

**Comments by C. Alpers (U.S. Geological Survey) on Draft Subsequent Environmental Impact Statement on Suction Dredging (Feb. 2011 draft)**

1. Because the USGS is a science agency and not a regulatory agency, these comments do not address any of the policy or regulatory aspects of the draft SEIR. The purpose of these comments is to address the accuracy of the SEIR with regard to citation of data and interpretations from USGS reports and other sources cited in USGS reports.

2. (Table 3-1, p. 3-6 to 3-7) Table 3-1 cites information about commercially available suction dredges, citing Keene (2009) [Ref#: 751]. For each diameter of nozzle size, only a single horsepower (HP) is indicated. However, the Keene (2008a) catalog [Ref#: 677] lists several available horsepower engines for some nozzle sizes. For example, a 6-inch nozzle is available with engines ranging from 13 to 32 HP, whereas Table 3-1 indicates 14 HP for the 6-inch nozzle (presumably from Keene, 2009). Therefore the data analysis, which is based on relatively small motors, should indicate that more discharge is possible with larger motors for a given nozzle size.

3. (Table 3-2, p. 3-8) Table 3-2 indicates that the volume of sediment moved is the “maximum reported”. There is at least a factor of 10 difference in the data in Keene (2008a) [Ref#:677], which has larger values, vs. Keene (2009) [Ref#:751], which has smaller values. Both of these references are cited as sources of information for this table. Thus, it should be made clear which source the data is from, and why that source was chosen.

4. (p. 4.2-33, line 20-24) The draft SEIR describe three aspects to the USGS characterization efforts: (1) “Hg concentration and speciation in sediment of various size fractions,” (2) “Hg and MeHg concentrations in local biota,” and (3) “assess the practicality and potential impact of using suction dredging for removing Hg from an area contaminated with Hg”. All three should be considered as “field and lab” activities, rather than just (1) “lab”, (2) “field”, and (3) “field” activities.

5. (p. 4.2-33, line 24) The “laboratory study” should be described instead as the “sediment characterization study”.

6. (p. 4.2-33, lines 41-44) The draft SEIR states: “Levels from the bedrock contact layer of Pit #2 (Pit #2:BC) are assumed to be worst-case from a mercury release standpoint because they are from a location known to be contaminated with historic gold-mining Hg and because they are among the highest levels measured in California.” (emphasis added)

Better justification should be given for using sample Pit #2:BC as a “worst case” scenario. Fleck et al. (2011), p. 80, mention “...dredging of the Hg-rich layers exclusively, a situation that is unlikely given the variable spatial distribution of these Hg-rich layers.” It is important that the likelihood of encountering material similar to that found in Pit 2:BC and Pit 2:CS (Compact Sediment layer), which had a similarly high concentration of THg, > 10 ug/g, is considered, so that the chemical data can be put in proper perspective.

7. (p. 4.2-35, lines 2-4) The draft SEIR states: “However, it should be noted that few, if any, other sediments containing hydraulic mine debris in California have been characterized with respect to Hg, so it is possible that other similar sites would contain similarly high levels.”

There are other studies not cited in the draft SEIR (by USGS scientists based in Menlo Park, CA) that have characterized placer mine debris with respect to Hg in the Clear Creek watershed (Shasta County, CA). See Ashley et al. (2002), Slowey et al. (2005) and Ashley and Rytuba (2008). The placer mine debris in the Clear Creek watershed is considered primarily dredge tailings but may include hydraulic mine debris. One sampling site where water and sediment were collected is described by Ashley et al. (2002) as “hydraulic mine drainage tunnel”.

**Ashley, R.P., and Rytuba, J.J., 2008**, Mercury geochemistry of gold placer tailings, sediments, bedrock, and waters in the lower Clear Creek area, Shasta County, California; Report of investigations, 2001-2003: U.S. Geological Survey Open-File Report 2008-1122  
<http://pubs.usgs.gov/of/2008/1122/>

**Ashley, R.P., Rytuba, J.J., Rogers, R., Kotlyar, B.B., and Lawler, D., 2002**, Preliminary report on mercury geochemistry of placer gold dredge tailings, sediments, bedrock, and waters in the Clear Creek Restoration Area, Shasta County, California: U.S. Geological Survey Open-File Report 2002-401, 47 p. <http://geopubs.wr.usgs.gov/open-file/of02-401/>

**Slowey, A.J., Rytuba, J. J., and Brown, G.E. Jr., 2005**, Speciation of mercury and mode of transport from placer gold mine tailings: Environmental Science and Technology, v. 39, p. 1547-1554.

It is possible that other sites, not yet characterized, could have higher Hg concentrations than those observed in sample Pit #2:BC.

8. (p. 4.2-39, Figs. 4.2-9 and 4.2-10) It should be indicated that the figures from Fleck et al. (2010) are based on dredge sediment discharge data from Keene (2009) [ Ref. 751].

9. (p. 4.2-44, line 10) Keiu (2004) is not in reference list for section 4.2.

10. p. 4.2-44, lines 11-13) Quotation marks regarding definition of reactive Hg(II) are opened but not closed.

11. (p. 4.2-45, line 36) It should be “BAF of fish to sediment MeHg” rather than “BAF of sediment MeHg to fish”.

12. (p. 4.2-26, line 6) Delete comma.

13. (p. 4.2-26, line 24) Typo – “Because...”

14. (p. 4.2-26, line 30) Should be “Marvin-DiPasquale et al., 2011)”

15. (p. 4.2-27, line 4-5) A reference should be cited for the national average for Hg in trout. The value cited (0.11 ppm) is consistent with data in Scudder et al. (2009) for rainbow trout and brown trout.

16. (p. 4.2-48, line 14) Should cite a reference for smallmouth bass Hg data from Englebright Lake. May et al. (2000) USGS Open-File Report 00-367 (not in References) reported 0.63 ppm; the draft SEIR reports 0.66 ppm. There are other published data available such as Davis et al. (2009) [Ref#:510] and the follow-up SWAMP report on lakes and reservoirs (Davis et al., 2010, SFEI —not in References).

17. (p. 4.2-48, line 21-22) Should be “Marvin-DiPasquale et al., 2011)”

18. (Figs. 4.2-19 and -20; p. 4.2-49 and -30; captions) “The draft SEIR states” “Day 0 indicates the sediment was non-suspended prior to spiking into the receiving sediment. Day 6 indicates the sediment was suspended for 6 days prior to spiking into the receiving sediment.”

This is incorrect. All material used in spiking experiments was suspended for 7 days prior to the spiking experiment. On the graph, Day 0 refers to the mixture of spiking and receiving sediment being preserved for analysis without any incubation time, and Day 6 refers to spiked material that incubated for 6 days.

19. (p. 4.2-49, line 2) The citations “Heim, 2003” and “Slotton, 2003” should be changed to “Heim et al., 2003” and “Slotton et al., 2003”.

20. (P. 4.2-49, lines 9-11) Ambiguity should be clarified. Last sentence of paragraph should read “The same experiment using sediment from Pit#1 as spiking sediment and Delta sediment as receiving sediment showed no impact...”



STATE OF CALIFORNIA  
GOVERNOR'S OFFICE *of* PLANNING AND RESEARCH  
STATE CLEARINGHOUSE AND PLANNING UNIT

JERRY BROWN  
GOVERNOR

May 11, 2011

Mark Stopher  
California Department of Fish and Game  
1416 Ninth Street  
Sacramento, CA 95814

Subject: Suction Dredge Permitting Program  
SCH#: 2009112005

Dear Mark Stopher:

The enclosed comment (s) on your Supplemental EIR was (were) received by the State Clearinghouse after the end of the state review period, which closed on April 14, 2011. We are forwarding these comments to you because they provide information or raise issues that should be addressed in your final environmental document.

The California Environmental Quality Act does not require Lead Agencies to respond to late comments. However, we encourage you to incorporate these additional comments into your final environmental document and to consider them prior to taking final action on the proposed project.

Please contact the State Clearinghouse at (916) 445-0613 if you have any questions concerning the environmental review process. If you have a question regarding the above-named project, please refer to the ten-digit State Clearinghouse number (2009112005) when contacting this office.

Sincerely,

A handwritten signature in black ink that reads "Scott Morgan".

Scott Morgan  
Director, State Clearinghouse

Enclosures  
cc: Resources Agency

STATE OF CALIFORNIA

EDMUND G. BROWN JR., Governor

**CALIFORNIA STATE LANDS COMMISSION**  
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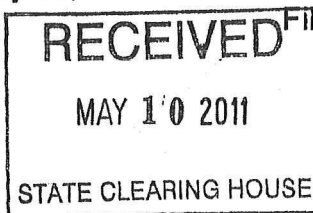
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May 10, 2011



File Ref: SCH #2009112005

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

**Subject: Draft Subsequent Environmental Impact Report (DSEIR) for the Suction Dredge Permitting Program**

Dear Mr. Stopher:

The California State Lands Commission (CSLC) staff has reviewed the subject DSEIR for the statewide Suction Dredge Permitting Program (Project), which is being prepared by the California Department of Fish and Game (DFG). DFG, as the agency granted with the authority to issue suction dredge permits in California (Fish & G. Code, § 5653), is the lead agency under the California Environmental Quality Act (CEQA) (Public Resources Code [PRC] § 21000 et seq.). The CSLC has prepared these comments as a trustee and potentially responsible agency because of its trust responsibility for projects that could directly or indirectly affect sovereign lands, their accompanying Public Trust resources or uses, and the public easement in navigable waters.

Although the CSLC acknowledges the limits of DFG's regulatory authority, pursuant to Fish and Game Code section 5653 et seq., over the extent of any suction dredge permit program requirements, staff remains concerned by the number of impacts identified in the DSEIR as "significant and unavoidable." While the issues of greatest importance to the CSLC, detailed below, are beyond DFG's statutory mandate in this particular case, the CSLC asks that its comments be considered in any discussions on the value of calling for modified or broadened authority under Fish & Game Code section 5653.

**CSLC Jurisdiction and Public Trust Lands**

As general background, the State of California acquired sovereign ownership of all tidelands and submerged lands and beds of navigable waterways upon its admission to the United States in 1850. The State holds these lands for the benefit of all people of the State for statewide Public Trust purposes, which include waterborne commerce, navigation, fisheries, water-related recreation, habitat preservation and open space. On tidal waterways, the State's sovereign fee ownership extends landward to the mean high tide line, except for fill or artificial accretion. On navigable non-tidal waterways, the State holds fee ownership of the bed landward to the ordinary low water mark (OLWM) and a Public Trust easement landward to the ordinary high water mark (OHWM). Such

Mark Stopher

Page 2

May 10, 2011

boundaries may not be readily apparent from present day site inspections. These State sovereign property interests are under the jurisdiction of the CSLC. The CSLC also has leasing jurisdiction, subject to certain conditions, over mineral extraction from state property owned and managed by other state agencies (PRC § 6890, subd. (b)).

Shortly after becoming a State, California was also granted Sections 16 and 36 (2 square miles), or lands in lieu thereof, out of each township (36 square miles) then held by the federal government. The lands, classified as "School Lands," were given to the State to help support public education. While many of the School Lands were sold off over the years, the State retains an interest in approximately 1.3 million acres of fee owned and split estate lands, mostly desert and forest lands. The State's school lands and lieu lands are also under the jurisdiction of the Commission. Since 1938, the State has reserved back one hundred percent (100%) of the mineral interest in these lands when they are sold, resulting in a split estate. Thus, there can be instances in which the State has an interest, either solely mineral or both surface and mineral, in the bed of a non-navigable waterway on a school land parcel that is subject to the State's permitting and leasing authority.

Under Division 6 of the California Public Resources Code, the CSLC reserves the right to require a lease or permit for the use of any lands under its jurisdiction, as well as negotiate royalties for mineral resources extracted from lands, including those lands subject to the proposed suction dredging permit program area. CSLC staff will continue to consult with DFG to further understand the scope of the proposed Project and its effects on lands under the CSLC's jurisdiction.

### Project Description

In response to a 2006 Court Order arising from a May 2005 challenge (*Karuk Tribe of California et al. v. California Department of Fish and Game*) to DFG's previous suction dredge permitting program, the Project, as described in the DSEIR, consists of the proposed amendments to the regulatory provisions in the California Code of Regulations governing the permitting of suction dredge mining throughout California, as well as suction dredging activities conducted consistent with those amendments. For the purposes of the Project, a person is using suction dredge equipment when operating a vacuum hose, a motorized pump and a sluice box together for the purpose of vacuuming aggregate from a river, stream or lake. The proposed Project would apply to suction dredge activities in any river, lake or stream of California.

DFG proposes to implement the Project to meet its objectives and needs as follows:

- Comply with the December 2006 Court Order;
- Promulgate amendments to CDFG's previous regulations as necessary to effectively implement Fish and Game Code section 5653 and other applicable legal authorities to ensure that suction dredge mining will not be deleterious to fish;

Mark Stopher

Page 3

May 10, 2011

- Develop a program that is implementable within the existing permitting program fee structure;
- Fulfill DFG's mission of managing California's diverse fish, wildlife, and plant resources, and the habitats upon which they depend, for their ecological values and for their use and enjoyment by the public;
- Ensure that the development of the regulations considers economic costs, practical considerations for implementation, and technological capabilities existing at the time of implementation; and
- Fulfill DFG's obligation to conserve, protect, and manage fish, wildlife, native plants, and habitats necessary for biologically sustainable populations of those species and as a trustee agency for fish and wildlife resources pursuant to Fish and Game Code section 1802.

CSLC staff understands that the Project would regulate the following elements of suction dredge mining through its annual permit:

- Equipment specifications (i.e., nozzle size, hose size, and pump intake screens);
- Method of operation;
- Seasonal and year-round closures for various water bodies; and
- Maximum number of permits to be issued annually.

The DSEIR identifies the Reduced Intensity Alternative, which would limit the locations open to dredging and place further restrictions on equipment, locations, and the number of permits issued as compared to the previous program, as the Environmentally Superior Alternative.

### Environmental Review

The CSLC requests that DFG consider the following comments on the Project's DSEIR.

#### General Comments

1. From surveys of permitted suction dredgers who operated before the placement of a 2009 moratorium, DFG identified the California bodies of water that likely experience the heaviest suction dredging activity (Appendix F of the DSEIR); the beds of the lower reaches of many of these, including the South Yuba, Feather, American, Klamath, Merced and Stanislaus Rivers, as well as Suisun Bay, are sovereign lands under CSLC's jurisdiction.

Because the previous permitting program did not require permittees to submit locational information for dredging activities to DFG, it is not possible to know the intensity or number of annual suction dredging occurrences on sovereign or school lands under the jurisdiction of the CSLC. From Geographical Information Systems (GIS) data produced from the results of DFG's voluntary survey of dredgers permitted under the previous program, it appears that at least some suction dredging takes place on State lands. Direct, unauthorized use, alteration

or exploitation of public lands is of obvious interest to the CSLC; however, given the findings of the DSEIR's analysis of fluvial transport of mercury (Hg) and other heavy metals downstream from dredging, even activities upstream of the CSLC's jurisdiction, permitted under DFG's proposed program, may affect State lands and future projects located thereon. Impact-specific concerns are explained below.

2. On April 22, 2010, the Central Valley Regional Water Quality Control Board (RWQCB) identified the CSLC as both a State agency that manages open water areas in the Sacramento-San Joaquin Delta Estuary and a nonpoint source discharger of methylmercury (Resolution No. R5-2010-0043), because subsurface lands under the CSLC's jurisdiction are impacted by mercury from legacy mining activities dating back to California's Gold Rush. Pursuant to a RWQCB Total Maximum Daily Load (TMDL), the RWQCB is requiring the CSLC, the Department of Water Resources, and the Central Valley Flood Protection Board to secure adequate resources to fund studies to identify potential methylmercury control methods in the Delta and to participate in an Exposure Reduction Program. The goal of the studies is to evaluate existing control methods and evaluate options to reduce methylmercury in open waters under jurisdiction of the CSLC. Consequently, any action taken by the DFG that results in continued Hg and methylmercury moving from upstream areas to the Sacramento-San Joaquin Delta Estuary may affect the CSLC's efforts to comply with the RWQCB TMDL.

#### Water Quality and Toxicology

3. **Impacts WQ-4, WQ-5, CUM-7:** After a careful and extensive review of the DSEIR's discussion of the potential dredging impacts resulting from the eluting of chemical compounds, including total Hg, CSLC believes the DFG did a very thorough and comprehensive examination of these issues and impacts. The DSEIR identified several impacts which were significant and unavoidable after mitigation, which will require Statements of Overriding Consideration (SOCs) before approval of the document. These impacts are not surprising, given the potential locations of dredging, the history of gold exploration in many of the State's streams and tributaries, and the natural geologic composition of the water bodies.

The DSEIR notes that permitted suction dredging under the proposed requirements may transfer heavy metals from deeper or sheltered sediment upstream onto State sovereign lands downstream, potentially affecting future uses of or projects on lands held in trust for Californians. The case study cited in the DSEIR of Hg transport from suction dredging on the South Yuba River upriver of Englebright Lake estimated that 60% of smaller Hg particles (<63µm, those more prone to methylation and subsequent bioaccumulation) stirred up by dredging, traveled at least downriver of Englebright Dam and, eventually, as far as the Delta (DSEIR, pp. 4.2-41). The bed of much of the river between



Mark Stopher

Page 5

May 10, 2011

Englebright Dam and the Delta, as well as much of the Delta itself, on which these particles would settle, is sovereign.

Beyond the apparent problem of effectively permitting the deposition of pollutants on public lands, further buildup of Hg and other heavy metals on CSLC-managed riverbeds and bays may occur as a result of the Project; such impacts, which are beyond whatever occurred under DFG's previous permit program, may constrain future CSLC actions in the interest of the State. These settled particles, both in the lower South Yuba River and, presumably, other major rivers such as the American, Feather, and Klamath, become a liability or responsibility for projects which may be implemented by the CSLC or others on sovereign land. Future efforts to enhance and support Public Trust uses, including but not limited to navigation, recreation, access, habitat restoration and invasive species management, would potentially have to mitigate for disturbance of Hg and other metallic particles originating from upstream suction dredging. Such impacts and mitigation could add substantial costs or controversy to future projects that benefit Californians, their enjoyment of public lands and waterways, and the habitat values of these areas.

