaudible) running them off the
3 river from edge to edge. No fish are going by. None.
4 So whose fault is it? Is it the one little dredger out
5 there digging a little hole making a fish spot, or a
6 30-foot Gilman stretched across the river? Who's to
7 blame? I don't think it's the dredgers. But I ain't
8 heard not one thing said about Gilman hurting them. You
9 want to stop the fish from coming up the river? Take
10 the damned Gilmans out.

11 MALE SPEAKER: Here, here.

12 MALE SPEAKER: Yeah.

13 MS. MONAGHAN: Excuse me. You have just
14 deprived this gentleman of the chance because we could
15 not hear what he had to say. The fact that you
16 supported him was negated -- you just overspoke his.
17 You may not get all of it on the transcript. So really,
18 once again, give everyone an equal and fair right to
19 really appreciate your not applauding.

20 MR. COLLINS: I'll be happy to say it again.

21 MS. MONAGHAN: Do we have anyone else who
22 wants to speak individually for three minutes? Okay.

23 MALE SPEAKER: (Inaudible).

24 MS. MONAGHAN: Have you already spoken?

25 MALE SPEAKER: I've already spoken.
0040

1 MS. MONAGHAN: Okay. Everyone gets one
2 chance to speak.

3 MALE SPEAKER: Oh.

4 MS. MONAGHAN: So is there anyone who has
5 not spoken who would like to exercise their three
6 minutes?

7 MALE SPEAKER: Can I get a mic?

8 MS. MONAGHAN: He's already spoken.

9 (Inaudible).

Collins,
Daniel

10 MS. MONAGHAN: I'm sorry --
11 MALE SPEAKER: (Inaudible)?
12 MS. MONAGHAN: -- we were very clear at the
13 beginning. Everyone gets one chance to speak.
14 MALE SPEAKER: (Inaudible).
15 MS. MONAGHAN: You get only three minutes.
16 Or if they want to, they can donate time at the end.
17 MALE SPEAKER: (Inaudible).
18 MS. MONAGHAN: So how many people have
19 donated time that wish to speak?
20 MALE SPEAKER: I can record myself --
21 MS. MONAGHAN: Okay. So one, two, three,
22 four, five, six -- now, sir. You already spoke. Okay.
23 So you are not eligible to speak again. Can't speak.
24 You're not eligible. One, two, three, four, five. How
25 many do you have?

0041

1 MALE SPEAKER: I've got nine.
2 MS. MONAGHAN: Nine. Okay.
3 MS. MONAGHAN: Five.
4 MS. MONAGHAN: Five. Jim --
5 MS. MONAGHAN: Six.
6 MALE SPEAKER: Two.
7 MS. MONAGHAN: Two? And, sir, back there?
8 The one with the hand, sunglasses on his forehead. How
9 many tickets? Oh, if you have just one, we want to hear
10 from you now. And there was one other hand over there.
11 MALE SPEAKER: He doesn't have a ticket.
12 MS. MONAGHAN: He doesn't have a ticket?
13 MALE SPEAKER: (Inaudible).
14 MS. MONAGHAN: I'm sorry.
15 MALE SPEAKER: (Inaudible) didn't get one.
16 MS. MONAGHAN: I'll send you (inaudible) a
17 ticket. So this gentleman will take this one. The lady
18 was going to get a ticket.
19 And then looks like we have time for
20 everybody. Okay. So we're going to hear this gentleman
21 and then this lady, and then we'll go back to donated
22 time. Sir, are you going to do just one? Okay.
23 MALE SPEAKER: (Inaudible).
24 MALE SPEAKER: Thanks, Molly.
25 MS. MONAGHAN: Okay. So I need --

0042

1 MALE SPEAKER: (Inaudible).
2 FEMALE SPEAKER: Yeah.
3 MALE SPEAKER: (Inaudible).
4 FEMALE SPEAKER: (Inaudible).
5 MR. PANKEY: My name's Charles Pankey, and I'm
6 an Oregon resident. I have a California resident mining
7 claim. I've been a recreational dredger for over 20
8 years.
9 I have a lot of problems with the new
10 regulations. The old ones were bad enough, but the new
11 ones are outrageously out of control. I'm against the

Pankey,
Charles



12 100 yard for having your dredge anywhere close to the
13 water. I'm also against the three-foot rule. My river
14 that I -- creek that I dredge on is not hardly 6 foot to
15 10-foot wide. It's kind of hard to get my dredge in
16 (inaudible).

17 The one I probably need to address, the
18 regulations, I couldn't get them off the internet in
19 time. They couldn't find them, for one thing, and
20 nobody else seemed to have a copy of them. So I'll have
21 to put my comments in writing.

22 There are some things about the campground
23 sites and stuff that need to be addressed. The species
24 act I don't think is very fair. I know there's a
25 representation from the Indian tribes. They were pretty

0043
1 outrageous. They showed dredging there, and the surface
2 was only down probably about 50 yards on the dredge, if
3 that much. And I didn't see any problem with salmon
4 there. They were swimming around. It was probably a
5 good time of the year. But the holes didn't seem to
6 bother them at all. And I can't recall the one fish
7 being killed by dredgers at all.

8 The mercury content in the rivers, well, not
9 all the rivers have mercury content. I think if the
10 Fish and Game has a record of those mercury rivers,
11 maybe they should put out some kind of thing on that for
12 them, but not for the ones that don't. You can't blame
13 miners for mercury in the streams. That was something
14 that was done in the 1800s.

15 Anyway, that's just about all I can think of
16 on the salmon right now. I'm sure you'll get the rest
17 of my comments later. Thank you.

18 MS. MONAGHAN: Thank you. Name and --

19 MR. GARRISON: Hi. My name is Gabe Garrison.
20 I've lived in the Hapgan (phonetic) area for the last
21 six years. I moved up here following a career. And
22 over the last six years I've met a lot of people. A lot
23 of them are miners.

24 I don't myself. I don't dredge. But the
25 people on that, just trying to make a decent living, a

0044
1 lot of them are just out there to have fun. A lot of
2 them are retired. It keeps them in shape. It's good
3 for them. And whoever (inaudible) the cute little, nice
4 little (inaudible) fish swimming up and down the river
5 all day long is a pretty good thing. The dredges there,
6 issuance in place (inaudible). I think that's enough.

7 And like the other guy said, if you want to
8 put fish back in the river do something about the
9 (inaudible). That's the stuff that's really causing the
10 fish issues. And the (inaudible) is being affected out
11 there.

12 Environmental impact is really bad. Seems
13 like a lot of people (inaudible). I know that for a

Pankey,
Charles

Garrison,
Gabe

14 fact. And taking their livelihoods away from people
15 that they make money on is not a good thing. It's only
16 going to negatively affect this area, and it's going to
17 get worse.

18 There's -- I mean, you can go (inaudible) down
19 there. (Inaudible) they were a lot busier. Now they're
20 slower. They don't have a lot of customers in the last
21 couple of years, and it's a real problem.

22 You can see that people are hurting. And you
23 don't want to come up with more rules and regulations
24 that won't provide assistance. You want to cooperate.
25 They don't want to do that. They don't want to deal

0045

1 with it. I don't want to deal with it. And these fish
2 need (inaudible) want to deal with it. They're good
3 people, too. They all have families, and they're just
4 trying to make a living. And I'm put in the middle of
5 it, and it's not a good thing. So that's why I'm upset.
6 Okay. Thank you.

7 MS. MONAGHAN: Thank you. (Inaudible).

8 MS. JERWAY-HALE: Hi. My name's Deb
9 Jerway-Hale. I'm a property owner and have (inaudible)
10 mining rights that these regulations will limit my
11 access to my properties.

12 As a true 49er, I also access claims from
13 (inaudible). It affects me. We've been here a year.
14 We've done everything to make this change in our life,
15 and with these regulations it's not going to happen.

16 The restrictions you have with the 4,000
17 permits, again, it goes to the fact that there are
18 people that will use that situation just so we can't get
19 out there and work with it.

20 I'm not a speaker. I'm nervous. But I have a
21 right. There is some good people in the community that
22 need to be heard. That's what I've got to say.

23 MS. MONAGHAN: Name and --

24 MR. SILVA: Hello. My name is James Silva,
25 and I was born in Willington. I currently live in

0046

1 Ukiah, California. I dredged on the Duck River
2 (phonetic) for 15 years, belonging to clubs. I now have
3 my own claim which I don't have the ability to use at
4 all. It is on Little River Creek (phonetic) in Loomis
5 County (phonetic) which is off Indian Creek. This is
6 off the north fork of the (inaudible) river.

7 The new regulations, I will not be able to
8 dredge on my claim. It's a very small creek. And with
9 a three foot from each bank, I don't think I can dredge
10 on my claim still. I've never been able to dredge on it
11 at all.

12 Maybe you can have a three-foot limit on the
13 Klamath River or large rivers that are wide. But using
14 a three or four-inch dredge on a creek that is 6 to
15 10-foot wide doesn't make sense. So maybe you can have

Garrison,
Gabe

Jerway-
Hale, Deb

Silva,
James

Silva,
James

16 two different regulations for large streams and for
17 small streams. For three foot maybe you can have a
18 one-foot on a stream that's under a 10-foot, and a
19 three-foot on larger streams.

20 The last thing is I was disturbed to see
21 something on YouTube. And it looked like a doctor
22 dredging or somebody who was putting dye into an intake
23 nozzle and putting it on their web site. It wasn't --
24 it didn't look normal. It was doctored, and it made me
25 upset.

0047

1 And this whole thing is about one person and
2 another group fighting over, and that's what this is all
3 about. But I would like to be able to dredge on my
4 claim which I've never been able to dredge, and the new
5 regulations, which I don't think I can still do it and
6 be legal. You guys have the three-foot limit. Thank
7 you.

8 MS. MONAGHAN: Thank you, James.

9 MALE SPEAKER: (Inaudible).

10 MS. MONAGHAN: So those using donated time,
11 if you want to come line up, I'll put some chairs up,
12 because -- now, sir, you've already had your turn, and
13 you already -- you had --

14 MALE SPEAKER: But it's donated time.

15 MS. MONAGHAN: We talked. Everyone had one
16 opportunity to speak. You could do it individually or
17 you could use donated time. Either/or. So you're
18 welcome to --

19 MALE SPEAKER: So donated time means nothing?

20 MS. MONAGHAN: No.

21 MALE SPEAKER: I can (inaudible) and he can?

22 MS. MONAGHAN: No. And you, sir, you will
23 not be able to speak again. You had a choice to speak
24 individually or donated time. You are more than welcome
25 to --

0048

1 MALE SPEAKER: (Inaudible).

2 MS. MONAGHAN: So if you want to sort it out
3 (inaudible) lowest member, go first. And I'll bring
4 some chairs over for you.

5 MALE SPEAKER: (Inaudible).

6 MALE SPEAKER: (Inaudible).

7 MS. MONAGHAN: Number 9. Excuse me. We
8 have someone -- we have someone who wants to speak, if
9 you could give him your attention, sir.

10 MALE SPEAKER: (Inaudible).

11 MS. MONAGHAN: Sir, I'm going to have to ask
12 you to step outside.

13 MALE SPEAKER: (Inaudible) that I've ever
14 seen.

15 MALE SPEAKER: You weren't clear on that.
16 (Inaudible).

17 MS. MONAGHAN: Okay. So we have a speaker.

18 And if you can give him your attention, we would
19 appreciate it.

20 MR. MEALUE: My name is Mike Mealue. It's
21 spelled M-e-a-l-u-e. I began gold dredging in
22 California in 1977.

23 Over the years I've received approximately 25
24 Fish and Game permits. I didn't dredge every year.
25 Ironically enough of those 25 years that I did dredge,
0049

1 my permit was only checked once in 25 years.

2 And I guess my first question in the form of a
3 comment is if these new regulations are implemented from
4 draft to implementation, how the Fish and Game plans to
5 police and oversee these regulations?

6 For example, the boulder issue. And I think
7 it's -- you know, I'm repeating myself, but unless you
8 actually dredged -- unless you've actually moved rocks
9 underwater, there's no way that you can understand what
10 (inaudible) means.

11 When you start in a section of the river,
12 there's a good chance there are dozens and dozens of
13 boulders that you can't see. There's no way for me as a
14 dredger at the beginning of the season to go to the Fish
15 and Game and say, hey, I need you to come down here and
16 inspect the boulders that I plan to wench this year.

17 It's impractical, impossible. And without
18 experience of Fish and Game of having dredged, it's
19 impractical for you to even consider this as a
20 regulation.

21 Okay. In 2008 Fish and Game was given the
22 responsibility of evaluating suction dredging in this
23 state. Tonight I'd like to first address the legal
24 responsibility, then I'd like to address the record --
25 and put in the record several positive benefits of
0050

1 dredging. Finally, I'm going to try to end with some
2 comments and questions that I have.

3 Again, Fish and Game has the mandate and legal
4 responsibility to honestly and scientifically determine
5 whether 1994 dredging regulations protect fish and fish
6 habitat.

7 The 700-plus page DS EIR under discussion
8 tonight states in Section 228 -- and I believe it's
9 2285 -- that suction dredging has no deleterious effects
10 on fish.

11 The fact is the nuts and bolts and conclusion
12 of this draft, then there are hundreds and hundreds of
13 pages that are unnecessary.

14 What I learned tonight in listening to Mark --
15 and I'm sorry. I didn't get the other gentleman's
16 name -- that there are two things going on.

17 First, I heard that Fish and Game was mandated
18 by the court to do further regulations. Then I heard
19 that Fish and Game, if they deemed it necessary, would

Mealue,
Mike



20 create new regulations.
21 That's a question I'd like clarified. Were
22 you mandated by the courts, or did you deem it necessary
23 to create new regulations?

24 Absent present environmental impact studies in
25 and out of the state of California concluded that

0051

1 dredging is not harmful. If the current report stands
2 as it is, then all commercial and recreational
3 activities in California must come under the same
4 scrutiny.

5 The question might become what mandated
6 conditions have the greatest impact on fish mortality
7 rate. Fish stress and habitat destruction. The answer
8 in part might be highways, dams, hooks, nets and global
9 warming.

10 Take, for instance, what could happen in the
11 state of California to California and to the Department
12 of Fish and Game if this report is used in court to
13 force another environmental impact study on sport
14 fishing. This report was brought up earlier. I'm using
15 it as an example.

16 Further, this report is used to legislate a
17 moratorium on sport fishing in California. Is it
18 possible there would be no sport fishing licenses sold
19 in California? What would be the economic effect?

20 Using the DS EIR, it could very well be argued
21 that sport fishing licenses cause undue ingress and
22 egress while repairing zones, undue stress to fish,
23 undue fish mortality rates, undue use of toxic minerals,
24 metals, undue (inaudible) use of bates and so on. The
25 same and similar arguments can be used in cases

0052

1 involving hikers, bikers, horsebackers and campers.

2 I believe the prudent direction that Fish and
3 Game needs to take is to continue the 1994 alternative
4 regulation. If not, I believe it's going to be
5 difficult for you to avoid further dramatic lawsuits
6 that are going to impact the state.

7 I'd like to add -- move on to some positive
8 benefits of suction dredging. Number one, gold dredgers
9 remove lead and mercury from rivers and streams. Each
10 year dredgers recover and retain thousands of pounds of
11 fishing lead left and deposited by recreational users.
12 Some also in the form of car batteries that I have found
13 in the water after car accidents.

14 When mercury is found because of specific
15 waste, it is almost always found with and on gold. As a
16 person at Fish and Game admitted tonight, you haven't
17 done any dredging. What you'll find when you finally
18 get down to gold -- and sometimes it's layered in the
19 (inaudible) and sometimes it's layered in bed rock. If
20 there is a presence of mercury, it will be down
21 (inaudible) and it will be down with the gold

Mealue,
Mike

22 (phonetic).
23 When you suck -- and it's almost impossible
24 not to remove the mercury at the same time you remove
25 the gold. What you then do is your sluice -- in fact,
0053
1 we avoid mercury on fossils (phonetic). If I see
2 mercury, I try not to suck it up. It stays down in the
3 crevice. It gets buried back over. If it doesn't suck
4 up, it ends up in my sluice box and the sluice box of
5 all dredgers. And it is separated from the gold later
6 on and not returned to the stream.
7 Number two, a positive. Fish can be found in
8 abundance around dredges. And if you've never dredged
9 for periods of time before, you wouldn't know this.
10 Dredging increases the nutrients of the water,
11 particularly in the summertime when I believe there are
12 fewer nutrients in the water and feed fish.
13 Any inspection of dredging operations will
14 verify that hundreds of fish feed around dredges.
15 Personally, I've had fish in my dredging hole in and
16 around my (inaudible) for days and weeks at a time.
17 I tell the story, and it's the truth. In
18 1979 -- and I was still a novice dredger -- I actually
19 named a 10-inch Cutthroat Nugget because that Cutthroat
20 visited me every day for two months. Came into the
21 hole, swam around the nozzle, pulled things out of the
22 overburden, and did wonderfully. I probably saved more
23 fish by feeding that Cutthroat than letting it go loose
24 on the other fish and (inaudible).
25 Another positive, number three, undercurrent
0054
1 regulations, dredging takes place outside of spawning
2 times. In fact, when I looked at the video -- the DVD
3 tonight by the Crook (phonetic) tribe, I noticed that
4 you didn't see dredges and salmon in the same frame.
5 There was an arrow pointing down at a dark
6 area near a dredge that I can only assume was a fish.
7 You couldn't tell whether it was a Cutthroat fish, which
8 is a Summer-run fish that spawns in the fall, or whether
9 it's a salmon.
10 What I saw was schools of salmon and then
11 dredges, and schools of salmon and then dredges. I call
12 that propaganda. And I believe the Crook tribe had
13 ulterior motives to take people off the river. That's
14 for somebody else to speak to.
15 How many fish nets have been found by Fish and
16 Game (inaudible) under -- dredgers leave behind
17 (inaudible) on loose gravel? This has been alluded to.
18 Many times fish egg nests have been found by Fish and
19 Game biologists at (inaudible). How many times have
20 fish egg nests been found by Fish and Game biologists in
21 dredging (inaudible)?
22 In the fall of 2008 I found Fish and Game
23 markers. I guess these are called grids on several

Mealue,
Mike

24 dredge (inaudible) on the Salmon River. I think I have
25 that year right. It could be that suction dredging

0055

1 actually improves spawning habitat.

2 Four, a positive, over the years my partners
3 and I have removed hundreds of thousands of trash and
4 debris left on the river by recreational users. I don't
5 need to specify who the recreational users were.
6 Sometimes they were simply campers.

7 Personally I've removed and safely disposed of
8 30 or more car batteries that would float off the side
9 of the highways. Am I to leave them there next to the
10 trails or in the (inaudible)? No. I take them and I
11 deposit them correctly. And that's both in Oregon and
12 California.

13 Number five, dredgers and claim owners help
14 maintain trail -- river trails increasing the safe
15 access for the recreational users. I don't know how
16 many times I have worked on trails and improved them so
17 that I can get in and out of the dredging site. And I
18 always use the same trail. I don't take five different
19 trails down to a dredging site. That's ridiculous. And
20 those same trails become access for recreational users.

21 Number six, a positive, dredgers were often on
22 the front line of protecting other river users. In the
23 past 34 years, my dredging partners and I have helped
24 many kayakers and swimmers in distress.

25 While dredging in the summer of 1991, I pulled

0056

1 a three-year-old boy out of the river who was floating
2 face-down. The water is only three-feet deep. At the
3 time it didn't seem like a big deal. I just grabbed the
4 kid, pulled him up, put him on the bank next to his
5 hysterical mother. As it turned out, his father was at
6 the car and I was there because I was dredging. That
7 boy is now a commercial fisherman, and he's -- I hate to
8 admit. He's probably in his 30s or early 40s.

9 Number seven, a positive, is my final
10 positive. Dredgers and claim owners are stewards of the
11 land. Legally miners cannot prevent others from using
12 ELM (inaudible) unless, of course, it is patented
13 properly. So -- and the only way you can actually ask
14 someone to leave is if they're interfering with your
15 mining operation.

16 What miners do discourage and do report -- and
17 I've done this many times -- illegal drug production,
18 illegal fishing, illegal firearm users, illegal
19 fireworks use and illegal (inaudible). I think I've
20 reported all of those to the police at one time or
21 another. Makes me sound like a nark, but --

22 I am a gold dredger, and I'm proud to be a
23 gold dredger. And I'm much more than that. I'm a
24 fisherman. I'm a camper. I'm a photographer and a
25 hiker. Last year I hiked eight miles of the Jolly Year

Mealue,
Mike

0057

1 Trail (phonetic), the Ansel Adams wilderness area. And
2 I can tell you this. I'm never more free, and that's
3 what I'm talking about is freedom. I'm never more free
4 than when I am fishing for a Golden trout at Virginia
5 Lake or when I'm looking for a nugget in the state of
6 California or Oregon. And I'm hoping that freedom will
7 continue.

8 To that end, I ask that the final report by
9 Fish and Game on suction dredging be scientific and
10 factual and not political. I ask Fish and Game to be
11 brave and honest in standing up for the right of miners,
12 as well as all citizens. Please save the 1994
13 regulations.

14 I'm going to end this comment with things that
15 I heard tonight. First comment, the report does need to
16 include actual dredging done by Fish and Game. And I do
17 believe that you could have done that in California if
18 you had gone to the court and asked for a court order or
19 a court (inaudible) of some sort. You could have done
20 that in California. I believe you had the will to do
21 it. And if California would not allow you to do that, I
22 believe you could have done it in a state like Oregon
23 that has similar topography and conditions.

24 A question, what does -- and this was alluded
25 to, what happens to mercury in the wintertime during

0058

1 high water? I do know that overburden -- if you don't
2 know what that is, it's the stuff that generally covers
3 gold. Overburden also covers mercury. And mercury,
4 because it's specific weight density, will find the
5 lowest areas in the river. So it's moved in the
6 wintertime, far more than any dredge will move mercury.
7 And, again, I believe that we pulled it out of the
8 river.

9 My final comment is, I truly don't believe
10 that eliminating or increasing restriction on dredging
11 will stop mining in California. What you might see is
12 an increase in bank mining. You're going to see an
13 increase in large mining operations using backhoes,
14 Cats, chemicals. And you're going to see more people in
15 the river than you actually see now. For one simple
16 reason, claim holders will simply give up their claims
17 and people will be down there who are not miners
18 typically, but recreational campers. Thank you.

19 MS. MONAGHAN: Thank you. (Inaudible).
20 There's six tags of (inaudible). State your name and --

21 MS. ARMSTRONG: My name is Marcia Armstrong.
22 I'm the district supervisor for Siskiyou County. That's
23 the western portion of Siskiyou County.

24 We are suffering from regulatory fatigue and
25 have reached our limit. People of Siskiyou County have

0059

1 had enough. I submit that the substantial negative

Mealue,
Mike

Armstrong,
Marica

Armstrong,
Marica

2 impacts of the proposed regulations of private property,
3 commercial business, social fabric and the economy of
4 Siskiyou County, in addition to (inaudible) of real
5 scientific data to substantiate alleged injury to
6 salmonettes (phonetic) from suction dredging, override
7 any perceived benefits that might be realized when
8 imposing the proposed regulation. The proposed
9 regulation should be discarded, defaulting the prior
10 regulation, adopting as a result of the 1994 EIR.

11 Siskiyou County -- or the state of California
12 and the Department of Fish and Game is required by
13 Public Resources Code 21153 to come consult with
14 Siskiyou County prior to completing an environmental
15 impact report.

16 And we have an ordinance, Chapter 12 of
17 Siskiyou County Code, county participation in the state
18 and federal agencies (inaudible) transaction has set
19 forward the protocols for coordination. And none of
20 this was done by the state of California.

21 The cumulative social and economic impacts
22 have to be analyzed under CEQA under 21083(b)2, and they
23 have to be cumulatively considerable, as the quote from
24 CEQA. And effects must also be examined under 21083
25 because they will cause substantial adverse effects on

0060

1 human beings, either directly or indirectly.

2 I recently -- Siskiyou County submitted a
3 20-year data compilation and referenced citations
4 regarding social and economic studies and statistics
5 establishing cumulative impact through the California
6 Department of Fish and Game in the matter of proposed
7 dam removal on the Klamath. And I submit these
8 documents by reference into the record, and I will send
9 you a written statement to that effect.

10 The 20-year stand on the study was selected
11 because of the impact of significant federal and state
12 actions such as the Pacific Northwest Forest Plan and
13 Aquatic Conservation Strategy; listing of the
14 (inaudible) Surface Mining and Reclamation Act;
15 acquisition of the Shasta Valley Law (inaudible)
16 Specialty Horse Ranch; listing of Mount Shasta's
17 landmark, listing of the Lost River and Sharknose
18 Suckerfish; list of site regulation from the Klamath
19 River lands; changes in pesticide use regulations;
20 listing of the Coho Salmon Federal and State Range of
21 Reform (phonetic); California Board of Forestry
22 regulation; 2001 water shutoff from Farmers for the
23 Klamath Project; TMPL Mount Shasta to Klamath; various
24 increases in electrical costs; 1602 regulations with the
25 new interpretation; Coho ITPs; and then the suction

0061

1 dredge moratorium; and the (inaudible) potential
2 designation of Siskiyou Crest National Monument; and the
3 potential expansion of the Siskiyou Cascade National

Armstrong,
Marica

4 Monument. And all of those have cumulative economic and
5 social impacts on Siskiyou County.

6 Currently we are at 21 percent unemployment.
7 16.4 percent of all residents of Siskiyou County live
8 below the poverty line. 25.4 percent of children under
9 the age of 18 live under the poverty line.

10 Next to government and agricultural industry,
11 welfare and other entitlements now make up the next
12 largest sector of Siskiyou County's colony. Annual
13 costs are 71,581,874. And that's what we pay out in
14 entitlements because of this lieu (phonetic) of an
15 economy here.

16 The local economic impact of dredge mining in
17 an email dated July 6 from Trista Perry of Perry's
18 Market -- this is last year -- Ms. Perry provides
19 figures from her small grocery business in Happy Camp,
20 and this is just the beginning of the moratorium, that
21 reflect the impact and loss of suction dredge miners
22 since the moratorium.

23 It showed a decrease of \$11,000 in receipts
24 for May 2010. A loss of \$58,739 in receipts for June.
25 And this contrast would be April 10th receipts which

0062

1 showed a modest increase in receipts of about \$3,000.
2 So it was definitely due to the loss of suction dredge
3 mining. And anecdotally referred that overall since the
4 moratorium, there's been 40 to 60 percent loss of
5 business along the Klamath River.

6 Suction dredge mining occurs in small
7 economically-depressed communities along the Klamath
8 River. The small business dynamic for the grocery
9 stores, convenience stores, Carlock (phonetic) gas,
10 campgrounds and hotels is to use some summer tourist
11 income to sustain the business the rest of the season.

12 The year-round local (inaudible) is very
13 small. The loss of dredge miners may result in the
14 closing of vital local services and stores along the
15 Klamath River. This would likely require residents to
16 travel all the way from Yreka to shop.

17 The case of the Carlock station is the only
18 one -- I guess there are two now, but it's the only one
19 I'm aware of along the Klamath River. If that closes,
20 it should affect people who can't travel along the river
21 (phonetic).

22 And I wanted to point you to the (inaudible)
23 socioeconomic monitoring of the Klamath National Forest
24 and three local community study that was done at the
25 10-year mark on the (inaudible) of the Pacific Northwest

0063

1 Forest Plan. The facts about the cumulative effects one
2 has had (inaudible) at that point because of the
3 Northwest Forest Plan. It's already in a fragile state.

4 The EIR indicated -- in 1994 indicated that
5 200 million impact for each year that dredgers did not

Armstrong,
Marica

6 mine, in Siskiyou County when considered in the context
7 of the cumulative social and economic impacts of the
8 county and the fragile socioeconomic fabric of these
9 distressed areas, the negative impact is both
10 considerable and alarming.

11 Many people own or lease property in order to
12 dredge and supplement their income. There are
13 indications that there will be a substantial exodus of
14 property owners from the Klamath River corridor.

15 If you look at the actual studies that were
16 done on suction dredge mining, you'll find that the
17 studies say that the impact is diminished as to
18 turbidity, water temperature, suspension of heavy
19 metals, and then found to be less than significant and
20 highly localized and temporary.

21 There's a supreme court case under Dolan
22 versus the City of Tigard (phonetic) that states that
23 regulations must be relatively fortunate (phonetic) to
24 the impact. If you have a de minimis impact, what the
25 heck are you regulating? The government may not require

0064

1 a person to give up a constitutional right here, which
2 here is the case. This is the right to receive just
3 compensation when their property is taken from
4 regulation for public use in exchange for a
5 discretionary benefit which is the permit.

6 And I was very alarmed by what the gentleman
7 talked about -- I believe it was Mr. Dewer talked about
8 how the creeking regulations had started out that first
9 you had free right to suction dredge mine. And then it
10 was just, oh, just fill out this permit and it won't
11 cost you anything, and the next year it was, oh, it will
12 cost you that amount. And then the next year it was,
13 oh, it will cost you some more; oh, it will cost you
14 some more.

15 Then all of a sudden you no longer have a
16 right because you've cut it off all through the
17 moratorium. And now you're going to ratchet it on down
18 where it's no longer feasible commercially. I think
19 this is wrong. I think -- I'd like to know how we can
20 stop this, Mark. It's wrong. It's wrong to people to
21 keep happening.

22 There was also a standard of reasonableness.
23 A state agency may impose reasonable restrictions from
24 conduct of said activities so long as regulations have a
25 reasonable relationship to a legitimate public purpose

0065

1 and are reasonably exercised and are not arbitrary. It
2 does not have the right to destroy a business through
3 regulation, and that is in effect what you are doing
4 here.

5 And I'm finding there is a regulatory
6 (phonetic) of taking of private property here as you
7 have heard over and over and over again, particularly

Armstrong,
Marica

8 with the three-foot rule. People are no longer going to
9 be able to use their claims. In my book, there's a
10 taking of private property through regulation, and they
11 must receive just compensation. Thank you very much.

12 MALE VOICE: (Inaudible).

13 MS. MONAGHAN: Comment, and state your name.

14 MR. FOLEY: My name is James Foley. I'm a
15 resident of a community of the Klamath River -- on the
16 Klamath River. I've been a suction dredge miner since
17 1975 in Alaska.