The CSLC asks that DFG coordinate with the State Water Resources Control Board (SWRCB) and the RWQCBs when issuing permits to ensure that suction dredge activities also comply with sections 401 and 402 of the Clean Water Act. As the DSEIR concludes, DFG's amended regulations are likely not sufficient to adequately limit suction dredging's contributions to Hg loading, increased methylation of disturbed Hg, and bioaccumulation of methylmercury in certain California waters; however, these agencies, with regulatory authority that DFG lacks, may mitigate these impacts to safer levels than the Project would alone. Involving these agencies both now and when issuing permits will save duplication of effort and increase the likelihood that the SWRCB and RWQCBs will step in where DFG cannot.

Also, in its evaluations of Water Quality Impacts WQ-4 and -5, the EIR cites the scarcity of information on Hg and other trace metal "hot spots" as an obstacle to a more feasible and adequate mitigation program. DFG should support and track further efforts to identify these areas to better inform any future amendments to the regulation.

#### Cultural Resources

- 4. Impacts CUL-1, CUL-2:** In Section 4.5, the DSEIR mentions that Best Management Practices (BMPs) to identify or avoid historically or culturally significant resources will be included in the BMPs informational packet to be provided to permittees. Because the CSLC, as correctly noted in the DSEIR, has jurisdiction over shipwrecks in California waterways, as well as ownership over cultural resources located on State sovereign lands, staff requests the opportunity to review the cultural resources information in such a packet and, if

Mark Stopher

Page 6

May 10, 2011

deemed appropriate, add CSLC contact information to the BMPs before the packet is produced and distributed.

Thank you for the opportunity to comment on the DSEIR for the Project. As a trustee and, potentially, responsible agency, the CSLC will need to rely on the Final SEIR for the issuance of any mineral or surface lease as specified above and, therefore, we request that you consider our comments prior to adoption of the SEIR.

Please contact Mary Hays, Public Land Manager, at 916-574-1812 or by email at [Mary.Hays@slc.ca.gov](mailto:Mary.Hays@slc.ca.gov), for information concerning our surface leasing requirements. For inquiries about mineral leasing, please contact Greg Pelka, Senior Mineral Resources Engineer, at (562) 590-5227 or at [Greg.Pelka@slc.ca.gov](mailto:Greg.Pelka@slc.ca.gov). For questions concerning the environmental review, please contact Sarah Sugar, Environmental Scientist, at (916) 574-2274 or by e-mail at [Sarah.Sugar@slc.ca.gov](mailto:Sarah.Sugar@slc.ca.gov).

Sincerely



Cy R. Oggins, Chief  
Division of Environmental Planning  
and Management

cc: Office of Planning and Research  
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Sydney L. Brown  
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**Subject:** Dredging on the Auburn Ravine  
**Date:** Wednesday, May 11, 2011 10:10:55 PM PT  
**From:** Judy Dawson  
**To:** mstopher@dfg.ca.gov

Mark Stopher:

We were not aware of your meeting, however, about 3 years ago, we had a problem with people dredging on the Auburn Ravine in Placer County. We contacted the Department of Fish and Game and were told permits were issued.

The problem the dredging created was stirring up silt and sand that clogged our foot valves. We pay Nevada Irrigation District for use of the water for irrigation. The noise from their equipment made it impossible for people on the creek to hear each other talking. The bottom line was we had to contact the sheriff's department to make them stop.

We are now in contact with a committee that is trying to restore the fish habitat in the Auburn Ravine, so we feel we have resolved the problem should it come up in the future.

Thanks for your interest,

Judy Dawson

**Subject:** SUCTION DREDGE PROGRAM DRAFT SEIR COMMENTS

**Date:** Wednesday, May 11, 2011 8:40:27 PM PT

**From:** Carolyn and Herb Duerr

**To:** Stopher Mark

At the onset let me make it very clear that I am against any proposed dredge rule changes that diminish my ability to mine and which, in effect, rob me of my personal freedoms, mining rights, private property rights and source of retirement income.

Having started dredging in the early seventies, I clearly recall working in the rivers without permits or having to be concerned with CDFG.

Since then I have spent the last 40 years acquiring mining claims, patented claims and a cabin overlooking it all. Besides the above, I accumulated the necessary equipment (8 dredges & 6 winches) which took many tens of thousands of dollars. In addition I purchased my primary residence so I could be close to my mining properties. One might say I built my lifestyle around dredging. All my efforts appear to have been wasted in view of losing 2 dredging seasons and because of your proposed draconian dredging regulations. It seems that for my last few years of my retirement I may sit on my front porch of my cabin looking out at the river contemplating the inevitable loss of income and wondering what this government and country has come to. Along with many others, I feel that I am a victim of the "Wars between Klamath River Indians and the mining clubs.

Below are the details of the proposed regulations that I am against along with reasons why:

1. "Activities such as motorized winching and dredges larger than 4" require notification" under 1602 code section There seems to be a semantic issue here for as I understand "notification" means to tell you I am going to do something and then doing it. However, at the Yreka meeting I was told this "notification" will cost between \$400. and \$500., require site inspection and I presume will be approved or denied. True or not, I heard that a site specific environmental impact report may be required at a cost way beyond the financial abilities of most dredgers. **So much for "Notification"**.

I need to use my motorized winches to work efficiently. At my age of 69 most any size boulder needs winching and if it isn't done right away that may present a great physical danger to me such as broken bones or worse, getting trapped under water. Not allowing me to power winch is a form of age discrimination.

Furthermore, forcing me to use a 4" dredge makes no economic sense to me as I cannot process enough materials to make gold mining a profitable venture. With using a 4" dredge I won't recover enough gold to pay property taxes and BLM maintenance fees! For me using a 4" dredge is almost as no dredging at all and poses the problem of what to do with my 5", 6" and 8" dredges. Besides what is the difference if I use my 8" dredge for 2 weeks or my 4" for

2 ½ months – the end results are the same. Also, I cannot recover my investment as the market for them will have disappeared. The same goes for my several power winches. Thus I humbly suggest that CDFG institute a “buy back program” for unusable equipment. In fact, the same could be said for unusable mining claims. The loss of all the above clearly comes under the heading of “property rights takings” and we miners should be reimbursed for our losses.

2. “CDFG will issue up to a maximum of 4,000 permits annually on a first come, first served basis”. Here I believe my family and I should have vested rights to permits as private property and claim owners. I own private property i.e. on both sides of the river and the land under the river. How dare you restrict access to my own property if I’m not in the first 4,000 to apply? I also own 2 ½ miles of claims and have owned them for 30 years paying annual taxes and BLM upkeep fees at a substantial expense. There should be no limit to the number of permits. Licensed “fish killers” don’t have that restriction!

How could I hire helpers during the summer when there are no dredge permits available?

3. Application Requirements: Listing up to 6 locations along with dates, limits my travels. Like a hunter or fisherman, one never knows exactly where one will be. Asking for approximate dates at each location is ridiculous and unreasonable. Gold mining is totally unpredictable. At my age I can’t even predict if I’m physically able to dredge at any given time or date. Notwithstanding the influence that weather has on a person’s dredging schedule, physical injuries can limit my access to some of my claims. In view of all of the above, I find it hard, if not impossible to comply with any reasonable accuracy. What are the consequences – if any – if a miner isn’t at his listed location?
4. Equipment Restrictions: “Only equipment listed may be operated . . .” What if I have breakdown and want to borrow or buy another dredge? Do I then have to grovel and beg CDFG to let me use something else? What happens to the time lost? How many new game wardens will you hire to comply with the drastic increase in the number of on-site inspections? I will surmise none!

Covering pump intakes with screening with openings less than 3/32” shows the ignorance of the person(s) writing these regulations. As any dredger knows, fish are not sucked up into the water pumps. As soon as they feel the suction current they swim away. Small screen openings will plug up the pump intake quickly and will cause wasted gasoline and time. So, what scientific evidence are you basing this new regulation on? I know, it came from Washington State regulations! Let me tell you, our fish in California are smarter than the ones in Washington. Ours don’t get sucked up!

5. Method of Operation:

Why is movement of boulders and logs outside the current water level prohibited? That wouldn’t even fall under the purview of dredging but more under high banking. Besides, what is the purpose of doing that? On my private property I feel I have the right to re-arrange the banks as I see fit.

Using motorized winches requires an on-site inspection and 1602 compliance?

What will be waiting periods for inspections? Also, no dredger can predict where boulders are that need winching. This rule discriminates against us older people who aren’t strong anymore as a 20 year old might be. The older we get the more we have to winch.

“Tailing piles shall be leveled” On my claims this is unnecessary as winter high waters accomplish this. I dare anyone to find any of my dredging sites dating back 40 years!

“Disturbing tadpoles is prohibited” How ridiculous! The demise of frogs in California has long been attributed to other environmental factors. Where were you when the California mandated MTBE in gasoline for years and caused the wholesale poisoning of the whole state? If you are trying to protect certain species then regulate those areas involved. Besides, have you advised swimmers, hikers, boaters, and fishermen concerning this?

No fuel stored within 100 feet of water level. Isn't that a bit overdoing it? On my claims that would be a hardship as the canyon walls are straight up and down with few trails. Oftentimes carrying gas cans over goat trails would invite accidents to happen. Also, having gas away from the dredge site would tempt thieves during times of high gas prices.

Suction dredge operator permit # affixed to permitted dredges clearly visible from bank or shoreline. This request is not always practical as dredges get moved around and might not display numbers in the correct direction. Wouldn't a copy of the permit or the number hung on a tree or bush be sufficient?

6. Area Restrictions- Here I believe that stream and creek closures are excessive and for no rational reason.

Areas of Known Controversy:

CDFG left out Property Rights which is probably the biggest issue here with many potential lawsuits in future years. Also, what hazardous materials other than fuels are at dredger campsites? I personally have never seen any in my 40 years of dredging on several rivers in California. The concept of mercury resuspension and discharge is grossly exaggerated. Dredgers' effect on this is very minimal when compared to annual relocation of gravels during high water periods and during floods. What scientific data supports your conclusion? So, stop the hype on mercury!!! My claims do not have a mercury problem.

Temporary Noise Impacts:

You appear to object to campfire lights and evening noise. You don't object when it comes from hunters, fishermen, hikers, kayakers, and campers etc.

Dredging has potential to generate noise in excess of local noise standards. What are the standards? What about rafters, kayakers, swimmers, hunters, firewood cutters and landscapers?

7. Reduced Intensity Alternative would have a maximum of 1,500 permits that would decrease potential site disturbances and reduce risks of accidents and competition between recreational users. What were the risks of accidents or incidents? Why put it on dredgers to reduce competition between recreational users? Let's reduce the numbers of fishing licenses, permit rafters, swimmers & hikers. Besides, people don't need governmental, “nanny state” protection at every turn of their lives.

Up to six inch nozzles might be authorized. Up to eight inches nozzles might be authorized at CDFG's discretion. How many hoops must one jump through to achieve this? How much time and money will one need to spend?

Engine model numbers identified in permit may be used. What if I blow and engine and need to replace it. Do I have to get special permission for a different engine? Absolutely ludicrous!

Active dredging only between ½ hour after sunrise to sunset. This is not a hunting regulations. Nuggets don't need night time respite from humans. Besides, I am away from all people and usually on my own property. I should be able to dredge when I wish and however long I wish. I might even use flood lights for night time dredging.

Under a 1602 a person may have to get a CEQA analysis. Who determines that? From what I've heard this may cost upwards to \$30,000? Am I wrong? If I'm right then you are in effect prohibiting winches and larger dredge sizes?

Dredging within 3 feet of the lateral edge . . is prohibited. I fail to see the reasoning behind this and from experience have found it often necessary, for safety reasons, to dredge clear to the edge of the water where one finds a solid bedrock bank which would prevent one side of the dredge hole from caving in and possibly injuring the diver. Also in some narrows of the river this is impossible to comply with.

Salmon River is Class F: What criteria are used here? I believe seasons should return to a May 15<sup>th</sup> opening.

### **Why is the Salmon River not an 8" river?**

Salmon River Thermal Refugia:

Jessups Gulch has no cold water pool of water for fish to hold up in during summer high temperatures. However, fish have stayed in my dredge holes. I strongly object to a 500 foot radius of no dredging at creek confluences on the North Fork of the Salmon River as being unnecessary. 100 feet would be more appropriate. The spring run of salmon consists of low hundreds in numbers and is spread out over many miles thus there is no congregation at these locations.

I object to "CDFG code 5653(d) unlawful to possess a dredge. . .within 100 yards of waters closed to dredging. . . You are closing down way too many creeks and/or rivers. This makes law breakers out of many people who live close to creeks and rivers and who store dredges on their properties.

Also, seasons are in my opinion much too narrow in time slots.

I want CDFG to give criteria for closures and time restrictions for each body of water.

In conclusion, I advocate the 1994 alternative. Anything else is a private property takings, and is harassment of gold miners and a plan to discourage and eventually eliminate gold dredging in California. Perhaps class action lawsuits will provide remedies to unjust actions by CDFG.

Herbert W. Duerr

PO Box 176

Etna, CA 96027

**Subject:** Suction Dredging

**Date:** Wednesday, May 11, 2011 1:29:40 PM PT

**From:** James Miller

**To:** dfgsuctiondredge@dfg.ca.gov

I realize my input is one of probably thousands and I almost did not do this email but realizing that our freedoms are quickly eroding so I felt compelled to give my 2-cents.

I grew up in Nevada City in the 60-70's I would have never thought I would see the day that a man would be put out of work by a group of Indians and a liberal Alameda County judge.

Seems that the way to for a group to get what they want is to file a lawsuit and tie things up for 4 years?

I'll bet I could find a way to do this on just about any outdoor activity if I put my mind to it.

The fact is that this litigation has really hurt a lot of men at a time when the economy is already in the toilet. Are miners going to be compensated? Hell no. Why? Well take away all the political correctness and the social veneer and what you would find is a bunch of people that simply hate miners and don't want them on what they see as THEIR rivers. They could care less if miners are dead or alive. They truly hate us!

Here's the real truth: Anyone that has been around dredging knows that there is very little impact on the environment. This is a bunch of extortion by the left wing. It is a microcosm of the reason the USA is in such a mess. A larger scale would be drilling for oil. Remember the Left saying that the Alaska Pipeline would kill all the Caribou? Hah! They ended up multiplying because the warmth of the pipes made it a lot less harsh of an environment for the newly born to survive.

Here's the deal! The California politicians are all too quick to jump on the side of Fish, Indians, and Environmentalists and to Hell with a man putting food on the table for his family. I doubt the ones that voted for this law even know what suction dredging is! They probably have it positioned in their mind being some kind of 1880 hydraulic mining operation.

We need to change the laws so it is not so easy to put people out of work without some sort of penalty. I can guarantee one thing. The miners are not going to be getting any casino to make up for their hardships. And you know what! They sure the Hell should. You have no idea how bad things are in this economy. No idea!

Stop the suffering and let people work. And not with a bunch of stupid restrictions. I myself bought a claim in 2009. I spend thousands on dredge equipment just in time for this crap to happen. My investment amounts to nothing. And does anyone really give a crap? Hah! I can tell you another thing! I would be living a Hell of a lot better had I been able to put that equipment to work!

Remember one more thing. Nevada, Eldorado, and Placer County get good economic help when miners are getting gold and spending money. This reaches out far more than just a miners pocket book. It helps entire communities live better.

I saw a bumper sticker a few years back that said: "Liberals Want Misery Shared Equally" I now fully understand what that means!

Stop this madness and let the people work!



Sincerely,

Craig Miller

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

As a private land owner on the South Fork of Indian Creek outside of Happy Camp, Ca. who has been dredging on the same claims since 1981 I am in extreme protest of the proposed draft Supplemental Environmental Impact Statement and the proposed regulations for suction dredging that it offers. I and my family have been dredging the same areas for the past 30 years. I am sure you cannot imagine our disappointment when the new regulations went into effect and we were no longer able to dredge. The proposed regulations do not allow any suction dredging on my private property or the mining claim #2973221 in Siskiyou County that has been my home for 30 years. In reading through the proposed changes for those who are allowed, you have made it impossible to do any mining with all the proposed restrictions and regulations. Because suction dredging is the only practical method of mining the valuable underwater gold deposits on this claim and my private property your proposal leaves me forbidden to mine my claim.

This is a violation of federal law forbidding material interference with my federally protected mineral rights, and also constitutes an unconstitutional taking of my private property without just compensation.

I urge you to reconsider your proposed regulations. The Dept. has made it impossible to do any suction dredging under the new regulations proposed for the areas it has opened. No one can successfully dredge for gold in any creek under the new proposed regulations, it is not possible and the Dept. knows that. This area had strong fish runs for decades and there is no credible case whatsoever for harm to fish from small-scale suction dredging operations. A

single fisherman with a good day on the river causes more damage to fish than all the suction dredge miners put together, and you allow the fishing, to say nothing of the netting that is unregulated and will one day become the end of the salmon. Focusing environmental regulation on an activity like suction dredging, which actually improves fish habitat, discredits your regulatory role.

We have a third generation dredging family and have spent many mining seasons working together. Dredging is not an easy task we have learned so many things about ourselves and each other. It has been a recreation for us it has brought us all so much closer as a family. The thrill of finding even the smallest amount of gold after a hard day's work was always something we could rejoice in together. You will be taking a very special part of our lives away from us if you continue on with the closure of all our waterways to mining. Your proposed restrictions in your supplemental statement would make it impossible to dredge on our claim/private property even if you opened it to us. I believe you are well aware that your changes are so restrictive it would be impossible to work under those conditions.

If you do not reconsider, and allow me to mine my claim, you may rest assured that I and other miners will hold you accountable in the courts for your outrageously unlawful and arbitrary decisions.

Sincerely,

Terri Nixon

**Subject:** RE: Suction Dredge EIR comments  
**Date:** Wednesday, May 11, 2011 4:35:04 PM PT  
**From:** Gary Reedy  
**To:** Joshua Stark, [dfgsuctiondredge@dfg.ca.gov](mailto:dfgsuctiondredge@dfg.ca.gov)  
**CC:** Jason Rainey

Josh,

Thanks for taking this to the finish line. I would be interested in hearing about the hearing, and helping to prepare a post that relates it all to the Yuba.

Incidentally, we have RM data showing spikes in turbidity in the Middle Yuba in summer from dredges.

Gary

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

From: Joshua Stark  
Sent: Tuesday, May 10, 2011 7:54 PM  
To: [dfgsuctiondredge@dfg.ca.gov](mailto:dfgsuctiondredge@dfg.ca.gov)  
Cc: Gary Reedy; Jason Rainey  
Subject: Suction Dredge EIR comments

To Whom It May Concern:

Please accept these comments on behalf of the South Yuba River Citizens League.

Joshua Stark  
Salmon Campaign Manager  
South Yuba River Citizens League  
(530)-470-3680

State of California • Natural Resources Agency Edmund G. Brown Jr., *Governor*  
DEPARTMENT OF PARKS AND RECREATION

Ruth Coleman, *Director*

Sierra District  
P. O. Box 16  
Tahoe City, CA 96145-0016

May 12, 2011

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

Email: [dfgsuctiondredge@dfg.ca.gov](mailto:dfgsuctiondredge@dfg.ca.gov)]

Re: Suction Dredge Permitting Program Draft Subsequent Environmental Impact Report  
SCH #1993102046

Dear Mr. Stopher:

California State Parks welcomes the opportunity to comment on the Suction Dredge Permitting Program Draft Subsequent Environmental Impact Report (DSEIR). California State Parks is a state agency with jurisdiction and management of the State Park System as defined by California Public Resources Code (PRC) § 5001 through 5001.5 and § 5019.50. We are responsible for the natural and cultural resources that may be affected by potential future suction dredging activities upstream of units of the State Park System (SPS). We are aware of some suction dredge activities in the past before the imposition of the current moratorium, and are concerned about proposed regulation modifications that would negatively affect our public trust resources. In addition, we have concerns about the effect of off-site, upstream suction dredging activities to the health and well-being of park users. Deleterious effects such as increased water turbidity, engine noise, fumes from fuel combustion, and potential for mercury re-mobilization can negatively affect park visitors, as well as the ecosystem.

### **South Yuba River SP**

State Parks manages lands along the South Yuba River State Park in Nevada County, where we limit recreational gold seeking activities to “hands and pans” only. The proposed regulations are silent with respect to the burden that suction dredging and associated activities place on public land managers. Our experience has been that suction dredgers produce turbidity and noise that are incompatible with the wild and scenic designations along the South Yuba River. Camping in undeveloped camping areas introduces wildfire hazards, trash, and the potential for chemical spills and land use conflicts.

Commercial exploitation of state park system resources is prohibited under the public resource code: “5001.65. Commercial exploitation of resources in units of the state park system is prohibited.....The taking of mineral specimens for recreational purposes from state beaches, state recreation areas, or state vehicular recreation areas is permitted upon receiving prior approval of the director.”

The South Yuba River State Park’s classification as a State Park in and of itself precludes the taking of mineral specimens. The management direction for a State Park is provided by California Public Resources Code Section 5019.53. That section states in part:

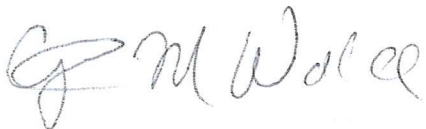
"State Parks consist of relatively spacious areas of outstanding scenic or natural character, oftentimes also containing significant historical, archaeological, ecological, geological, or other such values. The purpose of state parks shall be to preserve outstanding natural, scenic, and cultural values, indigenous aquatic and terrestrial fauna and flora. ...shall be managed as a composite whole in order to restore, protect, and maintain its native environmental complexes to the extent compatible with the primary purpose for which the park was established. Improvements undertaken ...shall be for the purpose of making areas available for public enjoyment and education in a manner consistent with the preservation of natural, scenic, cultural, and ecological values for present and future generations. Improvements may be undertaken to provide for recreational activities including, but not limited to, camping, picnicking, sightseeing, nature study, hiking, and horseback riding, so long as such improvements involve no major modification of lands, forests, or waters. Improvements which do not directly enhance the public's enjoyment of the natural, scenic, cultural, or ecological values of the resource, which are attractions in themselves, or which are otherwise available to the public within a reasonable distance outside the park, shall not be undertaken within state parks."

### **Recommendation**

State Parks recommends adoption of the no project alternative, since it is the environmentally superior option and will have the least negative effect on the natural and cultural resources of the State. The Department of Fish and Game should not burden sister agencies with policing and enforcing a known environmentally degrading activity. If the environmentally superior option is selected (the no project alternative), then that burden will not be imposed. If the no project alternative is not selected, then State Parks waters should all be closed to suction dredging (Class A) and the DFG regulations should reflect this to be consistent with state park system resource management and operations in the field. Even if State Parks waters are all closed to suction dredge activities, effects from upstream activities could still pose negative impacts to our resources, including increased turbidity and mercury re-entrainment. For this reason, it would be preferable for DFG to completely close the South Yuba River wild and scenic stretches from Langs Crossing to Englebright Reservoir.

If you have questions or require clarifications to these comments, please contact me at (530) 581-0925 or [cwalck@parks.ca.gov](mailto:cwalck@parks.ca.gov).

Sincerely,



Cyndi Walck,  
Engineering Geologist, Sierra District

cc: Matt Green, Sierra District Superintendent  
Syd Brown, Natural Resources Division  
Tamara Sasaki, Sierra District



# COUNTY OF SISKIYOU

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## COUNTY ADMINISTRATIVE OFFICE

Ric Costales, Natural Resource Policy Specialist  
P.O. Box 750 • 201 Fourth Street, Yreka, CA 96097  
Phone: (530) 842-8012, Fax Number: (530) 842-8013  
Email: rcostales@co.siskiyou.ca.us

May 12, 2011

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

**RE: Suction Dredge comments**

Dear Mark:

Enclosed or attached, please find Siskiyou County's comments on the Suction Dredge SEIR. I am sorry that this packet is beyond the deadline, but greatly appreciate your email assuring me that these comments will be fully considered. This issue is too important to our county to have fallen victim to complications from the multitude of critical matters on my plate!

Sincerely,

A handwritten signature in blue ink, appearing to read "Ric Costales", is written over a light blue horizontal line.

Ric Costales, Natural Resource Policy Specialist  
County of Siskiyou



# COUNTY OF SISKIYOU

## Board of Supervisors

P.O. Box 750 • 201 Fourth Street  
Yreka, California 96097  
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Toll Free: 1-888-854-2000, ext. 8005

May 10, 2011

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

Mr. Stopher:

Nothing speaks better to Siskiyou County's interest in the matter of the Suction Dredge Program Draft Supplemental Environmental Impact Report (DSEIR) than the miner depicted in the gold County Seal at the top of this page. Historically, culturally, and economically, gold mining has been central to our county since it was established. While diminished from the height of its glory, gold mining is still a significant aspect of life here. Most notably relative to the proposed regulations, gold mining in the form of suction dredging is vital to the local economy throughout a large portion of the county's land base. The current proposal will devastate this last vestige of a once thriving component of our natural resource economy.

Due to its public health and safety, planning and public works responsibilities, County government has much in-house expertise relative to the DSEIR. However, due to the complexity of the issue and the magnitude of the effect on Siskiyou County, the County feels that expertise available to us from interested citizens is necessary to augment our contribution to the record. Thus, the County directs the California Department of Fish and Game (DFG) to consider the attached comments as part of our own.

For purposes of clarity, the County's concerns are best broken down into two categorical levels: thematic and specific.

**Thematic Issues:** *Issues permeating discussion and analysis throughout the DSEIR*

- **"Conservative" Approach:**

Though appearing to have studiously avoided any direct mention of it, the DSEIR seems to embrace the controversial "Precautionary Principle" on far too many critical points. In the document, this seems to be euphemistically called a "conservative approach." Throughout, whenever negative environmental effects have "may," "might," "could," "potential" or other such conditional qualifiers attached, the Department consistently imposes mitigations as if these effects were in fact likely and significant. The document is replete with proposed mitigation where there is "some" evidence of the potential for a negative impact, but virtually no evidence that this detrimental potential is ever realized to a level "deleterious to fish (*F&G Code 5653*)," especially in light of the fact of the voluminous effort that has been made to study suction dredging that has consistently found *de minimus* impact.

In the DSEIR it would further appear that the DFG thinks that "conservative" applies



only to the environment. Many mandates exist throughout California environmental law such as Fish and Game (F &G) Code §2052.1 (“...measures or alternatives required shall be roughly proportional in extent to any impact [of the project]...”), and §2053 ([Protect species] while at the same time maintaining the project purpose to the maximum extent possible”). Such expressed legislative intent would seem to demand balance between envirocentric conservatism and anthropocentric conservatism. Unfortunately, in issue after issue the DSEIR takes an extremely conservative approach on behalf of the environment with only the barest concessions to the mining community. While the DSEIR does allow the DFG to claim that suction dredging will still be permitted, the result seems to show the effort made to minimize mining rather than show any concern for its vitality.

The attached documents give numerous examples of where this occurs in the DSEIR. Suffice now to say that Siskiyou County feels that the reasonableness and balance sought by the California Environmental Quality Act (CEQA) is arbitrarily and capriciously denied when “better safe than sorry” becomes a regulatory consideration imposed without statutory mandate or guidelines. The feasibility issue as discussed later is part of the reasoning on this position.

- **Baseline**

Within the DSEIR, the Department of Fish and Game (DFG) described the history behind the DSEIR to justify why the “No Dredging” condition imposed by SB 670 was selected as the baseline. But let’s use a layman’s description of the situation:

- This entire state of affairs arose because the 1994 suction dredging regulations may have needed some changes.
- The Alameda Superior Court directed the DFG to do a DSEIR to evaluate the need and, if necessary update the regulatory program.
- SB 670 was a moratorium, not an elimination that was imposed because the legislature got tired of the DFG not doing the job it was required to do by the Court.
- Because there was no dredging going on thanks to the moratorium the DFG’s “conservative approach” (*DSEIR p. 1-7, line 11*) adopted a No Dredging baseline.
- Thus, because the DFG didn’t do its Court-ordered job, an entirely different contextual scheme for CEQA analysis results.

There is no dispute that had the DSEIR been done without the moratorium, the “1994” regulatory conditions would have been the baseline. Thus instead of analyzing the activity against a backdrop where that activity doesn’t occur, suction dredging impacts would have been measured against being already taking place. Had the Legislature intended to evaluate suction dredging as a new activity, the Legislative Counsel’s Digest would not have termed the legislative action a “suspension.” It is also reasonably likely that had the Legislature or the Governor understood in advance that the DFG would adopt the No Dredging baseline, an entirely different fate would have met SB 670.

The view that the moratorium has provided the DFG with discretion or compulsion to ignore the mandate to assume the “1994” baseline poses an interesting future run-around to CEQA. Legislative bodies could take the politically canny path for a controversial project of imposing a moratorium on that heretofore approved type of discretionary project. According to the DFG’s logic on the DSEIR, then, the project thus could conceivably be evaluated as if nothing of the sort had ever occurred.

The effect of this reasoning is painfully evident in the DSEIR where it rates the access to placer gold deposits resulting from the proposed program as "beneficial" relative to the baseline because it "...would lift an existing ban on suction dredging and would increase the potential access to placer gold deposits using this mining method (DSEIR, p. 4.10-9, lines 10-13)." Had the "1994" baseline been used, the proposed regulations would **severely decrease** access and thus would have had a negative effect. An entirely different analysis and therefore outcome resulted from suction dredging's "suspension" which the DFG took as an opportunity for discretion regarding the baseline.

Siskiyou County feels that the selection of a No Dredging baseline for purposes of the CEQA analysis is an abuse of a discretion to which the DFG is not entitled in this matter. (See: *Communities for a Better Environment vs. South Coast Air Quality Management District (2010) 48 Cal 4<sup>th</sup> 310, 328*: "A temporary lull or spike in operations that happens to occur at the time environmental review for a new project [in the DSEIR's case, the new rules] begins should not depress or elevate the baseline.")

- **Feasibility**

Much confusion about CEQA exists concerning the economic analysis required for purposes of an environmental document such as the DSEIR. Economic studies are mandated by CEQA only to the extent that they have been identified as having significant or potentially significant environmental effects or consequences. The confusion may result in large part because under the Administrative Procedures Act (APA) that affects the adoption of regulations such as are proposed, there must be an Economic and Fiscal Impact Statement (Standard Form 399).

Contributing in no small part to the confusion is CEQA's repeated reference to insuring balance between people and the environment and, most specifically, feasibility. For example, Public Resources Code (PRC) §21001 (g) states:

"[It is the policy of the state to c]reate and maintain conditions under which man and nature can exist in productive harmony to fulfill the social and economic requirements of present and future generations."

Further, PRC §21081 and subsections state:

"...no public agency shall approve or carry out a project...(a)[when T]he public agency makes one or more of the following findings with respect to each significant effect: .... (3) Specific economic, legal, social, technological, or other considerations, including considerations for the provision of employment opportunities for highly trained workers, make **infeasible** the mitigation measures or alternatives identified in the environmental impact report."  
(Emphasis added)

Thus, feasibility becomes an issue under CEQA and therefore in the documents that it mandates. CEQA defines feasibility as "...capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors. (PRC §21061.1)"

It is apparent in many of the comments and examples from the accompanying

documents that feasibility relative to the preferred alternative has been given short shrift. For example, the 3' spacing from banks makes for an infeasible alternative for huge swaths containing gold for which suction dredging is the most environmentally friendly means of production.

Siskiyou County feels that speculative and overly optimistic undocumented assumptions have been made as to the feasibility of critical components of the preferred alternative.

- **Federal land vs. private land**

In an underlying assumption throughout the DSEIR, the DFG has determined that there is no distinction between federal or private lands. If the DSEIR merely analyzed the impact of suction dredging on the environment, this would be a reasonable approach. However, the DSEIR proposes a regulatory program that the DFG plans to enforce. As the attached documents extensively highlight, differences between the assumptions, conclusions and regulations made by the federal and state agencies are often at considerable and irreconcilable odds.

The DFG must feel this is a minimal issue given that only §4.10 (10 pages) of a 1200+ page document covers the subject. Implied though not directly stated as such in §4.10, the DFG apparently feels that California's Surface Mining and Reclamation Act (SMARA) sets the precedent whereby the state can override federal law. The DFG has reached this conclusion even though by closing many streams and imposing broad scale prohibitive restrictions, the DFG has essentially withdrawn many areas from mining. Federal law has its own process for withdrawal of mineral exploration and mining.

Private land presents its own complications. The DFG has stated at public meetings that it cannot evaluate the "takings" issue within an environmental document. Nevertheless, when areas of private property whose sole reason for investment was for mining (such as patented claims along streams), there is a very significant affect that needs to be analyzed. This was not done.

Siskiyou County feels that numerous federal policies, regulations and laws as well as state laws including the taking of private property were given insufficient consideration that in turn has led to severe defects in the DSEIR's proposed regulatory program. These defects run the gamut of being analytically insufficient, infeasible and, in some cases, unlawful.

**Specific Issues:** *Specific points of concern within the DSEIR*

- **Economic analysis including cumulative economic and social effects**

As stated in the DSEIR and in the discussion on "feasibility" above, the CEQA mandate regarding economic and social analysis is confusing. Nevertheless, the DSEIR did include a socio-economic report (DSEIR, Appendix H).

While making an attempt to survey miners to determine the value of their gold mining activities, the economic analysis is appalling for its lack of effort, particularly relative to Siskiyou County wherein lie the Scott, Salmon and much of the Klamath watersheds. Mining is the last significant legal economic activity left in these remote areas. The new regulations will severely undermine the overall economic viability not only of the miners, but the businesses and service-providers in these

communities.

Despite Siskiyou County's Natural Resource Policy Specialist making a specific request at the Redding Scoping meeting for the contractors to survey businesses, this was not done. Further, the contractors did not seek publicly available information on economic data from the County. Finally, the County's requirements for such a project as the DSEIR were not met (See Supervisor Armstrong's attached comments).

Both for purposes of determining feasibility as well as the Standard Form 399 Economic and Fiscal Impact Statement, Siskiyou County feels that insufficient analysis has been done.

- **Three foot "No dredging" zone along banks**

As mentioned earlier, on many watercourses that are 6' or less in width, this is a taking of private property that renders the alternative infeasible, not to mention unlawful. Also, as mentioned earlier this is a severe conflict with federal law in that this regulation is a *de facto* withdrawal of land in the federal estate from mining activity.

- **Fish and Game (F & G) Code §1602**

Much of the controversy locally with this section of the F & G Code has resulted from the DFG's recent efforts relative to the Watershed-wide Permitting Program (known also as the Incidental Take Permit program) attempted in the Scott and Shasta valleys. Years of public meetings with the DFG has had the DFG ***consistently and fervently*** emphasizing the difficulty, time and expense of securing individual §1602 permits for irrigators that would almost certainly require full-blown EIRs even for existing previously approved diversion structures however minimal the diversion. The DFG portrayed the §1602's attendant EIR as a prohibitive but usually necessary requirement for virtually all diverters. An added burden was that the permit could only last for a maximum of 5 years before it would have to be done all over again. The DFG was using this code section as a virtual imperative for diverters to enroll in the ITP program by virtue, essentially, of the infeasibility of individual §1602 permits.

Within the DSEIR the DFG is apparently reversing itself and downplays the magnitude of §1602. There is no formal implication one way or the other in the DSEIR how the DFG will treat §1602 applications for suction dredgers. However, how §1602 is interpreted, whether with relatively low-cost, short time frame Mitigated Negative Declarations based on Best Management Practices (BMPs) or with full-blown EIR, is absolutely critical to the feasibility of the proposed regulatory program.

Based on the feasibility issue, Siskiyou County feels that the §1602 aspect of the DSEIR should not have escaped analysis and discussion. Further, the County feels that the proposed regulatory scheme should have included some sort of assuredly feasible §1602 approach rather than kicking the can down the road by glossing over the §1602 issue.

- **4 inch nozzle restriction**

It is extremely common for valuable deposits to require greater than a 4" nozzle to access them in a single season. Beyond a single season, that season's work is very

likely to be covered up again by the subsequent winter's transportation of the bed load. As well, certain types of substrate require larger nozzles. The DFG acknowledges these aspects of suction dredging and figures that a §1602 permit will cover it.

For reasons explained in the previous discussion on §1602, the County feels this is infeasible. As well, the County feels that the additional environmental consequences of the larger sizes are not sufficient to justify such an onerous requirement.

- **In-stream winching**

In-stream power winching is unavoidable for the vast majority of serious suction dredging operations. As well as access to valuable deposits, winching is often critical to safety. Again, the DFG acknowledges this and includes the §1602 permit as the remedy.