18 And I'm here tonight representing those that
19 couldn't be here and would like to have from far-distant
20 places. I'm representing people all over the northwest,
21 as well as Alaska, and even as far away as the east
22 coast of the United States.

23 The consensus among the suction dredge mining
24 community is weighted very heavily against Fish and
25 Game's proposed purpose for these regulations. Fish and

0066

1 Game has maintained from the beginning that their
2 intention was to protect fish.

3 The mining community contends that it is the
4 intention of the Department of Fish and Game agency to
5 instead of protect fish, it's to regulate miners to the
6 point where mining becomes unprofitable, number one;
7 very time-consuming; and to incrementally regulate
8 suction dredge minders out of the water, possibly
9 with -- at the instigation of extremists, environmental
10 groups or persons.

11 It's hard to think that the agencies are not
12 in some kind of collusion with these individuals and
13 organizations. It seems as -- we had public action
14 committee meetings put on by Fish and Game last summer
15 of which I was invited to them.

16 And now that I see these new regulations come
17 out, I am appalled to find that the agency used none of
18 the peer review evidence that we gave, and it was
19 volumes of it. It used none of the oral testimony that
20 was given from experts in each of their fields, and yet
21 it chose to use almost all of the testimony that was
22 submitted by the environmental faction and people that
23 were anti -- and organizations that were anti-dredging.

24 Now, I know from talking to Fish and Game
25 officials and at different meetings that the agency

0067

1 doesn't really want to hear about their responsibility
2 under the law to adhere to federal mining laws like the
3 Mining Act of 1872 and things of that nature. They seem
4 to think that they are above all of that, and that they
5 only have to adhere to the Fish and Game code.

6 But in this respect, I'd like to submit
7 something, and I'm going to read this. I looked this up
8 in some of my research. And I may accentuate some of
9 the words because words have meaning. And they're very

Foley,
James

10 important in this respect. I pulled this out of the
11 Administrative Procedures Act, which I am absolutely
12 sure the agency and its personnel know about.

13 The Administration Procedures Act requires of
14 meetings such as this that from notice to propagation,
15 every step of the hearing process shall be meaningful.

16 There's a definition to that word. Look it
17 up.

18 Providing opportunity on all fronts, avoiding
19 that the rule propagated will adversely affect a
20 property right.

21 Now, the agency may not want to hear about
22 property rights, but this is what the Administrative
23 Procedures Act says. And it goes on to say:

24 Or interest in property, to provide to the
25 contrary or at least this standing is meaningless.

0068

1 Now, meaningful, (phonetic) is to create a due
2 process violation. You guys are supposed to be
3 following the process. If your regulations and if your
4 meetings are not meaningful, then you have violated the
5 due process. And that is likely to cause an unlawful
6 taking. I know you don't want to hear about takings
7 either, because you don't believe these regulations are
8 a taking. The reasons for an agency public meeting is,
9 in essence, to ensure that the proposed rule promulgated
10 will not adversely affect a property right.

11 That is the Administrative Procedures Act.
12 You can choose not to look at it if you so choose, and
13 you probably will. But that's the law.

14 In this respect regarding Class A waters, even
15 if there is no mining claim in a Class A water, the new
16 rule would be the taking of federal public domain. The
17 Congress of the United States has already disposed of
18 the mineral estate and the Mineral Estate Grant of 1866.

19 And what that means is that the minerals on
20 any public domain land now belong to the people, not the
21 government. So if you exclude me by designating a water
22 as Class A or something -- you close some creek to
23 mining, you have taken my right to mine. You have taken
24 my livelihood. You have taken my gold. That's my gold.
25 That gold belongs to every citizen of the United States.

0069

1 And when you think in that respect, you're
2 taking not only my gold, but you're taking the gold of
3 future generations of miners.

4 The Congressional Act of 1866 further provides
5 that all mineral rights of the public domain are free
6 and open. Fish and Game comes along as a state agency
7 and says, oh, no, we're going to limit you to 4,000
8 permits. So 4,001 permits, that guy that gets the extra
9 permit, he can because Fish and Game says we're going to
10 cap it at 4,000 permits. And, yet, the federal
11 government by an act of Congress has said the public

Foley,
James

Foley,
James

12 domain is free and open.
13 It belongs to me now. It doesn't belong to
14 you. It does not belong to an agency. It belongs to
15 the citizens of the United States. Free and open has a
16 meaning, and it means that no federal or state agency
17 can close federal mineral estate lands. It is an act of
18 Congress.

19 And it's never been rescinded or overturned.
20 And no legislature or rule is able to overcome it. It's
21 not just me saying this. Courts have held this. No
22 agency regulation can overcome an act of Congress.

23 Class A waters are taken by Fish and Game in
24 private property instances where miners hold valid
25 mining claims. Case law has held that mining claims are

0070

1 private property in the truest sense of the word. In
2 opposition to the (inaudible) peer review science that
3 we have numbers provided (phonetic), Fish and Game has
4 chosen to totally ignore the (inaudible) of experienced
5 dredgers and scientists. You've totally ignored what
6 PAC meetings (phonetic) were all set up to do as far as
7 mining interests are concerned. And you came down
8 heavily on the side of environmentalists and possibly
9 your own agenda.

10 Fish and Game is regulating based on
11 possibility of harm, but I would remind you that the
12 CEQA requirements are to show actual harm. You are to
13 regulate for harm, not for supposed harm.

14 Fish and Game has chosen to include an
15 unscientific and, in some cases, biased information to
16 justify an agenda of gross overregulation.

17 The agency does not have peer review
18 scientific evidence that supports any deleterious effect
19 to fish and aquatic life. So if you're trying to
20 promote these regulations to protect fish, where's the
21 harm? You have to show harm. The law demands it. The
22 Administrative Procedures Act of CEQA demands that you
23 show harm; and, yet, none has been forthcoming.

24 This is not solely the goings on of this
25 particular agency. I've found this all throughout the

0071

1 northwest. Nobody can show harm. I have challenged
2 people and agencies and governments from Alaska to
3 California to show the harm, and they can't. And they
4 can't because there is no harm. We are not doing
5 anything harmful. Therefore, that there is no cause or
6 negative impact to the environment required by CEQA, no
7 change to the 1994 regulations at all.

8 I know that the agency contends that there's
9 new information since then. But the fact of the matter
10 is, new information about threatened or protected
11 species has nothing to do with an activity that does not
12 harm that species in the first place.

13 Title 14, natural resources, in Chapter 3,

14 guide rights (inaudible) for implementation of the
15 California Environmental Quality Act, the first thing
16 they pulled out of this was if there is substantial
17 evidence in light of the whole record, not part of it,
18 the whole record, before (inaudible) changes, the
19 project may have a significant effect on the
20 environment, the agency shall prepare a draft EIR.

21 I ask, where is the evidence? This says you
22 must have the evidence. And you can't show any, at
23 least I've not been shown it today.

24 Number 5 says argument, speculation,
25 unsubstantiated opinion or narrative or evidence that is
0072

1 clearly inaccurate or erroneous, or evidence that is not
2 credible, shall not constitute substantial evidence.

3 It can't just be any evidence. It has to be
4 substantial evidence.

5 Substantial evidence shall include facts,
6 reasonable assumptions based on facts, and expert
7 opinion based on facts.

8 You have no facts. You have assumption. You
9 have innuendo and possibly even an agenda.

10 Speaking to the issue of mercury, and with
11 regard to any mercury issue, the agency has chosen the
12 route of overregulation instead of choosing a direction
13 that could improve the waters of the state of California
14 by accepting the aid of the dredging community, who are
15 ready and willing to help remove 98 percent of the
16 mercury from the waterways whenever possible.

17 Instead, this agency and other agencies will
18 dwell on the 2 percent that they say gets flowered and
19 goes back into the water, and they completely ignore the
20 98 percent that we take out.

21 I would like to remind you on the subject of
22 mercury, that mercury you obviously don't know is a
23 locatable mineral. It is lying right under federal law
24 to recover it. You can't bar me from recovering a
25 locatable mineral.

0073
1 Currently miners are the only user group that
2 removes mercury from the rivers. Environmentalists and
3 fishermen all complain about the mercury that was put in
4 the rivers by the old-time miners, and it is
5 unquestionably there. There is no doubt about it.

6 I'll also remind you that mercury leaches into
7 the rivers all of the time from natural sources. But
8 the fact is that suction dredge miners are the only user
9 group that removes mercury. And you know what? It
10 doesn't cost the state anything. It doesn't cost them a
11 nickel.

12 Fish and Game's lack of concern for miners and
13 environmental improvement seems to be based on
14 incomplete, poorly-planned USGS research purposely
15 carried out in a known hot spot unlike any other place

Foley,
James

16 in this state. There's no way that this research is
17 indicative of rivers statewide; and, yet, you want to
18 promulgate rules and regulations about mercury
19 statewide.

20 The Klamath River that -- I've dredged on the
21 Klamath River, and I'm not aware of pools of mercury
22 found there in this research project. Any mercury
23 that's found there is adhering to small pieces of gold.
24 It is never going to turn into actual mercury. It's
25 never going to contaminate anything.

0074

1 The federal reporting question (phonetic)
2 includes highly suspect claims of environmental harmful
3 mercury to California waters using unscientific
4 calculations projected from the dredge industry sales
5 data that was never intended for that purpose, nor
6 collecting using scientific method of the quality
7 required for use and in a scientific report. In doing
8 so, USGS does a disservice to the agency representative.

9 And I present to you that Fish and Game also
10 does a disservice by this very same thing. Fish and
11 Game failed in the EIR to consider, as requested, a
12 magnitude of peer review scientific research proving
13 that seleniums protected antagonisms of mercury
14 (phonetic). As presented to the Fish and Game advisory
15 committee, selenium is sufficient quantities in
16 California's waters to be protective of any harmful
17 effects of metal mercury to fish and human health. So
18 what are you regulating?

19 This information came from a trained, retired
20 EPA physical scientist. Her name is Bonnie Wise, and
21 she knows what she's doing, and this is peer review
22 science. It is not the innuendo and allegations that
23 Fish and Game has chosen to pursue in this regulation
24 process.

25 We don't need new regulations. Nothing has

0075

1 changed from '94 except for the good in it. In '94 we
2 were using crashbox headers in regard to flowering
3 mercury. Now dredgers use flare jets (phonetic).
4 They're a lot gentler on things, and probably don't
5 flower mercury now. But you're regulating for things
6 that do not exist. You're regulating for potential, and
7 your own law says you have to regulate for harms.

8 Give us a break. Don't regulate us out of the
9 water. There are people that are doing this that are
10 not just what you class recreational miners. There are
11 people that do this for a living. They depend on it.
12 At the very least, they do it for a second job. But in
13 this depressed economy, it is essential. Thank you.

14 MS. MONAGHAN: (Inaudible). Five, six,
15 seven tickets. State your name and your comment.

16 MALE SPEAKER: (Inaudible).

17 MR. ADAMS: My name is Michael Adams. I'm a

Foley,
James

Michael,
Adams

Michael,
Adams

18 little disturbed that my public comment card from
19 Redding was not included in the draft EIS. I filled out
20 a card in response to the 2005 mercury loss study, and
21 that doesn't show up in the comments.

22 I also want to reference that the economic
23 impact was part of the CEQA process, and that did not
24 show up in the public comments. My signature does show
25 up on the sign-in sheet, however.

0076

1 But to that, the staff report May 2005,
2 mercury losses and recovery, I objected in Redding to
3 the use of the above document. I stated that there are
4 several substantial flaws and errors within the report.
5 I was assured by Mr. Mark Zucker that the Department of
6 Fish and Game was aware of these flaws.

7 These errors were apparently overlooked in the
8 preparation of the draft EIS. I want to, once again,
9 wish to point out those errors and demand under the
10 Federal Data Quality Act that these false assumptions
11 being made in the draft EIR be corrected.

12 Page 4, quote, Moreover, an important drawback
13 was that the efficiency of a standard dredge in
14 recovering mercury was unknown, end quote. The
15 efficiency of a standard dredge is still unknown. The
16 dredge used for the test was an outdated header box
17 design (phonetic). This design has fallen out of favor
18 due to its poor recovery efforts.

19 Moreover, those few that are still in use --
20 and there are a few that are still in use -- would never
21 be used without miners' moss. The study did not use
22 miners' moss. To use this as a standard is (inaudible).
23 The fact that the dredge recovered 98 percent of the
24 mercury is remarkable, and begs the question what would
25 a properly-equipped flare box dredge recover. Would it

0077

1 do a long jet of flowering mercury? How much mercury
2 might be caught if we use the mercury trap?

3 Now, I spoke this evening with Mr. Rick
4 Humphrey. And he told me that that study just found
5 (inaudible), oh, well, let's take a look. It was never
6 meant to be a part of a scientific document.

7 Part of the conclusions on page 8, metal
8 mercury formed in an anaerobic environment and not in an
9 aerobic environment. Any mercury losses from a dredge
10 would move the mercury from an anaerobic environment
11 into an aerobic environment.

12 This report is an interesting experiment and
13 hardly an accurate or definitive study. It should not
14 be used as a system-wide definitive tool. Additionally,
15 the removal and proper disposal of 98 percent of the
16 mercury should be reviewed as more beneficial than
17 (inaudible) 100 percent into the environment.

18 We talked -- the study, the draft EIR talks
19 about recent suspension of mercury. That does not show

20 up in this 2005 study. What study shows up resuspension
21 and talks about resuspension of mercury, and you are
22 using documents that you have not disclosed. That is
23 illegal.

24 I would go to some of the proposed
25 regulations. Section C, Number 3, list engine

0078

1 manufacture and model number and horsepower. Question,
2 we did the horseless mining through the years. We lose
3 an engine. We have to replace it. Do we then have to
4 come back to Fish and Game and say, hey, we are using
5 this model and this horsepower instead of the one we
6 had? What business is it of yours anyway what engine
7 and model number we use? This sounds like information
8 you wish to beat us over the head with in the future.
9 It's an invasion.

10 Section C(e), what triggers a requirement of
11 an on-site inspection? That's still vague and
12 ambiguous.

13 Section C, Number (f), when will the 1602
14 permit be required? Your -- the Department of Fish and
15 Game's re-interpretation of 1602 permits is under
16 question. Under legal challenge, I don't see how you
17 can apply it at this point in time.

18 Section C, part (g), justify the limit of the
19 4,000 permits. Is it 4,000 residential permits? How
20 many permits were issued in 2012? Okay?

21 Section C, number (h), allow -- the Assistant
22 Chief of Enforcement may revoke or suspend a permit for
23 past infractions. So if I have an infraction in 2006,
24 is the chief enforcement officer going to jerk my 2014
25 permit at will? That's not constitutional. If I just

0079

1 get a citation but no conviction, he can still pull my
2 permit. That's not constitutional. Where's my due
3 process under law? That regulation -- that portion of
4 the regulation needs to be rewritten. It's too vague,
5 ambiguous and leaves us with no protection whatsoever.
6 It leaves it all up to discretion. Any Fish and Game
7 officer could come write us a citation, and we get our
8 permit jerked for no cause.

9 Section C, item (j), nozzle size. The
10 reduction from six to four needs to be justified. The
11 only justification I can see thus far is a 1602 permit
12 re-interpretation, and it seems to be about volume
13 moved. And we get back into that argument about
14 their -- I'm sorry, your table telling how much material
15 a certain size dredge moves. That was -- that was add
16 stuff. And you know manufacturers exaggerate all the
17 time. I've never been able to move that much material
18 with either of my dredges. If you reduce it to a
19 four-inch dredge, are you prepared to pay me for all the
20 five to six-inch stainless steel nozzles that I have in
21 inventory?

Michael,
Adams

Michael,
Adams

22 Section C, (k), you just made all the wenchies
23 that we own worthless. Are you prepared to constitute a
24 buy-back program on the wenchies? Therein, too, on my
25 claim I have locatable and (inaudible) in the form of

0080

1 boulders. They are too large to move by hand. And
2 under the federal statutes, I have the right to mine
3 them. They are a locatable mineral. And I do sell
4 them. I remove them from the creek. There's been no
5 justification for the closure of the three-foot -- the
6 three-foot rule. As Mr. Foley pointed out, that's where
7 some of the mineral (inaudible) is. The only thing that
8 I can see on the three-foot thing is to protect the bank
9 from erosion.

10 The '94 regulations restrict your dredging
11 into or undermining or destabilizing the bank. That
12 should be sufficient. If there's in your study, and in
13 the documentation it says that y'all did a survey of 109
14 dredge sites, and there were only two instances where
15 they went into the bank, that 2 percent does not justify
16 imposition of the rule on all of us.

17 If that were the case, we could argue that 100
18 percent of the males over the age of 18 at some point in
19 time will exceed the speed limit; therefore, none of us
20 should have a driver's license, or the car should be
21 limited to horsepower so he couldn't exceed the speed
22 limit.

23 Part of the closures of 19 tributaries of the
24 Klamath River -- and I just looked at the Klamath. My
25 claim resides on one of those tributaries which you

0081

1 closed. That's where I have a legal right to mine. You
2 have by effectively closing that tributary limited my
3 legal right to mine. I can't go mine on somebody else's
4 claim. There are -- that's his property. I should have
5 the right to mine on my property.

6 This -- the tributary clause is attaining
7 (inaudible) in position. You need to justify the
8 four-inch restriction. I'm a commercial miner. A
9 four-inch dredge just doesn't cut it. I need a six-inch
10 dredge to be able to make a living.

11 And the only justification I can see for the
12 four-inch restriction, you talk about noise pollution
13 from an old EPA study. If you look at any of the
14 (inaudible) advertisements nowadays, everyone says it's
15 quieter. So you're using outdated data about new noise.

16 And it appears that you -- I read the whole
17 thing. And it looks like because the smaller dredge
18 uses a smaller engine and, therefore, will have less
19 noise, and a larger dredge may exceed the noise limit
20 for Yuba County, you're going to limit me to a four-inch
21 dredge because I make too much noise. And I'm not
22 leaving the county. You cannot apply new county law in
23 Siskiyou County.

24 The other thing is it seems to be turbidity,
25 and re-introduction of mercury is the limit why you go

0082

1 six to four or the 1602. That needs to be clarified.
2 Almost all of these regulations you intend to impose on
3 us needs justification. We don't see the justification
4 in your documentation.

5 Again, we (inaudible). Your economic report
6 is a joke. It's just flat a joke. The biggest thing is
7 you don't seem to even give us credit for what little
8 gold you say -- now, most of us will admit in private
9 and not on paper gold we get. You seem to think it has
10 no value. \$1400 an ounce.

11 This whole study shows that it's been compiled
12 by nondredgers. It just -- it just shows that you have
13 no idea about what you're trying to regulate. In a
14 study made by Michael, he said, well, we didn't have the
15 opportunity.

16 You did have the opportunity. You had the
17 opportunity in Washington. You had the opportunity in
18 Oregon. Dredging is permitted in both of those states
19 for the past two years. You had your opportunity. You
20 didn't do it. You're regulating something you do not
21 understand. That's part of the problems with agencies
22 all over this country and legislatures. They want to
23 legislate something they've never done and have no
24 understanding of.

25 You mentioned the possibility in your study of

0083

1 degradation to cultural and historical sites. What
2 sites have we degraded in the past years? I know of
3 none. But you still leave it out there as a
4 possibility. We don't have any steam ships in the
5 Klamath River. We're not going to dredge them up
6 (phonetic). The other part of it is we have a cultural
7 and historic right ourselves, that our culture, our
8 history, deserves just as much consideration as the
9 miners before us.

10 Your description on suction dredging -- and it
11 says suction dredging. And it starts talking about the
12 evidence of suction dredging can be seen from any
13 roadway or whatever. I'm sorry. That's not suction
14 dredging. That was (inaudible). That was done by hand.
15 That was done by those hard (phonetic) miners that were
16 made of iron back when they made wooden ships. That's
17 not suction dredging. And to put that out and say
18 that's evidence of suction dredging is, again, wrong.

19 You talked about suction dredging -- suction
20 dredgers in the '30s and the '40s. Those are not the
21 dredgers we're talking about today. This only mentions
22 about 1970, the water suction dredging has been used.
23 And pull up stuff that 1930, 1940 is not -- once again,
24 illustrates you guys don't know what you're trying to
25 regulate.

Michael,
Adams

0084

1 In your regulations also you prohibit any
2 miner from cutting any woody (phonetic) vegetation.
3 Okay? Any woody (phonetic) vegetation. So we are
4 subject to being poked in the eye and stuck in the ear
5 by a little -- yet, there's no imposition of this rule
6 on fishermen or rafters or any other recreational user.
7 Your rules say that we can't dislodge any
8 material from the bank. So when I walk with my
9 felt-sole boots across the bank and pick up some sand or
10 dislodge a pebble out of the edge, I'm in violation of
11 the new regulations. But a fisherman isn't, a rafter
12 isn't. You cannot ask a small portion of the population
13 to endure the full price of something you wish to
14 regulate. Thank you.

15 MS. MONAGHAN: Seven?

16 MR. LONDON: My name's Alan Jay London.
17 I'm not going to yell (phonetic). I'm kind of upset
18 that Mr. Dugger has left. I'm first going to address
19 some of his comments. He was upset at suction dredgers
20 because we might harm fish.

21 During the PAC meetings held in Sacramento, he
22 gave a one-hour lecture on the groups of wildlife and
23 fish during the dredge -- dredging. I actually asked
24 him at the end of it, you know, are you trying to
25 protect the fish, something altruistic. He said no, he

0085

1 wants to kill and smoke and eat the fish.

2 So the group of people who have a financial
3 benefit in killing fish is trying to stop the people --
4 group of people who have a right to a legal operation of
5 mining because we might harm the fish that they want
6 killed. And, you know, it's just a little bit strange.
7 And it's kind of hard to wrap your head around that one.

8 Back in 2009 I went down to the Mother Lode
9 area and gave a little bit of a speech down there to a
10 board of supervisors. And I think you kind of needed to
11 hear this, too. I mean, you have a real good handle on
12 what's going on now. And you understand that a lot have
13 panned up here from every site. We really don't know
14 how this whole thing got to this point.

15 Back in the olden days, miners had really good
16 luck (phonetic). There's a lot of people out here
17 making lots of money with gold. They had a lot of gold
18 in Washington.

19 The United States Government had just finished
20 the Civil War, and they were looking at a way to pay for
21 it. And they cast their eyes out west and all the
22 profits being made out here. Miners didn't like it and
23 lobbied and got the mining law enacted. And it's the
24 first time in history, as we've done before, the U.S.
25 Government gave away all the valuable mineral rights to

0086

1 the people of the United States.

Michael,
Adams

London,
Alan Jay

London,
Alan Jay

2 Along came another horrible war, World War II.
3 This time the government wasn't looking for gold to pay
4 for it. They were looking for bodies to fight it. All
5 the gold -- all the gold out here, all the mining shut
6 down. You know, there was absolutely -- there was
7 almost no mining for gold going on in California during
8 World War II. Most of the people involved in that never
9 returned.

10 So there was a disconnect at that point. All
11 their knowledge base was lost. There was no one to pass
12 it on to. So we have an entire generation of public
13 officials both federal and state, politicians both
14 federal and state, who were either hired or elected, had
15 their career and retired, or at some point was fired,
16 and never had to deal with mining. It was actually
17 lost. It was not in use. No one knew about it. No one
18 applied it.

19 That's our fault. I take responsibility as a
20 miner. When I entered into mining, I should have made
21 myself aware of what the law said. I didn't until it
22 became necessary. I was like most of the other people
23 in this room.

24 Fish and Game says I need to get a license. I
25 get a license. BLM says I need to be ANC. I'm ANC

0087
1 (phonetic). You know, I didn't know. The agencies did
2 not know. But I made the county commissioners a promise
3 that I would find out what the law said, and I think I
4 got a pretty good handle on it.

5 A couple of things I'd like to address first,
6 that there is no such thing as a recreational miner.
7 What we do is for profit. Whether we are profitable or
8 not or how profitable we are doesn't matter. We are
9 creating the wealth. We are producing gold.

10 It was mentioned in the SEIR that corporations
11 have to pay a fee for old mining regulations, the
12 closing of old mines, that we're exempt from. Well,
13 that's because we're not a corporation. The law is
14 applied differently to a human being than a corporation.
15 I don't care how old the corporation is. It will never
16 be allowed to vote, and it will never be allowed to buy
17 a (inaudible). The law is not the same because we are
18 different types of entities.

19 I also don't like being -- excuse me. I don't
20 like the terms and euphemisms used concerning the type
21 of mining we do. We are called recreational miners,
22 small miners, small-scale miners.

23 A small miner by definition is a miner who
24 owns 10 or fewer claims. All the other euphemisms used
25 for the type of mining we do seems to be an attempt to

0088
1 separate us from the laws that protect us. And
2 personally, I find it offensive. I would, therefore,
3 ask that the SEIR, they go ahead and stop using those

London,
Alan Jay

4 other terms and just use the term "miner." And when
5 they're referring to suction dredge, don't use that as,
6 you know, we are suction dredgers. We are miners who
7 are employing a tool. That tool is a dredge.

8 Okay. Section 2.3 states that this SEIR might
9 be used by other agencies to support their issuance of
10 permits or approvals in relationship to suction
11 dredging. And you go on to include U.S. Forest Service
12 and DLM as the two organizations most likely to do so.

13 You also state that no other local, state or
14 federal agencies are known to currently issue permits or
15 authorizations for suction dredging. But you go ahead
16 in Section 4.10 and state that suction dredging is
17 regulated by BLM and by the forest service. Those two
18 statements are -- it has to be one or the other. Either
19 the BLM and forest service regulate us and they permit
20 us, or they don't.

21 You mention in the SEIR that they go ahead and
22 use a notice of attempt, plan of operation (phonetic).
23 That is not the permission. Our permission comes from
24 the 1866 mining law perfected in the 1872 mining law.
25 We have to give them notice. We are informing them of

0089

1 what we are planning on doing. We are not seeking
2 permission. And there is no fee for it, as other people
3 have stated. Mining is free and open for locatable
4 minerals.

5 According to Somara (inaudible), the acts
6 requiring anyone other than government agencies engage
7 in the surface mining operation including those in
8 officially-managed land, that disturb more than one acre
9 and/or remove more than 1,000 cubic yards of that
10 overburden (phonetic) or material. Anything less than
11 that is notice of attempt -- excuse me, is not notice of
12 attempt. All you have to do is go out there and do it.
13 You do not even have to inform them what you are doing.

14 If you go ahead and take a look at the
15 threshold limit for the forestry service, for notice of
16 attempt I have to be using a bulldozer or an excavator.
17 When you're talking about moving that type of quantity
18 where you can literally move a yard of it or more, you
19 know, that's not what a six-inch or an eight-inch dredge
20 does. A six-inch or eight-inch dredge cannot come to
21 those thresholds.

22 I've read your regulations. And you say
23 things are significant. You say things are
24 insignificant. But you never -- you never meet that
25 line. What is the difference between the two? So you

0090

1 have no benchmark. What you -- what is stated in the
2 SEIR is that you're trying to get miners to make
3 smaller, shallower holes. You're trying to get us
4 mining less. You're trying to keep us from going deep
5 into the mineral estate where the richest deposits are.

6 You want us to not only backfill our holes,
7 but you want us to move such small amounts of material
8 with no benchmark by saying, well, this is what we're
9 trying to keep you from, we don't want you to move more
10 than 40 cubic yards per square mile of river. We don't
11 want you to go ahead and disturb a certain percentage.

12 You're going ahead and making regulations by
13 analogy, and you're not supposed to be doing that.
14 You're supposed to be using hard science. You're
15 supposed to be benchmarking. You're supposed to be
16 taking an actual hard look at what's going on.

17 You go ahead in the EIR -- excuse me, the
18 draft EIR, and you reference Sections 611, 614 of the
19 Surface Reclamation Act to support your position. But
20 you do not include the savings clause, which is the very
21 next section, which it clearly states that everything in
22 there does not apply to mineral recovery.

23 In that section is the section that -- that
24 section is the section that refers specifically to rocks
25 and ground in the mineral estate (phonetic).

0091

1 In Section 10.4.3, it states that an
2 (inaudible) G threshold of the CEQA guidelines related
3 to insistency with other laws, states and impact would
4 be significant if a project would conflict with any
5 applicable land use plan or regulation of an agency with
6 a jurisdiction over the project adopt for the purpose of
7 voiding or adopting mineral effect (phonetic).

8 The term "adopt" for the purpose of voiding or
9 adopting mineral effect is in italics. I question the
10 reason for the italics. That phrase is not contained in
11 the law itself and was added by the author, which would
12 totally change the meaning of that.

13 I include in my notes in the section of
14 financial liability, because I believe there will be
15 suits filed. People have tried to get this into court
16 already by contacting the Department of Fish and Game,
17 telling them where and when they put dredges in the
18 water and have gone and done so. I was there. I
19 watched it. Fish and Game never showed up.

20 Some people are going to force Fish and Game
21 to issue citations and/or arrest them (inaudible) to get
22 them to court. Other people are going to go ahead and,
23 you know, sue your various names, Fish and Game, and
24 other agencies because of what is being done with the
25 law.

0092

1 For the liability issue, the protected class
2 that you're dealing with, just miners. According to 30
3 USC 22, protected classes, every U.S. citizen in the
4 United States and every person who has made it known,
5 their intent, become citizens, people with (inaudible).
6 I'm estimating the number to be somewhere around
7 110 million.

London,
Alan Jay

London,
Alan Jay

8 If you figure that 20 percent of that number
9 actually have the time and money to go dredging, you're
10 looking at 22 million people. The figures that are used
11 from the questionnaires sent to the dredger I believe to
12 be very low, but that's 3.5,000 numbers (phonetic) per
13 person per month.

14 At this point, the total bill for any
15 liability could be as high as 1.3 trillion dollars.
16 With liabilities of such magnitude, I truly hope that
17 Fish and Game and Horizon make sure all the information
18 that is being put out is accurate, is transparent and
19 has no subterfuge, no lies contained in it.

20 Now, I believe that the Department of Fish and
21 Game and/or the author of this draft EIR have shown
22 attempt for the CEQA process by omitting,
23 misrepresentation, clouding the issue with needless data
24 and outright fabrication of facts. I believe that this
25 has invalidated this CEQA process to the point that it

0093

1 might be irrelevant to continue with this process. I
2 suggest that you use an actual miner who is familiar
3 with the mining law to (inaudible) Section 410.