Again, for reasons explained in the previous discussion on §1602, the County feels this is infeasible. Similarly, the County feels that the additional environmental consequences of power winching are not sufficient to justify such an onerous requirement.

- **4000 statewide permits**

California contains an almost uncountable number of watercourse miles on which suction dredging could take place. Accounting for the size of some rivers that could require a dredge to be in virtually one place for several years, the area available for mining is vast. 4000 annual permits is absurd given that opportunity. Mining is not like coping with game species that justify limits on permit numbers in order to manage "take." The valuable deposits are property that belongs to the miners to take however quickly and in whatever quantities they choose.

Siskiyou County feels that the limitation statewide on permits is arbitrary and done without sufficient justification. Further, the County feels that this results in an undue restriction of the rights of people to be secure in their property. For example, the elderly person wanting that 4001<sup>st</sup> permit may have just lost the value of his investment for the rest of his life.

Like the "3 Foot Rule," Siskiyou County feels that this is another *de facto* withdrawal of land in the federal estate from mining activity.

- **Returning dredging site to pre-mining grade**

This is a prime example of envirocentric conservatism completely overwhelming any concern for conservatism on behalf of the mining community. Why is this even included in the regulations when it is virtually impossible to move material back upstream and when a normal winter would probably make it impossible to even tell where the mining took place? As well, holes caused by suction dredging provide refugia for cold water species of fish.

Siskiyou County feels that this is an entirely superfluous and infeasible requirement.

- **Further seasonal restrictions on suction dredging**

Siskiyou County feels that there is insufficient justification for shortening the

dredging season in our area over what the 1994 regulations prescribed, particularly the Klamath River mainstem. As such, the County feels that the DFG is arbitrary in determining new seasonal closures.

It is imperative that the suction dredge mining community get back to work as soon as possible. Siskiyou County urges the Department of Fish and Game to incorporate changes into the Final Environmental Impact Report that address the above comments and provide for a feasibly workable permitting program more along the lines of the 1994 regulations than the radical departure from balance proposed in the DSEIR.

Sincerely,



Jim Cook, Chairman  
Siskiyou County Board of Supervisors

Enclosures: Comments from Siskiyou County District 5 Supervisor Marcia Armstrong; Comments from Dave McCracken, President New 49ers Prospecting Association

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

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

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

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

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

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### CONSULTATION

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

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

Sec. 10-12.01. Findings.

The Board finds:

(a) Actions of state and federal agencies to plan, adopt rules or regulations, acquire land or interest in land, in fee or through easements, promulgation of programs, land adjustments, and other activities of these agencies can have significant effects on the customs, culture, economy, resources, and environment of the County of Siskiyou and its citizens.

(b) In order to protect the customs, culture, economy, resources, and environment of the County of Siskiyou, it is critical that federal and state agencies recognize and address the effects of any actions proposed within the County which may affect matters, including, but not limited to, economic growth, public health, safety and welfare, land use, the environment, conservation of natural



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

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

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

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

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

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

Siskiyou County Board of Supervisors

P.O. Box 338

Yreka, CA 96097

Siskiyou County Planning Director

P.O. Box 1085

Yreka, CA 96097

Siskiyou County Assessor

County Courthouse, Rm. 108

Yreka, CA 96097

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

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

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

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

[http://users.sisqtel.net/armstrng/social\\_and\\_economic\\_information.htm](http://users.sisqtel.net/armstrng/social_and_economic_information.htm)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Supportive documentation:

[http://users.sisqtel.net/armstrng/social\\_and\\_economic\\_information.htm](http://users.sisqtel.net/armstrng/social_and_economic_information.htm)

### **Siskiyou County Assessment Tax Base**

- **Demographics – Aging trends**
- **Senior demographic** among towns of the Klamath River Basin in Siskiyou Co.  
<http://users.sisqtel.net/armstrng/sr%20demographic%20no%20siskiyou.htm>
- **Siskiyou County Business Characteristics and Growth 1998-2007**  
[http://users.sisqtel.net/armstrng/business\\_growth.htm](http://users.sisqtel.net/armstrng/business_growth.htm)
- **Major Employers in Siskiyou County (EDD)**  
<http://users.sisqtel.net/armstrng/major%20employers.htm>
- **Unemployment history 1990 – 2009**
- **History of Income in Siskiyou County 1987-2008**
- **Poverty in Siskiyou County 1989-2008**
- **Number of Farm/nonfarm proprietors in Siskiyou County 1987-2008**  
[http://users.sisqtel.net/armstrng/number\\_of\\_farm\\_proprietors.htm](http://users.sisqtel.net/armstrng/number_of_farm_proprietors.htm)
- **Agricultural Profit 1987-2008**
- **Trends in AG Census Data**
- **Timber jobs 1988-2009**
- **On Timber Job Loss in Western Siskiyou County**  
<http://www.klamathbasincrisis.org/forestsandlogging/2010/timberjoblossWaddell102610.htm>
- **Timber Harvest Levels in the National Forests of Siskiyou Co.**
- **Harvest levels to jobs**
- **County Share of CA Timber Harvest and Value –Public and Private Lands**
- **Timber Appeals 1998-2008**
- **Economic impacts of suction dredge mining**
- **Northwest Forest Plan – the First Ten Years (1994-2003) Socio-economic monitoring of the Klamath National Forest and Three Local Communities (Cumulative effects)** [http://www.fs.fed.us/pnw/pubs/pnw\\_gtr764.pdf](http://www.fs.fed.us/pnw/pubs/pnw_gtr764.pdf)
- **Siskiyou County Economic Forecast**
- **Well-being Assessment of Communities in the Klamath Region** (Prep. For USFS) <http://www.inforain.org/klamath/>
- Water Allocation in the Klamath Reclamation Project 2001: **An Assessment of Natural Resource, Economic, Social and Institutional Issues with a Focus on**

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

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

### SEDIMENT

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

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

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

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

### TEMPERATURE

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### PROXIMATE CAUSE

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

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

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

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### ESSENTIAL NEXUS AND ROUGH PROPORTIONALITY

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

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

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

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### **REGULATORY TAKING OF PRIVATE PROPERTY RIGHTS:**

#### **The power and property right of the Mining Act**

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

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

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

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



# The New 49'ers

27 Davis Road, Happy Camp, CA 96039  
(530) 493-2012 [www.goldgold.com](http://www.goldgold.com)

## Mark Stopher

California Department of Fish and Game  
601 Locust Street  
Redding, CA 96001 [dfgsuctiondredge@dfg.ca.gov](mailto:dfgsuctiondredge@dfg.ca.gov)

10 April 2011

## **RE: Comments regarding SEIR and Proposed Regulations for suction dredge mining in California**

Dear Sir:

Thank you for allowing us the opportunity to comment on the California Department of Fish & Game's (DFG) Suction Dredge Permitting Program Subsequent Environmental Impact Report (SEIR) and Proposed Regulations.

My name is Dave McCracken. I personally have been operating dredges in California, mostly for financial gain, since 1980. I publish four books on the subject, along with three how-to video productions. My company maintains the most extensive and informative web site in the world on the subject of suction gold dredging. In addition to my work in California, I have consulted on dredge projects all over the world, and I have trained hundreds of people, perhaps over a thousand, on how to do serious underwater mining for the purpose of finding and developing high-grade (economically viable) gold deposits. The California courts have allowed me to testify as an expert in suction dredging. My experience over the past 25 years in helping thousands of New 49'er members become more successful provides me with a unique viewpoint. This is because I have likely devoted more time on more dredging programs than any other person alive. I was intimately involved with the development of the 1994 EIR that supported suction dredge regulations in California until the recent moratorium was imposed. I was also involved with the litigation in Alameda Superior Court which led to the Court's Order for DFG to update your analysis of the environmental consequences of the existing (1994) regulations. Therefore, I am very qualified to provide comments to help this Administrative Process along.

I am the founder and General Manager of The New 49'er Prospecting Association. Our organization has been operating along the gold bearing waterways of Siskiyou County since 1986. While I am the author, these comments are the result of the collaborative efforts of our staff and numerous responsible members that also have substantial experience in dredging matters. We presently have more than 2,000 active members that

behind at the bottom of some “confidential” waterway by some unnamed ancient tribe. You have considered the potential negative disturbances upon others which the sound of our dredge motors might impose upon others. You have considered the feelings which other river-users might have when suction dredgers might occupy some of the limited parking along river roads. You even included a substantial discussion about the aesthetic viewpoints which might be affected when a passerby sees a suction dredge along the river.

But what is entirely missing from your SEIR is a discussion about the sociological impact that your proposed regulations are going to have upon suction dredgers, American property owners and other Americans as the California Department of Fish & Game grinds forward with the intent to disenfranchise them/us of the opportunity to make a living (liberty) and continue to have some control over their/our own private property.

The SEIR defined its objective as follows:

### **6.2.1 Program Objectives**

*The Program was developed to achieve the following objectives:*

- Comply with the December 2006 Court Order;*
- Promulgate amendments to CDFG’s previous regulations as necessary to effectively implement Fish and Game Code sections 5653 and 5653.9 and other applicable legal authorities to ensure that suction dredge mining will not be deleterious to fish;*
- Develop a Program that is implementable within the existing fee structure established by statute for the California Department of Fish and Game’s suction dredge permitting program, as well as the existing fee structure established by the CDFG pursuant to Fish and Game Code section 1600 et seq.;*
- Fulfill the CDFG’s mission of managing California’s diverse fish, wildlife, and plant resources, and the habitats upon which they depend, for their ecological values and for their use and enjoyment by the public; and*
- Ensure that the development of the regulations consider economic costs, practical considerations for implementation, and technological capabilities existing at the time of implementation.*
- Fulfill the CDFG’s obligation to conserve, protect, and manage fish, wildlife, native plants, and habitats necessary for biologically sustainable populations of those species and as a trustee agency for fish and wildlife resources pursuant to Fish and Game Code section 1802.*

Please recognize that there is no objective stated within the SEIR to also balance real concerns for environmental protection with the rights of property owners and existing business opportunities (especially small business) which exist within the areas that would be affected by the proposed regulatory changes.

Having read the entire SEIR, along with the appropriate Code Sections, we are convinced that DFG is attempting to complete the Administrative Process with too narrow of a view. Your approach appears to be to remove any and all risk to fish, no matter how

will certainly have upon the gold mining community. One reason we say this is that while DFG has loaded the SEIR with scientific justification in an attempt to support its proposed regulatory changes, there little-to-no explanation about how the changes (from the 1994 regulations) are going to seriously harm the small businesses and property owners that will be negatively impacted.

**Public Resources Code 21001:** The Legislature further finds and declares that it is the policy of the state to:

**(e) Create and maintain conditions under which man and nature can exist in productive harmony to fulfill the social and economic requirements of present and future generations** (emphasis added).

(g) Require governmental agencies at all levels to consider qualitative factors as well as economic and technical factors and long-term benefits and costs, in addition to short-term benefits and costs and to consider alternatives to proposed actions affecting the environment.

**Public Resources Code 21002:** The Legislature finds and declares that it is the policy of the state that public agencies should not approve projects as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen the significant environmental effects of such projects, and that the procedures required by this division are intended to assist public agencies in systematically identifying both the significant effects of proposed projects and the feasible alternatives or feasible mitigation measures which will avoid or substantially lessen such significant effects. **The Legislature further finds and declares that in the event specific economic, social, or other conditions make infeasible such project alternatives or such mitigation measures, individual projects may be approved in spite of one or more significant effects thereof** (emphasis added).

We suggest that DFG is deliberately attempting to dismiss the real impacts the proposed regulations will have upon the social and economic wellbeing of the most-affected stakeholders (gold dredgers and property owners) because of the arbitrary baseline which DFG has adopted. Even though the SEIR has acknowledged multiple times that suction dredging has been active within California since the 1960's, DFG decided to compare impacts from the proposed regulations to the existing situation whereby the Alameda Superior Court has imposed a no dredging moratorium until DFG completes this CEQA process. Yet, the purpose of the CEQA process from the beginning was to determine if existing (1994) dredge regulations were creating a **deleterious** impact upon fish.

DFG submitted Declarations within the Alameda litigation stating that you had doubts that existing regulations were providing enough protection for fish. Therefore, you began this process with it in mind that you were going to impose more restrictive regulations over suction dredgers. Therefore, we are assuming that DFG is making an economic comparison to **"no dredging"** under the existing moratorium so you can avoid the required balancing act of also taking into consideration how the proposed regulations will burden the thousands of dredger miners and the thousands of property owners who have invested into the existing (1994) regulatory framework. Here is the way you positioned the SEIR:

DFG's has also understated the economic opportunities which were possessed by suction dredgers under the existing (1994) regulations in the way the dredger survey results have been interpreted:

*Chapter 4.8: Of the in-state permit holders, approximately 82% of those surveyed identified themselves as "recreational" miners, while approximately 74% of out - of - state permit holders identified themselves as such;*

This statement is a mischaracterization, perhaps because DFG really does not understand the mining process. The Survey identifies "**Recreational Dredgers**" as follows:

***"Recreational Dredger (Not significant source of income)"***

Just because someone does not realize a significant source of income from dredge mining does not mean that they are not serious about the amount of gold they are recovering. There is a learning curve; so it would be unreasonable for a dredge miner to have high expectations of gold recovery until some experience is obtained. Locating a valuable discovery normally requires a period of prospecting (sampling) during which time not very much gold is being recovered. Finding a valuable discovery normally requires some time. Therefore it takes longer for part time prospectors.

Even a person who believes he or she is "**only dredge mining for fun**" will become deadly serious about recovering the gold (because it is extremely valuable) once a valuable deposit has been located.

It is incorrect for DFG to characterize dredging as just another form of recreation on the grounds that it can also be an enjoyable activity in the outdoors. The thing that makes suction dredging different than other outdoor activities is that a very valuable substance is being pursued, gold; which when found, immediately turns the activity into a small business program. I have devoted countless hours with many, many suction dredgers; and I can tell you with absolute certainty that every dredger becomes very serious about gold recovery once a valuable deposit is located. The SEIR does not provide enough emphasis that, by its nature, dredge mining becomes a small business concern once a valuable gold deposit is discovered.

Out of all the people surveyed, the average dredger used a 4-inch dredge and recovered around 3.4 ounces of gold, working about 5.25 hours per day for approximately 31 days of work. These are average numbers. Approximately 25% said they recover gold as a source of income. It is reasonable to assume more gold was recovered by more-serious operators who were using larger-sized dredges than 4-inches. But if we just take the average amount of gold that dredgers were recovering during 2008 under the existing (1994) regulations, at today's value of \$1,475 per ounce, the gold adds up to \$5,300. Divide that amount by the 31 days which the average dredger had been working, and you have \$171 per day. This comes to more than \$32.62 per hour, **which is a good wage!** This is especially true in view of California's existing unemployment figures. You might rework the numbers a bit and come up with a different amount. But it will still come out to real money and important business!

Since DFG's proposed regulations would impose a limit on the number of permits and close suction dredging across most of California, if enacted, they would also provide Oregon with a competitive advantage. None of this is addressed within the SEIR, as it is supposed to be:

**Government Code 11346.3:** (a) State agencies proposing to adopt, amend, or repeal any administrative regulation **shall assess the potential for adverse economic impact on California business enterprises and individuals, avoiding the imposition of unnecessary or unreasonable regulations** or reporting, recordkeeping, or compliance requirements. For purposes of this subdivision, assessing the potential for adverse economic impact shall require agencies, when proposing to adopt, amend, or repeal a regulation, to adhere to the following requirements, to the extent that these requirements do not conflict with other state or federal laws:

(2) The state agency, prior to submitting a proposal to adopt, amend, or repeal a regulation to the office, **shall consider the proposal's impact on business, with consideration of industries affected including the ability of California businesses to compete with businesses in other states.** For purposes of evaluating the impact on the ability of California businesses to compete with businesses in other states, an agency shall consider, but not be limited to, information supplied by interested parties (emphasis added).

The SEIR also does nothing to assess the social and economic impact the proposed regulations will have upon all of the people who have moved their residences to gold country in California so they can be closer to suction dredging opportunities which have been allowed under the 1994 regulations, but disallowed under the proposed regulations. There are dozens of families belonging to The New 49'ers who have completely pulled up their roots and moved to Happy Camp or other places within closer reach of our mining properties. We are certain that this is true along all of the productive gold dredging areas of the state. Many have bought property. I am aware some have taken early retirement or quit their jobs so they could relocate closer to the productive dredge mining areas. What about the social impact upon them under the proposed regulations?

Another very important negative economic and social factor which DFG has overlooked in the SEIR are the millions upon millions of dollars in lost property value which Americans would lose as a direct result of the proposed regulations. This is about the many thousands of federal mining claims and parcels of private property which exist along the gold bearing streams and rivers within the state. Thousands of miles of property along these waterways would be completely closed to suction dredging under your proposed regulations. Those areas which would remain open to dredge mining under the proposed regulations would be reduced to a quarter or a mere eighth of the productive capacity which exists under the 1994 regulations (reduction of allowable dredge sizes from 6 or 8-inches down to 4-inches). This would dramatically undermine existing property values! The EIR waves off this reality as follows:

*2 6.3.1: In relation to mineral resources, the No Program Alternative would not result in any discernable change from the Proposed Program. Though this alternative would no longer permit the use of a particular device to conduct gold*

the properties, and the reason people wanted to buy them, was because our organization had managed several group dredge-sampling projects along that portion of the Salmon River and had established a steady high-grade line of gold under an average of 7-feet of streambed. The properties were sold at auction so we could establish their actual value. In all, we realized more than \$350,000 for the group of properties, more than \$70,000 for the claim which sold at the highest price. The entire reason why Americans bought those mining properties was so they could develop the economically-viable gold deposits which we had established at the bottom of the river under the regulatory scheme (1994) which was in affect at the time. When people pay tens of thousands of dollars for a mining claim, they are mostly doing it for business reasons. The main stem Salmon was allowing 6-inch dredges under those regulations. Your proposed regulations of a 4-inch limit would place those very same high-grade gold deposits effectively out of reach.

Some of the mining claims we sold along the Salmon River were located in canyons where bedrock walls dropped directly into the river. Therefore, gold dredging is the only effective method of mineral extraction there. We had also done some sampling along the surface where gravel bars existed on some of the claims. And while gold existed there, we could not find any deposit rich enough to pay wages for gold panning or other types of high-banking activity. The real value was in the original underwater high-grade deposits which had never been mined in the past.

You make statements in the SEIR that even with dredging eliminated or reduced because of the proposed regulations, prospectors would still have the option of pursuing other types of mining activity on the same properties. This viewpoint shows that you really do not understand mining. **Viable gold deposits are not evenly disbursed everywhere.** They exist where you find them. These deposits are always contained within very-defined boundaries. Dredge miners have to locate and develop the deposits where they exist.

Under the federal mining law, an exclusive right (mining claim) can only be established as a matter of law once a viable gold discovery has been made. By “*viable*,” this means a small business opportunity exists. If the discovery can only be viably-developed with the use of a 6-inch or 8-inch dredge (under the 1994 regulations), and you impose a 4-inch reduction in the mining capacity (or disallow dredging altogether), you have eliminated the viable discovery which creates the mining claim in the first place as a matter of law. Saying that the person can still pan gold on the property is like apples and oranges. If you prohibit use of the very equipment which makes it economically viable to work the property, you have undermined the legal foundation which allows the person an exclusive right to develop the property. This means you have taken the person’s ownership interest away.

Furthermore, the restricted nozzle size which is proposed in the SEIR would eliminate viable sampling and productive capacity in most of the areas which would remain open to dredging, namely the larger waterways within the state. As just one example, the Klamath River streambed runs an average of 8-to-10 feet thick (sometimes more than 20 feet thick). But the efficient depth-capacity of a 4-inch dredge in experienced hands is only 4 feet. Therefore, DFG is proposing to make nearly all of the areas which remain

**interest, which is itself real property in every sense, and not merely an assertion of a right to property (emphasis added)."**

"[W]hen the location of a mining claim is perfected under the law, it has the effect of a grant by the United States of the right of present and exclusive possession. **The claim is property in the fullest sense of that term (emphasis added)."**

I encourage DFG to consult with your legal staff concerning **CALIFORNIA COASTAL COMM'N v. GRANITE ROCK CO., 480 U.S. 572 (1987)**. My own read of this important Supreme Court Decision brings me to the conclusion that while a State Agency may have some limited authority to regulate a mining activity on the public lands, there is **no authority to prohibit mining, or to impose unreasonable regulations** or to override the clear intent of Congress.

DFG does not have the authority to declare that suction dredgers are nothing more than "recreationalists," to be managed just like any other outdoor activity on the public lands (like fishing or hunting). If you have any authority at all to regulate dredge mining on the public lands, it is only within the language of F&G Code Section 5600, namely to work in cooperation with miners to find reasonable ways to prevent a deleterious impact upon fish. DFG's interpretation of "deleterious" in **Section 2.2.2** of the SEIR is as follows: ***"an effect which is deleterious to Fish, for purposes of section 5653, is one which manifests at the community or population level and persists for longer than one reproductive or migration cycle."***

Under GRANITE ROCK, we do not believe you have any authority to impose some kind of state "recreational status" or other regulatory scheme upon dredgers that does not align with the federal management of our program. Therefore, it would appear that all the work which you devoted to addressing how suction dredgers would affect the aesthetics of scenic vistas, noise levels and parking was a complete waste of time. Here is how the U.S. Forest Service defines us:

**DEPARTMENT OF AGRICULTURE, Forest Service, 36 CFR Part 228 RIN 0596-AC17; ACTION: Final rule:** "Neither the United States mining laws or 36 CFR part 228, subpart A, recognize any distinction between "recreational" versus "commercial" miners, or provide any exceptions for operations conducted by "recreational" miners. **The same rules apply to all miners.** Thus, to the extent that individuals or members of mining clubs are prospecting for or mining valuable deposits of locatable minerals, and making use of or occupying NFS surface resources for functions, work or activities which are reasonably incidental to such prospecting and mining, **it does not matter whether those operations are described as "recreational" or "commercial (emphasis added).**

The clear intent of Congress concerning how the federal agencies are directed to oversee mining on the public lands was confirmed in the controlling case of **USA V SHUMWAY, Ninth Circuit, 22/28/99:**

"A mineral claim is a parcel of land containing precious metal in its soil or rock."

There are also requirements for “necessity” and “non-duplication” pursuant to Government Code Sections 11349 and 11349.1 that are implicated here. In the Alameda litigation, we have painstakingly described a comprehensive scheme of federal oversight concerning suction dredge mining on federal lands, which constitute most of the areas addressed in your SEIR. In particular, we explained how federal law has created a statutory right to use the waters within the boundaries of national forests for mining (16 U.S.C. § 481) consistent with comprehensive federal regulations addressing and reviewing the environmental impacts of such mining (the 36 C.F.R. Part 228 regulations). Federal forest rangers receive individual “*Notices of Intent*” for suction dredge mining operations and make individualized determinations as to whether such operations may create a “*significant impact upon surface resources*” (which include the bottom of waterways). See generally *Karuk Tribe v. U.S. Forest Service*, No. 05-16801 (9<sup>th</sup> Cir. April 7, 2011). The SEIR and proposed regulations completely fail to take account of this system by attempting to impose additional (unreasonable) burdens under California law.

DFG’s proposed regulations unreasonably prohibit the use of suction dredges across most of the public lands in California along gold bearing waterways where the only viable method of location and development of high-grade gold deposits is with the use of suction dredges. In those remaining areas where the proposed regulations allow suction dredging (larger waterways), a reduced nozzle size will amount to a “prohibition” in most areas because smaller-sized dredges cannot effectively reach the viable gold deposits which exist under deeper streambeds. All of this, without the SEIR presenting any evidence that dredging under the existing (1994) regulations has ever created any deleterious impact upon a single fish, much less the Department’s definition of deleterious within the SEIR:

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

We see no emphasis within the SEIR about the important cultural and economic impacts which small-scale miners have played in the history of California, especially to the smaller, rural communities near to where gold mining has taken place. **The entrepreneurial spirit embodied through small-scale mining in California predates California Statehood!** This is not about “*recreational mining*,” as the SEIR has attempted to define the heart of our industry. It is about the legacy of small-scale entrepreneurs who risk everything and work our guts out in hopes of striking it rich, or at least making a discovery which will provide enough income to keep a prudent person hopeful.



**significant or substantially more severe environmental effects than were evaluated in the 1994 EIR. In large part, the change in existing environmental conditions at the time of preparation of these planning documents lends to the increased scope of this report compared to a typical SEIR. As explained in more detail below, the Hillman injunction and the passage of SB 670 prohibiting CDFG from issuing new suction dredge permits necessitate a change in baseline conditions from which to assess potential effects, as compared to an environmental baseline that includes ongoing suction dredging activities consistent with the existing regulations in Title 14 as analyzed in the 1994 EIR (emphasis added).**

**1.3.2 Baseline Conditions:** Under CEQA, the environmental setting or “baseline” serves as a gauge to assess changes to existing physical conditions that will occur as a result of a proposed project. Per CEQA Guidelines (Cal. Code Regs., tit. 14, §15125), **for purposes of an EIR, the environmental setting is normally the existing physical conditions in and around the vicinity of the proposed project as those conditions exist at the time the Notice of Preparation (NOP) is published. As underscored by appellate case law, however, the appropriate environmental baseline for a given project may be different in certain circumstances in order to provide meaningful review and disclosure of the environmental impacts that will actually occur with the proposed project (emphasis added).**

**In the present case, CDFG has determined that a conservative approach to identifying the environmental baseline is appropriate. As described above, instream suction dredge mining is currently prohibited in California pursuant to a state law enacted shortly before the publication of the NOP for this SEIR. (Fish & G. Code, 5653.1, added by Stats. 2009, ch. 62, § 1 (SB 670 (Wiggins).) The same law and a related court order also prohibit CDFG from issuing new suction dredge permits. CDFG has determined that the appropriate environmental baseline for purposes of CEQA and the analysis set forth below is one that assumes no suction dredging in California, because that was (and remains) the state of the regulatory and physical environment at the time the NOP was published. The SEIR provides a “fresh look” at the impacts of suction dredge mining on the environment generally (emphasis added).**

**4.0.2 Significance of Environmental Impacts:** According to CEQA, an EIR should define the threshold of significance and explain the criteria used to determine whether an impact is above or below that threshold. Significance criteria are identified for each environmental category to determine whether implementation of a **project would result in a significant environmental impact when evaluated against the environmental setting/baseline conditions (emphasis added).**

**Please allow us to review:** During the ongoing litigation in Alameda Superior Court, DFG has made several formal Declarations that it possesses “**new information**” which suggests there may be a deleterious impact upon fish as a **result of dredging activity under the 1994 regulations**. Therefore, the Court issued a moratorium upon suction dredging and Ordered DFG to review the impacts. And rather than come forward with any new biological information that would support its concerns, you have seized upon the

Section 15382.) Further, when an EIR identifies a significant effect, the government agency approving the project must make findings on whether the adverse environmental effects have been substantially reduced or if not, why not. (See: Section 15091.) (Emphasis added)

**CEQA requires that decisions be informed and balanced. It must not be subverted into an instrument for the oppression and delay of social, economic, or recreational development or advancement.** (*Laurel Heights Improvement Assoc. v. Regents of U.C.* (1993) 6 Cal.4th 1112 and *Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553) (Emphasis added)

While the impacts from suction dredging have not changed since the 1994 EIR was completed, this SEIR has largely focused upon the fact that more species have been added to the list which require special protection. And from that, DFG has apparently decided that these species deserve special protection from suction dredgers across the entire state of California through the proposed regulations, even though there has been zero evidence presented in the SEIR that any harm has ever occurred to any of these species as a result of the existing (1994) regulations. All this, while there are no meaningful restrictions being imposed upon hikers, swimmers, boaters, rafters, bird-watchers, camping enthusiasts, hunters or other nature lovers or actual recreationists that do not enjoy a mandate from Congress with a right to be present on the public lands! While the SEIR does not present any real evidence of harm from the 1994 regulations, it makes an unreasonable proposal to prohibit suction dredging anywhere that suitable habitat exists for these special species:

**2.2.3 Development of Regulations:** *For certain species, CDFG determined that any level of dredging activity in suitable or occupied habitat would have the potential to result in a deleterious effect to the species. For these species, occupied or suitable habitat is proposed to be closed to dredging (i.e., Class A).*

Please read the Code references which I have quoted above and below. Our conclusion is that DFG does not have the authority to prohibit mining on the public lands without at least being able to provide a specific demonstration of substantial harm. The statute does not direct you to decline to issue permits based upon the “*potential to result in a deleterious effect.*” More specifically, you can find an absence of deleterious effect even if there is “*a potential deleterious effect,*” and you should do so.

As a general matter, the legislature has made it clear that although EIRs can appropriately consider potential effects, which should be disclosed and considered, regulatory prohibitions require actual effects. Dredge mining in occupied habitat under the 1994 regulations do not have any actual deleterious impact.

It is especially unreasonable for you to prohibit dredging based upon “*potential*” effects when healthy fish populations persisted through decades of extremely invasive hydraulic mining with orders of magnitude more impact upon the environment than modern suction dredge mining.

## Conclusion

The SEIR is attempting to balance the economic and social impacts from the proposed regulations by comparing their value to a “**no dredging**” scenario which is the result of the existing moratorium. In addition to this being an exercise in bad faith, this is all a waste of time; because DFG does not have the authority to decide the value of mining which takes place on the public lands. Congress has already established the value by clearly informing federal management agencies that **mining is the most valuable use of public lands** once a valuable discovery has been made – and even while a prospector is actively pursuing a mineral discovery. **It is well established that suction dredging is by far the most effective method today of locating and developing gold deposits along the bottom of a waterway, and the only practical way to do so.** Therefore, the SEIR should be balancing the impacts of proposed regulations to well-established federal values, rather than arbitrary social and economic values in a deliberate by DFG to marginalize suction dredgers.

It also appears, that rather than come forward with substantial evidence that dredging activity under existing (1994) regulations is “*deleterious*” to fish (under DFG’s definition), the SEIR has unreasonably changed the baseline that was used in 1994 to a “*no dredging*” scenario. This, even though the SEIR admits that the average number of suction dredge permits has been 3,650 per year since the 1994 regulations were adopted. The existing moratorium is a direct result of DFG’s Declarations that it had evidence in its possession which suggested a deleterious impact from ongoing suction dredging activity. Still, the SEIR does not contain evidence of a single “*take*” of any fish, much less that of a fish that has been granted special protection. There especially is no evidence of a deleterious impact upon an entire species!

Therefore, the Department’s “*precautionary approach*” which exists as the foundation of the proposed regulations is not supported by a properly-done CEQA Process. These regulations would prohibit suction dredging altogether across most of the public lands in California, and reduce dredge capacity so much in the remaining open areas that it would amount to a general prohibition of mining as a business. The proposed regulations would create very substantial losses to economic and longstanding social values in California while producing no demonstrable benefit to the public.

## Mercury is not a problem!

Here is what the SEIR has to say about mercury:

**Impact CUM - 7: Discharge from Suction Dredging (Significant and Unavoidable):** As detailed in Chapter 4.2 Water 1 Quality and Toxicology, the discharge and transport of total Hg (THg) loads from suction dredging of areas containing sediments highly elevated in Hg and elemental Hg is substantial relative to background watershed loadings. Additionally, the flouring of elemental

sediment and water samples off the back-end of the 8-inch dredge recovery system during the following year.

Dredging was performed using the 3-inch dredge during 2007. However, USGS did not establish any measurable increase in mercury in the captured sediments or water samples discharged from the dredge recovery system.

It did not occur to Charles Alpers and his team to measure the volume of excavated material so that these and future results could be quantified to the actual capacity of a suction dredge.

The following year, The California Water Resources Control Board informed BLM that they were prohibited from using any suction dredge within the South Yuba River. Since the 8-inch dredge could not be used, I suggested to BLM that I could provide a prototype, closed circuit suction device (not a dredge under the definition of F&G Code 5653) that potentially could remove 100% of the mercury from a submerged mercury hot spot without any discharge back into the active waterway. Since we were not allowed to continue the study using a dredge, I switched gears into coming up with an alternative method of cleaning out the mercury from submerged hot spots.

**Note:** I made the mistake of assuming the ultimate purpose was to discover an effective way of removing mercury from California's waterways. That is probably too much to expect out of government today.

When we resumed the study during 2008, Charles Alpers relied upon me to choose the two places along the South Yuba River where we would excavate material. This was because Mr. Alpers was relying upon my considerable expertise to excavate samples where elevated levels of mercury (heavy metals) were most likely to be present in the gravel. I chose one location out on a gravel bar in the middle of the South Yuba River. This was directly out from the confluence of Humbug Creek. I chose this location mainly because it was an ideal place to operate my closed circuit prototype.

I chose the second location where there was some exposed bedrock immediately downstream from the confluence of Humbug Creek. While we were not able to set up my prototype in that particular location, the site was likely to turn up the highest levels of mercury in the entire area.

No other dredge was used during this study except the 3-incher during 2007.

After digging a hole on the gravel bar, we put my closed circuit prototype to work. **Mr. Alpers and his team made it clear this part of the program was not part of their study;** that it was being allowed only for R & D purposes. We used the prototype for about an hour. Nobody timed the work, and there was no accurate measurement taken of the material which we excavated. The device utilized a suction nozzle to excavate material and water from the hot spot directly into a large plastic water tank. Water from inside the tank was recirculated by a motorized pump to provide suction at the nozzle.

**4.1.2 California Hydrology and Climate:** Typically, rain-on-snow events are of a higher magnitude and occur most frequently during the winter months, whereas the peak snowmelt - driven events are of a lower magnitude and occur in spring. This hydrologic setting creates a bimodal distribution of flood events i.e., there is a population of floods associated with snowmelt events, and a distinct population of floods generated from rain - on - snow events that occur, on average, once every 10 years.

Charles Alpers is very wrong in his belief that mercury is trapped forever beneath armored streambeds. How do you think the mercury and streambeds got there in the first place if they were not moved there by a storm event?

Charles Alpers' Conclusions are just one more example of a government employee who has allowed his personal political agenda get in the way of real science. We will be making a formal complaint about this to the USGS. Meanwhile, we insist that this SEIR should not rely upon the Alpers' Conclusions.

The SEIR is conspicuously silent on the peer-reviewed study data provided to DFG by the dredge mining community in the PAC meetings about how natural selenium within California's waterways prevents mercury from causing adverse impacts even if bioaccumulation does occur. **Specifically, bioaccumulation of mercury has no adverse impact whatsoever on fish or those who consume them when the accumulation of such mercury consists of mercury bonded to selenium.** This is because that bond isolates the mercury from further biological activity.

The leading study suggesting adverse effects on humans from mercury bioaccumulation was based on Faroe Islanders who consumed the mercury in whale flesh (not fish flesh) which contains lower levels of selenium.

While there is plenty of peer-reviewed study material which demonstrates that there is a **continuous migration of mercury flowing down some of California's waterways**, there is zero evidence suggesting that the levels have any relationship to suction dredge activity.