4 Furthermore, all the organizations contacted
5 for this EIR, your regulation should have all of their
6 communications added to this EIR because of the terrible
7 way the CEQA process has been conducted, represented and
8 presented.

9 I went ahead and labeled the finding a
10 memorandum of understanding (phonetic) for coordinated
11 resource management and planning in California.

12 Now, under Section 2, coordinated resource
13 management and planning is a process designed to achieve
14 compatible -- excuse me, compatibility between the use
15 being made of natural resources, energy and mineral
16 resources, livestock, et cetera.

17 According to resource management planning, it
18 affects all ownership of the planned area. All major
19 uses of the area are considered and coordinated to avoid
20 unacceptable and unnecessary conflicts. Each plan
21 should be coordinated to match the program administered
22 by the principle owners, managers and users of the
23 resources addressed by the planning process.

24 Well, let's take a look at who owns the
25 resources. The Department of Fish and Game is required

0094

1 to protect fish, birds, mammals, amphibians, plants. It
2 does not own the water. It does not own the rocks and
3 the gravel. Does not own the mineral estate. The
4 mineral estate is owned by the people, and it's held in
5 trust by the U.S. Government.

6 The rock, sand and gravel is held by the
7 Bureau of Land Management. It's held by the forest
8 service. It's held by the California State Lands
9 Commission, private individuals, and is also in part

London,
Alan Jay



10 held by the state of California and for the people of
11 the state.

12 You know, because of what's been going on --
13 and I actually request that all MOUs and other such
14 documents between Fish and Game and these other agencies
15 be published on their web site so we can see what
16 contact has been made, what responses have been given,
17 and that, you know, we might have a full understanding
18 of what is going on.

19 Mr. STOPHER: Thanks, Alan.

20 MS. MONAGHAN: So let me just ask one
21 last -- is there anyone who has not spoken who wishes to
22 do so? Then I want to thank you. You have been a
23 wonderful group. I appreciate your adherence to the
24 ground rules. I turn this over to Mark. He has just a
25 couple of remarks.

0095

1 Mr. STOPHER: Okay. I just want to say thank
2 you for coming and sharing with us tonight. Some of it
3 is similar to the material we got at the other public
4 hearings. Some of it's new, hence the value of the
5 department and the state (phonetic). We will be -- I'll
6 be available for 10 or 15 minutes if you guys have any
7 questions you want to ask. And then we need to pick up
8 things. So, again, thanks for coming tonight.

9 (CD off.)

10 (End of proceedings.)

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0096

CERTIFICATE OF TRANSCRIPTION

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2
3 I, Diane Dearmore, Certified Shorthand
4 Reporter, and a disinterested person, hereby certify
5 that the foregoing taped proceedings were transcribed by
6 me, to the best of my ability considering tape quality,
7 and reduced to typewriting, by computer, under my
8 direction and supervision.

9 I further certify that I am not of counsel or
10 attorney for either or any of the parties to the said
11 proceedings, nor in any way interested in the outcome of

12 the cause named in said caption.

13

14 DATED: April 28, 2011

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DIANE DEARMORE

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CA CSR NO. 12736

TX CSR NO. 4947

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REDDING: MARCH 31, 2011

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CALIFORNIA DEPARTMENT OF FISH AND GAME
PUBLIC COMMENTS

TRANSCRIPTION OF AUDIO RECORDING
MARCH 31, 2011
REDDING, CALIFORNIA

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P R O C E E D I N G S

(CD on.)

FEMALE VOICE: Take two.

MALE VOICE: I'll turn the camera on this
time. Great.

MALE VOICE: (Inaudible).

MS. MONAGHAN: We'll start --

MALE VOICE: (Inaudible).

MALE VOICE: Go ahead.

KEN McMASTER: I've been an active gold suction
dredger since 1979. I've mined things (inaudible) on
the north fork of the Trinity River and the south fork
of the (inaudible) to give you a little background.

I was in Sacramento a couple of days ago, so I
made a couple of comments there. But I'm sure I will be
reiterating tonight, I'm sure on a subject that's come
to my attention.

One of the things I am opposed to is the limit
of the 4,000 permits (inaudible). I do believe there
should be no limit at all; but if one is imposed, it
should be much more reasonable than the 4,000.

I'm very concerned about the application
process itself. When I apply, I will want to use a
bottomless dredge. That's an economical machine for my
operation. I also do imposed four-inch (inaudible).

0003

1

But what concerns me most is that the current proposal,

McMaster,
Ken



McMaster,
Ken

2 if adopted, I am required to get on-site inspections.
3 Well, will I be grandfathered to that limit, or will I
4 be bypassed during that process of having an on-site
5 inspection?
6 So let's say I'm application number 100. Will
7 I end up being 4,001 or whatever number and end up being
8 the last one or the one app or the last permit in the
9 process? Will I be grandfathered? And will
10 considerations be taken into account for that if that's
11 what happens?
12 Also I want to know -- have an answer to what
13 the cost would be (inaudible). I didn't see anything on
14 that, what the cost of on-site inspection will be.
15 And I would also like to let all of you know
16 if it comes forth, if you have that on-site inspection,
17 which I have had several of, and stream alterations,
18 special suction dredging with permits, that if you have
19 information, let the DFG know of that information.
20 If you have information to show to them, give
21 them that information, especially if you're imposing
22 waters, it can affect it drastically. So show them what
23 you have of those permits in the past.
24 I would also like to let you know I'm going to
25 stand up for your rights -- government-protected rights

0004

1 after all. Thank you.
2 MALE VOICE: (Inaudible).
3 MS. MONAGHAN: Comment.

4 MR. OATS: Yeah. My name is John Oats, and
5 I'm the co-founder of Miners Alliance. After careful
6 consideration, the only alternative that's possible and
7 equitable is the return to the 1994 rates -- excuse me.

8 If you have (inaudible) predicated on maybe,
9 could and might and not the legal requirements of sites
10 upon which the CEQA process is based in direct violation
11 of our inalienable rights, innocence until proven
12 guilty, the legislature in the judicial branches have
13 mandated our demise without jurisprudence. Simply give
14 us four years and a few million dollars, and we can by
15 prejudicial science and contrived evidence affect
16 dredgers forever.

17 A perfect example of this is a merger setting
18 (inaudible) as being utilized against dredgers in the
19 hypothetical flowering of mercury. Well, if you go to
20 the most mercury-polluted spot in the state of
21 California, and (inaudible) our situation with
22 antiquated equipment, you can flower a micro-minuscule
23 amount of mercury.

24 But what's strange is that this exact same
25 time, the state of California has mandated, we must

0005

1 (inaudible) with hot mercury-infused bones (phonetic).
2 We are now distributing literally tons of mercury into
3 the very bones with fragile glass containers and heated

Oats, John

4 to be fumaric, which is the absolute worst form of
5 mercury there is. And yet, you're scared by a dredge.
6 A friend of mine exclaimed that this mess
7 might get (inaudible). The last time a particular group
8 of people were singled out for persecution without
9 jurisprudence. The government deemed the Japanese
10 citizens guilty until proven innocent, and look how that
11 turned out. Same thing has happened with dredgers.
12 They cannot be done legally, so it's done through the
13 judicial and legislative route.

14 I absolutely refuse to participate in this
15 useless dredgers survey because it's infringing on my
16 rights and was ignorantly concluded.

17 A perfect example is San (inaudible) River
18 there were 2,843 days by 2,000 folks rating at 5,000,
19 and a four is a serious rating. The only problem is
20 there is not a single -- one single square inch, and the
21 Sacramento had been opened over 20 years (phonetic).

22 So we had 2,000 physical miners in an area
23 that has absolutely no dredging. We are told it has no
24 impact on stores, businesses and miners which is 100
25 percent absolutely untrue. I'll show you my income tax

0006

1 returns.

2 They say also that killing dredging creates 50
3 jobs for cause (phonetic). Well, certainly not us.
4 The -- it's -- that's it.

5 MS. MONAGHAN: Thanks, Tony (phonetic).

6 MALE VOICE: (Inaudible).

7 MR. BRANDENBURG: My name is Richard Brandenburg,
8 and I'm from Redding, California. I've mined in the
9 back country of the wilderness for 25 years. And then
10 the Fish and Game shut me down.

11 I'm not going to say much because I know that
12 whatever I say is not going to amount to nothing or no
13 rules are going to get changed. This is not about
14 safety of fish. This is about shutting the miners down.
15 If you want to save the fish, you move the dam and let
16 more water to the fish. Thank you. It's all a sham.

17 MS. MONAGHAN: Thank you (inaudible).

18 MR. BROWN: Hello, everyone. My name is
19 William Brown (phonetic). I used to be an underground
20 miner for over 20 years. My father was an underground
21 miner as, too, my grandfather was (inaudible). I have
22 things to say.

23 I feel that it's like gold mining is a
24 religion to me. It's the only time that I feel right in
25 this world. Now that my grandfather and my father are

0007

1 not with me, it's -- it's just something I love just
2 like the country and the water that I play in.

3 Like I said, I used to be an underground
4 miner. I worked up in Iron Mountain, and I've seen
5 things that are shameful, the water before it's treated,

Oats, John

Brandenburg,
Richard

Brown,
William

6 even after it's treated.
7 And, yes, this is a high water year, and I
8 believe that there's water that couldn't even be treated
9 that went behind their system. And you're talking about
10 mercury, you're talking about lead, cadmium, minerals I
11 can't even pronounce.

12 Gentlemen, Ladies, I just -- I don't know what
13 to say. There's -- they talk about us reintroducing
14 mercury to the rivers. Well, mercury has to settle out
15 somewhere. It can't stay in suspension. The only time
16 it becomes really dangerous is when it comes to a
17 certain temperature, which would have to be exposed to
18 the air or the water would have to increase a certain
19 temperature.

20 There's this thing called -- in Castillo State
21 Park (phonetic), and above that less than eight miles
22 was the Altata mine (phonetic), which is a mercury mine.
23 Do you think anywhere on that state park that there's
24 any indication to anyone alarming them of these
25 indications that if the water could be riled up, that

0008
1 their children would be swimming in mercury-latent
2 water? No. I believe I've said enough, but I do have
3 more to say.

4 MS. MONAGHAN: And you (inaudible).

5 MR. ADAMS: Yeah. My name is Tony Adams. I
6 belong to the Shasta Miners and also the GM (inaudible).
7 And I wanted to find out from your environmental impact
8 study where have the exposed mercury that we find or
9 lead that we find, is there such a provision. That's
10 pretty much all I have to say. Thanks for your
11 patience.

12 MS. MONAGHAN: Thank you. (Inaudible). Go
13 ahead. Could we have 11 through 20 line up, please? 11
14 through 20 people who are only going to speak for three
15 minutes. 11 through 20.

16 MR. BURGER: My name is Bob Burger, and I'd
17 like to comment on the ID requirements to begin with.
18 The ID requirements to fill out a dredging permit are
19 much more worse than a fishing license, a driver's
20 license or even registering for a boat.

21 I agree with Ken. I don't understand why
22 there should be any sort of limit on the number of
23 dredging permits. There's certainly no limit on the
24 fishing permits that are licenses, and I don't think
25 anyone can argue that fishing is deleterious to the

0009
1 fish. It certainly kills them.

2 Another problem with the limit is that if two
3 or three people are in a group, each -- anybody who
4 wants to touch that nozzle has to be permitted to that
5 engine. And so you could probably have three people in
6 a day touch the nozzle. And that means three of the
7 permits on one end. And, see, you don't really have

Brown,
William

Adams, Tony

Burger, Bob

8 4,000 dredges operating in the state. You have less
9 than that, far less than that, depending.

10 The one-foot rule restoring their fuel on
11 the -- from the -- from the stream, other users such as
12 dirt-bikers and campers don't have that restriction. I
13 don't know why dredgers should. They're probably more
14 careful. After all, they camp 20 or 30 miles from the
15 nearest store (phonetic) backing up to the creek a
16 couple of miles. They're not going to spill (phonetic).

17 And if you -- if you put the lid back on your
18 container and then use it in a container -- in a glass
19 (inaudible) or something like that, if it tips over it's
20 going to spill anyway.

21 So why 100 feet? The next rainstorm is --
22 even if it's 100 feet away, soaks down in the ground,
23 the next rainstorm is going to bring it up and pop it
24 into the creek anyway. So why can't you have an ending
25 (phonetic) next to the creek? Why did you have to level

0010
1 it to eight (phonetic) miles? Next high water certainly
2 has to do with that (phonetic).

3 I don't -- I don't understand the three
4 foot -- three foot from the lateral edges, especially if
5 you're in a scoured out forge (inaudible), there's
6 vegetation from 30 feet up, each side of the stream
7 bank. Why can't you dredge over the edge?

8 A lot of times the dredge -- (inaudible) which
9 is a tributary copy (phonetic) read most of the stream
10 that is dredgeable isn't 16 wide in the first place. So
11 it just ruins the whole thing.

12 All in all in summarization, it just seems to
13 me the regulations are deliberately complicated,
14 micromanaged and all is a trap waiting to bring some
15 small, little rule, and then get penalized and get your
16 permit revoked and not be eligible for the next year.
17 So it just seems like -- all right. Thank you.

18 FEMALE VOICE: Thanks, Bobby.

19 MR. LELAND PETERSON: Good evening, Ladies and
20 Gentlemen, Brothers and Sisters. My name is Leland
21 Peterson. I'm here representing the E Fork Mining
22 District (phonetic). I myself am not a dredger. I have
23 dredged, but I am a hard-rock miner. That doesn't just
24 affect one of us. It affects all of us, all right, as
25 Californians and as citizens of the Trinity County, as

0011
1 we're all concerned about our environment.

2 We love our environment. We wouldn't be here
3 today. We love the little critters that live out there,
4 too. But we also love our families. All right?

5 These are hard times for folks, and this is
6 too bad. This is all happening -- some principals
7 (phonetic), some mining people aren't being able to get
8 paid (phonetic), paying gas (inaudible).

9 There's gold out there. We want to work

Burger, Bob

Peterson,
Leland

Peterson,
Leland

10 again. We want to protect the environment. But we
11 would like you to consider not only the reptiles and the
12 little bugs and the fish that are stationed all over
13 (phonetic), when considering doing this, your people,
14 your fellow American citizen.

15 And the situation we're in now, it's
16 definitely a matter of national security. We need to be
17 strong in this world. And the only way we can do that
18 is by standing together, working out our pressures and
19 moving forward. Thank you.

20 MR. DAVIS: Randy Davis. First, I want to
21 clarify something real quick. Okay. If you have
22 multiple numbers, you can't come up and add those
23 numbers in your head?

24 MS. MONAGHAN: No, no, no. You can only speak
25 once. You can either speak now for three minutes, or

0012
1 you can speak later for however many tags you have.
2 It's your choice. So how much --

3 MR. DAVIS: (Inaudible).

4 MS. MONAGHAN: Okay. So do you want to speak
5 now for three minutes, or do you want later --

6 MR. DAVIS: I'll speak now, and then --

7 MS. MONAGHAN: No. Only once. So you get
8 three minutes now, or you get as many minutes later.

9 MR. DAVIS: I'll talk for my three minutes --

10 MS. MONAGHAN: Okay.

11 MR. DAVIS: Yeah, Randy Davis (inaudible),
12 Prospectors and Miners Association, and several other
13 associations I'm involved in.

14 One of the biggest problems I have, especially
15 with the dredging, from any process, it becomes public
16 record.

17 Anybody in the country when you're a part of
18 public record, you find out when they're going to be
19 home, when they're going to be gone, when they're going
20 home, how long they're going to be. That means
21 break-ins in the home, everything is stolen, and you
22 come out to the dredge site, they can rob you. And
23 it's -- a lot of people do this and the permitting
24 process is, you know, bad. It's very bad.

25 If I want to put down where I want to be here

0013
1 when I'm here, and (inaudible) somebody there, they go
2 to my house, they break in, I'm going to hold you
3 personally responsible. You will be personally
4 responsible. And I can do that, because of state law.

5 Second, (inaudible). What jurisdiction will
6 allow you as individuals to shut down dredging at any
7 time for any reason? It's in there. It's in two
8 places, (inaudible), and the dredging regulations.

9 No one else in the world -- or I should say in
10 the United States, fishermen included, are required by
11 law to give the size of the permits (phonetic), their

Peterson,
Leland

12 dredging license on the side of their boat, and
13 (inaudible) how big are their engines. And (inaudible)
14 commercial dredge fisherman and dredgers is wrong. They
15 kill more than 10,000 if not more fish than you can ever
16 touch.

17 And there's a dredging study and hydraulic
18 mining study done by Bert B. Bailey (phonetic) of the
19 Department of Wildlife and Fishing Service in Oregon.
20 According to his study, all of your studies are bunk.
21 He -- and he had a study in 2003 (phonetic), and his
22 studies are just the opposite of one of your so-called
23 studies, just the opposite. And he is Fish and Game.
24 So that's what I've got to say.

25 MS. MONAGHAN: Thank you. (Inaudible). 11
0014

1 through 30, individual speakers who wish to speak for
2 three minutes, up to 30.

3 MR. WAGGONER: Hello. My name is Bruce Waggoner,
4 and I am the new chair (phonetic) for the Shasta Group
5 and the Sierra Club. And I want to present another side
6 of this argument, and it may not go over with some of
7 these people, but I'm going to say it anyway.

8 We do not believe that these proposed
9 regulations are adequate or that they go far enough. We
10 tend to submit detailed concerns in writing --

11 MS. MONAGHAN: Excuse me. Excuse me. Excuse
12 me. We have -- we said that we would not criticize or
13 applaud, cheer, anything. This gentleman has a full
14 right to be heard, as is the people before him. I
15 request that you respect that right. I will restart
16 your three minutes.

17 MR. WAGGONER: Thank you.

18 MS. MONAGHAN: Do I have that agreement with
19 folks, that you will not interrupt his testimony, as he
20 has not interrupted anyone else's?

21 MALE VOICE: Yeah.

22 MS. MONAGHAN: Then anybody who is
23 uncomfortable with that, I'm going to ask you to leave
24 the hearing.

25 MALE VOICE: (Inaudible).
0015

1 MS. MONAGHAN: You can leave.

2 MALE VOICE: I prefer that, but I prefer
3 that -- just make sure it is videotaped.

4 MS. MONAGHAN: It is. So do you wish to stay
5 and abide by the rules?

6 MALE VOICE: But these rules are ridiculous.

7 FEMALE VOICE: I --

8 MALE VOICE: We can't voice our opinion on
9 anything. This --

10 MR. WAGGONER: I'm just trying to voice my
11 opinion, so --

12 MS. MONAGHAN: I think --

13 MALE VOICE: Why don't you guys take a hike?

Peterson,
Leland

Waggoner,
Bruce

14 MALE VOICE: Excuse me. Hold on. Excuse me.
15 MALE VOICE: (Inaudible).
16 MR. STOPHER: Hold on. This is a public
17 hearing. The purpose of the department is to receive
18 testimony. That's what this is about. We've
19 established some ground rules. We have an agreement
20 with it. You get to make a choice here. I'd prefer,
21 sir, that you stay and contribute to this hearing.
22 MALE VOICE: Why?
23 MALE VOICE: Because we need to stick together
24 as miners. That's why.
25 MR. STOPHER: Is that good enough for you?

0016

1 MALE VOICE: Amen, Brother. Amen, Brother.
2 MR. WAGGONER: Thank you.
3 FEMALE VOICE: So can we start your three
4 minutes?
5 MR. WAGGONER: Thank you.
6 MS. MONAGHAN: State your name again, please.
7 MR. WAGGONER: Thank you. My name is Bruce
8 Waggoner, and I am the new chair (phonetic) of the Shasta
9 Group and the Sierra Club. And we are members of the
10 Mother Lode chapter, which covers all the way from
11 Yosemite up to Oregon, and from Nevada over to the coast
12 range.

13 We do not believe that these proposed
14 regulations are adequate or that they go far enough. We
15 intend to submit detailed concerns in writing because I
16 know you want details.

17 But I'm just going to take my three minutes to
18 say while I understand the frustration of these -- of
19 the dredgers, these rivers involved are the life blood
20 of our state. They're as important as anything on this
21 earth, and they belong to us all.

22 There is no right that these people have to go
23 in and to spoil our rivers. We think that very few
24 permits should be issued under any circumstances, and
25 only when it can be proven that the fish and other

0017

1 habitat is not going to be spoiled.
2 The strict restrictions on hours of operation
3 and seasonal limits must be enforced, as well as nozzle
4 sites for the dredgers. We also think that strict
5 restrictions on the activities along the shorelines, and
6 that dredging no closer than six feet at most close to
7 the shoreline should be imposed, if at all. We really
8 are opposed to the dredging, period.

9 There should be strong rules on restoration.
10 We've seen instances where the rivers are really
11 damaged. These rivers are a public trust. The state is
12 doing the right thing and all being done adequately.

13 I have been at many of the rivers concerned,
14 and so have our thousands of our Sierra Club members.
15 I've seen the damage done by dredging with my own eyes.

Waggoner,
Bruce



Waggoner,
Bruce

16 More over, common sense suggests that dredging is
17 harmful to aquatic life. I draw that mining should be
18 stopped and so should dredging. Thank you.

19 MS. MONAGHAN: Thank you. Name and comment.

20 MR. HARRISON: My name is Frank Harrison. I'm
21 an individual. I have a few comments. First, the
22 four-inch dredge limitation means everybody (inaudible).
23 The habias (inaudible) terminated (phonetic).

24 The proven manifest is mandated by claims
25 through BLM says that there should be a minimum of gold
0018

1 in there to support the (inaudible) which might be used
2 if you were working in another job. A four-inch dredge
3 cannot do this unless it's government rule (phonetic).

4 In fact, the permits issued would be
5 theoretically good through to the end of the next year.
6 This should not be in the regulations. It should be on
7 the permit itself. If it is in the regulations, that
8 means the regulations would have to be rewritten next
9 year to eliminate that. It's strictly not apropos for
10 these regulations.

11 Next, horse-powered is no longer to be used.
12 If you look at any of the books (inaudible) equipment,
13 for example, they do not list (inaudible) for Honda
14 engines in any way, shape or form. Most dredgers use
15 Honda engines. It's getting to be the same way with
16 Briggs and Stratton engines.

17 Next, there should be no limit on permits.
18 Let the market take charge of that. I have two
19 partners. We have one dredge between the three of us.
20 That means three dredge permits to one dredge. Total
21 idiocy. Thank you.

22 MR. ARBUCKLE: Tim Arbuckle. I have -- I'm a
23 claim owner on the east fork and the north fork a few
24 miles above the confluence of the North Forest Trinity
25 River (phonetic).

Arbuckle,
Tim

0019
1 The new proposed regulations happen to be
2 class A. For the record, I'm here to say that for the
3 eight-plus years that I have been dredging in that area,
4 I have never seen an adult salmon or an adult
5 (inaudible) or an adult Steelhead. It was only a
6 three-month season as it was. Thank you.

7 MS. MONAGHAN: Name, and then start your
8 comment.

9 MR. SHERWOOD: My name is Roger Sherwood. I'm
10 from Redding, California. I have mining claims on the
11 main stem of the Trinity River below Junction City. I
12 have done more as a dredger in the last 30 years. Put
13 13,000 hours underwater. That's where the fish are.
14 I've done more to protect those fish than you have.

15 MS. MONAGHAN: Excuse me.

16 MR. SHERWOOD: I'm sorry.

17 MS. MONAGHAN: Mark --

Sherwood,
Roger

18 MR. SHERWOOD: But you don't know what those
19 fish are going through. The fish want cold water. They
20 need those D poles (phonetic) in the river so they can
21 survive.

22 In August on the main stem of the Trinity
23 River the water temperature is 65, 68, 70 degrees. The
24 overburden (phonetic) and the sediment has covered their
25 food supply. Big rocks that are exposed has hidden

0020

1 their holes. They have no place to hide. The water is
2 too warm. Their food is covered up. Their spawning
3 beds are a mess. The dam has created a nightmare that I
4 don't know what the solution is, but gold dredgers are
5 saving the salmon on the Trinity River until you ever
6 stop that.

7 I have dredged in the Trinity River for 15
8 years. I've got 13,000 hours underwater with a
9 regulator in my mouth, and I've worked in the shade.
10 There was not a tree 200 feet from me because of all the
11 fish above me. I've been 60 feet down in that water,
12 and the water gets colder, and the salmon need the
13 54-degree water to survive.

14 They stay out of the river because the water
15 is too doggone warm. The sediment has covered
16 everything up. There is no food. They stay out in the
17 ocean and the seals get them.

18 I went salmon fishing about 15 years ago,
19 hoped to pick salmon up, and all of a sudden it was off.
20 And I said to the guy, what happened to my fish. A seal
21 ate it.

22 So the fish are forced to stay out in the
23 ocean longer than they should, and the seals are eating
24 them. And the river is no longer suitable for the
25 habitat for spawning salmon. And if it wasn't for the

0021

1 (inaudible), there would be no salmon today. I see the
2 Trinity River because that's what my background is. I'm
3 sorry that I'm so upset, but I feel you people do not
4 understand the problem.

5 I've got a background in engineering. And the
6 reason I was successful as a mechanical design engineer
7 was first I identified the problem, only then would I
8 solve it. You've got a very impressive manual here, but
9 not one word in this manual was written by a fish.

10 You're killing the (inaudible) lakes
11 (inaudible). You guys have wiped out the small
12 communities like we were building Junction City, because
13 you stopped an enterprise that was doing 100 million a
14 year, creating wealth out of nothing.

15 When we go gold dredging, there's nothing to
16 say we're going to get rich. And when gas is \$4.50 a
17 gallon, I don't think I should be trying to dredge 14
18 feet of (inaudible) with a damned four-inch dredge.
19 That's nonsense.

Sherwood,
Roger

20 MS. MONAGHAN: Can I have numbers up there --
21 40, if you would line up. Up through 40. You're 63.
22 MALE VOICE: (Inaudible).
23 MS. MONAGHAN: Does anybody have a problem?
24 He has to pick up his grandkids. Can we make an
25 exception?

0022

1 MR. SANTORO: Hello. My name is --

2 MS. MONAGHAN: Excuse me. Are we okay? We're
3 going to line up 1 through 40. Okay. So name and --

4 MR. SANTORO: Hi. My name is Louis Santoro.
5 I've resided in Redding, California, basically since
6 1972 when I moved here. My family came from Sicily to
7 America. You know, as the world goes, this gets harder
8 and tougher.

9 It seems like whenever you just make something
10 sophisticated, you take the fun out of it. And a lot of
11 us do this for fun, and we also make a living out of it.
12 And then all of a sudden, you know, like a guy like me
13 that wanted to dredge for over 20 years, but then when I
14 bought one three months later, I can't even use the
15 apparatus.

16 I have to take my family and friends dredging
17 for the first time. They see more aquatic life than
18 they've ever seen in their -- any days that they ever
19 went. You know, we could have a perfect world. And
20 there's some people that, you know, they probably can't
21 find that perfect world because the world isn't perfect.

22 Things happen. Look at our fellow men in
23 Japan. So I mean, what if, you know, if it's going to
24 happen, you know, we're all men. We need to make things
25 a little bit more simple so people don't get, you know,

0023

1 so upset about the sophistication, and then you put a
2 book that is four-inches thick on a guy like me. I'm
3 just a general engineer, just been building you guys'
4 roads and bridges for over 33 years. If you guys ever
5 came to a bridge abutment in the waterway, you want to
6 talk about what would we do to get traffic by? About
7 the environment? About -- I don't think all the
8 dredging that has ever took place compared to the one
9 bridge of what happens to a waterway. That's all I'm
10 going to say. Thank you.

11 MR. JOHNSON: My name -- excuse me. My name
12 is Roy Johnson. I've been mining for 40 years of my
13 life. And one thing I learned right away 40 years ago,
14 that mining is built on 1872 mining laws, and it's the
15 logic in the laws that made it work. California is
16 built on that.

17 If you look back over the past 100 years ago,
18 mining did a lot of damage. But within the last 20
19 years, 30 years the dredging -- mining does nothing.
20 Mining -- I've been under the water for -- like most of
21 these people in here, for a lot of years. I have never

Santoro,
Louis

Johnson,
Roy



22 in my life seen a dead fish due to dredging, ever. And,
23 yet, they kill thousands of them over the coast. The
24 fishing Indians take thousands of them when they come
25 in. The fishermen take thousands of them. And I have

0024

1 never seen a dredge hurt a single one.

2 The intent of the 1872 mining laws was to set
3 up an environment that makes it feasible for a citizen,
4 such as yourself, to go out and make a living or to
5 build a future off mining. It's not about the tourists.
6 It's not about the hobbyist who goes out there on the
7 weekend with his little three-inch or four-inch dredge.
8 It's about making a living here. It's about -- it's
9 about a man and his future.

10 Why would we mess with your future? What if
11 we took your retirement and cut it down? What if we
12 pinch here, we pinch there to where you couldn't do the
13 work two days out of the year or something like that?
14 That's what happens. That's what you're doing to our
15 whole industry. It's not just the dredgers. You're
16 affecting all of it.

17 And I can't find any harm due to dredging.
18 And the idea of taking a waterway and shutting it off
19 400 and 3 -- 300 or 400 or 500 feet before and after,
20 takes and eliminates half of the mining time.

21 And this idea that you may designate where we
22 go dredge or not on our own mining claims makes no sense
23 because the intent is to go out there and prospect until
24 you find enough -- until you find a spot rich enough to
25 take until you find a (inaudible). You can't go by,

0025

1 well, Fish and Game says, well, you can go work behind
2 that rock over there, or something like that. It just
3 doesn't work.

4 It's a working environment. It's not meant as
5 a hobby. It's not meant for just fun. It's a whole
6 thing. In the last 150 years is simply making a living.
7 And what you're doing is pinching it down. All of these
8 controlling agencies pinch it down so tight we have
9 nowhere to move. You want to tattoo us -- like 1942 in
10 Germany, you want to tattoo our dredges, yet you want to
11 restrict what motors are -- want us to identify our
12 motors.

13 All of these things you restrict to the point
14 of ridiculousness. If it is your future, your
15 background, your work where you went every day, and all
16 of us here are affecting what you're doing, you would
17 have a whole different attitude.