The SEIR also does not give enough weight to the Humphries Report (California Water Resources Control Board). Mr. Humphries used an older-model 4-inch suction dredge to recover 98% of the mercury from a confirmed mercury hot spot in California. The SEIR does not provide adequate acknowledgement that a 98% recovery rate is a positive impact; **because suction dredging is the only activity within existence that removes any mercury from California's waterways.**

Rather, the SEIR seizes upon Mr. Humphries' unproven assumption that the 2% of lost mercury was floured (broken down into particles too small for the dredge recovery system to catch) by the dredge. But Mr. Humphries has admitted that he performed no tests of the streambed material before it was sucked up to see if floured mercury pre-existed there! His report also suggests that floured mercury preexisted in the streambed in areas that had not been suction dredged. Having substantial experience in this given

**High-banking is not suction dredging:** We agree with the following policy statement that you have acknowledged in several places within the SEIR:

**6.2 Alternatives Considered and Dismissed:** *In general, these provisions of the Fish and Game Code provide that CDFG's permitting authority is limited to in - stream use of vacuum or suction dredge equipment within any river, stream, or lake in California. As such, CDFG's regulatory authority under this Program does not extend to other methods of placer mining or other activities that may be associated with suction dredging which occur in upland areas.*

*The following is a list of activities that are not considered suction dredging subject to CDFG's permitting authority under Fish and Game Code section 5653, subdivision (b)...*

- Use of a high banker or sluice box above the ordinary high water line and above the current water level, where aggregate is vacuumed into the highbanker or sluice box from a gravel deposit outside the current water level of a river, lake or stream but which may be wetted by a water pump. This method is often referred to as booming;*
- Processing of materials collected using a suction dredge, in upland areas outside of the current water level of a river, stream or lake;*
- Use of suction dredge equipment (e.g. pontoons, water pump or sluice box) on a river, stream or lake where the vacuum hose and nozzle have been removed;*
- Sluicing or power sluicing for gold when no vacuum hose or nozzle is used to remove aggregate from the river, stream or lake; and*
- Use of vacuums (e.g. shop - vacs) and hand tools above the current water level.*

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

**DFG should not limit the number of suction dredging permits:** We do not see reasonable justification within the SEIR for the Department to limit the number of suction dredging permits in the final regulations. This is particularly because there is no evidence presented that 14 years of dredging activity under the 1994 regulations ever harmed a single fish, much less threatened the viability of an entire species. We also do not believe that a state agency has authority to impose a generalized prohibition to suction dredge mining on the public lands. As noted above, mining within national forest lands is already subject to individualized ranger scrutiny and there is no basis whatsoever

seasons. Otherwise, dredgers who have already invested in property, equipment and even mining claims could potentially lose their prior existing right to work their mine or other mining opportunity (mining club they paid to join so they would have access to mining property).

In this case, DFG would send out renewal notices and allow some kind of due process before a prior existing permit would be returned to the pool to be made available to someone else. We suggest, once prior existing rights are taken care of, it might be more equitable to make the remaining permits available in a drawing, rather than first come, first served.

**Statewide permits, if limited, should be transferable:** If there is going to be a limit placed on the number of permits allowed under a statewide blanket program, the permits should be transferable. This would allow a dredge miner to develop a mining property and then transfer it to someone else who could also acquire the right to suction dredge on the property. Otherwise, miners will make the substantial investment into developing a viable mine and then not be able to transfer ownership to someone new who will be able to dredge it, therefore losing some or most of the value.

The dredging permit could be signed over like the title on a vehicle. This would allow new generations of prospectors to purchase an existing permit from someone else in the event of a cap on permits.

**DFG should not further-limit the size of dredges under the statewide permitting program:** The only justification we can see in the SEIR for reducing dredge sizes in the proposed regulations is your “*precautionary approach*.” As we have explained above, there is no basis for using such an approach at all, much less in this context. It is patently illegal under the CEQA guidelines, which state, among other things, that “there must be an essential nexus (i.e. connection) between the mitigation measure and a legitimate governmental interest” and “the mitigation measure must be ‘roughly proportional’ to the impacts of the project”. 14 CCR 15126.4(a)(4). Obviously, “mitigation measures are not required for effects which are not found to be significant” (id. § 15126(a)(3)), and the SEIR presents no evidence that dredge sizes allowed under the 1994 regulations created a deleterious impact upon fish.

It is important to understand that you are proposing to undermine the effective capacity of gold mines all across California. As outlined in comments above, reducing capacity will effectively undermine the economic viability of many properties, and future economic activity all across the state.

It would be one thing if you could point to some evidence showing that dredge size limits under 1994 regulations have caused real problems. But you have not done that. The problem with your approach is that there is never any end to it. When I began dredging in California, it was easy to obtain a permit which would allow me to operate a 12-inch dredge along the Klamath River. Then the limit was reduced to an 8-inch dredge. Now you are proposing to reduce the limit to a 4-inch dredge. Yet, as many times as the

be afforded reasonable due process in the very same areas where the proposed regulations would prohibit suction dredgers.

At the very least, in order to prohibit a suction dredge from being operated in any given location, DFG must be able to demonstrate a deleterious impact upon fish.

Therefore, we strongly encourage the Department to leave areas open to suction dredging as they exist within the 1994 regulations. Gold miners should be afforded due process, and should be allowed to proceed in areas which are not allowed under any statewide permit, as long as a site inspection cannot turn up evidence of a deleterious impact.

**Reduction of our existing dredging seasons is unreasonable:** Once again, we do not see that the SEIR contains evidence of a deleterious impact upon fish to impose a reduction of existing dredging seasons. This proposal is supported only by your *“precautionary approach.”* Just as one of many examples, I have been dredging along the Klamath River since 1983. Existing dredge regulations, and the regulations we were held to prior to 1994, have always allowed year-around dredging on this river. The colder off-season months and wet season already naturally-limit the amount of dredging activity between October and June. In all the time I have been involved with this river, there has never been a single example that dredging has ever harmed a single fish during the months which the proposed regulations want to close the river to suction dredging. Your desire to close the river to this productive economic activity (suction dredging) for 9 months out of the year is arbitrary and unreasonable!

Indian, Thompson and Elk Creeks (Siskiyou County) are another example. During 25 years of overseeing our extensive dredging properties on these creeks in cooperation with local U.S. Forest Service (USFS), DFG and Karuk fish biologists, there has never been a single instance brought to our attention of any harm to any fish or their habitat. So why do you want to completely eliminate productive economic activity by Americans in those areas?

Furthermore, the SEIR does not acknowledging that we have already worked out an agreement with USFS and Karuk fish biologists to keep dredges away from the refugias and limit the number of dredges to 3 per mile on the creeks and 10 per mile along the river. Your proposed regulations are attempting to reach out onto the public lands and prohibit the use of suction dredges altogether, or for substantial parts of the year, on these very same waterways without any resulting positive benefit to the people of California

We strongly suggest, except for those areas where you can demonstrate that a deleterious impact has been created under the existing regulations, that you leave our dredge seasons as they have been since 1994.

**The proposed 3-foot rule is unreasonable:** We view this as just another overreach of DFG upon the public lands based upon your *“precautionary approach.”* The SEIR has not presented any real evidence that dredging within three feet of the streambank has ever harmed a single fish.



We all know how long these Section 1600 Agreements can take to work out. They also cost real money! Why impose that upon a dredge miner whose activity has not created a substantial impact upon surface resources? This is bad policy. There is nothing in Section 5600 which allows DFG to place a Section 1600 Agreement requirement upon someone merely because the person applies to the Department to operate outside of a statewide dredge permitting process. Forcing dredgers to pursue a 1600 Agreement is terribly wasteful of creative resources and will stifle investment into productive economic activity.

**Government Code 11813:** The Legislature finds and declares the following:

(a) Waste and inefficiency in state government undermines the confidence of Californians in government and reduces the state government's ability to adequately address vital public needs.

(b) **State government, in many instances, is a morass of bureaucratic red tape and regulations that ultimately stifle economic revitalization and further alienate the people the agencies were created to serve** (Emphasis added).

**This also applies to the use of power winches.** Gold miners can use a power winch anywhere on the public lands without the requirement of pursuing a 1600 Agreement, unless our program creates a substantial impact upon surface resources that are associated with a waterway. But the proposed regulations would prohibit the use of the same winch if a dredge is involved unless we also pursue an Agreement – even if there is not a substantial impact. **Why would you do this?**

**This was already explained to you during the PAC meetings:** In some dredge holes, a power winch provides the only safe and efficient means of progressing either when a rock is too heavy to move by hand, or when it cannot be rolled over other rocks that are in the way. We are discussing how heavy something is to move. Each person is different, but everyone has a limit. Some people are disabled. Some heavy rocks can exist up off the bedrock, and must be removed in order to avoid a very serious safety issue. All of this normally takes place down below the surface of the streambed where the result (of moving the rock 4-to-10 feet) will not have any impact upon the waterway above.

Furthermore, from looking at the surface of a streambed, there is no way for a dredge miner to determine in advance if boulders exist down below that will be impossible to move out of the way without some mechanical assistance. With a prohibition on winches, or the requirement to go through yet another time-consuming regulatory process, many dredgers will be forced to abandon dredge projects that otherwise would be productive. The prohibition on the use of power winches in your proposed regulations would result in stopping progress on some dredge programs, and also force operators to take unnecessary risks.

Please note that nearly all rocks of any size can be moved down beneath the surface of a streambed in dredging which will not cause any important impact upon the water flows or the surface of the bed. You guys are overreaching when you believe you must regulate the movement of every rock in the river! How can you believe that Americans can

being managed. Therefore, the requirement that dredgers notify the Department of the exact place they intend to work is not reasonable.

Since the existing regulations already set the times and places where dredging is allowed, we do not see any practical reason to force dredge miners to inform DFG exactly where they are dredging – and then hold them to the location unless the permit is amended. This was never done in the past. **Where is the deleterious impact?**

In the event that DFG decides that locations are needed on the application, we strongly suggest you broaden the requirement to identification of the waterways which the person intends to work. This would at least allow dredge miners some flexibility to move around in search of gold without having to make an extended and expensive trip to the closest Department license sales office (which could be more than 100 miles away) each time they want to move around the next bend in the river.

**The proposed dredge marking system is not workable:** Suction dredges are not boats. The pontoons typically are of molded Marlex floatation which will not allow paint, tape or glue to adhere. If you screw something into the Marlex, then you may incur leaking or perhaps structural problems. If you place a sign on the dredge, it is either in the way or is likely to fall into the river and float away. By “in the way,” we mean blocking the dredger’s ability to remove plug-ups or manage the motor (especially fueling).

Since the average size of dredge during 2008 was less than 4-inches, and there are many dredges in existence larger than 4-inches, there must also be many dredges smaller in size than 4-inches. We challenge the Department to come up with any practical way of attaching a sign meeting your proposal to a 2-inch, 3-inch or one of the mini-4-inch dredges; it is totally impractical!

We also question how this proposed imposition has anything to do with the language of Section 5653, or has anything to do with preventing a deleterious impact upon fish? Do you really want your wardens out there measuring the size of numbers on suction dredges?

In the event that DFG decides it must have an identification number on the dredge, we strongly suggest you eliminate the 3-inch number requirement and allow the numbers to be marked on both sides of the dredge; either on the pontoons or on the sluice box, but only if it is possible to do so. This would allow for smaller numbers in the case of smaller dredges.

**Fuel should be allowed within 100 feet of the waterway if kept within a water-tight container or a boat:** California already has plenty of laws on the books that prevent us from spilling gasoline into the water. Now you want miners and wardens out measuring the distances between our fuel cans and the waterway? **When does the overregulation stop?**

We strongly advise DFG to withdraw from the notion that you should be prohibiting dredge mining to protect any species (from extinction as a result of the dredging) which is not afforded special protection. Because you are taking away the rights of Americans to be productive. There is a cost for this. You are also going to experience this when the State no longer has any money to meet your pension obligations.

Rather than impose a criminal penalty for sucking up or dropping tailings near mussels, we suggest you discuss them in your Better Practices handout.

### **Returning the site to the pre-mining grade to the greatest extent**

**possible:** It is clear that whoever thought this up had zero experience in suction dredging!

**Please allow us provide some insight:** Sampling is the process of making multiple sample holes in an attempt to locate a high-grade gold deposit (business program). Sampling is a process, not a single hole. Sometimes a dredge miner makes a discovery, but wants to continue sampling to determine the length and width of the deposit, or to see if he deposit might provide better results that he can develop first. Your proposal would require him to fill each hole, even if he is not finished there.

Nearly always, once a discovery is made and defined, an experienced dredge miner drops further downstream doing more short tests in an attempt to find the lower-end of the gold deposit. Then he begins the development project there so tailings will not be dropped on top of the deposit and moved again.

Sample holes are not filled in, because the prospector may need to go back and take another look! **Your proposal on this seeks to manage the way a mining operation is done.** Even the federal agencies have no authority to manage a mining program! But you would have your wardens out there writing criminal citations to a serious dredger that is attempting to trace down a mineral deposit with several open excavations? This proposal proves that DFG does not understand the mining process that you are trying to regulate, and that you have not seriously considered the input from the mining community, especially during the PAC meetings.

**Here is the reality:** It is entirely impractical for you to believe we can somehow take our dredge tailings and refill the holes. There are water currents involved which prevent the material from being shoveled and carried 30 feet upstream, or even dredged upstream. Furthermore, according to the SEIR's extensive information in Chapter 4; no matter what we do, the light gravel (tailings) will remain unstable until the next storm event places them behind a natural obstacle in the waterway.

Ample evidence shows that salmon are less likely to place their redds in a heaped tailing pile than they are on a pre-mining grade which is unstable. So your proposal will actually create more harm than good! While it occasionally happens, there are very few cases on the record where salmon have spawned in a heaped tailing pile, because they

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

Please take notice that I am the owner of the upper Seiad claim 1-8 claim, located on Seiad Creek in Siskiyou County (Bureau of Land Management CAMC # 281561). I have reviewed your proposed regulations for suction dredging, which appear to forbid any and all suction dredge mining on my claim. Because suction dredging is the only practical method of mining the valuable underwater gold deposits on this claim, you are proposing to forbid all mining on my claim.

This is a violation of federal law forbidding material interference with my federally-protected mineral rights, and also constitutes an unconstitutional taking of my private property without just compensation.

I urge you to reconsider your proposed regulations. This area had strong fish runs for decades during and after hydraulic and other large scale mining, and there is no credible case whatsoever for harm to fish from small-scale suction dredging operations. A single fisherman with a good day on the river causes more damage to fish than all the suction dredge miners put together, and you allow the fishing. Focusing environmental regulation on an activity like suction dredging, which actually improves fish habitat, discredits your regulatory role generally.

If you do not reconsider, and allow me to mine my claim, you may rest assured that I and other miners will hold you accountable in the courts for your outrageously unlawful and arbitrary decisions.

Sincerely,



\_\_\_\_\_  
\_\_\_\_\_



## MEMORANDUM

**TO:** Dept. of Fish & Game  
601 Forest St.  
Redding, CA 96001

**DATE:** 5-15-11

**FROM:** Solano County

**SUBJECT:** Return of Posted Document (s)

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Enclosed please find the original copy/copies of the Notice of Availability that has/have been filed and posted in the Board of Supervisors/County Administrator's Office for at least 30 days.



**FILED**

MAR 03 2011

**Notice of Availability of a Draft Subsequent Environmental Impact Report for the Suction Dredge Permitting Program (SCH#2009112005)**

Michael D. Johnson, Clerk of the Board of Supervisors of the County of Solano, State of California

Deputy:

*Sandy Hoffer*

**NOTICE IS HEREBY GIVEN** that a Draft Subsequent Environmental Impact Report (Draft SEIR) has been prepared by the California Department of Fish and Game (CDFG) for the Proposed Program described below, and is available for public review. The Draft SEIR addresses the potential environmental effects that could result from implementation of this Program. CDFG invites comments on the adequacy and completeness of the environmental analyses and mitigation measures described in the Draft SEIR. Note that pursuant to Fish and Game Code Section 711.4, CDFG is exempt from the environmental filing fee collected by County Clerks on behalf of CDFG.

**PROJECT LOCATION:** The scope of the Proposed Program is statewide. Suction dredging occurs in rivers, streams and lakes throughout the state of California where gold is present, and CDFG's draft suction dredge regulations identify areas throughout the state that would be open or closed to suction dredging. Most dredging takes place in streams draining the Sierra Nevada, Klamath Mountains, and San Gabriel Mountains. Suction dredging may also occur to a lesser extent in other parts of the state. Because suction dredging may occur throughout the state, it is possible that the activity could occur in a hazardous waste site or listed toxic site.

**PROJECT DESCRIPTION AND ENVIRONMENTAL REVIEW:** The Proposed Program, as analyzed in this Draft SEIR, is the issuance of permits and suction dredge activities conducted in compliance with these permits, consistent with CDFG's proposed amendments to the existing regulations governing suction dredge mining in California. The environmental assessment of the Program was developed in parallel with amendments to the previous regulations governing suction dredge mining throughout California. To most accurately reflect the environmental effects of the Program, the DSEIR includes an assessment of the suction dredge activities as well as the proposed amendments to the previous regulations.

The Draft SEIR evaluates the potential environmental impacts of the Proposed Program and four alternatives: a No Program Alternative (continuation of the existing moratorium); a 1994 Regulations Alternative (continuation of previous regulations in effect prior to the 2008 moratorium); a Water Quality Alternative (which would include additional Program restrictions for water bodies listed as impaired pursuant to the Clean Water Act Section 303(d) for sediment and mercury); and a Reduced Intensity Alternative (which would include greater restrictions on permit issuance and methods of operation to reduce the intensity of environmental effects).

The analysis found that significant environmental effects could occur as a result of the Proposed Program (and several of the Program alternatives), specifically in the areas of water quality and toxicology, noise, and cultural resources. However, as CDFG does not have the jurisdictional authority to mitigate impacts to these resources, such impacts have been identified as significant and unavoidable.

*Handwritten notes in blue ink at the bottom of the page.*

**From:** [Director](#)  
**To:** [Mark Stopher;](#)  
**Subject:** Fwd: Dredging regs  
**Date:** Saturday, January 01, 4501 12:00:00 AM

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>>> Duane Armbruster <[darm1958@yahoo.com](mailto:darm1958@yahoo.com)> 5/16/2011 8:58 PM >>>

In regards to dredging law changes I personally would like to see a return back to the 1994 EIR based regulations. How many more studies do we need? Time to end these costly lawsuits.

Thank you for your time,

Duane Armbruster

Happy Camp, CA



# United States Department of the Interior



## FISH AND WILDLIFE SERVICE

Ecological Services  
 Carlsbad Fish and Wildlife Office  
 6010 Hidden Valley Road  
 Carlsbad, California 92011

In Reply Refer To:  
 FWS-CFWO-08B0154-11TA0368



MAY 16 2011

California Department of Fish and Game  
 Attn: Suction Dredge Mining Program  
 1416 Ninth Street, 12th Floor  
 Sacramento, California 95814

Subject: Suction Dredge Permitting Program Draft Subsequent Environmental Impact Report, California

To Whom It May Concern:

This letter responds to your request dated February 28, 2011, for comments regarding the Draft Subsequent Environmental Impact Report (DSEIR) for the Suction Dredge Permitting Program. The proposed project involves the issuance of permits for suction dredge mining across California. Suction dredge mining involves the use of a suction system to remove and return materials at the bottom of a river, stream, or lake for the extraction of minerals.