18 All we want to do is make a living. And to
19 make a living you can't take our tools away. You need a
20 six-inch dredge on most of these rivers. A four-inch
21 dredge, honestly, I'm not exaggerating, it's a toy.
22 It's -- you can't even put a test hole down a four-inch
23 dredge. It takes too long. You can't work without a

Johnson,
Roy

Johnson,
Roy



24 dredge (phonetic). What you're doing is making it a
25 hobby and not a business to make a living. Thank you.
0026

1 MR. STOUT: Yeah, hi. My name is Elvis
2 Stout. I belong to the 49ers Club up in Red Bluff.
3 And the remark I have is the (inaudible) merger about
4 agriculture. Well, from Red Bluff south to Chico --

5 MALE VOICE: Wait a minute.

6 MS. MONAGHAN: Excuse me. He's trying to
7 speak.

8 MALE VOICE: I want to speak -- okay.

9 MS. MONAGHAN: Excuse me. He's trying to make
10 a comment. I really appreciate your not interrupting.
11 So can we re-start his three minutes?

12 MALE VOICE: Sure.

13 MR. STOUT: Anyway, from Red Bluff to Chico,
14 the farmers have a dam, all the streams that used to run
15 year-round, and the spawning salmon swam up and spawned.
16 Now they dried up, they're seven months of the year
17 because they take all the water out for irrigation.

18 And another aspect, as far as the mercury, it
19 goes into (inaudible) it's out of a hold called a sand
20 bar (phonetic). And the west side of the state from the
21 north border to Sacramento, there's a sand bar belt that
22 runs down and through the valleys that releases the
23 mercury. So there's (inaudible) where the mercury comes
24 from. And that's all I have to say. Thank you.

25 MS. MONAGHAN: 20 now through 50, if you would
0027

1 like to line up. Those who want to speak for three
2 minutes, through number 50.

3 MR. GASS: My name is Rod Gass. I bought my
4 first dredge in 1974. I dredge with my 10-year-old
5 grandson now. He loves gold just like I do. This is
6 excellent work you've done on this DS EIR (phonetic).
7 You've wasted millions of dollars, thanks to you.

8 MS. MONAGHAN: Excuse me. You're speaking to
9 Mark, and so you need to --

10 MR. GASS: I've read it twice.

11 MALE VOICE: (Inaudible).

12 MR. GASS: I've read it twice. I've gone
13 back over it. Are you going to interrupt me?

14 MR. STOPHER: Yeah, I am. We're not required
15 to have this hearing if the behavior continues as it is.
16 Everybody who wants to state will not have the
17 opportunity. So think carefully.

18 I want to hear from you. I want to hear from
19 these people. But it's going to happen in a courteous
20 environment, or it won't happen at all.

21 MR. GASS: Let's do it.

22 MR. STOPHER: Thank you.

23 MR. GASS: My apologies to everyone I
24 offended. I'll do better now.

25 MS. MONAGHAN: And we'll re-start your three

Stout, Elvis

0028

1 minutes.

2 MR. GASS: I've read it twice. I'm very good
3 at reading. I've gone back over it and studied where
4 you make your mistakes in it. And every chapter is
5 incorrect. Deleterious of fish was never proven. It
6 does not exist. It's a figment of someone's
7 imagination.

8 Thermal refuge, meaning temperature savior of
9 some kind, whether that be hot or cold, applies both
10 directions. Hot water can come into the Klamath River
11 or any other river the same as cold water. Only the
12 fish know the difference. You folks don't. You've gone
13 on those rivers and closed every waterway. What is it,
14 500 feet each direction? 1,000 feet. No good. You
15 know you're wrong. The pump intake 3/32nds of an inch
16 is designed to stop all the pumps. It won't work.

17 We have in the environment sticks, moss,
18 leaves, everything that floats. It clogs on our
19 intakes. I've been using a quarter-inch intake screen
20 from the beginning. Every dredger in this room uses
21 them. That's what we do.

22 And it's not part of the requirement. We do
23 it because it's the right thing to do. The four-inch
24 nozzle is obviously too small. It's a toy. It's not a
25 gold-mining machine. You need a six-inch nozzle,

0029

1 hopefully an eight-inch if we can get it.

2 I'm very upset that in the DS EIR, the
3 positive pro-dredging facts were not posted, not in
4 there anyplace. All I could read was negative. And
5 that was wrong. You're not mandated to treat us that
6 way. We're citizens of this United States. We're
7 taxpayers of the state of California. We deserve to be
8 treated better. Thank you.

9 MS. HAMELBERG: I'm Tricia Parker
10 Hamelberg. In 1984 I moved to Callahan in the Scott
11 River Valley to begin my career as a fish biologist. I
12 had observed firsthand underwater the impacts of
13 dredging to salmon habitat.

14 After finishing my degree, I've spent my
15 career working with the many interest groups in trying
16 to restore salmon Steelhead in the Klamath River and
17 Sacramento water sheds.

18 I'm concerned about the potential effects of
19 such suction dredging. The potential effects on
20 road-life history (phonetic), food supply, shelter,
21 microhabitat and rearing conditions (phonetic).

22 During the first hour of tonight's meeting, I
23 noticed the two posters that were in the back of the
24 room, and I asked to have them put on the side of the
25 room. They both list the main potential effects that

0030

1 are of concern to people that are involved with the

Gass, Rod

Hamelberg,
Tricia
Parker

2 salmon and Steelhead by the adult and juvenile parts of
3 their life history, and food and habitats of such fish
4 (phonetic) living.

5 I want to urge caution to keep the moratorium
6 until a vigorous scientific assessment can be performed.
7 As a fish biologist, I am a member of the American
8 Fisheries Society, and I have to read parts of the
9 letter from the American Fisheries Society. I will also
10 provide a copy of this letter in writing to Mr. Stauffer
11 and Fish and Game consultants. This letter was written
12 to Senator Pathy (phonetic) in regards to support for
13 Senate Bill 670 by the Western Division of the American
14 Fisheries Society:

15 The American Fisheries Society strongly
16 supports SB 670, which would suspend in-stream suction
17 dredge mining until a vigorous scientific assessment of
18 the practices, cumulative impacts on fish is prepared
19 and new regulations are written based on that assessment
20 (phonetic).

21 The California Department of Fish and Game has
22 acknowledged in court that this mining practice may be
23 harming the spawning success of several fish species,
24 including Coho and Chinook salmon, which are officially
25 listed as endangered.

0031

1 Current law only authorizes Department of Fish
2 and Game to issue suction dredge permits after
3 determining that the practice will not be deleterious to
4 fish. Yet, the CMG has not limited the recreational
5 activity while it reviews the events of the practice --

6 Oops. Okay. I'm going to skip to the last
7 part of the letter, which is that:

8 This is a case where Department of Fish and
9 Game would be wise to use the precautionary principle to
10 (inaudible) decisions; that is, to err on the side of
11 the fish before they are forever extrapolated.

12 So my comment is urging caution. I'd like to
13 urge everyone caution.

14 MR. HOLLISTER: Hi. I'm Mark Hollister. I
15 live in Coffee Creek, California. I've been dredging
16 for about 30 years. I built a 10-inch dredge dragging
17 through the Big River about 20 years ago, and I've used
18 it in various places. I've a few things I'd like to
19 comment on. First of all, I don't have too much time,
20 so I can't expound on too much.

21 The first thing is the dredging within the
22 three foot of the bank. That's absolutely ridiculous.
23 It just won't work. There's too many variables there
24 the way the stream lays, low water starts to go down.
25 After you get a dredging permit you have to stop

0032

1 dredging because the water goes down. That's just one
2 of them.

3 Another note that's been hit upon already is

Hamelberg,
Tricia
Parker

Hollister,
Mark

4 the screen size of 3/32nds. You won't do any dredging
5 at all because you will spend 95 percent of your time
6 unplugging your screen all the time. It's just
7 ridiculous. It won't work.

8 Another point is the number of permits. I
9 don't know how they came up with 4,000. It was in the
10 paper, and it said that somebody thought that was a good
11 place to start.

12 Well, in 1980 if there was 20,000 permits and
13 now there's 4,000, why do you think you've got to have a
14 number? Why don't you come someplace in the middle, to
15 13,000 even, that way the Sierra Club can't buy all
16 their permits out and keep all the dredgers from
17 dredging. They will be the first ones in line. That's
18 my concern.

19 Environmental Impact Report, when I had first
20 heard about this Environmental Impact Report, I thought
21 it was about the mercury. Okay. So I'm waiting to hear
22 about all the mercury. Well, it's like all of a sudden
23 once you had the door open somebody brought three
24 dump-truck loads of all the other stuff, threw it in
25 there. And, like, there's cans, let's get all the stuff

0033

1 added in. And it's pure bureaucratic BS is what it is.
2 And I wasn't the only one who was unhappy about it.

3 Another point is hours. Why in the world
4 would we have to have certain hours that we have to
5 start --

6 MS. MONAGHAN: Sir --

7 MR. HOLLISTER: People don't -- you know,
8 that's ridiculous. You ought to be able to start and
9 finish whenever you feel. If you want to work hard,
10 long hours, go for it.

11 Another one, power winches. I don't know if
12 anybody's ever been in Coffee Creek, but unless you've
13 got a power winch or something, you'll never move
14 anything. There's nothing but boulders. The only way
15 that would work is if you were dredging in nothing but
16 cobbles.

17 Temporary dams, once again, when you get below
18 the water system, what do you do? Do you give up when
19 your dredge don't flow? It's a temporary dam. It's all
20 part of it.

21 And also, one thing that don't make any sense
22 to me, we're paying thousands, millions of dollars for
23 river restoration, and dredging is exactly the same
24 thing, except we don't get paid. What's the difference
25 there? I mean, that doesn't make sense to me.

0034

1 I don't know. I just think that you need to
2 sharpen your pencil a little bit.

3 MS. MONAGHAN: Numbers (inaudible). Okay.
4 Can I have numbers through 60 lining up, please? 60.
5 Your name and your comment.

Hollister,
Mark

Neutze,
Stan

6 MR. NEUTZE: Good evening. My name is Stan
7 News. I dredged with a few friends of mine. They're
8 mostly recreational miners. But I get (inaudible) this.
9 I see this as another taking away of an individual's
10 rights and livelihood.

11 I'd like to comment on the -- and by the way,
12 I have three master's degrees and a bachelor of science
13 degree from engineering school. Okay? I did read
14 through this, and I'd like to make some comments, if I
15 could.

16 The criteria according to an on-site
17 inspection and the permit (phonetic) needs to be
18 specified. What this actually consists of and what is
19 checked needs to be specified in the regulations. It
20 will save everyone a lot of grief.

21 What is the Assistant Chief of Enforcement?
22 Is this a new position? I have to agree with the other
23 gentleman that a four-inch nozzle really is a hobby
24 nozzle. And really six-inch should be the standard. If
25 you want to compromise, you go to a five-inch. 1602

0035

1 implication (phonetic) is going to cause Fish and Game
2 and the miners both a considerable amount of grief. So
3 please stay with the six-inch.

4 Page 38 of the S EIR three feet from the
5 lateral water level, I mean, that's really a ludicrous
6 issue. The issue here really is stream/bank changes.
7 If you want to change the regulations, specify something
8 like no dredging in dirt allowed, that way you're not
9 dredging into the embankment. Every year the level of
10 gravel changes. You should be able to deal with the
11 movable gravel and then put it back.

12 Now, let's talk about some of these
13 experiences that I've had. I've dredged with a couple
14 of years with some miners who have dredged for 10 years
15 in the same location. They got about a half a mile
16 upstream. I've watched the trout feed at the end of the
17 dredge.

18 The trout are very healthy. I've watched
19 small fingerlings along the side of the creek bed.
20 They're very healthy in the pools where the gentlemen
21 have dredged. I see schools of trout four, eight, nine
22 inches long. They're very healthy, and they're doing
23 just fine. So there are no deleterious effects on
24 trout. And the Coho salmon are very similar to the
25 trout.

0036

1 Anybody here, if you're mining in the Trinity
2 (inaudible) there is the A designation. Please stand up
3 and state if you're in that A designation and why it's
4 been given the A designation.

5 And we really do need to look at the big
6 picture. It's just another issue here. I think radical
7 environmentalists coming in, you heard the gentleman

Neutze,
Stan



8 here saying he's going to go through this and probably
 9 sue again. We need to, you know, fight back on these
 10 issues.
 11 We've seen the spotted owl, we've seen global
 12 warming, based on junk science. This is not junk
 13 science. So I appreciate your time. Thank you, sir.
 14 MS. MONAGHAN: Do we have anyone else with any
 15 number that wants to speak for three minutes? Yes?
 16 Okay. Any numbers, are --
 17 MS. MONAGHAN: (Inaudible).
 18 MS. MONAGHAN: Okay. And did you want to
 19 speak? Do you have a speaker card?
 20 MS. MONAGHAN: (Inaudible).
 21 MS. MONAGHAN: Yeah, you do. So how about go
 22 over -- anybody who wants to speak, go ahead and --
 23 MS. MONAGHAN: (Inaudible).
 24 MS. MONAGHAN: Okay. So any from 60 on up,
 25 how many numbers --

0037

1 MS. MONAGHAN: (Inaudible).
 2 MS. MONAGHAN: Okay. So anyone with 60
 3 through 80 at this point who wants to speak for just
 4 three minutes? So name and then comment.
 5 MS. LIVINGSTON: My name is Mary Livingston.
 6 And I recognize that through this review process there's
 7 nothing that can be done without other issues that are
 8 affecting the water level or the fish population. But I
 9 do believe that it needs to be a part of the public
 10 comment.

Livingston,
Mary



11 I was born in Hoopa (phonetic) on the
 12 reservation. I spent half of my childhood there, and I
 13 spent the other half on the Trinity River. I learned
 14 how to (inaudible), how to swim in these waters.
 15 And I'm really concerned that the miners are
 16 take -- trying -- that wrongs that have been committed
 17 through, let's see, the Coleman National Fish Hatchery,
 18 are trying to be corrected on the act of the miners, and
 19 it's just not possible.
 20 The Coleman Fish Hatchery has a barrier there.
 21 All salmon are stopped there. And after it was built to
 22 mitigate the effects, the negative effects of Shasta
 23 Dam, the salmon are stopped. People have tried to
 24 restore Bath Creek (phonetic), a very cold tributary.
 25 And they get stopped at the hatchery. And there they

0038

1 die and rot on the banks. The hatchery does not do a
 2 good job of protecting our fisheries. And since its
 3 installation, we have seen the salmon population
 4 decline. And there are people, well-meaning that they
 5 may be, some not so well-meaning, who tout that as a
 6 successful program.
 7 Then there are the issues of vegetation that
 8 suck up water. And that's what trees do. They drink
 9 water. And when our forests are left to be so

10 overgrown, there is a heightened mess on the water
11 table, less water to streams.

12 These things have an impact. These people
13 here can't fix that. They cannot correct the wrong that
14 has already been done by overgovernment (phonetic)
15 regulations due to, for lack of a better term,
16 feelgoodism.

17 I love these rivers. From the soil of my
18 birth, from the land to where I was born on the Trinity
19 River in Hoopa, it is a part of who I am. But they --
20 this is not the answer. It is not going to correct the
21 harm that has been done by overreaching of government
22 regulations.

23 MR. LIVINGSTON: My name's Tim Livingston, and
24 I'm a claim holder. And I wanted to just address a few
25 specifics with regards to the rules.

0039

1 I also tend to agree that a 4,000 permits
2 issuance seems arbitrary. I don't know if there was a
3 carrying capacity study done to address that and come up
4 with that number, or it was just decided since the
5 average permit numbers are running less than 4,000, it
6 would be politically pushed through.

7 And, you know, whether or not the issue was
8 addressed as to the number of dredges or the number of
9 permittees, as a lot of folks have mentioned, there's a
10 lot of individuals on the same dredge. And so it really
11 doesn't address that number.

12 The other thing was that the locations -- to
13 be listed on the permits, six locations, impacts from
14 one dredge or impacts from one dredge, and if you move
15 it from one location to another, it's still one dredge;
16 therefore, the limitation of six locations seems, again,
17 arbitrary. I'm not sure that it really accomplishes
18 anything. So I question that.

19 Let's see, the three-foot rule, I certainly
20 have an issue with that. As a claim holder on a small
21 stream, it has a big impact on the area that we can
22 operate within that stream.

23 And I just want to throw something out to the
24 crowd here. I was talking with Mark beforehand. And
25 one thing he mentioned here is if we have issues with

0040

1 some of these rules, it's helpful if we can actually
2 provide language that they may be able to use in the
3 rule-making process.

4 So I throw that out to you folks to think
5 about if you have thoughts on how to better explain a
6 more reasonable limit that still provides the protection
7 they require but satisfies our own needs also.

8 On the section that describes where fuel can
9 be stored, it must be at least 100 feet from the stream,
10 or when feasible, containment to be used. That's very
11 vague. I think it needs to be 100 feet from the stream

Livingston,
Mary

Livingston,
Tim

12 or contained. So I would suggest that change.

13 And then lastly, the restoring of gravel or
14 the profile in the stream, when Fish and Game spent so
15 much money on gravel injections to provide spawning
16 gravel, wouldn't it make sense to which these dredges
17 come from relieve the impacted bottoms of these streams,
18 leave it up to be available to be dispersed and provide
19 a new spawning ground. That's all my comments. Thank
20 you.

21 MR. HERRERA: My name is Cyrus Herrera, and I'm
22 a member of the TPA, Shasta Miners and A Fork (phonetic)
23 Mining District. I have a claim in Haysworth (phonetic)
24 that's been in the family since the 1800s.

25 And you know you've taken our tender rights,
0041

1 you've taken our mining rights. You know, now we're
2 growing pot to make a living. And we're headed down a
3 one-way path of destruction.

4 And I think all my miners that came here
5 today, I know you guys are really upset, but we need to
6 stick together as a team and we need to play their game,
7 and hopefully we can make some changes.

8 I brought my 20-year-old son today to show
9 them that we're losing our rights on a daily basis. And
10 I'm really upset to see what's happening today.

11 We've been trying to save the fish for 25
12 years. I've got eight-year-old kids, when they go to
13 school and ask them, name one thing that hasn't been
14 mined or grown. And they come up with all kinds of
15 different things like latex, paint.

16 But I've got eight-year-old kids coming up to
17 me going for 25 years -- we've been sitting here trying
18 to save the fish population, and it's not doing any
19 good. And we need to think of something else to do.
20 And I've been dredging water, and I see the fish down
21 there, you know. I care about the fish, and we love
22 taking the kids out fishing in the streams.

23 I want to protect it just as much as everybody
24 else. I don't feel that we're making the kind of impact
25 on streams and rivers that I look over at Trinity and
0042

1 wonder -- making spawning beds for the fish over there,
2 and they're running their greasy equipment in there paid
3 for by the government. And they're all worried about my
4 fumes 100 feet away from my dredge being contained. It
5 makes absolutely no sense.

6 And then you've got a moratorium on dredging.
7 And right after the moratorium went in, there was a
8 900-horsepower dredge put in up at (inaudible) to,
9 quote, pull out all the heavy metals.

10 So I want to say that people need to remember
11 that if it can't be mined, it must be grown. And that's
12 how our wealth comes out of the ground. Thank you.

13 MALE VOICE: May I have about 15 seconds,

Livingston,
Tim

Herrera,
Cyrus

14 please?

15 MS. MONAGHAN: I need a number and I need --

16 MALE VOICE: I'm going to speak -- I'm going
17 to speak more than the three minutes, but I just have
18 to -- we're losing people is the issue. You need --
19 (inaudible), you need to contact each other.

20 Somehow there needs to be a box for you guys
21 to check with the mailing lists to be sure, you call
22 each other, you write each other. If you have a hard
23 time writing, get a grandson or daughter to help you.
24 You need to communicate with each other. I'm not Fish
25 and Game.

0043

1 MS. MONAGHAN: Okay.

2 MALE VOICE: I'm an outside guy.

3 MS. MONAGHAN: So thank you.

4 MALE VOICE: Yeah.

5 MS. MONAGHAN: Okay. Do we have anyone else
6 that wants to speak for three minutes? Okay. So let me
7 ask. How many people are going to speak using donated
8 time for more than three minutes? Just two? How many
9 cards do you have?

10 MALE VOICE: I have three. I don't know if I
11 will need it.

12 MS. MONAGHAN: Okay. And, sir, how many do
13 you have? Five? Do you mind if he goes first? Okay.
14 And then you will be second. Unless -- and we'll ask
15 one last time, and that will conclude the meeting.

16 MALE VOICE: Yeah. I don't need that, see --

17 MS. MONAGHAN: Great. So you state your name
18 and your comment.

19 MR. HARRIS: My name's Tom Harris, and I've
20 been mining for 23 years. I started out with pans just
21 recreational, worked our way up. We've got a
22 high-banker (phonetic), three-combo, five-inch. We've
23 been doing it. We go out of our way to learn the rules,
24 stick with the rules. And I'm not saying we're perfect,
25 but we try. If we find we're doing something wrong, we

0044

1 correct it.

2 And the business with a four-inch dredge is
3 ridiculous. It was benchmarked with five before. Why
4 do they have to change that if there's such a big
5 difference between a four and six? What was wrong with
6 the five? Like I said, if you want to do any kind of a
7 semi-serious, do something, you've got to have thought.

8 I don't understand what the big deal was
9 trying to cut that down, because like I said, you may as
10 well have three-inch or two-inch if you're going to play
11 with a four.

12 Okay. I want to make a comment on the six
13 locations facing if you have a four-inch. I want to
14 know how tight that is. If I'm on the Klamath River --
15 because I've been with the new 49ers, and there's about

Harris, Tom



16 70 miles of claims. If I name six claims and I want to
17 do the seventh which is further down, I have to go all
18 the way to Redding, come in, read number 5 (phonetic),
19 go through all kinds of monkey motion (phonetic).

20 And if you're saying I can give you a two-mile
21 stretch from all of Klamath and (inaudible) County, to
22 me that would be reasonable because if I want to do it
23 on multiple rivers, and I'm going to be down south and I
24 want to go down to the Acme River (phonetic) because I
25 heard it's good, I've got a valid and season permit, I

0045

1 should be able to do that. You know, that would be a
2 case where I need to go in and modify. But, I mean, be
3 reasonable about saying six locations. I think it may
4 be overstepping.

5 Having said that, if you say with a five-inch
6 or a six-inch, and you're saying -- I'm not sure on this
7 exactly how many locations. You can try it by six
8 locations. If I have six locations, I have six
9 inspections. And if I do, it has to be an area
10 that's -- I wrote down again -- they said a quarter-mile
11 stretch or something.

12 If I had several of them or if I want to
13 change it, it seems kind of ridiculous. I've got to go
14 down, because you're talking about fees like you're a
15 commercial miner. And if you're talking five or six,
16 you can move a lot of stuff. But it's not like an 8, a
17 10 or 12. You're talking serious commercial, then,
18 yeah, then you need to regulate a little more because
19 they're going to do some serious stuff.

20 The other one seems a little kind of
21 ridiculous. It's really overkill, way overkill. I
22 think that that should be a lot more opened up so that
23 people can do it, otherwise you're going to wind up
24 restricting it down and you just can't do it.

25 The cap on 4,000, in certain groups -- I don't

0046

1 want to get into name-calling, but theoretically if they
2 wanted to they could flood Fish and Game and buy all the
3 permits and nobody could do it. If it's open-ended, it
4 doesn't do them any good.

5 And I have seen this happen. I have worked
6 with the state. I have seen environmentalists, if you
7 want to call them that. I have other words because I
8 had to deal with them as a state fireman for 30 years,
9 and I have seen damage that they have done. So I -- I
10 have very little sympathy for them.

11 I'm an outdoorsman. I'm a fisherman. I like
12 to fish and hunt. I have all of these things, and I
13 want to take care of the environment, but not to the
14 extent where you can't use anything on the grass, if you
15 like perfect grass. I think it's kind of ridiculous,
16 and that's the way it goes. People would have it their
17 way. Nobody would even be allowed for us (phonetic).

Harris, Tom

18 On the 1850 mining laws, I don't understand
19 how this supersedes the federal law. I think that
20 should be addressed. I understand it's kind of in
21 federal and state courts and ping-pong back and forth.
22 But it seems like the Fish and Game is superseding all
23 of that.

24 I thought the state did that when they tried
25 to push it through legislation superseding federal law

0047

1 (phonetic). I don't understand. Hopefully that can be
2 addressed that this is what the law is, this is what
3 we're doing, this is one of the ways to do that.

4 On the three foot from the bank, that seems
5 kind of ridiculous. If you get into a real narrow area,
6 you know, topography, if you have bedrock -- if you
7 don't have bedrock, fine. Now you can't undermine.
8 You've got to stay away from the bank.

9 A better definition where the water line is,
10 if I'm explaining, and the water drops and the game
11 warden comes up, he'll be, you're right on the line,
12 your hole is over there. Wait a minute, it wasn't when
13 I did it. I mean, you know, at least be specific. If
14 you do that and the water is down and you need to fill
15 it back in, something so that there's a reasonable deal.
16 If I'm doing it, I come back a week later because I
17 leave and it's gone down, my hole is showing, I broke
18 the law.

19 These are things that need to be addressed,
20 because the game warden if he wants to go (inaudible)
21 law he says, okay, this is what I see, here's your
22 ticket, and then it's a \$50,000 court case. And then
23 also besides what it would cost me, I don't like the
24 state having to spend \$100,000 while (inaudible). There
25 goes my taxes which we can't spare.

0048

1 Let's see. And I think someone brought up
2 exactly -- I don't know exactly -- they're talking about
3 inspections. I don't know exactly what they're meaning.
4 I guess it's not the dredge itself. They're saying
5 it's -- they're inspecting the area (inaudible), what
6 are they looking for. And I think that should be a
7 little more specific as far as the inspector, or he's
8 not going to be kind of over-regulating because, yeah,
9 that's where the hole is, but I'm going to tell you you
10 can't go there.

11 I mean, I'm asking for a little common sense
12 in what they're inspecting, and then what they're
13 inspecting, be sure (inaudible) they understand where
14 they're coming from and what is expected of us.

15 And I'm not saying all miners are perfect.
16 They're not. But if I see one that's doing something
17 wrong, I will go over and try to do something about it.
18 And if I have to, I will report it myself. But I have
19 seen a few of them, and I have. And they're the ones

Harris, Tom

20 that you should be going after. Not the law-abiding.
21 You know, you try to do it, and people make mistakes,
22 you come and correct it, fine. But I think they should
23 be concentrating more on trying to get rid of people
24 that are doing something wrong than going after the
25 people that are trying to do it right.

0049

1 Fish and Game comes by and they come tap me,
2 and say I see it over there, I have a problem with it.
3 No problem. It's taken care of. But it seems like
4 sometimes they get kind of ticket-happy. It's like, you
5 know, they see something, you're guilty without even a
6 trial.

7 And I think it should be more of an open deal
8 where there would be better cooperation between Fish and
9 Game, specifically the game wardens, and miners where
10 they come together and talk -- and I'm not talking about
11 blatantly doing something that is obviously wrong, but
12 something where there's a change that a person can state
13 something, talk about it, maybe a warning or something
14 would make more sense than the guys that are trying to
15 legitimately do what's right.

16 And that's all I've got to say other than I
17 just hope that this can work out. And I work for the
18 state, so I understand the level of emotion that is
19 involved with all of this. But being on your side,
20 being a miner, I also understand what's going on here
21 because it appears that it's more -- and I'm not trying
22 to be personal. It appears like a railroad thing.

23 It appears that the only people that are being
24 listened to are the environmentalists. That's how it
25 appears. That's how it's always seemed. So I hope some

0050

1 of these things that I've heard today will be addressed.
2 And the environmentalists, if they don't like it, then
3 I'm sorry, but you're going to be sending me away
4 (inaudible). But like I said, I can -- I don't like
5 seeing my rights being taken away. Arbitrarily, I'm
6 just saying that's how it appears to me.

7 MALE VOICE: Okay.

8 MR. HARRIS: Thank you.

9 MALE VOICE: (Inaudible).

10 MS. MONAGHAN: All right.

11 MALE VOICE: (Inaudible). Thank you.

12 MS. MONAGHAN: 15 --

13 MR. MITCHELL: My name's Seth Mitchell. I'm
14 assistant for the Golden Care Mining Club up here in
15 Quincy, California, recreational director. I'm also a
16 hunting and fishing guide in Chico, Red Bluff and the
17 Red Herring (phonetic).

18 After the review of the suction dredge update,
19 there's a lot of questions that come up. You know,
20 basically I wanted to touch on especially Chapter 4,
21 4.1, and the dams 4.2.5, which also has to do with the



Harris, Tom

Mitchell,
Seth

22 fish.
23 One question that I'm interested in is, why is
24 the department not monitoring this annually when we
25 provided a -- when we fill out a dredging permit on an

0051

1 annual basis? Why do we need to stop it for a study
2 that involves the involvement of the dredgers operating
3 for the study taking place?

4 If there was one year or more to provide an
5 impact report, why was only 72 percent of the report
6 done? Where is the remaining 29 percent of the report?

7 It states that you are analyzing the impacts
8 of dredging. I'm wondering why we do not know all the
9 impacts of dredging yet when this has been going on for
10 years.

11 The study was done in a very short period of
12 time. I'm wondering why is the study not finalized yet
13 if the 72 percent of the data has already been
14 collected. I understand that we're taking public
15 comment, but public comment does not supersede the data.

16 If some water sheds that folks are mining in
17 are behind one or more dams, how do we impact fish
18 species that are concerned? We're already working with
19 the U.S. Forest Service to write partnerships (phonetic)
20 with the issues like limiting operating periods, best
21 known as LOPs.

22 Instead of writing up BMPs, best management
23 practices, why is there no time spent on writing
24 sustainable mining practices much like a plan of safe,
25 sustainable practices while mining?

0052

1 BMPs concentrate solely for the specific
2 geological and environmental issues that lie in certain
3 areas, when sustaining mining practices could be used
4 everywhere, and takes all aspects and issues and deals
5 with them as a whole in every area.

6 What fish species are the main targets? Are
7 all the fish being taken into consideration for this
8 report? If logging is allowed near the bank or the,
9 quote, unquote, WLPZ zone, why are we being stopped near
10 the bank when the small suction pipe dredges (phonetic),
11 two to four-inch, specifically target the fines
12 (phonetic) and the small gravels (phonetic) that the
13 fish typically spawn in, why are the larger suction
14 dredges targeted in this impact of work? If the small
15 invertebrates are not targeted in this impact report,
16 why are all mining areas targeted for the report,
17 whether invertebrates live there or not?

18 There are many water sheds that in no way
19 impact the fish species that you guys have as a concern.
20 If the invertebrates in the water shed are not targeted,
21 then why are all areas in regards to the suction
22 dredging sizes treated the same when the species of
23 concerns might not even exist there?

Mitchell,
Seth

24 When suction dredging pulls more mercury than
25 is dispersed out the back end of the dredge in the water
0053

1 sheds, why is the mining amount dispersed treated more
2 seriously?

3 Why is or was it so difficult for me and
4 others to track the money that was spent on the dredging
5 permits in the department? Much like the delta base
6 anti-fishing camps (phonetic), there was little or no
7 data to support where the money went. And eventually
8 this was phased out.

9 So if you can't prove where every dime is
10 spent for the permits, why were you paying for the
11 permits in the first place when the money was clearly
12 not being spent wisely or shown in an adequate manner?

13 Lastly, if the economy is in a bad situation,
14 like it is right now, why wouldn't you lower the number
15 of permits when the state needs all the money at the
16 moment (phonetic)?

17 Lastly -- it will come to this -- less
18 politics and more logistics. Thank you.

19 FEMALE VOICE: Do we have any additional
20 speakers who have not spoken yet? I have one gentleman
21 coming up. Is there anyone else who wishes to speak
22 tonight? (Inaudible).

23 MALE VOICE: Pardon?

24 MS. MONAGHAN: (Inaudible).

25 MALE VOICE: Other than (inaudible). No.

0054

1 MS. MONAGHAN: Okay. So name and comment.

2 MR. PETERSON: S.E. Peterson. I

3 want --

4 MS. MONAGHAN: And you're speaking to Mark.

5 MR. PETERSON: I'm commenting on both sides of
6 this, and to the crowd in general. I may not agree with
7 some of what was said, but I will agree with everybody's
8 right to say what they want to say. And we have to.
9 I'm kind of more on the lighter side, but we have to
10 kind of go along with the people we don't agree with.
11 We listen to them whattells Fish and Game and adhere
12 with rules they do want to put in.

13 Anyway, to all of you, requests written --

14 MS. MONAGHAN: (Inaudible).

15 MR. PETERSON: -- or filming of this, get
16 copies of this so you can go over it just like it's a
17 movie. Have it at home and go over it and over it.
18 There's a lot that we're going to miss.

19 Number two, what right does the Fish and Game
20 have to put a limit on these number of permits? Your
21 problem of leasing or enforcing it is not the citizens'
22 problem. We pay a lot of money in taxes, or a lot of
23 these people have. Where the money goes, like I said,
24 it's not the peoples' problem. It shouldn't be.

25 To the dredgers, which I'm one of them, I

Mitchell,
Seth

Peterson,
S. E.

0055

1 recommend that you get a digital camera and photograph
2 before you start. Photograph during and after you're
3 done. A picture is worth a thousand words. You may not
4 want to share them if something is wrong, but you do
5 need to have records.

6 Okay. Gentlemen, to the crowd, research, Old
7 English law, which is applicable right now, not the
8 Roman law, which they're trying to change to in this
9 country, English law is equity and fairness. No harm,
10 no foul. I know it sounds a little complicated, but
11 it's not. It's much more simple than the law you're
12 used to.

13 I hear from some of the -- like the biologist
14 woman that spoke, and I hear it from Fish and Game
15 might --

16 MS. MONAGHAN: And you have one minute.

17 MR. PETERSON: -- what have you been doing to
18 have so many might's and unknowns? What have you been
19 researching?

20 Make the permit like a contract like the old
21 logging contracts that the U.S. Forest Service had.
22 They were self-governing. A sale administrator did not
23 have to be there. It's up to us, and within our rules
24 and our rights, and that you don't have to police
25 innocent until proven guilty, as I've said before.

0056

1 Maybe I didn't say it, but anyway.

2 And to the dredgers, learn your rights, learn
3 your rules, learn the statutes and laws that apply. I
4 know it's complicated, but know them so that when you
5 get jumped by somebody, be sure that you're right.

6 Your numbers are small, Gentlemen. You must
7 unite to be heard. That has been the success of the
8 Sierra Club and the other environmentalists. They get
9 heard. You've got to communicate with each other. And
10 the biggest thing, look beyond the surface.

11 MS. MONAGHAN: (Inaudible).

12 MALE VOICE: (Inaudible).

13 MS. MONAGHAN: We'd like to conclude this
14 meeting. We thank you very much for participating. We
15 thank you for your comments. I'd like to turn it over
16 to Mark for a few last comments.

17 MR. STOPHER: I'd just like to say thanks for
18 coming and for allowing us to continue to consider that
19 everybody has something to say, and to hear it. I will
20 stick around if anybody has additional questions, stick
21 around for a little bit. And if you can find me, I will
22 be glad to try to answer your questions. Thanks.

23 (End of proceedings.)

24 (CD off.)

25

0057

1

CERTIFICATE OF TRANSCRIPTION

Peterson,
S. E.

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I, Diane Dearmore, Certified Shorthand Reporter, and a disinterested person, hereby certify that the foregoing taped proceedings were transcribed by me, to the best of my ability considering tape quality, and reduced to typewriting, by computer, under my direction and supervision.

I further certify that I am not of counsel or attorney for either or any of the parties to the said proceedings, nor in any way interested in the outcome of the cause named in said caption.

DATED: April 19, 2011

DIANE DEARMORE
CA CSR NO. 12736
TX CSR NO. 4947

SACRAMENTO: MAY 10, 2011

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CALIFORNIA DEPARTMENT OF FISH AND GAME
PUBLIC COMMENTS

TRANSCRIPTION OF AUDIO RECORDING
MAY 10, 2011
SACRAMENTO, CALIFORNIA

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P R O C E E D I N G S

(DVD on.)

MS. MONAGHAN: Things are going to be videotaped because we are required to have a verbatim transcript. All comments will be responded to in the final SEIR. And as Mark mentioned, he will not be able to respond to questions in the moment. If you have a question as part of your comment or testimony, it will be responded to in the final document.

Everyone is entitled to give a comment, and we'd ask that you be respectful. And we will enforce the ground rules that you do not interrupt, you do not cheer, you do not heckle the speakers because we want each and every one of you to have the opportunity to speak and be heard.

So are we clear that everyone who wants to speak for three minutes will speak first? The numbers that you have will determine order, and I'll call you up in groups of five. After we finish with all the three-minute speakers, then we'll take a quick poll and see how many want to use donated time and how much time, and we can accommodate it.

I'm pretty sure we won't have any problem, but we just want to double-check it. So before we get started, are there any questions? Yes, sir?

1 MALE VOICE: (Inaudible) final decision is
2 going to be made about (inaudible)?

3 MS. MONAGHAN: That's -- do you want to answer
4 that one right now?

5 MR. STOUFFER: Yeah. The -- there isn't a
6 legal deadline for us to do it. It has to be 670, which
7 established the moratorium. It requires that the
8 moratorium stay in place in California until three
9 things happen.

10 The first thing is that the Department of Fish
11 and Game adopt new regulations. The second is that we
12 certify our final Environmental Impact Report. And then
13 third is that the regulations take effect.

14 And so after we adopt the regulations and
15 certify the EIR, we submit them to the Secretary of
16 State's office, and they publish those regulations and
17 take effect. We expect to do that probably in November
18 of this year. And it sounds like a long time, I know.

19 As I said, we have, you know, thousands of
20 public comments to sort through and consider. And it's
21 going to take some time to do that. So our expectation
22 is that we would conclude that in November.

23 And we would propose to, under whatever
24 regulations we finally adopt, commence selling suction
25 dredge permits as soon as they take effect to the

1 Secretary of State's office.

2 MALE VOICE: How long does it take the
3 Secretary of State to go through this public meeting
4 process?

5 MR. STOUFFER: Typically it takes 30 days. We
6 can make a request that they take effect upon filing,
7 and they get to decide whether that happens or not.

8 MALE VOICE: How will people be notified?

9 MR. STOUFFER: Well, we would do press
10 releases. I have an extensive email list of folks that
11 have indicated they want to get updates from me.

12 MALE VOICE: (Inaudible) the people that have
13 permits (inaudible).

14 MR. STOUFFER: I don't know if we will or not.
15 First of all, it's quite expensive. And that email list
16 when we send those out, those of you who are still at
17 the same address get them. But I get 800 to 1,000 of
18 them back from people who are no longer at that address
19 or their address is not recognizable. It will depend
20 upon whether or not we have the funds to do it, and I
21 can't promise that. I'm not in control of that end of
22 it, so --

23 MALE VOICE: (Inaudible).

24 MR. STOUFFER: Just a couple more questions
25 then.

1 MALE VOICE: If we email you with an email
2 address, will you keep us updated by email?

3 MR. STOUFFER: I will. Yes?

4 FEMALE VOICE: Is the result of public
5 comment, substantial changes to the EIR or regulations,
6 will the document be re-circulated for public comment?

7 MR. STOUFFER: Depends on how substantial the
8 changes are. I know under the Administrative Procedures
9 Act there are criteria that require some recirculation,
10 at least of the regulations depending upon the
11 substantiveness of the changes. And I don't know. You
12 know, our preference, of course, would be not do that.
13 I don't know the answer to that right now. Okay. Let's
14 get started.

15 MS. MONAGHAN: Okay. So when your number is
16 called, I'm going to ask you to line up over here. If
17 you're speaking, I need you to fill out a speaker card.
18 This is how we keep track of who is actually speaking.

19 So you'll line up. When it's your turn you'll
20 step up to the microphone, hand me the speaker cards.
21 We'd like you to state your name, and then start giving
22 your comment to Mark. Okay?

23 So can I have numbers 1 through 5 that are
24 only speaking for three minutes, if you'll line up over
25 here. How about 1 through 10? How about 1 through 15?

1 1 through 15 that are only speaking for three minutes.

2 And do you have a speaker card?

3 FEMALE VOICE: (Inaudible).

4 MS. MONAGHAN: Okay. Okay. I need your
5 speaker card. Super. Okay. So start with your name
6 and then your comment.

7 MR. ADAMS: Okay. Thank you very much. Good
8 morning. Number 15, I didn't expect to be first. I
9 appreciate being here.

10 My name is Lee Adams. I happen to be the
11 chairman of the Sierra County Board of Supervisors. I'm
12 a resident of Downieville, and I represent a district
13 that includes Downieville, Alleghany, Poker Flat, Hallan
14 Flat (phonetic) and Gibsonville.

15 Our board has previously provided the
16 department with four pages of written comments to the
17 EIR that the EIR was disappointing at best, cannot be
18 overstated in a county that has 1500 mining claims. I'd
19 like to think the last three paragraphs of our letter
20 says it all, and I would like to give an emphasis on
21 that.

22 Sierra County is a county of 3200 people with
23 one of just three California counties that has lost
24 population as counted in the recent 2010 census. When
25 one takes a look at the overall environmental health of

Adams,
Lee

1 the county and human impact on that environment, it is
2 one of those rare special places in California that has
3 minimal impact by human behavior.

4 With a great decrease in what was Sierra
5 County's traditional economies of logging and mining
6 over the last 30 years, our local economy struggles to
7 survive with the limited tourism industry that remains,
8 along with an agricultural economy on its eastern side.

9 There is little doubt to my board that all
10 human behavior has some impact on the environment. When
11 we look at that minimal interaction within the
12 boundaries of Sierra County, your proposed restrictions
13 to what was once a surviving industry, both professional
14 and recreational, is frustrating, to say the least.

15 While Sierra County and our businesses will be
16 immeasurably harmed by the implementation of these
17 proposed restrictions as it has been by the outright ban
18 of dredging for the last 18 months, one need not look
19 far to be frustrated by far bigger impacts to the
20 environment, impacts that are left in place and left
21 unchecked by California's overreaching environmental
22 protection laws, whether it be a four-lane
23 transcontinental highway bisecting the Sierra, or any
24 number of multistory concrete dams harnessing public
25 waterways and blocking the natural spawning of

Adams,
Lee

Adams,
Lee



1 fisheries. Those impacts --

2 FEMALE VOICE: (Inaudible).

3 MR. ADAMS: -- thank you -- remain unchecked
4 while a reactionary public policy plays with the
5 relatively minor impacts of minimal suction dredging.

6 In one of California's most rural regions, we
7 would seek to have the department look at the activity
8 of suction dredging not in a perfect world, but in the
9 real world in which all Californians live using the
10 standards you propose for suction dredging.

11 Both for those wishing to either make a living
12 from it or just wishing to enjoy the activity of a
13 recreational hobby, we would be curious to know how many
14 other daily pursuits of Californians would be curtailed,
15 interstate highways, transcontinental aircraft or the
16 daily commute of the masses in the greater Los Angeles,
17 San Diego and San Francisco Bay Areas. Thank you.

18 MS. MONAGHAN: Thank you. Did you want to
19 leave that written testimony also? If you do have
20 written comments, I can take them up here.

21 I did neglect to mention one important thing
22 to -- for speakers, when we get -- when you have one
23 minute left, Dana will be showing you this sign. When
24 you have 30 seconds left, you'll have this. When your
25 time is up, you will see this, and me simultaneously.

1 Okay. And can we have numbers, I guess, 1 through 20
2 that are speaking three minutes only line up?

3 MS. WINDSOR: Good morning. My name is Sarah
4 Windsor. I'm here on behalf of Friends of Mariposa
5 Creek. My comments are condensed here and are formal
6 comments that have been submitted today and are in your
7 receipt.

8 Not addressed at all or mentioned at all in
9 either of the documents, the EIR or proposed
10 regulations, are protections from the significant loss
11 of property values which result due to the proximity of
12 mining activities.

13 Our home is within 30 feet of dredge sites and
14 high banking sites, which are located in the Mariposa
15 Creek not far from Yosemite National Park. We have
16 personally witnessed the impacts of suction dredge
17 mining and bank mining in the waters of the creek.

18 Observed is the use of the public waters and
19 banks for human waste, abandoned gas and oil cans and
20 dredge equipment in the water and on the banks, garbage
21 and litter in the water and on the banks and the decline
22 of wildlife and water quality. And the deafening noise
23 from dredge engines is intolerable, and we are forced to
24 leave our home to escape it. In plain view of our home
25 are prehistoric Native American graining holes in the

Windsor,
Sarah

Windsor,
Sarah



1 granite banks.

2 The EIR states that gold mining activities
3 degrade such sites. The cumulative impacts of dredge
4 and high banking activities have greatly reduced our
5 private property value. As well, rights to the peaceful
6 enjoyment of our private property have been lost.

7 Environmental health issues are of great
8 concern. Miners have intimidated my family and me, and
9 we have suffered unconscionable disregard for our
10 privacy and health. We fear acts of retaliation against
11 us, yet we are offered no protections. High bank mining
12 continues unregulated directly in front of our homes on
13 a frequent almost daily basis. With bank mining
14 activities escalating, the use of bigger engines and
15 equipment likely is to follow. Under these conditions,
16 we have considered that we may no longer be able to live
17 in our homes.

18 No program is the only acceptable alternative
19 outlined. The legislators, state and local agencies,
20 failed to enforce existing environmental law, failed to
21 take necessary actions to provide protections to prevent
22 further damage to our property values, failed to take
23 actions to protect our rights to the peaceful enjoyment
24 of our homes and private property, in addition to our
25 rights to be protected from environmental health

Windsor,
Sarah

1 hazards. Friends of Mariposa Creek will not hesitate to
2 file suit against the Department of Fish and Game.
3 Thank you.

4 MS. MARTIN: And this --

5 FEMALE VOICE: They --

6 MS. MARTIN: Thank you very much for this
7 opportunity to comment today. My name is Elizabeth
8 Martin. I'm the CEO of the Sierra Fund. The Sierra
9 Fund has spent the last eight years studying mining and
10 mining's toxic legacy up in our neighborhood. We know a
11 lot about abandoned mines in our neighborhood.

12 I served as the chair of the board of
13 supervisors in Nevada County, and I served two terms as
14 a planning commissioner in Nevada County. I've read
15 many, many environmental impact reports, both project
16 and program. On our staff is Dr. Carrie Monahan. She
17 is an expert in hydrology and forced engineering, and is
18 a consulting scientist working on a number of mercury
19 remediation projects.

20 Our comments I've handed to Mr. Stouffer.
21 They're sitting on the table right there, and they're
22 very detailed. We have agreed and signed on in whole
23 with a letter submitted by the Karuk Tribe, but we've
24 also submitted our own comments. I'm going to just
25 briefly run across those comments here.

Martin,
Elizabeth

Martin,
Elizabeth



1 First, this document we do not feel meets the
2 test of sufficiency because it does not explain why the
3 proposed program is chosen as the preferred alternative
4 over the environmentally superior alternative. The
5 environmentally superior alternative is shown as being
6 viable as is the reduced water quality and reduced
7 intensity program.

8 These programs were clearly viable, are
9 clearly more sufficient, and yet the document is
10 entirely silent on why the environmentally superior
11 alternatives were dismissed. Clearly the most
12 environmentally superior alternative is the no program
13 alternative.

14 All of these were dismissed with almost no
15 discussion. We believe the document needs to be
16 rewritten to make the alternatives discussion more
17 coherent, with more qualitative and quantitative data on
18 the comparison between the alternatives.

19 We also believe that the document relies on a
20 definition of deleterious to fish that is neither
21 consistent with California law, nor legislation. We
22 believe the document needs to be redrafted to reflect
23 original legislative intent and have supplied that
24 language in our comments.

25 This proposed program fails to insure that

Martin,
Elizabeth

1 California's laws relating to water quality, historical
2 and cultural sites, aquatic creatures and toxics are
3 obeyed.

4 We believe the regulatory program needs to
5 require that all rules and regulations to protect water
6 quality ecosystems and historical and cultural sites
7 must be obeyed. A brochure is not a mitigation measure.

8 We go on for many pages about the problems we
9 have with the document. Just stepping aside of the
10 issues of mercury, mercury is found in Nevada County and
11 in many of the Yuba River sections that you opened to
12 suction dredge mining. We believe that any river
13 dredged that's shown to be contaminated and impacted by
14 mercury listed and been listed as such under the 303(d)
15 listings needs to be removed from suction dredge mining
16 in its entirety. We believe that this document needs to
17 be entirely redrafted. We believe the regulations need
18 to be redrafted.

19 MS. MONAGHAN: Thank you very much.

20 MS. MARTIN: Thank you.

21 MS. MONAGHAN: Can I have numbers up through
22 30 that are going to speak for three minutes? Up
23 through 30? Up through 40?

24 MALE VOICE: (Inaudible).

25 FEMALE VOICE: You know what --

1 MALE VOICE: (Inaudible).

2 MS. MONAGHAN: Oh, got 21. Okay. You get to
3 be next. Start with your name and comment.

4 MALE VOICE: Jolito Chimichumka Hassasaka
5 (phonetic), my name's Michael Ben Ortiz. I am a
6 founding member of an organization called Calling Back
7 the Salmon. It's a very small group that got put
8 together to address some of the impacts of mining up in
9 what I call -- not gold country. I call it abandoned
10 mine country.

11 And what we endeavored to do was to create
12 some kind of balance in our community to deal with what
13 happened to the Indian people in Nevada County and the
14 Sierra, and also to somehow address the issues with
15 mining toxics in our environment.

16 Mother Nature is pretty sweet. She can cover
17 things with pine needles, and the water that flows looks
18 all pretty and pristine; but we know that methyl mercury
19 under water flowers from the turbidity of the suction
20 dredges.

21 And I want to just remind having a lot of
22 empathy for your job and all the hours of listening to
23 all of us crazy humans saying our things and speaking
24 our peace.

25 I do want to say that it's very important that

Ortiz,
Michael
Ben

1 tribal concerns be addressed. I question the
2 narrow-mindedness in feeling like the Indian people have
3 been ignored again in the sense that there has been no
4 social scientist on this. I don't see any tribal input
5 on the study that was done, just a couple of cultural
6 impact scientists that I've never heard of.

7 The state is full of Indian tribes, and we
8 have a lot of input about how our salmon are treated,
9 how our plants are dealt with, how our fish beds are
10 done. And we would like to see a bigger, more full
11 comprehensive study of what suction dredging is doing to
12 our environment. We want things in balance, and we want
13 to live in harmony. And that's why I'm here. Thank you
14 for your work.

15 MS. MONAGHAN: Your name and comment -- your
16 name and then state your comment.

17 MR. ROBINSON: I'm Don Robinson. People
18 are talking about where they've been and what they've
19 done. Nine years ago I was appointed by the Secretary
20 of the Interior for the United States to be on BLM's
21 resource advisory council concerning minerals and
22 energy.

23 And I have done that for eight years. I've
24 spent enough time with that. So I just wanted to say
25 that I'm really familiar with issues concerning mining,

Ortiz,
Michael
Ben

Robinson,
Don

1 dredging and minerals as a whole. I'm a private land
2 owner, by the way. I don't have any problem with mining
3 around me. In fact, I love it. I've got some friends
4 who are mining around.

5 One of the issues that I wanted you to add to
6 the plan that you're putting together, and I want to
7 call it mental health. I'm trying to address something
8 that maybe we haven't seen before. It's like if any of
9 you have been robbed before, and it's a terrible
10 feeling, like my wallet has been stolen or something
11 else happened. And I think this is the case with the
12 dredgers. They've been robbed because they had the
13 right -- legal right to -- to find gold, and it was
14 stopped by an issue in the Klamath area.

15 So we're really frustrated, and I think you've
16 seen that frustration tremendously. We've had people
17 who have talked -- who have talked before and said they
18 were from the dark side, if you remember about the
19 biker, and is so frustrated because that was his income.
20 And we have people who say that the gold is used to pay
21 their telephone bill, to pay their rent bill.

22 The mental health activity, the issue of this
23 is it's really hurting people. And it's hurting them
24 because they haven't done anything wrong. They've done
25 all the right things, and we've taken away their rights.

Robinson,
Don

1 So I'd like to see something in there to address this.

2 One other question, and I know that you didn't
3 address this before, and I couldn't, was that this deals
4 with the mercury issue. And I know that you have said
5 that this is not an issue for this activity. But I'm
6 greatly concerned based on the plan that you have for
7 November and going to the Secretary of State that the
8 Water Quality Board, which I think you've mentioned
9 before, will have some issues about this.

10 And will the Water Quality Board stop your
11 processing and procedure on this. So I'm greatly
12 concerned. I don't know what the answer to that is.
13 Thank you very much.

14 FEMALE VOICE: (Inaudible).

15 MR. DORNBIER: Hi. My name is David
16 Dornbier. I'm a long-time resident since I think '74
17 in California. I've owned property and been very
18 productive as far as a good member of the society.

19 Anyway, this dredging moratorium, of course,
20 affects me; but I have a couple of questions
21 specifically. One is like the new regulations have
22 changed a lot of the dredging areas or zones. In my
23 area, which is the Cosumnes River, it used to be
24 rear-round and up to eight inches. But now I believe
25 the new regulations state that it's only from June to --

Robinson,
Don

Dornbier,
David

1 or July to November. Well, the streams -- the rivers,
2 like first sampled the North Fork, at that time of year
3 after July it's almost dried up sometimes or it's
4 reduced to a very minimum flow.

5 So basically that does not allow me to even
6 dredge on my own property right there on the North Fork.
7 So this is very devastating. It's like taking away all
8 of my rights to dredge from now on. And so we need to
9 re-look at those to say we can dredge during the
10 wintertime when the water flow is higher. Plus, it
11 would be less impact I think on the environment during
12 those times, especially during, you know, storms and
13 high water.

14 And the other was -- is that the dredge
15 permits are limited only to 4,000. Where does the
16 number come from? What parameters are used? I'm sure
17 you've heard these questions before. But what prevents
18 one group from buying all 4,000 permits? And that did
19 not make it, you know, any other permits for people in
20 the summertime or, you know, for regular dredgers. So
21 that's my comments.

22 MR. BARNHAM: My name's Scott Barnham, and my
23 comment is I'm going to speak from the heart. I don't
24 need a bunch of crap as far as, you know, a false
25 information.

Dornbier,
David

Barnham,
Scott



1 I live in the mining district up in Dobbins,
2 and I grew up in Nevada County and that area. And my
3 family owned a logging company, and it was decimated by
4 the spotted owl, which it ended up -- after it was all
5 done decimating the logging industry found out there was
6 more spotted owls than originally thought. But by then
7 it had affected a lot of small logging companies and
8 mining -- or logging communities, like Nevada County.

9 I do a lot of dredging. I do hunting,
10 fishing, camping with my family out in the woods. And
11 for the people that don't know what dredging actually
12 does, it cleans out the heavy minerals in the water. So
13 you're cleaning out lead weights, heavy mining iron that
14 was left behind from, you know, the mining -- the old
15 original hydraulic mining, and also the gold and heavier
16 materials.

17 To me what I've seen during the dredging on
18 our claim, we have a 500-acre patented mining claim and
19 also another 10-acre claim. We had no fish hardly at
20 all in the creek that we dredged. And after dredging
21 and loosening the impacted material up, we'd seen a lot
22 of trout return and really thrive in the area. Before
23 there were none. And, you know, now the kids are able
24 to fish and have some fun. But I just hate to see
25 things done on speculation.

Barnham,
Scott

1 We're -- I think we're all conservatives,
2 environmentalists that protect our industries. I buy
3 hunting, fishing licenses. And I'd like to see, you
4 know, the Department of Fish and Game support the group
5 that supports them and pays the wages for you guys, you
6 know, because we don't mind paying our fair share. But
7 we want to have the same protection as some of these
8 environmentalist groups that just throw some of this
9 stuff out there to put a kink in the hose. And like I
10 said, I've seen my family really decimated from the
11 logging industry side of it.

12 But anyway, up on the Yuba River -- I've got
13 one last thing I want to say. The Yuba River I noticed
14 in the changes that they put the dredging from September
15 30th to January 1st, which is during the heavy snow
16 season. So that's just another way of limiting the
17 dredging that happens in that area, which is a joke
18 because most of those rivers are above two dams, and
19 there are no salmon. And --

20 MS. MONAGHAN: Thanks, Scott. I appreciate
21 it.

22 MR. SAUNDERS: Hello. Hello. My name is Ken
23 Saunders. Born like two miles away from this place,
24 downtown Sacramento. Lifetime resident, miner and a
25 fisherman. I love to fish, and I love California; and I

Barnham,
Scott

Saunders,
Ken

Saunders,
Ken

1 would never do anything to harm this place because it's
2 the place of my birth.

3 But this whole issue about mining, I mean,
4 this suction dredge activity has been going on for
5 decades. And those rivers -- I mean, this is not
6 something that just happened, I mean, just all of a
7 sudden they're polluted and everything is all bad. This
8 has been going on for a long time, and they're as
9 perfectly healthy fish populations and all the aquatic
10 and all the vegetation.

11 I mean, personally, I think this stuff is kind
12 of ludicrous. And some of the recommendations in this
13 environmental impact are equally as ludicrous. Like
14 when you go fishing you don't have to like tell them
15 what time and what place you're going to go fishing. If
16 you're going to go hunting, what time and what place
17 you're going to go hunting at.

18 So that part of this modified proposal or
19 whatever I think is completely ludicrous. And as a
20 resident and a citizen and a taxpayer, I'm telling you,
21 I think it's ludicrous. And furthermore, the impact --
22 I mean, California was built upon mining wealth. I
23 mean, I don't know what people in this state, they
24 forget about that part of California, that California
25 was nothing until mining came. Mining made California.

1 Mining actually made the United States.

2 So, you know, you've got to kind of remember
3 our heritage and our history. And now that we have
4 these economic hard times, high unemployment and
5 everything, and here we have a resource in California,
6 and people that need jobs and, you know --

7 I mean, you people in the government know that
8 people make their living -- people come up here and they
9 testify that people make their living doing this. And
10 it's a way to feed their families and to keep the things
11 going here in California. And you're taking that --
12 you're trying to take that away from us.

13 And as taxpayers and citizens, I'm coming up
14 here and telling you, we don't like it. You need to
15 think twice about this. You need to balance these
16 concerns out. And so that's my comment.

17 MR. TYLER: Hello. My name's Steve Tyler.
18 I'm from El Dorado County. I've been making a good
19 portion of my living for 32 years mining gold, and
20 worked the last 24 years on two sections of private
21 property. Now my business is practically bankrupt.
22 It's been affected by no less than 90 to \$100,000 worth
23 of losses to my family and partners.

24 I have a (inaudible) from the board of
25 supervisors of El Dorado County. I'd like to briefly go

Saunders,
Ken

Tyler,
Steve

Tyler,
Steve

1 over things of concern to our own board. This ban has
2 severely affected the economy in our county, and
3 depressed it even farther than this needs to be.

4 The proposed rules and regulations will
5 adversely affect thousands of jobs and diminish the
6 value of the mineral estate of thousands of private
7 property owners who hold title to land in California.

8 It's also well documented that the dredging
9 industry has little effect on our waterways through past
10 studies. In fact, significant benefits occurred to our
11 economy, and they contribute significantly to the
12 cleaning of waste and toxic metals from the bottom of
13 the river beds cost-free to the taxpayers. And this is
14 stuff that's dumped in by other river users, and that's
15 well documented.

16 One of the new regulations will prohibit
17 dredging within three feet of the wetted edge of the
18 stream. It would impact mining on nearly every private
19 and public small stream in California. This proposal
20 affects the takings of the only economically viable
21 means to extract gold from the mineral estate on private
22 gold-bearing properties containing a small stream.

23 There's nothing in this DEIR to substantiate the need
24 for the addition of this rule, and is a violation of our
25 constitution and property rights.

1 More specific to El Dorado County, the new
2 regulations prohibit dredging in Weber Creek and Rock
3 Creek, which have constantly continually produced
4 significant amounts of gold on private property and
5 federal mining claims.

6 Okay. The El Dorado County Board of
7 Supervisors requests that all conclusions be objective
8 and accurate, not based on conjecture, but reflect only
9 actual scientific facts and documented peer review
10 studies. Thank you.

11 MS. MONAGHAN: Can I also have people speaking
12 for three minutes through number 50 to line up, please?
13 So name and then start your comment.

14 MR. BEHASND: Hi. My name's John Behasnd. I
15 own John Behasnd's Custom Logging. I've owned and
16 operated it for 27 years. I was basically born and
17 raised in the mountains.

18 Out of all these environmental groups that are
19 against us, none of them are a bigger environmentalist
20 than me. I've dredged basically all my life. The last
21 year I dredged I brought up 27 bags of garbage from
22 other people using the river; batteries, lead, mercury.