We offer the following comments and recommendations regarding project-associated biological impacts based on our review of the DSEIR and our knowledge of declining habitat types and species within the jurisdiction of the Carlsbad Fish and Wildlife Office. We provide these comments in keeping with our agency's mission to work "with others to conserve, protect, and enhance fish, wildlife, and plants and their habitats for the continuing benefit of the American people." Specifically, we administer the Endangered Species Act of 1973 (Act), as amended, (16 U.S.C. 1531 *et seq.*). We also provide comments on public notices issued for a Federal permit or license affecting the Nation's waters pursuant to the Clean Water Act.

### *Santa Ana Sucker*

We recommend classifying the range of the Santa Ana sucker (*Catostomus santaanae*) within the San Gabriel, Big Tujunga, and Santa Ana River watersheds as Class A (*i.e.*, closed to suction dredge mining). As noted in our 5-year review completed this year for this fish that was listed as a threatened species in 2000 (65 FR 19686), three of the six extant occurrences of Santa Ana sucker are threatened by mining. Consequently, we are concerned about the issuance of suction dredge mining permits within the range of the fish because of the potential adverse effects to the species.

The DSEIR indicates that adverse effects could occur to fish due to suction dredge mining and several restrictions are proposed to avoid or minimize these effects. The DSEIR indicates that adverse effects could occur to due to the entrainment of individuals; habitat alterations via the blocking of streams to create or alter pools; destabilization or removal of instream habitat elements such as coarse woody debris, boulders, and riffles; and streambank destabilization. The proposed restrictions include prohibiting suction dredge mining within the range of the Santa Ana sucker during the spawning season,



prohibiting the removal of streambank vegetation, requiring the reporting of suction dredge mining locations to your agency, prohibiting the movement of woody debris, requiring permittees to level tailings to prevent alterations in pool structures, and using screens to prevent entrainment.

Despite these restrictions, adverse effects to the Santa Ana sucker could still occur due to suction dredge mining. The proposed restrictions are not likely to be fully implemented since no monitoring or enforcement is proposed. Moreover, since the spawning season appears to be variable and protracted (65 FR 19686), suction dredge mining could still kill eggs and fry despite a seasonal restriction. Finally, avoiding the primary spawning season will not necessarily avoid the time when many Santa Ana suckers may still be small and developing and more subject to the impacts of entrainment.

#### *Arroyo Toad*

The DSEIR cites the 2001 designation of critical habitat for the federally endangered arroyo toad (*Anaxyrus californicus*) (66 FR 9414). However, critical habitat for the arroyo toad has been revised and the current designated critical habitat is from February 9, 2011. The February 9, 2011, rule provides a brief history of the listing process for arroyo toad designated critical habitat (76 FR 7245).

We support your proposal to designate occupied habitat for the arroyo toad as Class A. However, please note that the arroyo toad is known to occur within the Cajon Wash area, which is proposed to be Class E (*i.e.*, seasonal restriction on suction dredge mining). Arroyo toads were found in this area in 2000, 2006, and 2007 (USFS 2008<sup>1</sup>), and this area contains some of the last vestiges of this species in the upper Santa Ana River basin (76 FR 7245). Based on these observations and the potential impacts to the species as described in your DSEIR, we recommend also designating this area as Class A.

If you have any questions, please call Jesse Bennett of my staff at (760) 431-9440, extension 305.

Sincerely,



Jim A. Bartel  
Field Supervisor



cc:

Terri Stewart, California Department of Fish and Game  
Jeff Brandt, California Department of Fish and Game

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<sup>1</sup> USFS (U.S. Forest Service). 2008. Biological assessment for ongoing activities and seven aquatic and riparian wildlife species on the San Bernardino National Forest. Unpublished document submitted to the Carlsbad Fish and Wildlife Office. 228 pp.+attachments.

California Department of Fish and Game  
 1701 Nimbus Road Suite A  
 Rancho Cordova, CA. 95670  
 RE: Suction dredging  
 May 4, 2011




We are concerned individuals that live in an area of El Dorado County that includes the South Fork of the Consumes River. We are aware of the difficult task you have before you to determine the new rules to control suction dredging.

In a Sacramento Bee article dated April 24, 2011 Ray Nutting El Dorado county district two supervisor stated, "Who kills Fish? Fishermen". El Dorado County is one of the most popular areas in California for dredge miners to frequent, and we believe that statements like the one from Mr. Nutting needs to be addressed. The simplistic nature of the statement demonstrates the lack of subtle knowledge on the part of an elected official, and does not make your job any easier.


We would like to point out some of the more subtle effects of suction dredging.

- *Pollution:* Chemicals like mercury can be used, and have been, in suction dredging. This chemical can be released into our river. The remnants from past mining operations can be disrupted and reintroduced in to the water supply, and continue down stream. These chemicals are then potential hazards to humans, fish, and vegetation.
- *Loss of Aquatic life:* After the gold is filtered from the suctioned gravel and mud it is released back into the river, in a location different from its original position. This disrupts the natural flow of the river that can cause fish and other organisms to parish. According to the Sacramento Bee article it was noted that Fish and Game analysis looked at studies of the effects of dredging on aquatic life, and concluded the disruption of sediments linked with fish biology necessitated limiting dredging activity. Further, UC Davis biologist Peter Moyle wrote, "it should be assumed dredging is harming fish that are in decline unless it is proven otherwise"
- *Fairness:* It is unfair to disrupt the streams at the least, and possibly cause harm to those of us who live down stream from a dredging operation. We realize that there is a right to this activity, but from the information we gathered this activity is subsidized by the tax payer, and as such we have a right to enjoy our water ways free of harmful disruption.

Mining is harsh on the environment. To substantiate how bad some mining is, think about the fact that that producing a single gold ring generates 20 tons of mining waste. We realize that mining gives access to necessary minerals and material that we use constantly. This creates many issues, with the mining companies and mining hobbyist wanting to dredge, and others strongly opposing the process. This type of mining with the price of gold on the up rise at this time makes the possibility of further income very attractive. We would ask you to put just as high of value on our water and wild life. We realize that attaching tangible value to the water, wildlife, and the portion of the population that would like to commune with nature, is not easy to do, especially when an elected official sees the issue in stark black and with terms, "Who kills Fish? Fishermen". We respectfully ask you to continue the moratorium on suction dredging on the Consumes River.

  
 GARY MARTIN

  
 SUSAN BOBBIN

  
 Grace Martin

  
 Barbara Martin

**Subject:** RE: Suction dredge program update  
**Date:** Saturday, May 21, 2011 8:06:57 PM PT  
**From:** Terry Kalbaugh  
**To:** mstopher@dfg.ca.gov

I have purchased my permit for years to comply with this intrusive state. Just note, I am a third generation miner on a federal mine, protected by federal law. I will still mine, because that is my way of life I was born too! I put away My grandpa's old 30-30 and know mine with my mini 14, My bright colored tools are now camo, close your eyes to these socialist regulations or we will have a conflict. Mining is NOT A STATE issue.....period. I spoke my mind because that is my right.....now come shoot me. because I will be mining and nobody is going to stop me.

> Date: Fri, 20 May 2011 09:45:26 -0700  
 > From: MStopher@dfgca.gov  
 > To: MStopher@dfg.ca.gov  
 > CC: BAGUILAR@dfg.ca.gov; CVOUCHILAS@dfg.ca.gov; DMaxwell@dfg.ca.gov; JHANSON@dfg.ca.gov; JMattox@dfg.ca.gov; JMEANS@dfg.ca.gov; MCarion@dfg.ca.gov; RKelly@dfg.ca.gov; THovey@dfg.ca.gov; kevin@horizonh2o.com; Michael@horizonh2o.com; rhumphreys@waterboards.ca.gov  
 > Subject: Suction dredge program update  
 >  
 > Interested parties  
 >  
 > On May 10, 2011 the public review period for the draft regulations and Draft Subsequent EIR concluded. We received mail, email and fax comments from over 10,000 individuals and organizations. More than 90% were essentially form letters or emails containing variations of similar messages either opposing or supporting mining. Over 800 people attended the six public meetings and many of them spoke or hand delivered additional comments. We are currently reading, sorting and organizing the comments. As we do so we are evaluating what information is influential in reconsidering the impact assessment and draft regulations and preparing to respond in the Final SEIR to the comments. That work continues on a schedule which would complete the regulatory process in November 2011. I cannot imagine any scenario where suction dredge gold mining will lawfully resume before then.  
 >  
 > I have received many phone calls regarding recent actions by the State Assembly and Senate budget subcommittees last week. Both subcommittees last week adopted budget language recommended by legislative staff which proposes to extend the moratorium on suction dredge mining for five years unless all impacts (presumably those identified in the Draft SEIR) of suction dredging are fully mitigated and a new fee structure is in place to fully cover all program costs. The language would also prohibit the Department of Fish and Game from expending any funds for suction dredge permitting and regulations (except for enforcement of the moratorium and litigation). It appears this would terminate the regulation/EIR process currently underway. Since the subcommittee actions are part of the larger budget process, none of the above takes effect unless specified in the final budget bill signed by the Governor. The Department of Fish and Game did not initiate or sponsor this legislative action and I first became aware that this was on the subcommittee agenda on the afternoon of May 10. I do not know what the prospects are for these actions to be modified, approved or rejected.  
 >  
 > DFG follows direction provided by the legislature and Governor. Our current direction (via SB 670 and a Court Order) is to develop new regulations and comply with the California Environmental Quality Act. I anticipate we will continue on that course until and unless the legislature and Governor direct us otherwise.  
 >  
 >  
 > Mark Stopher  
 > Environmental Program Manager  
 > California Department of Fish and Game  
 > 601 Locust Street  
 > Redding, CA 96001

Mr. Stephen  
DF&M, CA.

MARK STOPHER IS  
ENVIRONMENTAL MANAGER  
CALIF, DEPT. FISH & GAME  
601 LOCUST ST,  
Redding, CA, 96001

IN REGARDS TO THE NUMBER OF  
ALTERNATIVES OF THE SEIR ON DREDGE  
IN CALIF, I'D LIKE TO MAKE A FEW  
COMMENTS...

Clearly the new proposals are  
TOTALLY BIASED, WHY? THERE ARE  
NO PROPOSALS TO ENCOURAGE MINING  
OF THE WATERWAYS OF CALIF, BUT RATHER  
THESE RESTRICTIVE, TAKEAWAYS, KEEPING  
IN MIND THAT THE MINING LAW OF  
1872 ENCOURAGES MINING ON  
FEDERAL LANDS. NOTE, ALSO THE PRO-  
POSALS BY DFG WOULD EFFECT FEDERAL  
LANDS. I'D THEN SAY THAT DFG IS  
ABUSING THEIR AUTHORITY & SHOULD  
BE CORRECTED, HAVING SAID THE ABOVE  
I'D LIKE TO MAKE A FEW SPECIFIC  
COMMENTS

052311\_Gilbertson

First THE RULE TO NOT ALLOW dredging within 3 Feet of A WATERWAYS side is DECEPTIVE, BY Adding up 3 Feet For Both sides, The width of A dredge you use. Come up with 10', NOW IF A WATERWAY MUST Be 10' or greater, I'd SUSPECT TH. 95% OF ALL WATERWAYS IN CALIFORNIA WILL Be OFF LIMITS.

Second A rule TO LIMIT dredging TO 14 days A YEAR is BIASED AGAINST A TYPE OF COMMERCIAL dredging & MANUFACTURING OF dredging EQUIPMENT. There is NO COMMERCIAL dredger who would PAY 5 or 10 THOUSAND DOLLARS FOR EQUIPMENT IF They could only dredge 14 days A YEAR. A 14 day per year schedule is clearly A SCHEME TO TOTALLY ELIMINATE COMMERCIAL dredging IN CALIFORNIA.

Third.

NOW HERE'S MY PROPOSAL THAT I WILL SUBMIT TO MY STATE REPRESENTATIVE.

BECAUSE OF OUR STATE BUDGET DEFICIT & BECAUSE OF DEPT. OF FISH & G.A. MISUSE OF IT POWER, LET'S NO LONGER FUND F&G, LET'S ELIMINATE THE DEPT AL TOGETHER. THIS CAN EASILY BE ACCOMPLISHED, SINCE THE LAND THAT D.F&G MANAGES IS FEDERALLY OWNED, LET'S TURN THE RESPONSIBILITY OVER TO THE FEDERAL GOV... THE U.S.F.S. CAN GOVERN THEIR LAND & BLM CAN GOVERN THE LANDS THEY CONTROL. ACCORDINGLY, THE FEDS WOULD HAVE THE OPTION TO HIRE ANY D.F&G EMPLOYEES THEY DESIRED, ONCE THEY WERE FIRED.

## FINAL COMMENT

Clearly, difeq... CA. MOVES  
ARE POLITICAL IN NATURE & HAVE  
A TOTAL DISRESPECT FOR THE MIA  
LAW OF 1872 & THE TRUST THAT  
CONGRESS ~~AND~~ ORIGINALLY AUTHORIZED.  
IT WILL BE MY HOPE AND PRAYER  
AND AN INTENSE DESIRE TO SEE  
JUSTICE DONE, THAT I SUBMIT THIS  
LETTER & OPENLY PLEDGE TO FIGHT  
CORRUPT OFFICIALS THAT OCCUPY LEVELS  
OF POLITICAL OFFICE IN THIS GREAT  
STATE OF CALIFORNIA.

Respectfully

MAX L. GILBERTSON  
VETERAN, 101<sup>ST</sup> AIRBORNE  
DIVISION, FT. CAMPBELL  
P.O. BOX 662  
MAMMOTH LAKE CA. 935

P.S. YOU DON'T THINK IT CAN HAPPEN, THEN IT HAPPENS

**Subject:** Re: Suction dredge program update  
**Date:** Sunday, May 22, 2011 8:23:41 PM PT  
**From:** John Buckley  
**To:** Mark Stopher

Mark:

Thank you for the official update on the suction dredging program. If those on our conservation side who are concerned about wildlife and water quality had seen a reasonable effort towards balance by DFG in the proposed regulations, it is unlikely that so much effort would have been generated to oppose the proposed action and the weak regulations put forward by your staff.

It was apparent that DFG was not planning to restrict suction dredging in stream and river segments that have Special Status species or are located above domestic water intake sites. On the contrary, it appeared that DFG was going to rely primarily on unenforceable guidelines that depended on the good intentions of suction miners.

It is my experience with these kinds of plans that whenever the State fails to promote balanced, environmentally reasonable regulations, it reinforces the belief that the only solution is litigation or political power plays. Whereas, when the State shows it is aiming to do more than the status quo to protect resources, the incentive to challenge the state is far less pressing.

It will be interesting to see how this all plays out in the budget discussions and negotiations.

John Buckley  
CSERC

On May 20, 2011, at 9:45 AM, Mark Stopher wrote:

Interested parties

On May 10, 2011 the public review period for the draft regulations and Draft Subsequent EIR concluded. We received mail, email and fax comments from over 10,000 individuals and organizations. More than 90% were essentially form letters or emails containing variations of similar messages either opposing or supporting mining. Over 800 people attended the six public meetings and many of them spoke or hand delivered additional comments. We are currently reading, sorting and organizing the comments. As we do so we are evaluating what information is influential in reconsidering the impact assessment and draft regulations and preparing to respond in the



**Subject:** Re: Suction dredging

**Date:** Wednesday, June 1, 2011 1:02:18 PM PT

**From:** Jim Bonetti

**To:** mstopher@dfg.ca.gov

**Dear Mr. Stopher,**

**This gold mining process does not harm the fish. They love it: I vacuum up the helgramites and they are at the back of my sluice waiting for lunch! There may be a problem up on the Klamath, but NOT DOWN HERE. If you have a say in this legislation, say yes to dredging. Take each area and weigh its merits before shutting down the whole state.**

**It not only benefits me, IF I happen to get some gold while dredging, but in the process so do the small towns that I must patronize in order to operate in their areas. This is a win-win situation.**

**The Alameda County judge who arbitrarily shut down the whole state of California, is nothing but a liberal-try-to-satisfy-everybody-conservgative-idiot. He's one sided and will get voted in next election because of all the tree huggers we have in California**

**Sincerely,**

**Jim Bonetti  
Salida, CA  
209-275-8336**

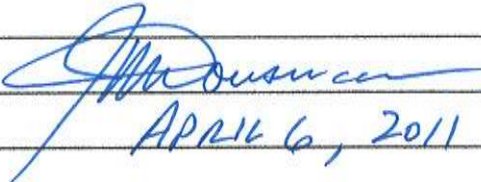
**SUCTION DREDGE PERMITTING PROGRAM**  
**Draft Subsequent Environmental Impact Report (DSEIR)**  
**Comment Form**

Name:	MIKE DOUSMAN
Mailing Address:	P.O. BOX 58
	DOB BINS, CA 95935
Telephone No. (optional):	530-701-3173
Email (optional):	MICKD@HUGHES.NET

**Comments/Issues:**

ATTACHED ARE OUR COMMENTS TO THE PROPOSED REGULATIONS OF FEB 28, 2011

WE RESPECTFULLY REQUEST A RE CLASSIFICATION FOR DREDGING ON SLATE CREEK IN YUBA COUNTY

  
APRIL 6, 2011

Please use additional sheets if necessary.

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

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

**Email:** dfgsuctiondredge@dfg.ca.gov

**Fax:** (530) 225-2391

**We are requesting that proposed classification of the Proposed Suction Dredge Regulations of Feb 28, 2011 be changed as follows:**

- **Page 68, for Slate creek in Yuba County change to : Class C and**
- **Page 69, Yuba River, North fork tributaries, change to: Class C.**

**Slate Creek Placer claim BLM # CAMC 267448, T 20N; R 8E, MDM**

Located on Slate Creek in Yuba County, the claim covers 40 acres. The elevation is about 3800 ft average. It is in a deep canyon without access by any motorized vehicle and not easily accessed for recreation use such as hiking, camping, hunting or fishing. It requires a determined hike down a hidden trail more than 300 feet to access the claim. The claim is inaccessible from November through May due to heavy winter snow and spring runoff conditions.

We have never used it for dredging in 8 years while owning this claim. We had planned to start dredging with a single dredge in 2009 until the ban occurred. The claim follows Slate creek for a half mile so no other dredging would occur if it was permitted.

There are no Yellow Legged Frogs on this creek, so prohibiting dredging would have no significance to their survival. Mercury and its compounds do not exist in any more quantities than it did previously.

Slate creek is isolated from ocean fish spawning activities by at least two dams downstream, New Bullard Bar and Englebright dams on the Yuba River.