23 They talk about mercury. All of our -- my
24 mercury hangs up in my box. We remove the mercury, the
25 lead, the bullets, all the nasty stuff that have been

Tyler,
Steve

Behasnd,
John

1 left behind.

2 You know, I heard a lady up here from Nevada
3 County talk about the mercury. Nevada County, NID
4 District, is using the suction dredging right now as we
5 speak to remove mercury from their holding ponds. And
6 then to say that we disrupt it and let it go in the
7 rivers is ludicrous. It's crazy. Mercury is worth a
8 lot of money. We want it.

9 Property rights, I heard something about that.
10 I own lots of land, at Pacific. I own 160 on the Yuba
11 River. It's virtually worthless right now because there
12 is no mining allowed. It's mining country. Other
13 people who say they bought land and now it's worth
14 nothing because of the miners, I'm sure the miners were
15 there first, and they should have thought about that.
16 I'm not quite sure.

17 I own other lands. All my lands have got
18 miners. We live in gold country. That's just the way
19 it is up there. The trash is a big concern. I don't
20 know any dredgers that leave trash. All my people I
21 know that dredge bring out more trash than they ever
22 pack in. We're a very clean bunch of people. I don't
23 know where that comes from.

24 Another thing I'd like to address is the
25 nudity in the state parks on the South Fork of the Yuba

Behasnd,
John

Behasnd,
John

Mikulaco,
Ronald
Peter



1 River. That's against the law. And I have seen nobody
2 up there enforcing it. The trash is terrible. They
3 leave their scat out. I'd like to see that taken care
4 of. I've seen deputy sheriffs up there, park officials,
5 even Fish and Game officials, and they turn their head
6 to it. But they're going to enforce the dredging laws.
7 They ought to enforce all laws. Thank you.

8 FEMALE VOICE: (Inaudible).

9 MR. MIKULACO: Great. Ronald Peter
10 Mikulaco. Resident of El Dorado Hills, California.
11 I've been dredging off and on for 20 years. I say off
12 and on. I haven't dredged the last couple of years.
13 I've dredged on the South Fork of the McCalmey
14 (phonetic) River and the Feather River. I've run a
15 six-inch dredge, a five-inch dredge and a four-inch
16 dredge. I guess if anyone is an expert on dredging,
17 you're looking at one.

18 I think what's lost here is perspective
19 really. And the busiest year that we had was 2005. And
20 in 2005 we dredged a lot. And we're recreational
21 dredgers, but we put a lot of time into it. And when we
22 were done at the end of the year, we had an area that
23 was maybe the size of a doughboy pool.

24 And to put that in perspective, if you take
25 the Feather River from Oroville to Quincy, and measure

1 the square footage, and the area of that and compare it
2 to the area that we dredged, the perspective is tiny.
3 It's mini -- it's a miniscule amount. And that's
4 important.

5 A point was brought up earlier about the dams.
6 And if this is about fish and ecology, and even I think
7 a representative from the Indians even brought up the
8 situation with the salmon and everything, and that's
9 important. But if you're going to look at one issue,
10 you've got to look at them all. Look at the perspective
11 of what we do in relationship to what the dams do and so
12 forth. It's really negligible.

13 I would like to comment -- I personally have
14 spent a lot of time underwater. And anyone who has
15 dredged and gotten a log in the suction hose and to go
16 to the jet and take that thing off and seeing the back
17 of the sluice box and see all of the little fish who are
18 enjoying all of the stuff that was dredged up from the
19 river.

20 And I'd like to point out that we usually
21 dredge in the summer when the water level was low.
22 There was not a lot of activity. And that activity at
23 the back of the sluice box, and what I notice is the
24 small fish are eating the algae. And there's always a
25 big fish swimming about. And the tailing piles create

Mikulaco,
Ronald
Peter

Mikulaco,
Ronald
Peter

↑ 1 somewhat of an artificial reef. It's amazing. And the
2 next morning when you go back and you stick your mask
3 down in the hole to look at what you've done, there's
4 always a couple big fish in there, and they always make
5 a point to go in there and hang out.

6 So from my perspective, and looking at the
7 overall perspective of the thing, I don't see this
8 terrible impact to the fish. Now, I've never run across
9 fish eggs if I was dredging. I've never seen that.

10 I'd also like to point out the mercury issue.
11 Mercury like lead and gold is at the bottom of the
12 river, and that's what I'm after. I'm after the
13 bedrock. And I have found mercury, and it's always been
14 attached to gold. And believe me, I took it with me.

15 So I've actually taken some mercury out of the
16 river. I've never found loose mercury in the river.
17 And believe me, I've seen more than my fair share of
18 bedrock. And like I said, mercury, if anyone knows
19 anything about physics, mercury attaches itself to gold.
20 It does. If you put the two together, they attach. I'd
21 like to point out that this really isn't an emotional
22 debate. This is about common sense, you know, that --

23 MS. MONAGHAN: Thank you, Ron. I appreciate
24 it.

25 MR. MIKULACO: Thank you very much.

Constabl,
Russell

1 MR. CONSTABLT: My name is Russell Constabl.
2 I'm with the Mariposa Dredge Committee. I'd like to
3 thank the miners and the other folks who, again, took
4 time out of their busy schedules to come here and combat
5 this act of terrorism.

6 I have spoken to people whose children are
7 afraid to go mining with their parents or their
8 grandparents, that they're afraid that Fish and Game
9 will show up and put the parents or grandparents in
10 jail. Well, most folks are recreationists, not
11 professional miners.

12 In 1990 Fish and Game was busted at Lake
13 McClure for issuing false mandates and misleading the
14 public with phrases like we have to worry about dredging
15 with the effect of the wild and scenic on Lake McClure.
16 We've reduced the Wild and Scenic Act, which Congress
17 had put in there, that state there would be no effect on
18 the everyday operations of Lake McClure. A lie. The
19 next day the front page of the newspaper said Government
20 Conspiracy. And we proved it, and we still can.
21 Understand that.

22 You do not do -- let's see -- a means to
23 establish common courtesy rules for dredging at Lake
24 McClure and the Merced River, mercury was an issue as
25 stated by some of the professors representing the Sierra

1 Club. But when confronted with the fact that the native
2 sandbar (inaudible) crosses the river up river, they got
3 up and walked out of the meeting, you know, kind of with
4 their tails behind their -- tucked in. This is only a
5 part of what went on at these meetings.

6 At the last state Fish and Game meeting on
7 dredging regulations, they did not learn from the Merced
8 meetings that we are not stupid, and that we can see
9 that there is a hidden agenda and that there is no
10 credible science behind any of their findings.

11 State of Fish and Game then offered five
12 volumes or so consisting of an environmental impact
13 report. But when it was pointed out that nobody had
14 signed these studies, nobody had taken credit for these
15 studies. Based on the lack of validity, other studies,
16 the ERA, this is -- which no one would take credit for,
17 the state Fish and Game -- let me cut this here
18 straight.

19 The last 30 years you guys have lost almost
20 every federal court case. What we're going to do is sue
21 the individual. Not the state, the individual, and then
22 we're going to have an administrative hearing. And I
23 believe somebody is going to lose a whole lot of stuff
24 out of this deal. And -- but like now, you don't have
25 Ron Stockman to protect you. Have a nice day.

Constabl,
Russell

1 FEMALE VOICE: (Inaudible).

2 MR. BUTLER: Yeah. Hi. My name is Jerry
3 Butler. My family is a descendant from the Blane
4 family, which is one of the surviving family members
5 from the Donner party.

6 I go in to schools during gold rush days and
7 stuff like that and teach kids about gold mining, how to
8 pan, and environmental stuff. How do I go into schools
9 teaching kids about the state's history when you're
10 making it look like we're all felons or all bad people?
11 Like other people have said, this is what the state was
12 founded on, and we ought to keep it that way. So
13 thanks.

14 FEMALE VOICE: (Inaudible).

15 MR. TUCKER: My name's Craig Tucker. I work
16 for the Karuk Tribe. I've got written comments. And I
17 just want to read off the groups who collaborated and
18 sort of co-sponsored these written comments.

19 Karuk Tribe, Klamath River Keeper, Pacific
20 Coast Federation of Fisherman's Associations, the
21 Institute for Fisheries Resources, Friends of the
22 Trinity River, Northern California Council of the
23 Federation of Fly Fishers, the Foothills Angler
24 Coalition, the Upper American River Foundation, Butte
25 Environmental Councils, Sierra Fund, Friends of the

Butler,
Jerry

Tucker,
Craig

1 River, Center for Biological Diversity, Friends of the
2 North Fork, Granite Bay Fly Casters, Southern California
3 Watershed Alliance, the Environmental Law Foundation,
4 Environmental Justice Coalition for Water,
5 Klamath/Siskiyou Wild Land Center, Road River Keeper,
6 Environmental Protection Information Center, the
7 California Sport Fish and Protection Alliance, the Mid
8 Klamath Watershed Council, Friends of the Eel River, and
9 the California Indian Environmental Alliance.

10 I'd just point out one of the things that got
11 us here today was in 2005 the Karuk Tribe actually had
12 litigated against the department for dredging rules
13 being inadequate to protect fish. And the court agreed
14 with us.

15 And we actually negotiated a settlement with
16 the department that would have resulted in some modest
17 restrictions in dredging the Klamath Basin. But the new
18 49ers and the Pacific Legal Foundation decided that that
19 wasn't okay with them. And so they intervened, and
20 they're the ones that forced a statewide environmental
21 impact review. And that's what led us here today, and
22 that's why we're debating these issues on a statewide
23 basis today.

24 Your document concludes that when it comes to
25 water quality and cultural sites, there's significant

Tucker,
Craig

1 and unavoidable impacts as a result of the proposed
2 regulations. We contend that you can't legally do that.
3 You would be in violation of state and federal laws such
4 as the Clean Water Act and the Porter-Cologne Act.

5 We also contend the only reason you can find
6 that the proposed rules don't harm fish is because you
7 redefined "deleterious." And so we have an issue with
8 that. And we could go into that in some great detail.

9 And finally, I just want to talk about money.
10 Your own report says that you've taken about \$375,000 a
11 year in permit fees, but you've spent upwards of
12 2 million a year administering and enforcing the
13 program. To me that sounds like we are basically
14 publicly subsidizing peoples' hobby. And I think if
15 these guys can't finance their own hobby, the California
16 taxpayers shouldn't be on the hook, especially when
17 we're laying off teachers and policemen and firemen. So
18 I appreciate the opportunity to comment. Thank you.

19 MR. BUTZ: My name is Tom Butz. And I
20 snorkel and swim in the American River, the North Fork
21 of the American River, which is mostly a swimming river.

22 And I'm mainly concerned about the dirt in the
23 river that the dredgers move up. And I'm also concerned
24 about the garbage that they leave behind when they camp
25 all the time. And I'm concerned about them digging

Tucker,
Craig

Butz, Tom

Butz, Tom ↑

1 holes and never filling them in. And that's all I've
2 got to say.

3 MS. MONAGHAN: Can I have numbers up through
4 60? People who are going to speak just for three
5 minutes up through 60. And I will let you sort yourself
6 out over who's next.

7 MR. STARK: Good morning. I'm Joshua Stark
8 from the South Yuba River Citizens League. We are
9 submitting written comments in addition to the comments
10 here.

11 The Yuba watershed struggles daily with a
12 toxic legacy from mining on a massive scale. A number
13 of our waterways are listed as impaired due to mercury,
14 including Englebright Reservoir, which has a TMDL set
15 for 2016. And another 303(b) listed. These are rivers
16 that are listed as impaired waterways by the
17 Environmental Protection Act.

18 The Yuba drains to the Delta, which also deals
19 with mercury. I was born and raised in Isleton. I'm a
20 hunter and a fisherman. And for years, and for years
21 for the rest of my life, it will be a sorrow to tell my
22 kids that, you know, if we catch fish over maybe 12, 14
23 inches, I don't want them to eat it. I have to return
24 it. The fishing regulations that require keeping fish
25 that have bioaccumulated mercury are also troublesome

Stark,
Joshua ↓

1 for a number of subsistence fishermen and recreational
2 fishermen on the Delta and throughout the Sierra Nevada
3 watershed.

4 Every time researchers finally get into a
5 watershed, it seems they find it impaired from mercury.
6 And the Yuba is just one of many, many rivers in
7 California that suffer from this problem and that drain
8 to the Delta, which continues to suffer from this
9 problem.

10 Circle requests that you list use the no
11 program alternative. Any addition of mercury into a
12 waterway that has a TMDL, a total maximum daily load, is
13 going to be problematic in the future. And any river
14 that maintains listed species or that drains into a
15 waterway that has listed species is going to be
16 problematic.

17 The actions of folks over time -- you know, as
18 we learn what our impacts really are, we take a step
19 back and think about what we do. And I think this is
20 one time in which we need to take a step back and
21 consider our impacts.

22 The type of movement, the way that mercury
23 gets moved through this activity, makes it invisible.
24 So, you know, as folks see the heavy metals in the
25 water, they're not seeing the stuff that gets

Stark,
Joshua

1 bioaccumulated. Small fish start taking
2 micro-invertebrates and other microscopic organisms that
3 have been able to more easily acquire mercury from the
4 processes. The fish that they see with their very eyes,
5 they're eating those.

6 And then the next day the larger fish have
7 eaten those. And then the day after that my kid wants
8 to eat that, wants to eat that trout, you know, wants to
9 catch bass. And, you know, that kind of loss is really
10 sad from a person born and raised on a river and who has
11 always had a river to look forward to to give help, help
12 provide. Thank you.

13 MS. MONAGHAN: Thank you, Josh. Somebody has
14 got an alarm going off. Is it possible for you to make
15 it silent? Name and then your comment.

16 MR. LEE: Sure. Good morning. My name is
17 James Robert Lee, Jr. I live in Auburn, California. I
18 have in a previous Sacramento meeting spoken of my
19 30-plus years of experience regarding the analysis and
20 mitigation proposals for EIR and CEQA.

21 The tentative goals of the EIR have been
22 stated in this document, but the practical goal is to
23 satisfy the court and to get certain well-funded groups
24 who appear to possess a self-righteous philosophy from
25 continually suing you, which is where most of that two

Stark,
Joshua

Lee, James
Robert Jr.

1 and a half million dollars comes from, not the
2 implementation of regulation for dredgers.

3 I presume that the DFG is hoping a
4 well-documented scientifically supported EIR to insulate
5 itself from further attacks. I have completed a
6 superficial forensics of the document, and this document
7 as presented is so flawed in my professional opinion
8 that it makes you more vulnerable, not -- than no
9 document at all.

10 The readily apparent lack of understanding of
11 the process, methodology, economics, best-method
12 practices, practical available technology, exemptions
13 for relating to industrial projects and differences
14 between suction dredge mining and other placer
15 (phonetic) mining as it relates to potential impacts,
16 the shallow superficial information within the glossary,
17 the lack of relevant supporting scientific documentation
18 for hypotheticals or assertions, the flawed premise, the
19 unsupported suppositions, the projections of assertions
20 to unsupportable conclusions of inevitable consequence,
21 that dated or completely lacking of even basic
22 information, criteria, a threshold of significance
23 regarding possible or likely baselines, extreme high --
24 creates a situation that has a significant potential and
25 an extremely high probability of being successfully

Lee, James
Robert Jr.

1 destroyed in a court of law.

2 The alternative section of the EIR is
3 constantly used in this substandard documentation
4 analysis and conclusion to evaluate and establish
5 practical alternatives. The DFG in turn created a
6 proposal set of regulations to address these
7 alternatives.

8 I've briefly highlighted more of the egregious
9 shortcomings in the significant impact areas. No
10 supporting or referenced scientific studies or data
11 within the document to support that half of the precious
12 species pasturines (phonetic) are actually at risk.

13 The significant impact regarding mercury and
14 the cumulative impact is based on sampling methods so
15 flawed and easily checked by simple mathematics that if
16 they represented potential recovery to a property for
17 sale with the hopes of recovery of the mercury, you
18 would be successfully sued for criminal fraud.

19 The cultural and archaeological significant
20 impacts and cumulative impacts are similarly flawed.
21 Having checked with Rick Windmiller (phonetic), a
22 renowned consulting archaeologist, as to the potential
23 for meeting secret criteria within the riverine, his
24 professional opinion of 40-plus years of investigation
25 is that the potential is nil.

Lee, James
Robert Jr.

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My recommendation is the independent council review your exposure that the regulations prior to 1994 are adequate, that you allow existing laws and regulations regarding noise, cultural and archaeological disturbing and other possible impacts and hazards by leading agencies -- be the enforcement rather than yourself. My other comments have been said. Thank you.

MALE VOICE: (Inaudible) here in a minute.

MS. MONAGHAN: Okay. So name and then your comment.

MR. BARNUM: Okay. Good afternoon. I'd like to tell you thank you for your time to listen to all of us. I know we've all got a lot of complaints and a lot of issues here at hand.

My name is Marc Barnum. I'm from Loma Rica, California, just above Marysville. I've been a resident of Loma Rica for roughly 36 years. I started out when I was 10 years old gold panning in Coloma. Went on a field trip with a teacher. And from there on I caught gold fever.

If you guys are familiar with California history, you know that what brought every single one of us to California was gold history. We're in some way, form, shape related in -- to coming into California because of the gold history. And we're rapidly

Lee, James
Robert Jr.

Barnum,
Marc

1 destroying our gold history. We're destroying anything
2 to do with gold history. And the history of a state is
3 the most important thing in a state. That's what states
4 rely on is the history.

5 I just heard talk with the federal government.
6 They're talking about dissolving the EPA because of the
7 destruction that the EPA is forcing people into rules
8 and regulations like never before. It's become a
9 socialistic game plan, and people are tired of the big
10 brother hand sitting on top of them like a thumb. If
11 you take a look at most of your fingers, your earrings,
12 good chance most of that gold comes from right here in
13 California.

14 Another thing is that they're talking about
15 the destructive nature of dredging. Well, I live in a
16 farming community where Yuba County and Sutter County
17 are both huge in farming. I think there's -- apparently
18 there's more destruction in fertilizing and pesticides
19 going in the Yuba River than any amount of mercury
20 that's been dropped into that river.

21 My father-in-law has been a marine biologist
22 for 32 years for the state of California, and I'd spoken
23 with him in depth. And he said that in no way, shape or
24 form has mercury had an impact on the fish and the
25 livelihood of the rivers. As a matter of fact, the fish

Barnum,
Marc

1 are thriving more than ever, and if there is the fishing
2 of -- destruction of fishing, it's because of the
3 overfishing in the oceans.

4 The thing is that lately as of late in the
5 last 10, 20 years here in California, I think we've lost
6 the ability to use our common sense or the lack of
7 common sense. So all we're asking is to be a little
8 more understanding of our local economy, our state
9 economy.

10 We've taken out millions of dollars of gold
11 out of our local economy. And that's destroying our
12 state, as significant as it is. And I think we need to
13 take a better look at the impact of the EPA instead of
14 the gold dredging which is adding to the economy of
15 California. Thank you for your time.

16 MS. MONAGHAN: And I'll take your card.

17 MR. BARNUM: I'll sell it to you.

18 MS. MONAGHAN: And name and comment.

19 MR. BROWNING: I'm Pat Browning. And my
20 comment is on the Yuba River I would like to ask the
21 game warden one question. Is that all right?

22 FEMALE VOICE: (Inaudible).

23 MR. BROWNING: Okay. Okay. My comment is I
24 own approximately five miles of the North Fork of the
25 Yuba. I just heard somebody say the North Fork, talking

Barnum,
Marc

Browning,
Pat

Browning,
Pat

1 about the Yuba. There's nothing being hurt on my ground
2 except trespassers. And I want it -- they're the ones
3 that leave the mess down there. All the miners that
4 have been on my ground, they've really left it clean and
5 cleaned up behind the trespassers. And I would really
6 like it if people would quit trespassing, especially the
7 Friends of the River and Circle and all of them. Keep
8 off of my ground. And I'm all for mining.

9 FEMALE VOICE: (Inaudible) card?

10 MS. NORRIS: Sure. Okay. Hi. I think it's
11 still morning. Good morning. My name is Sherri Norris.
12 I'm the executive director of the California Indian
13 Environmental Alliance. And we are signatory to the
14 Karuk Tribe's comments, et al.

Norris,
Sherri

15 And I'm here basically to remind all of us
16 that unfortunately this is the first environmental
17 legacy that we have from the time of contact in
18 California. And, yes, we did profit from it, but now
19 we're at a situation where we need to address it.

20 What CIEA does is provide information to
21 doctors and nurses at clinics to help them to offer
22 advice to patients on how to interpret the fish
23 consumption advisories that the Office of Environmental
24 Health and Hazard Assessment and California Department
25 of Public Health are working on diligently.

Norris,
Sherri

1 The TMDL process, we're involved in that,
2 which is -- will likely affect all the rivers in
3 California. Most of the rivers do have mercury
4 contamination on some level, and some are listed on the
5 303(d) list. And that was my concern when I looked at
6 this report was that I noted there were rivers that were
7 definitely listed as being impaired from mercury that
8 were being allowed to continue with activities that
9 might add to that or that will add to that.

10 The thing with the TMDLs is it's every
11 activity as a sum of how to reduce the load, so this is
12 one of those activities. And I do sympathize with
13 anyone that has -- that does activities that add to the
14 TMDL loads because what that means is that everyone is
15 being asked to reduce it. It's not one person's
16 responsibility to reduce it. It's every activity. And
17 this is one of those activities. So please read the
18 comments that Karuk did, of course.

19 And we are also concerned with the definition
20 of deleterious and the argument of the unavoidable
21 consequences, because the science does show that this is
22 something that is avoidable, which is why the moratorium
23 is in place currently. Thank you very much.

24 MS. MONAGHAN: Could I have numbers through
25 70? Individual speakers through 70? Do we have any?

1 Okay. So before this gentleman speaks, are there any
2 individuals who want to speak for three minutes? Okay.
3 Then this will be the last individual speaker, and then
4 we'll take a quick poll and see how many will be using
5 donated time.

6 MR. GARABEDIAN: Good morning. I'm Michael
7 Garabedian. I'm the president of Friends of the North
8 Fork. That's an American River group. And you have our
9 comments and our own letter and our involvement and
10 support mentioned here.

11 I first was exposed to gold dredging when my
12 uncle came and lived with my family for several years.
13 Charlie was often in the basement trying to improve and
14 figure out how to make the most effective sluice box,
15 which he and his partners carried on their backs down
16 into the canyons.

17 So in 1999 when I decided to hike up the North
18 Fork of the American River of Discovery Park in
19 Sacramento, and I came across a couple of suction gold
20 dredgers, I really didn't think much of it. A fellow
21 with his dog, people there with the -- with small
22 equipment. However, the next year I came across gaping
23 craters in the stream bed. I could not fathom these
24 massive holes going right across the river. And I
25 learned a lot more about it.

Garabedian,
Michael

↑ 1 We -- our group does not understand how Fish
2 and Game does not have the regulatory backbone that is
3 necessary to regulate suction gold dredging in the
4 necessary manner. It's really beyond us. For several
5 years we've seen on the part of a former director and
6 others just absence of the strength to do the necessary
7 regulation. We want to support Fish and Game and to see
8 you find that backbone, and to see you do the necessary
9 regulation.

10 I couldn't understand why suction gold
11 dredgers were using heavy equipment. And I can't
12 understand how you would want to permit eight-inch
13 suction dredging. The regulations are an attack on the
14 North Fork of the American River. They are an assault
15 on it to deregulate to allow suction dredging where it
16 has not been practiced, at least as long as I know.

17 We -- the consternation we have is just really
18 unimaginable. And we look forward to seeing you find
19 that ability to regulate this dredging, not unlike the
20 way somebody with a timber arborist's permit or even the
21 stream bed alteration permit have to have checks on
22 their activity.

23 MS. MONAGHAN: Thank you very much for your
24 comment.

25 MR. GARABEDIAN: Thank you.

Garabedian,
Michael

1 MS. MONAGHAN: So now just one last
2 double-check. Those of you who want to speak for three
3 minutes have all had a chance. Is there anyone else who
4 wants to speak for three minutes? Okay. I would like a
5 show of hands of the people who are going to be speaking
6 using donated time. So I've got one, two, three, four,
7 five, six. How many tickets do you have?

8 MALE VOICE: Seven.

9 MS. MONAGHAN: Seven? Three? 10? 11? 12?
10 13? 14? 14 -- 21? 22? 23? And there was one other
11 hand over here. Okay. We will be able to accommodate
12 all of you. We have time for 33 tickets. So we have 23
13 tickets out. So I'm going to have you line up over
14 here.

15 Now, you've already spoken. Now, I need you
16 to move because this is where the people -- I'm going to
17 let you line up, sort yourselves out. Whoever has the
18 lowest number ticket among all your tickets gets to
19 speak first. So give me just a second to get your
20 PowerPoint.

21 MALE VOICE: (Inaudible).

22 MALE VOICE: You just can't make anybody
23 happy.

24 MALE VOICE: (Inaudible).

25 MALE VOICE: You just can't make anybody

1 happy.

2 FEMALE VOICE: Randy --

3 MALE VOICE: I'm next (inaudible). I can
4 learn --

5 MS. MONAGHAN: Okay. So now we want that one
6 up. Okay. Okay. If I can have your attention, please.
7 The first gentleman has a PowerPoint. You'll see the
8 PowerPoints in the -- what do you call them? Screens?

9 MALE VOICE: Monitors.

10 MS. MONAGHAN: Monitors. Thank you. Okay.
11 How many tickets do you have?

12 MALE VOICE: Nine.

13 MS. MONAGHAN: Nine? And your speaker card?

14 MALE VOICE: Here it is right here.

15 MS. MONAGHAN: Okay. Name and then go ahead
16 and start.

17 MR. MAKEYMYK: Okay. I did stay at a Holiday
18 Inn Express last night. Thank you for allowing me the
19 time, and I certainly appreciate it.

20 My name is Eric Makeymyk. I hold a Bachelor
21 of Science in Economics. Master of Science in
22 Management from a naval post graduate school, and then
23 another Master of Science in Systems Acquisition. I'm a
24 retired Army Lieutenant Colonel.

25 One week after leaving Baghdad I was on a



Maksymyk,
Eric

↑ 1 river here with a gold dredge. I have served as a
2 program manager for intelligence programs under the
3 special operations command, as set (phonetic). Had
4 three years as an intelligence analyst under U.S.
5 government programs. And I am the current president of
6 Teryllium Research (phonetic) that specializes in
7 quantitative analysis.

8 I'm here -- and I'm a dredger. I've dredged
9 for 15 years. I think for the purposes of CEQA, I would
10 submit I'm an expert on data analysis, probably not as
11 much of an expert on dredging as most of these guys. I
12 concede to them. I've only been doing it for 15 years.
13 A lot of these guys are longer.

14 What I want to talk about today is the review
15 of the analysis of the DSEIR. And specifically what I
16 want to talk about is the finding of significant and
17 unavoidable for mercury. I took a look at this.
18 Obviously because of the impact -- I'm sorry -- because
19 of the impact that mercury has on dredging, and we've
20 heard this repeatedly through all of the speakers. So
21 you have to go beyond the DSEIR. You have to actually
22 look at the underlying data. And the only two studies
23 that are referenced that are actual dredging studies,
24 one is by Rick Humphries, wherever he went.

25 FEMALE VOICE: (Inaudible).

Maksymyk,
Eric

Maksymyk,
Eric

1 MR. MAKEYMYK: And the other is by Fleck.
2 Now, both of these are used in the DSEIR. So what I
3 wanted to do is take the DSEIR, look at their
4 requirements for significance, and then go back and look
5 at the underlying data and see if the conclusions
6 justified the significant and unavoidable. So I'm going
7 to take them one at a time. And I expected to have
8 three minutes, so I may go through this now a little
9 more rapidly than anticipated.

10 Criteria one is this increase the level of any
11 priority pollutants such that it would exceed the
12 hazardous waste threshold. Where that came from is Rick
13 Humphries where he used an actual four-inch dredge in
14 2003 on the American River to dredge really what was the
15 most contaminated spot in the state. He was dredging
16 elemental mercury. And with Rick being here --
17 obviously we can't have a discussion. I would love to
18 because I've lived, ate and slept with his report for
19 about a month. He ended up recovering about half a
20 kilogram of mercury, and that's a lot of mercury.

21 So the question is do suction dredges
22 individually cumulatively put that kind of mercury into
23 the rivers. And when we look at the two reports, this
24 is a summary of what the only two actual dredging
25 studies show us on mercury. And these TVs are probably

1 harder to read than I anticipated. So let me run
2 through them. Both of the studies, both Fleck and
3 Humphries, found that a suction dredge, unmodified,
4 using crash box, which is an older style, captured 98
5 percent of the mercury.

6 Interestingly, Humphries stated that the
7 mercury was actually flowered before dredging in the
8 source material that he sampled, and it was flowered
9 after. And we'll go into that in a couple of slides.
10 The highest level measured by Humphries of output
11 material -- not concentrated material, but output
12 material, was 1.9 milligrams a kilogram. Well below
13 levels.

14 Another interesting thing -- and you can
15 obviously discuss it with Rick afterwards -- is mercury
16 mobilized on its own during low-flow conditions. And
17 that is in the report. Surprised him, but I don't think
18 it would surprise anybody that dredges. Mercury is a
19 liquid metal, and it is almost as dense as gold. So it
20 travels by gravity. Those of us who played with mercury
21 as a kid, I always wondered would it affect my brain.
22 However, you put it on a slope, it's gone. You put gold
23 on a slope, it sticks. It's a characteristic of mercury
24 that we continue to discount. This idea that mercury is
25 locked in these layers and never moves unless a dredge

Maksymyk,
Eric

1 touches it, that is absolutely not correct. If I did a
2 survey of dredgers in this room, myself included, I have
3 never seen elemental mercury while dredging. It is
4 always amalgamated with gold.

5 And as the gentleman earlier said, I don't
6 throw it back to grow up. I keep that amalgamated gold.
7 If we want to run a government program on mercury, I
8 recommend that we start a government program to take and
9 retort the miners' mercury and recover this mercury that
10 we are recovering 98 percent of elemental mercury.

11 Fleck is even more surprising. One is that
12 Fleck confirms Humphries' studies from four years
13 earlier. But when you look at the actual data of Fleck,
14 it is absolutely unmeasurable and, in most cases,
15 undetectable amounts that are going into the water from
16 the real data, the actual studies.

17 So we can talk all we want about mercury going
18 into the river and how mercury affects fish. But the
19 only thing I ask is that we look at the data. Let the
20 data speak for what the environmental impact is. We
21 both have passions left and right, pro and con.

22 And truth be told, my company donates money to
23 an environmental cause in Tampa, which is where we are,
24 Tampa Bay Watch, that does environmental restoration in
25 Tampa Bay which, by the way, has an extremely high

Maksymyk,
Eric

1 mercury level, and there's no dredging there. However,
2 they're apolitical. They don't have a cause except
3 restoration.

4 These are the results from the suction
5 dredging studies, the only two suction dredging studies
6 conducted by actual government personnel. Both of them
7 confirmed the exact same thing. An unmodified suction
8 dredge is 98 percent efficient at recovering mercury.
9 Does not matter flowered or not flowered. It doesn't
10 matter. It recovers 98 percent, and the Humphries
11 studies proved that and the Fleck studies confirmed it.
12 Both of them, when you're dealing with flowering, there
13 is no evidence, no proof, that dredges flower mercury.

14 When we look at this idea that it's
15 significant and unavoidable because we are exceeding the
16 California hazardous waste thresholds, which are
17 essentially the EPA thresholds, the threshold is 20
18 milligrams a kilogram. The small table on the bottom
19 shows the actual amounts, the source material, the
20 concentrates and the discharge.

21 And I won't bother going through them, because
22 once you get into this nanogram, microgram, it takes
23 away from -- the essential part of that graph is that
24 red line at the bottom that a suction dredge only
25 discharges less than 10 percent of that level. But

Maksymyk,
Eric

Maksymyk,
Eric

1 what's important here is what does that level mean.
2 That level, 20 milligrams a kilogram, based on the
3 California EPA study that set these levels, 20
4 milligrams a kilogram is the average mercury level in
5 soils throughout the Western United States.

6 If you went and dig in your yard, you could
7 hit 20 milligrams a kilogram and violate the hazardous
8 waste threshold. But dredges do not. In order to
9 violate that, Humphries would have had to have dredged
10 six kilograms of mercury in the material. We have to
11 remember where he dredged 1500 kilograms of material and
12 recovered half a kilogram of mercury, but only output
13 into the tailings 11 grams. That is stunning.

14 But here we are arguing about the effects of
15 dredges putting mercury into the water. It's not
16 happening. Dredges are taking mercury out of the water.
17 And Humphries was dredging elemental mercury, liquid
18 pools of mercury, and only output 11 grams. It is
19 absolutely stunning, but we tend to ignore that. But
20 that is the data. It is not opinion. Humphries is
21 sitting here. He can confirm that 11 grams was what was
22 output.

23 Now, the second thing about the DSEIR is it is
24 deceptive. The DSEIR says, well, we have exceeded this
25 hazardous threshold according to Humphries by an order

↑ 1 of magnitude. Now, when we start talking orders of
2 magnitude we have to be careful. And, again, as
3 somebody said earlier, it's speculative. Let the
4 numbers show themselves. Let's not speculate. Order of
5 magnitude above the threshold would have been 200
6 milligrams. We put out 1.9 milligrams at Humphries'
7 test, and we put out zero in the Fleck test. That is
8 not an order of magnitude.

9 And secondly, if you go to the document
10 itself, which we did, the document allows averaging over
11 a 30-day period. Now, is that not relevant to
12 establishing this threshold of significant and
13 unavoidable? Same flow on both studies.

14 This chart on the left, I love this chart.
15 This is the one that gets to the core of how bad
16 dredging is. 298 milligrams an hour means one four-inch
17 dredge operating in the South Fork of the American is
18 going to contribute the entire natural load. This one I
19 just could not help but looking at. The claim there is
20 the same claim as we could get a dredge to the moon if
21 we just had enough rocket fuel. Is it theoretically
22 possible? Sure, theoretically. But you have to
23 deconstruct this graph.

24 I took the exact same numbers that they used.
25 ↓ I used their highest ever measured total suspended solid

Maksymyk,
Eric

Maksymyk,
Eric

1 from a dredge, 340 milligrams a liter. I used the
2 concentrated numbers that they use from the Fleck -- or
3 I'm sorry, the Humphries study. Recalculated the
4 numbers based on the -- I'm sorry. Recalculated the
5 numbers based on time. It takes 19 hours to dredge to
6 that .063 millimeter level.

7 And when we come up with the actual numbers,
8 they are far different. Orders of magnitude different.
9 The reason it's important is we go into this whether it
10 inputs mercury into the river or it doesn't input. It
11 really makes a big difference how you create that graph.
12 The data is the same underlying it.

13 Criteria 2, long-term degradation of existing
14 water quality would cause substantial -- substantial
15 adverse effects. It appears to me that the suction
16 dredging -- or the DSEIR in regards to suction dredging
17 is pinning this hope on the flowering mercury.

18 The only two sources that we cite on the
19 flowering mercury is the Silver report from 1986 and the
20 Humphries report from 2005. This actual dredge was done
21 in 2003. Silva, 1986. And if Horizon is here, Horizon
22 knows what they did. They just did a web search. You
23 come up with a reference, Silva. You go to Silva, which
24 we did. And it recommends putting mercury in your
25 sluice box to capture gold. Now, should we go with the

Maksymyk,
Eric

1 Silva reports and a state of California document that
2 says putting mercury in your sluice box will capture
3 fine gold? And oh, by the way, the turbulence of the
4 sluice may flower it, which means it won't hold gold, or
5 should -- you know, which way do we go?

6 Now, is Silva an expert on dredging and
7 flowering of mercury? Dredging is not mentioned once.
8 Not one time is a portable suction dredge mentioned in
9 the Silva report. So let's discard that. Let's go to
10 Humphries. Humphries is the only other source.

11 Humphries said that all mercury in the sample,
12 not the dredge, the day before he took a sample of
13 material, screened it down, and all mercury in the
14 sample prior to dredging passed through a 30-mesh
15 screen.

16 I had to look it up, because I just don't do
17 things in 30 mesh. And, quite frankly, if I'm finding
18 gold in 30 mesh, I throw it back to grow up. A 30-mesh
19 screen is so fine that a particle would fit on the eye
20 of the Lincoln penny. After dredging Humphries measured
21 again. All of the mercury passed through the 30-mesh
22 screen. Let's go to Fleck. All of the mercury in Fleck
23 passed through a 20-mesh screen.

24 What is flowering? We talk about flowering.
25 We have two references. We discarded Silva. We've gone

1 to Humphries. And all the mercury passed through a
2 30-mesh screen. So what is flowering? But, yet, the
3 dredge caught 98 percent. How did we end up with half a
4 kilogram of material if dredges are not catching
5 flowered gold -- I'm sorry, flowered mercury?

6 These are the actual test results from Fleck
7 in 2007. If you look at these numbers, again, they're
8 stunning. There is a real dredge test in the exact same
9 hot spot at the confluence of the South Yuba River in
10 Humbug Creek with a real dredge running. And what was
11 found? The levels of mercury reduced from the start of
12 dredging to the conclusion of dredging.

13 And I have circled these. Really what it
14 tells me is, no, dredges are not sucking this stuff out
15 of the water. What it tells me is there is a high
16 variability of natural MeHg Hg₂ within the river, but
17 the conclusions are the same. Dredges are removing
18 elemental mercury from the river prior to it being able
19 to be transformed and are outputting minuscule amounts.

20 If you look at the Fleck test, and this is
21 from Fleck, it is not mentioned in the DSEIR. The 90
22 percent recovery isn't mentioned in the DSEIR. The
23 flowering of gold prior to it coming into the dredge,
24 the dredge is not mentioned in the DSEIR. You can draw
25 your conclusions about why that is. I only want to

Maksymyk,
Eric

1 speak to the data. This is from Fleck. This is not my
2 manipulation of this data. Mercury levels in the river
3 reduced from the start of dredging to end of dredging
4 (phonetic). Natural variance. Okay? We're just going
5 to call it natural variance.

6 But look at all the nondetectables. Three
7 hours of dredging measuring two points down the river
8 from this dredge, nondetectable, nondetectable,
9 nondetectable. Okay. Let the data speak to the
10 environmental impact. Not passion. Not somebody's
11 belief. Not this idea that it may be harming fish. Let
12 the data speak.

13 Back to this graph. 298 milligrams an hour.
14 Okay. Back to the dredge to the moon. How did we do
15 that? It took me a while to figure out how they did
16 that. I recreated it. This is the one that really
17 annoys me, that one four-inch dredge can put into the
18 river enough mercury that the entire natural load could
19 do. And all of us that would look at that would say,
20 holy cow, we've got to put locks on all those dredges
21 and those awful anti-environmental dredgers out there,
22 and let's lock those dredgers up.

23 It is impossible. It is flat-out impossible.
24 It is flawed analysis. You have to account to reach
25 that 2 percent, that five minutes of time to move

Maksymyk,
Eric

Maksymyk,
Eric

1 material in the .063 millimeters took you 19 hours to
2 get there. All of us dredgers know how much time we
3 spent in Oderburgh (phonetic). For me it's like 100
4 percent. I never hit that layer with gold.

5 So to get to that layer that they're talking
6 about, the bedrock contact layer, in the earlier picture
7 that I showed you of this weird-looking dredge thing, to
8 get the concentrated numbers that they use to produce
9 that graph, they took a pump and ran the water, recycled
10 the water through it, recycled the mercury through the
11 impeller, guaranteeing that mercury would be into just a
12 molecular form, put it back onto the bedrock, equally
13 contaminated all of the material on the bedrock, sucked
14 it back in, took it to a lab and said, oh, my God, look
15 at this.

16 That is how that graph was built. 298
17 milligrams an hour doesn't take into account you have to
18 work 19 hours to get five minutes under bedrock. It is
19 wrong. It is flat-out wrong. I re-ran the numbers,
20 re-ran their graph. This is a law rhythmic scale
21 (phonetic). 2.8 million hours versus 1,100. Who's
22 right? Look at the data, re-run the data before we just
23 leap to this conclusion.

24 As the gentleman earlier had said, this would
25 not withstand a peer review. None of us want to re-do

1 this. I mean, we've been not dredging for two years.
2 None of us want to harm the environment. All of us can
3 tell you we don't see these elemental pools of mercury.
4 We are not destroying the environment. Just do the
5 data. Do the analysis correctly.

6 And, quite frankly, my opinion -- of course, I
7 support the Department of Defense, so I'm relatively
8 biased on this issue. My opinion would be I would not
9 give an environmental impact review to an environmental
10 company that is biased from the start.

11 Now, how do we get so far off from the same
12 data? 14,800 permitted dredgers working the confluence
13 of Humbug Creek in the South Yuba River would be
14 required to produce what that graph in the DSEIR said.
15 Now, that wouldn't be your biggest problem. Your
16 biggest problem would be the gun fights.

17 So let's not -- you know, before we publish
18 this, and I saw this data published by -- I think USGS
19 published this. We're publishing this data without peer
20 review. I mean, please, look at this data. There is
21 just no way we can be this far apart.

22 I mean, are we both wrong at some point?
23 Yeah, probably. You know, obviously I'm pro dredging,
24 so I'm going to be, whoa, way out here trying to prove
25 them way wrong. And they're way down here. Somewhere

Maksymyk,
Eric

1 in the middle are the true numbers. And I'm absolutely
2 willing to work with them, but to throw that out. And
3 if I was to try to take this and throw it out to the
4 paper without a peer review, I wouldn't be comfortable
5 with it. I ask that you get a neutral party to peer
6 review it.

7 So here's the summary. 298 milligrams an
8 hour. Fleck measured four milligrams an hour actual
9 dredge tests. The DSEIR is based on 340 milligrams.
10 Fleck measured three. The DSEIR assumes 100 percent of
11 the time in .063 or less it's only two percent of the
12 time.

13 I'll come back to this, because I want to
14 cover this MeHg. This, again, is a bit of deception
15 going on here. I took Fleck's underlying data, and the
16 report mentions the larva study. Well, let's go to the
17 larva study, because I actually think measuring MeHg,
18 methylated mercury, is a good way to measure the impact
19 of dredging. After all, we've been doing this for 40
20 years.

21 Look at the deviations on this data. Okay.
22 He says dredging, you're bad. Not dredging, you're
23 good. Environment is happy. Okay. We're all fine with
24 that, except it's wrong again. Look at these standard
25 deviations. And somewhere in here -- there are people

Maksymyk,
Eric

↑ 1 smarter than me on this, and more than likely they all
2 are, so I won't even challenge that. But deviations are
3 way more off. Why is that?

4 Okay. Let's look at the river. The river
5 itself had a 20 percent deviation from year to year. 20
6 percent change in the river. Here's the river graphs
7 for 2000, 2008, the two years. Dredging, nondredging.
8 So we go to the one year. The DSEIR, the Fleck says the
9 two years were about the same. Okay. Got it. About
10 the same qualitatively, except -- and every fly
11 fisherman knows this, and I fly fish. You know, I'm not
12 anti-environmental, and everybody ought to have their
13 say in this. If you're going to measure MeHg on larvae,
14 don't you think they ought to be hatched?

15 I mean, we've got the flood in the year of no
16 dredging one month prior to any larvae hatching. We
17 have the flood where they say, well, dredging caused
18 this the month of one of the biggest hatches of the
19 year. And if you're a fly fisherman, you know that
20 natsquales (inaudible) don't fly. It's one of the
21 biggest hatches of the year. So they go out and measure
22 stone flash (phonetic) right after the flood. We also
23 have 1,000 cubic feet per second difference. Now, what
24 difference does that make?

↓ 25 Okay. Same date again. Fleck actually went

Maksymyk,
Eric

1 out in 2009 and measured the level of mercury in a
2 flood. I took his data, computed it against the total
3 suspended solids, nanogram is a litter, microgram is --
4 you come up with 24 hours of flood event on the South
5 Yuba River will produce the entire natural load for the
6 year versus 14,800 dredgers. The data is there.

7 Okay. You're welcome to go back, check my
8 numbers. I have submitted it to you actually multiple
9 times. Craig and I, we're -- I guess we're pen pals
10 now. But it's important to us. It really is. And it's
11 important because as the guy said earlier, you know, we
12 can be passionate on both sides. But let's look at the
13 data. Let's look at the actual environmental impact.
14 Let's not make decisions because the DSEIR said, look,
15 one dredge.

16 Take it at face value. Do you really think
17 one dredge could do that after two tests showed there's
18 virtually nothing coming out of the back end of a
19 dredge? So here's your results. 24-hour period the
20 entire natural load is produced. That makes sense. It
21 really does.

22 The timing of the floods, you have to account
23 for them. Methylated mercury in the timing of the
24 floods, you just can't measure larvae. There are so
25 many variables here. What was the time? What was the

Maksymyk,
Eric

1 level of the flood?

2 2009 was an active year. I suspect the data
3 measuring those larvae are out there. I suspect they
4 are. And I'll bet you -- and it was a no dredging year.
5 And I'll bet you they're high because we had three
6 floods that year. There's a quick way to do it. I
7 can't get the data. We asked for some of the raw data.

8 Let's talk about fish for a second. And I'm
9 only two slides from the end. Now, fish really -- I
10 like this fish. So we talk about Englebright Lake in
11 the SEIR. And we say, oh, my God, look at Englebright
12 Lake. This is horrible. .45 Largemouth bass. All
13 right. But what does it mean? Let's baseline this.

14 Let's go to the U.S. EPA report to Congress on
15 mercury levels across the United States. What do we
16 find? That .45 is at the lower end of national
17 averages. Keep in mind what we did here. Again, how --
18 we're skewing the data, how we look at it. We go to
19 Englebright Lake, we take a bass, which is at the top of
20 the food chain. And we measure the highest. We go to
21 the EPA and we're like, that doesn't look so bad. Am I
22 going to eat a bass? Am I going to die?

23 You know, whether the mercury is good or bad
24 I'm not here to argue. None of us are going to say,
25 gee, mercury is good for the environment. I'm saying

Maksymyk,
Eric

1 can we attribute it to dredges. I don't think we can.
2 I don't think MeHg (inaudible) in these fish. And you
3 take, for example -- and the DSEIR says it -- trout in
4 the rivers measure at .17.

5 I mean, come on. That's one-fifth what the
6 EPA says becomes hazardous. And actually the further up
7 you go, the cleaner they get. And everybody here who
8 knows mercury knows why, because the MeHg is not present
9 in any significant levels in those clear-running
10 mountain streams. It's once they hit these reservoirs
11 and there's a chance. But there's so many variables
12 here. We haven't accounted for photo degradation.

13 The California Hazardous Waste Board -- I'm
14 sorry, the California EPA, 50 percent of methylated
15 mercury photo degrades. Okay. Now, dredging,
16 nondredging, account for the variables. Don't just say
17 dredging year, nondredging year. Good, bad. Dredge, no
18 dredge. Timing of the floods, timing of the larvae
19 hatches, amount of the flood, frequency of the flood, as
20 well as you have to account for all of the other
21 variables that are going to go into that, like photo
22 degradation.

23 What is the cubic feet per second of the
24 river? When we took these measurements it resulted in
25 that 1,100 dredging hours. They took it from

Maksymyk,
Eric

1 concentrated samples sitting in a still pool. So the
2 concentrated samples had this opportunity to attach to
3 particulate. No, by the way, it got run through the
4 impeller of the pump a thousand times, and it had the
5 opportunity to accumulate. It doesn't happen in the
6 real world.

7 So let's use real data. We have two real
8 dredge test reports that show no harm to the
9 environment, no accumulation of MeHg, no transformation
10 from Hg²⁺-R to MeHg. And, yet, we reach this conclusion
11 based on the data, significant and unavoidable. It
12 can't be. The data doesn't show it.

13 So I just ask that we look at the data. Let's
14 do it without bias. I'm biased. Clearly I'm biased.
15 I'm biased because I have to be counter-biased to the
16 other bias. Get a peer review on the data before we go
17 forward and say that the dredging is doing this.

18 My conclusion is it is highly speculative.
19 And several people have mentioned this, and they've
20 tried to put this forward. When you look at a dredge --
21 if you did a word search using Word and you said
22 possibly, might, could, we've got 40 years of dredging
23 history behind us, and the bass in Englebright Lake
24 measure at the lower end of the national averages. Look
25 at facts. Look at real data. I just showed you the two

Maksymyk,
Eric

↑ 1 tables. Real data.
2 Resuspension is cumulative impact (phonetic),
3 I completely disagree with. And I told you my
4 background. I've been looking at data for these type of
5 anomalies for some time. Am I the smartest guy in the
6 world? Absolutely not. I rarely am the smartest guy in
7 the room if there's two people in the room. But I look
8 at the data, and I'd just ask that you do the same. So
9 when we look at this data, please, analysis. Not
10 speculation. Not might. Not could. Not this is
11 theoretically possible. All I want is a fair -- fair
12 review. And I think we're going to show that dredges do
13 not contribute to mercury.

14 And one of the -- the absolute wild card, and
15 I did not think I would even have time to address this.
16 This impact of significant and unavoidable on other
17 toxic metals, and there's not one underlying study
18 anywhere on this? We come up with significant and
19 unavoidable? Individual and cumulative? I mean,
20 please, there's -- I couldn't even find data on that.
21 We can't.

22 I mean, cumulatively in 40 years of history
23 and us sorry dredgers out here trying to organize
24 ourselves with this, you know what our wish is with
25 ↓ this, Mark? That you complete this and you do it fair.

Maksymyk,
Eric

Maksymyk,
Eric



1 And I think we'd get this over with. And in conclusion,
2 just please look at the facts. Thanks.

3 MS. MONAGHAN: We need to load up another
4 presentation that will take about one minute or 30
5 seconds.

6 MALE VOICE: Stellar, man.

7 MS. MONAGHAN: How many cards?

8 MR. LINDSEY: Five.

9 MS. MONAGHAN: Five cards.

10 MR. LINDSEY: Can you -- it's open folder, and
11 you can open folder and click on that program.

12 MS. MONAGHAN: Can I do it? Is that okay?

13 MR. LINDSEY: Oh, yeah, absolutely.

14 MS. MONAGHAN: Thank you. Craig?

15 MR. LINDSEY: Hi. Good morning, Mark. My
16 name is Craig Lindsey. I'm the president of the North
17 Fork Dredgers Association, and I'd like to speak --

18 MS. MONAGHAN: Excuse me. I need everyone's
19 attention. We want to make sure that we can hear him
20 without interruptions. If you do have some side
21 conversations, you're more than welcome to take them
22 outside, and then come back in when you're finished,
23 so -- okay? Are we okay to get started? Thanks. Go
24 ahead. Start again.

Lindsey,
Craig



25 MR. LINDSEY: Sure. Good morning, Mark. My

1 name is Craig Lindsey. I'm a property owner on the
2 North Fork of the American, and also president of the
3 North Fork Dredgers Association.

4 So today what I'd like to talk about is CWHR,
5 California Wildlife Habitat Resource system software.
6 It's important in the fact that it's used to generate
7 distribution maps, which are then used to assign use
8 classifications to a stream, whether you can dredge and
9 when you can dredge or when you cannot dredge at all.

10 So what this program is, it's on DFG's web
11 site under Data. It's version 8.2. And if you're
12 really interested, you can download it and do your
13 modeling. So it is a modeling software program. What
14 it does, it predicts the presence of habitat for 694
15 vertebrates. That's frogs, lizards, snakes, fish,
16 everything that has a backbone. It's based on
17 geographical distribution, relationships to the habitat,
18 use patterns and presence of the elements that support
19 any given species.

20 MS. MONAGHAN: Craig, you're speaking --

21 MR. LINDSEY: Okay, yeah. Thanks. It's the
22 predictive model. And consequently, it only represents
23 the potential habitat, not actual species distribution
24 is represented, meaning that you use a model and say,
25 okay, given conditions A, B, C, D, E and F, species Y

Lindsey,
Craig

1 should be there. But it doesn't actually show where any
2 species will be found. And we'll go on to that in a
3 little bit.

4 So as I had mentioned, it's used to construct
5 actual species distribution maps. Then they use these
6 maps to control or eliminate dredging, and then give
7 through the water use classification A to H. So this is
8 why it's extremely important to realize this tool is
9 being used.

10 FEMALE VOICE: (Inaudible).

11 MR. LINDSEY: I'm used to talking to people
12 where my eyes are moving. Okay. Sorry.

13 So it is extremely important that it's applied
14 correctly and understood. So what are the limitations?
15 The granularity is two-course, meaning the resolution.
16 It's based on maps that can be 1 to a million or 1 to
17 250,000. It's very difficult to get maps that are --
18 have a smaller scale. So by definition using these, it
19 looks at broad swatches of area, not specific streams or
20 specific watersheds.

21 Another limitation is that it's people that
22 input into a software program, and they're subject to
23 not necessarily the biases, but the choices that they
24 use to define the end results of the program. So there
25 is and can be some potential human factors influencing

Lindsey,
Craig



1 the results of the software.

2 In addition, the distribution maps are

3 outdated. The latest one is from 2008, which has to do

4 with the Sierra Nevada yellow-legged frog. All the

5 others are from 1998 -- for amphibians I'm speaking

6 about specifically. And the one for the foothill

7 yellow-legged frog is from 1995. The extirpation data,

8 meaning the fact that a lot of these colonies and small

9 populations unfortunately have died due to other

10 reasons. So this is not taken into account because of

11 the date of these programs -- maps, rather.

12 This is from a personal communication at one

13 of the DFG offices. The range map is only meant to show

14 the limits of distribution in California. It is course

15 and statewide and, by design, errs on the side of

16 overestimating.

17 Okay. If you look at some of the literature,

18 Lou & Vendome (phonetic) have done several studies,

19 mostly Tahoe Forest and adjacent areas. Because

20 large-scale biological inventories are financially

21 prohibited -- which they are, they could be multiple

22 millions and millions of dollars -- habitat models are

23 constructed to predict species compositions, and that's

24 exactly what this software is.

25 From Howell & Burrett (phonetic), the sampling

Lindsey,
Craig

1 only detected 50 percent of the predicted species, one
2 amphibian and nine reptile species. So they used the
3 modeling, and they get twice as many species. But by
4 doing a field -- some field work, they didn't find those
5 20 species. They found 10. So it brings into question
6 the reliability of the model, quite apart from the lack
7 of hard data. And that's the issue. There's very
8 little hard data.

9 So using this software package, even in the
10 hands of competent research scientists, predicts a
11 greater number of species that are actually resident at
12 the site being mapped. In the above example -- and this
13 is the Tahoe Forest -- only one of three amphibian
14 species was present. So one out of three. Not real
15 good odds. So my contention is that it does not have
16 enough predictive value to be used to close down whole
17 streams and rivers.

18 I didn't have time to put it on the DFG map,
19 but this basically represents it. If you're interested,
20 you can find these distribution maps on the web site.
21 This is from Californiaherps.com, but it's essentially
22 the same. So you can see that the frog -- and this is
23 the foothill yellow-legged frog, rinabully-eye
24 (phonetic). So it's in the coast and around the bay and
25 Santa Cruz and all through the Sierra.

Lindsey,
Craig



1 But if you look at the actual data -- and this
2 is collected on a web site from an amphibia web -- these
3 are the actual locations of the recorded species over
4 the last 157 years. The species were identified in
5 1854. And you can see discontinuity. You can see that
6 there are multiple areas of open space with no reported
7 frogs. And, yet, it's the prior map that's being used
8 to define use classifications and consequently close
9 down rivers.

10 Okay. The conclusions: The modeling software
11 is an incorrect and inappropriate tool for use in
12 deciding a use classification for any given waterway.
13 Its gross imprecision and the inherent overestimation of
14 species negate any value for actual species
15 restrictions. And the distribution maps used to define
16 the use classifications are dated and do not factor in
17 current expiration date -- extirpation data. The
18 proposed DSEIR protects habitat with no known amphibia
19 to protect.

20 So the take-aways: Actual species
21 restrictions and the distribution maps need further
22 review, appropriate modifications, elimination and/or
23 changes based on correct data. The proposed DSEIR use
24 classifications -- and these are things like class A
25 that is closing down Slate Creek up in Sierra County --

Lindsey,
Craig

1 need to better reflect the actual presence of the
2 amphibia, frogs.

3 And my parting comment is a sniper rifle
4 should be used, not an area effects weapon, which is a
5 bomb. So thank you for your time, and hopefully I have
6 given you a little bit of insight in how the tools are
7 used to make these decisions.

8 MS. MONAGHAN: Thank you. This is yours.

9 MR. LINDSEY: Yeah, thanks.

10 MS. MONAGHAN: And I believe you're next.

11 (Inaudible). So name and start your comment.

12 MR. ZITZELBERGER: My name's Joseph
13 Zitzelberger. I'm a native of California. I'm 51 years
14 old. I'm a resident of El Dorado County, and I'm also a
15 property owner and a taxpayer.

16 I have been involved in gold mining and
17 prospecting for the past 30-plus years, and I've had a
18 dredge permit for all 30 of the past years except since
19 we haven't been able to purchase them. I have mining
20 equipment. I've had the equipment all the way from
21 two-inch to eight-inch size. And dredges, I have been
22 involved in all kinds of mining and prospecting.

23 There's been a lot of comments here today and
24 over this period with this process, and I just wanted to
25 put my two cents in.

1 I'm very concerned about the new regulations.
2 I think they're very restrictive, especially to private
3 property ordinance. I've had my entire life invested in
4 my property and my -- you know, goals that I have about
5 mining and prospecting and producing gold. And these
6 new regulations would restrict me from mining on my own
7 property.

8 With the three-foot wetted bank scenario,
9 there's very few places along my river, the North Fork
10 of the Cosumnes, where I would actually be able to run a
11 dredge.

12 With the four-inch nozzle restriction, it
13 would be hard to be profitable in many places that would
14 normally be profitable with my eight-inch dredge.

15 I'm also concerned about having to list all my
16 equipment and identify it with numbers. It was a
17 proposal a number of years ago to permit dredges and not
18 dredge operators. That was rejected by DFG. This was
19 back about 20 years ago. The law didn't support it.
20 And if you want to put numbers on dredges, you should be
21 permitting the dredge and not the operator in that case,
22 is my opinion.

23 I am concerned about having to list all of my
24 equipment on a permit that needs to be amended on a
25 minute basis, and whether that amendment to a permit can

Joseph
Zitzelberger

1 be achieved in a reasonable amount of time.

2 I'm also concerned about on-site inspections
3 that might dictate timing for personnel to get to my
4 site. The expense of that, who's going to cover those
5 costs. Whether if staff resources just aren't
6 available, does that shut you down for the season
7 because the DFG doesn't have the staff to come in and
8 inspect your site. You know, there's just a lot of
9 different things.

10 Of course, I guess I -- you know, I'm in
11 objection to the new regulations and happy with the
12 existing regs that are in effect. My river, the North
13 Fork of the Cosumnes in El Dorado County, has been zoned
14 H, open all year round. The real dredging season there
15 is usually from late spring around this time to, you
16 know, early fall. Actually by mid summer, the water
17 level usually goes so low that you can no longer operate
18 a suction dredge in most areas.

19 I've been involved in this process for a long
20 period of time. And I challenge anybody to navigate or
21 go along the mile of river that I have been accessing
22 for the past 30 years and identify a single spot where
23 dredging has occurred in the past. I challenge you to
24 find a hole or anything that's indicative that dredging
25 has been done there.

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1 In fact, from year to year it's hard to tell
2 where you dredged in the past. And quite often, you
3 know, if you're trying to pick up from where you left
4 off the previous year, it would be difficult to even
5 determine that if you didn't intimately know the area.

6 Other issues that boggle my mind is the issue
7 of mercury. In suction dredging you remove mercury, and
8 you capture, from what I understand, I believe, you
9 know, a high percent; but they're saying 98, 99 percent
10 is captured. What logic says taking 98 percent of the
11 mercury out of the river is better or worse or actually
12 worse than leaving 100 percent in there?

13 It just doesn't make sense to me at all. You
14 know, I don't know who is dreaming that up or thinking
15 it, but they seem to have a backwards sense. It just
16 doesn't make any logical sense to me at all.

17 I'm a little nervous here today. I've never
18 spoken in public before. But this is kind of -- there's
19 just a lot of different things I did take notes to write
20 down. I hate to ramble on so much.

21 Some of the other issues that I think about
22 is, you know, this whole thing has to do with fish.
23 And, you know, I've been told that this is a
24 recreational, you know, activity. Well, I submit that
25 sports fishing is a recreational activity, and every

1 fishing license is a permit to kill fish. And if you
2 want to stop killing fish, stop pulling them out on a
3 hook, period.

4 I mean, if you want to, you know -- how much
5 more can you say to that? You know, and that's totally
6 recreational. How many people are commercial with a
7 fishing license. Okay? It just doesn't happen. I've
8 read data that 7.4 million people in 2008 either hunted,
9 fished or did some kind of activity related to that --
10 those activities on the rivers of California. And
11 there's over 2500 miles of rivers and waterways in the
12 state. So 4,000 dredgers makes more of an impact than
13 these millions and millions and millions and billions of
14 footprints and people stepping on frogs and leaving
15 their trash.

16 I'll also say that rafting is a garbage
17 conveyor belt. It conveys garbage down miles and
18 miles and miles of river, and that's been proven over
19 and over again. And I don't know how you can say
20 dredging annoys fish and rafting doesn't, you know,
21 annoy fish or pasturines (phonetic) or things like that.

22 It seems -- you know, all of these topics that
23 come up are just so negative against dredging, I really
24 feel like there's been a huge bias in this -- from the
25 very beginning. And, in fact, my feeling is that the

Joseph
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1 DFG has been against suction dredge mining and miners
2 ever since I ever started in this 30 years ago.

3 I can remember one particular game warden a
4 number of years ago making statements that, you know,
5 the only thing he hated more than poachers was gold
6 dredgers. And, of course, that was a local incident,
7 but nonetheless, it's been this -- it's been this sense,
8 you know, out there, this feeling that you get about it.

9 You know, I'm afraid to even talk to you guys
10 about anything because I just think that you're totally
11 against me and everything that I believe in and want to
12 do, so --

13 MS. MONAGHAN: You've got one minute.

14 MR. ZITZELBERGER: One minute. Thank you. I
15 didn't think I would use my six let alone three. Yeah,
16 I've got a mouthful. So some of -- you know, I just
17 wish that you would seriously look at the factual
18 evidence that's behind this. Not any, you know, touted
19 up reports.

20 And there were some comments about property
21 value. I own property. My property value has been
22 demised because I can no longer produce gold off of it.
23 What good is it to me at this point in time? You
24 know -- so anyways, please, please use only factual
25 scientific evidence. If you have to do studies, do it.

Joseph
Zitzelberger

1 You should let us dredge. You know, we're
2 losing money. We're losing our life and time that is
3 ticking away. Everybody is getting older here. And
4 please do the study and just base it on scientific fact.
5 Thank you.

6 MS. MONAGHAN: Thanks. (Inaudible).

7 MR. EDDIE: (Inaudible).

8 MS. MONAGHAN: Six minutes.

9 MR. EDDIE: Six minutes. Thank you.

10 MS. MONAGHAN: Okay. So name and then start
11 your comment.

12 MR. EDDY: Okay. Hi. I'm Rick Eddy from El
13 Dorado County. Eddie, another descendant of the Donder
14 (phonetic) party. You know, this country was built on
15 gold and gold prospecting and needs to really continue
16 to do that.

17 I'm a dredger over on the South Fork. I also
18 have a claim on the eastern streak off the South Fork.
19 The flows on that South Fork are adjusted to benefit all
20 the boulders that are coming down the river. The flows
21 fluctuate daily on an average of at least six feet every
22 day. This is not good for the environment, for the fish
23 and fish eggs, frog eggs. Fish can't even spawn there.
24 Frogs can't spawn there.

25 The impact from suction dredging is just like

Eddy, Rick

1 nil compared to the fluctuating flows on the river.
2 They open the gate, and all this moss and fish eggs and
3 everything settle going down the river. We call it
4 salad. It just turns it all chocolate down there. On
5 high flows you can't even -- in fact, sometimes the
6 dredge is so dirty you can't even dredge while that's
7 happening.

8 Okay. The benefits of suction dredging on the
9 South Fork, well, there has been actual times where I
10 left on a Friday and I came back on Monday. And I went
11 into my dredge hole, and there was 28 brand-new beer
12 cans in that hole. One of them was actually full. And
13 three hats and oars and sun --

14 I mean, you know, the trash is unbelievable
15 that's in that river. And the only ones that we have
16 that are cleaning any of that stuff up, especially the
17 stuff that's been stuck in overburden for years, is the
18 suction dredgers.

19 The size, four-inch, you know, you can't work
20 rivers this big with a four-inch. It's just not
21 possible. You're trying to move 10 feet of overburden.
22 It's just not powerful enough. It's really unfair to
23 make that a standard size on the rivers. You've got to
24 have at least a six or an eight to even consider a river
25 this big. That just isn't going to work.

1 On these upper creeks and rivers up in the
2 high country that we're trying to change the season from
3 the summer to the winter, I do not understand it. It
4 doesn't make sense to me. It needs to be to protect the
5 trout. And apparently we don't care about the trout
6 anymore, that the yellow-legged frogs are more
7 important. I don't know. But me, I'd rather like to
8 have a couple of trout to eat. They're a lot bigger
9 than these little frogs, you know. I don't get it. But
10 if we're going to do this, I know the frogs' eggs happen
11 in the summer.

12 If you have to do this in an area that
13 actually has frogs, my suggestion is this, Mark. Do a
14 split season. Give these guys a chance to work their
15 mining claims. Split season. Give them a couple of
16 months in the spring, provided we don't have a snow pack
17 like we did this year.

18 Give them a couple of months in the spring,
19 middle of the summer, to let the frog do its thing with
20 its eggs. And then give them the fall again, you know,
21 as a last resort. I don't think you need to do it all,
22 but as a last resort, please take that into
23 consideration. And it would be more than fair than to
24 just shut them down all summer. It's just -- it just
25 sounds so ridiculous.

Eddy, Rick

1 The other thing, getting back to the South
2 Fork, you know, you want to cut the season again by
3 three weeks. The first week, you know, used to be --
4 the third weekend of May and now we're talking the first
5 weekend in June. I've got a mining claim on Hastings
6 Creek off the South Fork on what they call the Greenwood
7 parcel on BLM land. And it's a seasonal creek. I mean,
8 I'm lucky to have enough water for two weeks to last the
9 weekend in May. And then you'll cut another week off of
10 May, that pretty much just kills me.

Eddy, Rick 11 I mean, I go down there right now, there's not
12 even enough to run a four-inch dredge in there, which is
13 what I need in there. And then at the end of the season
14 on the South Fork you want to cut a couple of weeks.
15 You know what? That is our best time to dredge on some
16 of these holes. And under Whitewater in narrow areas,
17 there's less user conflict there.

18 The rafting season ends officially around --
19 in September. We need October. There's just kayakers,
20 and they're using friendly people. They are a different
21 breed. We get along great. We could do our best work
22 there. We've got low flows. It's safer. The water is
23 cleaner than that blasting every day. Sometimes I even
24 shut it down for a couple of weeks, which is great for
25 us to get garbage out of there.



1 I think it's ridiculous. I think the season
2 should be year-round. It used to be, and it should
3 still be. I mean, the fish aren't spawning there. But
4 I don't see -- I fish there, too. I don't even see fish
5 spawning there. And when I do, they go up Weber Creek,
6 Greenwood Creek, and it's always November. You know,
7 they shut the season down that early, to me is just
8 ridiculous. I see no reason for it.

9 Again, let's use good science here. The
10 mercury thing I think is just total BS all the way
11 around. I don't think the fish levels -- the mercury in
12 the fish is that dangerous. No one has ever died from
13 it. I don't even know of anybody that has gotten sick
14 from eating fish with mercury.

15 Washington state just put out -- the
16 Department of Ecology just put out a report on the
17 effects of suction dredging and mercury in the rivers.
18 And they've got a lot of mercury up there, too. It came
19 out in January. I submitted one to the Water Resources
20 Board at the mercury TMDL meeting. Told them to look at
21 it.

22 They're not seeing a problem with the mercury
23 and the dredging. And they have mercury collection.
24 They think it's great. They're cleaning up. They're
25 just not seeing the problem with it. Joseph Green and

↑ 1 Claudia Wise are not seeing the problem with it, too.
2 If you read that report, there is some great stuff in
3 it, and it's all true.

4 The three-foot rule, we need to strike that.
5 That is a mistake. It doesn't make sense. We need to
6 be a little more specific on that. And I think that
7 pretty well covers everything I wanted to say. Thank
8 you very much.

9 MS. MONAGHAN: Name and comment.

10 MR. GUARDIOLA: Hi. My name is Robert
11 Guardiola. I've spoken with you before. I'm president
12 of the Delta Gold Diggers, and host of the Meetup.com
13 Gold Prospectors, as well as several -- excuse me --
14 other clubs.

15 In talking with our members, we have about 10
16 claims in the club that the three-foot rule effectively
17 eliminate from our -- our being able to mine them.
18 That's going to be an adverse loss to our associations
19 as well as our members. And the three-foot rule is
20 just -- takes a lot of the waterways out of the dredgers
21 or even the miners because I'm sure that's going to be
22 carried a little further, ability to mine those creeks.

23 I, again, wanted to remind you that the 2600
24 permits that are no longer in effect are effectively job
25 ↓ lost in an environment and an economy where we can't

Eddy, Rick

Guardiola,
Robert

↑ 1 afford to lose those jobs.

2 So basically we have 2600 miners, whether they
3 were part-time or full-time, that this moratorium has
4 put out of work and effectively put on our unemployment
5 rolls. So when we bring this back, we should do it in a
6 timely manner and take that into consideration.

7 What programs we implement now -- and I think
8 the speakers before me took a lot of the comments out of
9 my mouth, and I'd like to back those up. But if we
10 don't do it right now, then that's effectively 2600
11 workers that are going to be unemployed for a lengthier
12 period of time.

13 You know, I've been around mining quite a bit.
14 And I was going to mention the rafters, and the
15 gentleman before me did it. We were just recently on an
16 outing up at the Green River access by the Colomas
17 (phonetic). And -- or Greenwood's river access, excuse
18 me. And we saw a bunch of rafters coming down the pike.
19 We picked up over seven pounds of Burger King wrappers,
20 cans, things that were thrown -- we've actually seen
21 things being thrown off the rafts.

22 As I mentioned before, we do have a trash
23 collection process, and I will be getting you those
24 numbers. I faxed in a few already. In the last month
25 ↓ since I've spoken with you last, we've collected over 22

Guardiola,
Robert

1 pounds of metals, aluminum cans, lead weights, things
2 like that from 10 miners. That is but a small portion
3 of our miners, given that this is winter, that are
4 actually in the field. And keep in mind, this is being
5 done with hands, pans and sluice boxes.

6 When we are dredging that number goes up
7 considerably. We would just like to have a fair review
8 of this. But given that, it seems to me that with all
9 of the discrepancies in the numbers, this is going to
10 open us up to bigger and longer delays in getting this
11 issue settled.

12 I'd like to extend at this time if you have my
13 phone number, if I can answer any questions, if I can
14 help you in any way, if our club can help fund any
15 studies, we'd be happy to do so. Thank you.

16 MS. MONAGHAN: Okay. Name and start your
17 comment.

18 MR. McMASTER: Hello. My name is Ken
19 McMaster. And I have been to some of the previous
20 meetings. I was at the Sacramento. I was also in
21 Redding. And I've definitely made my comments known in
22 writing and in email.

23 So today I'm going to have some general
24 comments to make, and also some information that's
25 personal to my own situation. I have been mining since

Guardiola,
Robert

McMaster,
Ken

1 1979. I've got mining claims in the Trinity Elks
2 Wilderness in California on the South Fork of the Salmon
3 River, and on the North Fork of the Trinity. Actually
4 recently patented a mining claim in the last two years
5 on the South Fork of the Salmon River. An impossible
6 situation, but succeeded.

7 This is very serious. I've been working for
8 years since '79 with approved plans of operation with
9 the forest service, and special suction dredge permits
10 and dredge permits where I could get them. I do want to
11 thank all of you who gave me your cards and all of you
12 for being here. I think that's a great support.

13 And I'm going to start out by just making a
14 comment that was asked of me by someone who gave me
15 their time. I just want to say basically that this has
16 greatly affected our lives. And this process was
17 supposed to take two years, and you're saying that this
18 time is up. And he says it's time to open up our rivers
19 to legal suction dredge mining, and I would agree with
20 him.

21 I'm going to now go on to my prepared
22 statement, and I'll be reading a lot of it. I want to
23 start out by saying that the executive summary and the
24 overall DSEIR is lacking in its seriousness in the data
25 regarding impacts on mining these proposed regulations

McMaster,
Ken

1 will have on the people in the state of California.

2 On page ES, dash 10, line 24, areas of known
3 controversy, mining rights is listed as an area of
4 greatest concern, yet little is written about this
5 issue.

6 In the DSEIR under 4.10, mineral resources at
7 page 9, DFG states that, quote, implementation of the
8 proposed program would not affect the ability of placer
9 miners using other mining techniques to comply with
10 applicable federal and state mining regulations because
11 the proposed program would apply only to suction dredge
12 miners. This is blatantly false.

13 The depravation of a truly economic method of
14 mineral extraction is fundamentally at the heart of the
15 issue for most miners. The DSEIR attempts to portray
16 miners as merely seeking to comply with federal and
17 state mining regulations. I, for one, am not a
18 recreational miner. These proposed (inaudible) miner
19 designation by limiting their opportunity to use dredges
20 of a reasonable size that would permit economical
21 extraction of minerals from their mining claims.

22 Implementation of a proposed program will
23 affect the ability of placer miners. Other techniques
24 may not be allowed or other techniques might not be
25 economically feasible. And most importantly, other

McMaster,
Ken

↑ 1 techniques may not be effectively or economically
2 feasible to mine the mineral deposits contained within
3 active river channels.

4 Miners do need to comply with applicable
5 federal and state mining regulations, but that's not the
6 only reason for ownership of a mining claim. The truest
7 sense for owning a mining claim is to not only comply
8 with applicable regulations, but it's to extract mineral
9 wealth from a valuable mineral deposit. As I said, I
10 have two placer claims. I have many placer claims in
11 the Trinity Elks, but I have two on the North Fork of
12 the Trinity River within the Trinity Elks Wilderness.

13 This river is proposed in the DSEIR to be
14 class A zone, closed at all times. On these mining
15 claims I've had valid existing rights to termination.
16 It's called a VER performed by the U.S. Forest Service,
17 and I have successfully passed each one. Each VER was
18 conducted using a suction dredge.

19 In the VER for the RMH number one mining claim
20 performed in 1988, the report summarized the following
21 on page 7, mining methods and economic evaluation.
22 Quote, the only reasonable mining method available for
23 working the (inaudible) gravels for the active river
24 channel RMH PMC would be the use of a small suction
25 dredge with an intake no larger than six inches.

McMaster,
Ken

1 This is the mining method being employed by
2 the claimants where a five-inch suction dredge was being
3 operated. This mining method appears to be economically
4 viable based on the sampling results and an economic
5 analysis. The forest service analysis is a clear
6 repudiation of the analysis by the DSEIR regarding
7 effects on mineral resources. By not allowing us to
8 dredge on this mining claim located in the wilderness, I
9 will not be authorized to use, quote, other mining
10 techniques complying with the federal regulations.

11 Digging the earth by a shovel will not pass a
12 prudent man concept (phonetic), will not pass a market
13 test with the many other thresholds that federal laws
14 mandate. Certainly using a shovel or other hand methods
15 will enable me to hold my mineral rights and qualify for
16 annual assessment work, but that's not what I want to
17 do.

18 And according to many conversations with the
19 U.S. Forest Service, I would not be authorized to use
20 heavy equipment either because of no road access, limits
21 to air transport and cost analysis of such. You see, in
22 order to maintain a valid existing right in the
23 wilderness area, a mining claimant must continue to have
24 a valuable mineral deposit. If the DFG removes the
25 opportunity for me to mine such a deposit, then my

McMaster,
Ken

1 valuable mineral deposit will not be accessible to me.

2 According to a 1994 VER report by the U.S.
3 Forest Service for the upper North Fork mining claim,
4 they said at page 9 the size of the present operation is
5 not likely to increase beyond using a five-inch dredge
6 due to the stream size and water depth. There is no
7 likelihood of expanded mechanized operations in the
8 stream due to physical, environmental and legal
9 constraints.

10 Furthermore on page 11 of the same document it
11 concludes, Based on results of the field examination,
12 one suction dredge taken by the claimant and the
13 claimant's production river records, it appears that the
14 (inaudible) gravel and active stream channel of the
15 North Fork of the Trinity River with the limits of the
16 upper North Fork PMC concurrently -- could have been
17 mined profitably (inaudible) in '84.

18 So I've had approved plans of operations with
19 the forest service. I've had two mining claims located
20 on the North Fork of the Trinity River verified to be
21 valid. And I have had pre-existed valid rights. I have
22 experts with the forest service stating their agency
23 will not allow mechanized equipment due to the
24 constraints due to being in the wilderness.

25 The forest service also states the only way to

McMaster,
Ken

McMaster,
Ken

1 reasonably mine a mineral deposit is with a five-inch
2 suction dredge. And, yet, you're proposing that I can
3 only use a four. And, yet, the DFG has the audacity to
4 state that the proposed program would not affect the
5 ability of miners using other mining techniques to
6 comply with federal regulations. This is erroneous
7 information, nonfactual data inserted into the DSEIR.
8 Using other techniques beyond what I have will not be
9 authorized, and using less than what I have of primitive
10 hand tools is uneconomical.

11 The DFG's attention to other mining techniques
12 will not affect the ability of placer miners is
13 preposterous. It's not only erroneous information.
14 It's misleading. The Mining Law of 1872 grants mining
15 claimants with valid claims the right to mining of
16 mineral deposits (phonetic) the river channel and the
17 rest of the mineral deposit, the entire deposit.

18 I know other miners are not out there in the
19 woods for just recreational purposes. Actually, mining
20 valuable mineral deposits, valuable mineral deposits
21 that the DFG is proposing to take away from us without
22 just compensation.

23 Several resources besides U.S. Forest
24 Service's approval of mining techniques and plans of
25 operation show that I have federal rights above and

1 beyond the DFG's proposed regulations.

2 Environmental statement for the Trinity Elks
3 Wilderness states, quote, The opportunity to prospect
4 for minerals would last through December 31st, '83. If
5 minerals were found, they could be developed and removed
6 in accordance with existing regulations developed by the
7 Secretary of Agriculture.

8 The Wilderness Act of '64 itself provides for
9 my use of the North Fork of the Trinity River mining
10 claims. It goes on to say, this is a quote, Mining
11 locations lying within the boundaries of said wilderness
12 shall be held and used solely for mining and processing
13 operations, and uses raised incident thereto (phonetic).

14 The Wilderness Act only allows for mining
15 operations, not recreational pursuits to find a few
16 colors of gold via gold pan or a hand sluice box. The
17 current suction dredge regulations closed streams to
18 mining are a law that regulates suction dredge mining.
19 And the current DSEIR proposes to regulate mining, too.

20 By closing a stream to suction dredge mining,
21 these laws violate the Wilderness Act of '64. In the
22 act at 43 it says, quote, subject of valid existing
23 rights then existing effective January 1984, the
24 minerals and lands designated by this act in the
25 wilderness area are withdrawn from all forms of

McMaster,
Ken

1 appropriation under the mining laws. The DFG is
2 appropriating my mineral rights, and the Wilderness Act
3 forbids such (phonetic).

4 Any mining claimant who can demonstrate that
5 they possess a valuable mineral deposit, regardless of
6 whether it's in the wilderness or not, has a legal right
7 to mine that deposit in an economic fashion. Any
8 claimant who has a claim that's classed as zone A may
9 not have that ability, or the type of deposit would
10 allow, quote, other mining techniques. This analysis in
11 the DSEIR must be changed to reflect this important
12 information.

13 Another important issue, another one specific
14 to me, is that of designating the North Fork of the
15 Trinity River, zone A, closed at all times. It's not
16 based on the best available data. The following will
17 clearly show why the North Fork of the Trinity, in
18 particular areas that encompass my mining claims noted
19 above must not be classed zone A, but should at a
20 minimum be classed zone F, if not zone C.

21 In 1994 the DFG regulations determined that
22 the North Fork of the Trinity River was to be closed at
23 all times in class A. The reason they gave in the FEIR
24 at that time for those regulations was that -- this is a
25 quote -- may be closed to suction dredging due to the

McMaster,
Ken

1 federal wilderness designation boundary at Hobo Gulch.
2 Check with the U.S. Forest Service for details.

3 Well, I checked with the forest service, and
4 they didn't have the same opinions of the DFG as they
5 approved my use of a suction dredge within the
6 wilderness.

7 As a matter of fact, the 1994 DFG regulations
8 amend the North Fork of the Trinity River the only
9 stream in the entire state of California closed by a
10 determination that it had no fish-related reason for its
11 closure. If you will look at the 1994 regulations,
12 appendix J, you will see this is true.

13 In 1994 the DFG not only had the regulatory
14 authority to close the wilderness to mining, and they do
15 not have that authority today. Only Congress does. The
16 DFG mandate by the 5653 code only authorizes them to
17 close the river if they determine operations will be
18 deleterious to fish. Just being within the wilderness
19 is not deleterious to fish. The DFG has clearly
20 overstepped their legal authority in 1994 by closing
21 this river. I've had to pay the consequences ever
22 since.

23 So to dredge on the Trinity River, I had to go
24 through the system. I had to apply for special suction
25 dredge permits, and the DFG had to conduct on-site

McMaster,
Ken

1 inspections. I passed these inspections and received
2 the permits. Since then, the DFG eliminated special
3 suction dredge permits.

4 So the DFG, again, proposes to close this
5 river. And the reasoning now, it's Coho salmon. This
6 in spite of the fact that through on-site inspections
7 conducted by Bernie Aguilar, that's a fisheries
8 biologist, found there are no Coho salmon up there.
9 Said, quote -- and this is in the report -- we've
10 reviewed your special suction dredge permit application.

11 Determined that dredging in your claim areas
12 on the North Fork of the Trinity River in Grizzly Creek
13 will not be deleterious to fish if all dredging is
14 limited July 1st through September 15th, the time period
15 that you specified, your permit for this year. During
16 that period we have determined that no salmonette eggs
17 or (inaudible) should be in the stream gravels. So it's
18 not necessary to locate those areas for avoidance in an
19 inspection.

20 So the current proposed regulations say the
21 same thing. They say in the regulations the department
22 finds that suction dredging subject to consistent with
23 the requirements of 228 and 228.5 will not be
24 deleterious to fish. And I wanted to clarify something
25 very important here.

McMaster,
Ken

1 The DFG code states that the department shall
2 allow dredging if it finds that the activity will not be
3 deleterious to fish, not that it might be or has the
4 potential to. The mandate of the code is being
5 interjected with what-ifs and not actualities. What the
6 code forbids the DFG may not allow.

7 In table 2.1 of the proposed regulations,
8 probably one of the most important violations of all
9 suction dredge miners' rights, it's formatted. Here it
10 states -- and this is in the DFG proposed regulations,
11 table 2.1: For certain species, CDFG determined that
12 any level of dredging activity in suitable or occupied
13 habitat would have the, quote, potential to result in
14 the deleterious effect to the species. For these
15 species, occupied or suitable habitat is proposed to
16 close to dredging class A.

17 Well, the DFG code of 5653 doesn't allow for
18 this. Thus, the DFG is violating the provisions of its
19 own code. DFG specifically states, quote, if the
20 department determines pursuant to the regulations
21 adopted pursuant to section 5653.9 that the operation
22 will not be deleterious to fish, it shall issue a permit
23 to the applicant. This mandate of the DFG code does not
24 state if there's a potential. It states that the
25 operation will not be deleterious to fish, it shall

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1 issue a permit to the applicant.

2 The DFG in their findings of 2.1 are in
3 violation of the unambiguous language of that code.
4 That the operation will not be deleterious to fish shall
5 issue that permit. By mandating stream and river
6 closures because of, quote, potential to result in
7 deleterious to fish is a direct violation of the
8 legislative mandate. There are no maybes, might-if's,
9 could-be's, potential in the 5653 code. It's
10 unambiguous. Unambiguous in what it will not and shall.

11 The DFG has wrongfully premised river closures
12 in violation of the 5653 code, and that's just not
13 acceptable. And why is the North Fork of the Trinity
14 River closed again when your own experts have deemed
15 that my dredging will not be deleterious to fish? The
16 mandate or reason according to the DFG code for
17 determining open or closed waters (phonetic), especially
18 since I'm the only person who operates or even owns
19 mining claims within this wilderness.

20 The DFG has improperly closed this river
21 contrary to fair law and now contrary to their own
22 biologist's advice. The North Fork of the Trinity River
23 must not be closed and must be open so that I can mine
24 my claims.

25 In 2002 I filed an administrative appeal with

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1 the DFG regarding the denial of my application for a
2 special suction dredge permit. My appeal at that time
3 was denied. But in that appeal the DFG reasoned that,
4 quote -- and this is the reasoning by the director of
5 the department -- quote, any regulation adopted by the
6 department that's in conflict with Subdivision D of the
7 code is invalid and ineffective. Using the DFG's own
8 reasoning and logic, then their proposed regulations to
9 close rivers based upon a, quote, potential to result in
10 it's deleterious to fish, thus, is invalid and
11 ineffective.

12 Another DFG response from the same appeal
13 stated, quote, In addition, such regulations are invalid
14 and ineffective. They conflict with or are inconsistent
15 with the statute that authorizes the regulation.

16 Lastly, the language rather than intent of
17 section 5653 of the code is controlling. And it goes on
18 to state a lawsuit, Maricopa Stanfield Irrigation and
19 Drainage versus U.S. And that's a 1998 decision.

20 It says, Courts look first to the plain
21 language of the statute construing the provisions of the
22 entire law enclosing its object and the policy and
23 ascertained intent of the legislature (phonetic). Well,
24 the language of the code does not provide for potential
25 effect. The code is quite specific, and it must not be

↑ 1 deleterious to fish.

2 The same denial letter also states, quote, In
3 any case dredging may be permitted only where operations
4 will not be deleterious to fish. Well, I have the study
5 that shows it's not. I do not see the word "potential"
6 in the code.

7 Further, the denial spells this out with even
8 more clarity in another quote from this appeal. It's
9 important to note the limiting nature of the language of
10 the statute. Simply put, suction dredging is prohibited
11 except in those specific cases where, one, the
12 department has identified open or closed waters. And,
13 two, the department makes affirmative findings that an
14 activity will not be deleterious to fish.

15 The DFG cannot identify open or closed waters
16 or seasons based upon potential. But, rather, from
17 their own director's words, they must make affirmative
18 findings that the operation will not be deleterious to
19 fish.

20 Proposed regulations don't meet the mandate of
21 the 5653 code, and are in direct conflict with the
22 administrative decision by the director of the
23 Department of Fish and Game. DFG has not conducted
24 adequate research to classify areas as class A, the
25 ↓ water is closed at all times.

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1 The action they have taken is not specific to
2 each area; but, rather, quoting the rationale for
3 designating class A areas. And this is, again, from the
4 DSEIR. Quote, there is a broad range of data that
5 provide information on species distribution of the
6 state. The quality and accuracy of these data resources
7 vary. In all cases, CDFG has attempted to use the best
8 available data on species California Department of Fish
9 and Game suction dredge permitting program, DSEIR report
10 distribution.

11 However, because of the broad spacial one
12 extent of the proposed program, it was not feasible to
13 incorporate all data resources specific to each action
14 species. Thus, the draft proposed amendments to the
15 existing regulations often reflect a broad understanding
16 of the species distribution within the state.

17 In many cases, modifications of the species
18 use classification known distributions were applied
19 based on regional knowledge of the species status and
20 life history characteristic. In all cases, these
21 modifications were based on the, quote, potential for
22 suction dredge activities to be deleterious to fish,
23 species, unquote.

24 DFG can't apply these broad principles. The
25 5653 code doesn't allow it. The DFG has applied gross

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1 mismanagement in these proposed regulations. The
2 decisions violate the rights of legitimate miners, and
3 violates the mandate of the code imposed upon them by
4 the state of California legislature.

5 The DFG has violated my rights by closing the
6 North Fork of the Trinity River due to, quote,
7 wilderness designation in the past. They continue to
8 violate my rights with proposed regulations. They
9 propose to violate many others' rights, too.

10 This mismanagement must end. I, for one, will
11 continue to protect my rights. I want to thank you-all.
12 It's been a long process for all of us. And I think
13 that's pretty much going to wrap it up. Thanks.

14 MS. MONAGHAN: Thank you. Did you want to
15 turn those in?

16 MR. McMASTER: They already have them.

17 MS. MONAGHAN: Okay. Great. Let me ask --
18 we're coming up 20 minutes to noon. Is there anyone who
19 has a speaker ticket who wants to speak who hasn't had
20 an opportunity yet? Okay. Great.

21 Then I'd like your attention for just two more
22 minutes. I want to thank you very, very much for your
23 adherence to the ground rules and for your very
24 respectful attention. I appreciate that very much.

25 Today's the last day of comments, so you have

1 either the opportunity to provide comments by email,
2 comments by mail, comments by fax. That light-colored
3 handout gives you all the details. And I would like to
4 turn this over to Mark for some last remarks.

5 MR. STOUFFER: I want to thank you for very
6 constructive comments and suggestions today. I think if
7 you sat through all of this today, you can see the
8 entire range of perspectives on this. I think -- I
9 didn't hear anybody say that we got it perfectly right,
10 and I'll probably have to have some more meetings to do
11 that.

12 So this concludes the public comment process
13 except for things that you send, fax, delivered by
14 passenger pigeon, to my office before you leave today.

15 I can say that we have a lot to consider.
16 We've got a lot of information from the public, and very
17 useful presentations today. And I have a tablet full of
18 notes. So I just want to say thank you, and I wish you
19 well.

20 MALE VOICE: Thank you.

21 (DVD off.)

22 (End of transcription.)

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CERTIFICATE OF TRANSCRIPTION

I, Diane Dearmore, Certified Shorthand Reporter, and a disinterested person, hereby certify that the foregoing taped proceedings were transcribed by me, to the best of my ability considering tape quality, and reduced to typewriting, by computer, under my direction and supervision.

I further certify that I am not of counsel or attorney for either or any of the parties to the said proceedings, nor in any way interested in the outcome of the cause named in said caption.

DATED: May 31, 2011

DIANE DEARMORE
CA CSR NO. 12736
TX CSR NO. 4947