Slate creek is a tributary of the Yuba River, North fork above New Bullards Bar Reservoir has not been proposed to be closed to dredging. Another tributary, Canyon Creek parallel to Slate Creek to the north has not been proposed to be closed to dredging either.

The nearest bridge crossings are more than a mile upstream or downstream. No residential dwellings in the area. No known Archeological sites in the claim area. No developed recreation facilities in the claim area. No logging activities nearby, the canyon is surrounded by a Timber Preservation zone.

Economic impact: We are the owners of this claim purchased the claim for \$4500 in 2002 for recreation. We have maintained the BLM lease yearly. We have paid Yuba County property taxes on time and submitted assessment reports yearly. Closing this claim to dredging completely would make it virtually worthless.

Owners: J.M. Dousman and P.A. Dousman ,  
P.O. Box 58, Dobbins, CA 95935  
530-701-3173

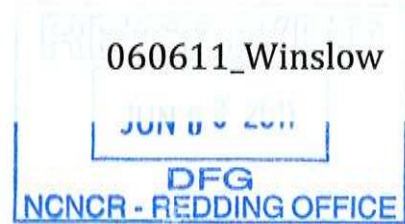
Mark Stopher

I don't understand  
how you can charge  
me \$85<sup>00</sup> for a dredge  
permit then revoke  
that permit and refuse  
to refund my money.

Now with these new  
rules you are going  
to ruin a whole industry.

It seems the government  
wants to regulate every  
aspect of our lives, when  
is it ever going to  
stop?

Richard N. Jensen  
Dunsmuir, Ca.



June 6, 2011

California Dept of Fish & Game  
601 Locust St.  
Redding, CA 96001

Dear Dept of Fish & Game (via Mark Stopher):

I am writing to express my concern about the possibility that dredging permits may again be issued in California. I spend much of my summer on the North Fork of the Yuba River and the recent change, i.e., lack of gold mining, brought peace to this lovely part of our wilderness. I cannot describe adequately the disruption to all others that a few gold miners imposed on us.

I note that the EIR evaluates adverse effects of suction dredging on songbirds, water quality impacts (I've witnessed these) and discharge of dangerous elements in the waterway.

I urge you not to issue permits for suction dredging, which "benefits" a very few at the expense of all others attempting to enjoy our great outdoors.

Thank you, sincerely,

Hilary Winslow  
POB 576  
Bolinas CA 94924

Please add me to your mailing list for information about this issue.  
hilarywinslow@earthlink.net

060711\_Blevins

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

voice 530.225.2275  
fax 530.225.2391  
cell 530.945.1344  
mstopher@dfg.ca.gov

To: Mark Stopher <MStopher@dfg.ca.gov>  
Subject: Suction dredge program update

Mr. Stopher

Did you ever stop to think that the form letter that you received was worded in such a way that it said it all??

Nothing more could be added to get the point across to you.... That some one more educated than I said it perfectly and I just wanted to let you know I agreed with everything that was said in the form letter?????

Don't dismiss the letters sent from the miners that are form letter...

Montine Blevins

At 09:45 AM 5/20/2011, you wrote:

Interested parties

On May 10, 2011 the public review period for the draft regulations and Draft Subsequent EIR concluded. We received mail, email and fax comments from over 10,000 individuals and organizations. More than 90% were essentially form letters or emails containing variations of similar messages either opposing or supporting mining. Over 800 people attended the six public meetings and many of them spoke or hand delivered additional comments. We are currently reading, sorting and organizing the comments. As we do so we are evaluating what information is influential in reconsidering the impact assessment and draft regulations and preparing to respond in the Final SEIR to the comments. That work continues on a schedule which would complete the regulatory process in November 2011. I cannot imagine any scenario where suction dredge gold mining will lawfully resume before then.

I have received many phone calls regarding recent actions by the State Assembly and Senate budget subcommittees last week. Both subcommittees last week adopted budget language recommended by legislative staff which proposes to extend the moratorium on suction dredge mining for five years unless all impacts (presumably those identified in the Draft SEIR) of suction dredging are fully mitigated and a new fee structure is in place to fully cover all program costs. The language would also prohibit the Department of Fish and Game from expending any funds for suction dredge permitting and regulations (except for enforcement of the moratorium and litigation). It appears this would terminate the regulation/EIR process currently underway. Since the subcommittee actions are part of the larger budget process, none of the above takes effect unless specified in the final budget bill signed by the Governor. The Department of Fish and Game did not initiate or sponsor this legislative action and I first became aware that this was on the subcommittee agenda on the afternoon of May 10. I do not know what the prospects are for these actions to be modified, approved or rejected.

DFG follows direction provided by the legislature and Governor. Our current direction (via SB 670 and a Court Order) is to develop new regulations and comply with the California Environmental Quality Act. I anticipate we will continue on that course until and unless the legislature and Governor direct us otherwise.

**From:** [chuck@socalsk8andsurf.com](mailto:chuck@socalsk8andsurf.com)  
**To:** [mstopher@dfg.ca.gov](mailto:mstopher@dfg.ca.gov);  
**cc:** [CHUCK DUNN](#); [pat keene](#);  
**Subject:** RE: Status of DFG work on suction dredge EIR and Regulations, June 20, 2011  
**Date:** Monday, June 20, 2011 6:17:19 PM

---

MARK PLEASE READ THIS CHUCK  
I LL BE 74 IN 2016..

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

Subject: THIS WOULD MAKE A GOOD NEWS ITEM..

From: <[chuck@socalsk8andsurf.com](mailto:chuck@socalsk8andsurf.com)>

Date: Fri, June 17, 2011 6:28 pm

To: "FOX " <[stosseltix@foxbusiness.com](mailto:stosseltix@foxbusiness.com)>

IF WE WERE TO BRING A DREDGE TO SACRAMENTO TO SHOW  
LEGISLATORS ,WHAT THIS IS ALL ABOUT WOULD YOU BE  
INTERESTED IN COVERING THE EVENT..

THIS HOW I SEE IT..

AGAIN OUR LEGISLATORS FAILED TO READ A BILL THAT THEY  
RE SO EAGER TO PASS. CLOSING ALL THE RIVERS TO SUCTION  
DREDGING WILL NOT HELP THE SALMON. ESPECIALLY THE  
ONES THAT FLOW EASTWARD FROM THE EAST SIDE OF THE  
SIERRAS. NOR WILL IT DO MUCH ON ALL THE WESTERN  
FLOWING RIVERS THAT ARE DAMNED UP WITHOUT FISH  
LADDERS. THE KERN RIVER FOR EXAMPLE HAS NO WAY IN HELL  
FOR A SALMON TO SWIM UP STREAM FROM THE OCEAN. WE  
HAVE NO MONEY TO KEEP PRISONERS IN JAIL, YET WE WILL  
FUND A STUDY AND CRIPPLE AN INDUSTRY THAT PROVIDES 60  
MILLION DOLLARS A YEAR TO OUR CALIFORNIA ECONOMY. TO  
MY KNOWLEDGE A ENVIRONMENTAL REPORT ON SUCTION  
GOLD DREDGING WAS COMPLETED BY THE STATE IN 1994.  
DREDGERS TAKE OUT "MERCURY AND LEAD" FROM THE RIVERS  
WHICH ARE FAR MORE DETRIMENTAL TO OUR ENVIRONMENT.  
IF WE HAVE ENOUGH MONEY TO WASTE IN OUR BUDGET  
PERHAPS A SELECT GROUP OF RIVERS THAT HAVE SALMON  
WOULD BE A BETTER CHOICE.HOW MANY RIVERS ARE OPEN TO  
SALMON FROM THE OCEAN?HOW DO DAMS HELP THE SALMON?  
NOW AFTER COMPLETING THE STUDY THE DFG WANTS DO  
ANOTHER STUDY..THE COHO SALMON ARE ALSO UNDER  
ATTACK FROM THE JAPANESE AND OTHER COUNTRIES, THAT



USE NETS UP TO 25 MILES LONG TO HARVEST FISH..  
ALSO THE GREAT WHITE HAS BEEN KNOWN TO DINE ON THE  
CO HOE SALMON..

**Press Release** Source: Gold Pan California On Thursday June 9, 2011, 7:55 pm EDT

CONCORD, Calif., June 9, 2011 /PRNewswire/ -- Gold Pan California ([www.goldpancalifornia.com](http://www.goldpancalifornia.com)), a gold mining supply shop located in the Bay Area, is bustling with suction dredge gold miners who are anxiously seeking a last-minute deletion of a math mistake in the current State Budget battle. "This is a new financial disaster headed straight to the heart of the Golden State," says owner Mike Dunn.

What the gold miners and Dunn are in upheaval about is a proposed budget "cut" of a non-existent \$1.8 million deficit in the suction dredging gold mining program.

Dunn says that a consultant preparing this year's budget for the Department of Fish and Game used a 3-year old estimate of costs to arrive at a deficit in the suction mining program. The real cost was later formally determined, and provided by Attorney General Jerry Brown's office.

According to legal correspondence to the Superior Court of California from then-Attorney General Jerry Brown, "As we informed the Court at the hearing, issuance of suction dredge permits is supported chiefly, if not exclusively, by funds received from permit fees."

A second, more precise communication to the Court from Jerry Brown's office stated: "In no uncertain terms, General Fund Monies have not been expended on suction dredge permitting."

If the California Legislature passes the trailer budget bill language, the consequences would be sweeping: 4,000 miners will be put out of work permanently, 15,000 inter-related jobs will be affected, and the entire suction dredge gold mining industry will be killed.

"The task at hand is daunting," Dunn states. "But the disaster awaiting is even worse, so I am trying to reach every Legislator before they go to the floor to vote."

The suction dredge gold mining industry generates \$23 million in California, and supports more than 14 sectors, including restaurants, hardware stores, gas stations and camping outfitters. "These are real mom and pop businesses that rely on miners every season," says Dunn.

There will never be a time when it doesn't make sense for a man

to prospect for gold, and if Mike Dunn is successful in his efforts to stop this bad budget proposal, 4,000 miners will be back at work in November, contributing millions of dollars in gold and paper back to the economy.

Hopefully, former Attorney General Jerry Brown's legal finding will get to Legislators in time to avert a disastrous end to the industry that put California on the map.

About Gold Pan California:

The company was founded in 2008 by Mike Dunn, an international gold mining specialist who has been suction gold dredge mining for 33 years.

For more information visit <http://www.goldpancalifornia.com>

- Logo 72dpi: [Send2PressNewswire.com/image/11-0531-goldpan\\_72dpi.jpg](http://Send2PressNewswire.com/image/11-0531-goldpan_72dpi.jpg)

- RSS News feed for Gold Pan California: <http://send2pressnewswire.com/author/gold-pan-california/feed>

This release was issued on behalf of the above organization by Send2Press(R), a unit of Neotrope(R). <http://www.Send2Press.com>

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

Subject: Status of DFG work on suction dredge EIR and Regulations, June

20, 2011

From: Mark Stopher <[MStopher@dfg.ca.gov](mailto:MStopher@dfg.ca.gov)>

Date: Mon, June 20, 2011 12:00 pm

To: Mark Stopher <[MStopher@dfg.cagov](mailto:MStopher@dfg.cagov)>

Interested Parties

I am receiving quite a few requests for information, so I offer the following update.

The public comment period closed on May 10 and DFG commenced the review of all comments. Over 9,000 email form letters were received opposing any and all suction dredge mining. Several hundred form letters were received through regular mail supporting suction dredging. Many additional letters with substantive and detailed comments were also received. There is a lot of information to sift through, organize

and consider in preparing the Final EIR and Final regulations. We have been and continue to work on those tasks. We said before we expected to complete the regulatory process in November of this year. We are capable of meeting that goal, unless we are directed otherwise by the legislature and the Governor.

Many of you know that the legislature has been considering language which would extend the current moratorium another five years, with certain provisions for ending the moratorium earlier and also restrict the use of State funds to continue the regulatory process.

Budget Trailer Bill AB 120, (amended June 8, 2011), and approved by the Assembly (on June 15) and Senate (on June 10) includes the following language on page 6:

"(12) Existing law designates the issuance by the Department of Fish and Game of permits to operate vacuum or suction dredge equipment to be a project under the California Environmental Quality Act (CEQA), and suspends the issuance of permits, and mining pursuant to a permit, until the department has completed an environmental impact report for the project as ordered by the court in a specified court action. Existing law prohibits the use of any vacuum or suction dredge equipment in any river, stream, or lake, for instream mining purposes, until the Director of Fish and Game certifies to the Secretary of State that (a) the department has completed the environmental review of its existing vacuum or suction dredge equipment regulations as ordered by the court, (b) the department has transmitted for filing with the Secretary of State

a certified copy of new regulations, as necessary, and (c) the new regulations are operative. This bill would modify that moratorium to prohibit the use of vacuum or suction dredge equipment until June 30, 2016, or until the director's certification to the secretary as described above, whichever is earlier. The bill would additionally require the director to certify that the new regulations fully mitigate all identified significant environmental impacts and that a fee structure is in place that will fully cover all costs to the department related to the administration of the program."

I am not aware of any action taken yet by Governor Brown on this bill.

The Senate (SB 98) and Assembly (AB 98) budget bills, which passed both houses on June 15, included the following language:

"The funds appropriated in this item shall not be used by the Department of Fish and Game for suction dredge mining regulation, permitting, or other activities, except litigation and enforcement costs."

Governor Brown vetoed this bill.

It remains unclear when the State budget will be signed by the Governor and take effect. If the above budget language and trailer bill language is ultimately included in the approved budget, DFG's current interpretation is that we must terminate further work on developing a Final EIR and regulations. In the meanwhile we are continuing work on both the Final EIR and regulations.

I have been asked by several members of the public if we can expedite our work so the regulations take effect sooner rather than later, so that we could be finished before being directed to stop work. In my

opinion, that approach is neither feasible or productive. There is simply too much substantive public comment to consider, respond to, and integrate into the Final EIR and regulations. This work takes time and it provides no enduring value if it is not done well.

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

voice 530.225.2275  
fax 530.225.2391  
cell 530.945.1344  
[mstopher@dfg.ca.gov](mailto:mstopher@dfg.ca.gov)

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You received this message because you are subscribed to the Google Groups "CA Suction Dredge EIR" group.

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For more options, visit this group at <http://groups.google.com/group/ca-suction-dredge-eir?hl=en>.

**From:** [roaringcamp@volcano.net](mailto:roaringcamp@volcano.net)  
**To:** [mstopher@dfg.ca.gov](mailto:mstopher@dfg.ca.gov);  
**Subject:** RE: Status of Suction Dredge DSEIR public review  
**Date:** Saturday, June 18, 2011 10:07:23 AM

---

Mr. Stopher

Can you give us here at Roaring Camp any more information on the current status of suction dredging. I appreciate any help you can give.

Kim Lague

Roaring Camp Mining Co.

209 296-4100

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

From: ca-suction-dredge-eir@googlegroups.com

[<mailto:ca-suction-dredge-eir@googlegroups.com>] On Behalf Of Mark Stopher

Sent: Thursday, April 14, 2011 1:31 PM

To: Charlie Watson; Kerwin Krause; John; Joseph McGee; reddy2ctsp@aol.com; Curtis Willie; Charles Huss; Floyd Vaughan; Bonnie Kriens; Chuck Johnson; Tom Harris; Ed; davemack@attglobal.net; Gary West; Jim Hart; Gary Swayne; Dennis Martin; Michael Kellett; filterstone@gmail.com; Jarod Ruffo; Ken and Debbie McMaster; Vince Nelson; Eugene Beley; new49ers@goldgold.com; Blake Harmon; ca-suction-dredge-eir@googlegroups.com; Rich Linden; Steve Lintner; sodman77@hotmail.com; Tom Brenner; Scott Harn; Herb Miller; Pat Keene; Jan Sticha; David Dunham; Lewis Spengler; Richard McCarthy; Wesley Wright; Heidi Walters; Chris McCord; Richard Brubaker; Dave Mack; Barbara Manganello; Cyndi Hillery; Mary Pitto; Stephen Kulieke; D Ray East; Bill Fisher; Scott Fischer; Paul Nasiatka; Marcia Armstrong; Ray Stewart; Jim Foley; Jennifer DeLeon; Wanda Oliver; Elleonore Hizon; CustomerSolutions; Charles N Alpers; Gerald Hobbs; roaring camp; Don Robinson; Martin Nielsen; James Coker; Michael Adams; Manuel Figueiredo; Mike Allen; pdic-1916@yahoo.com; Scott Coykendall; Jim Madden

Cc: John Mattox; Randy Kelly; Michael Stevenson

Subject: Status of Suction Dredge DSEIR public review

Interested Parties

Quite a few of you attended one or more of the five public meetings held to date. Please be aware that a sixth meeting is scheduled for May 10, 2011 from 9:00 to noon in the California Natural Resources Agency auditorium at 1416 Ninth Street in Sacramento. This additional meeting was scheduled to assure compliance with requirements of the Administrative Procedures Act. This meeting will not include a preliminary workshop. There will be a very brief set of opening remarks by the Department of Fish and Game and we will

then go into receiving public comment. The public review period will conclude on May 10, 2011.

The public meetings were attended by more than 700 interested individuals and the speakers supporting restoration of suction dredge mining were clearly in the majority. We have received comments through regular mail, email, fax and hand-delivery; and these represent a wide diversity of perspectives. Usually, the bulk of comments in a public review period arrive just before the period closes. If that holds for this project, I am expecting a significant influx. What we already have is substantial.

In addition to the DSEIR, you may be interested in reviewing additional documents related to the Administrative Procedures Act which are posted on our website <http://www.dfg.ca.gov/suctiondredge/>.

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

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

voice 530.225.2275  
fax 530.225.2391  
cell 530.945.1344

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To unsubscribe from this group, send email to [ca-suction-dredge-eir+unsubscribe@googlegroups.com](mailto:ca-suction-dredge-eir+unsubscribe@googlegroups.com).  
For more options, visit this group at <http://groups.google.com/group/ca-suction-dredge-eir?hl=en>.

**From:** [David West](#)  
**To:** [mstopher@dfg.ca.gov](mailto:mstopher@dfg.ca.gov);  
**Subject:** Soooo????  
**Date:** Saturday, June 18, 2011 12:14:13 AM

---

Hi Mark,

Wondering if you have some clarification on the Gov's veto affect on suction dredging?

Will the EIR be finished "on time" after all?

Do you have an estimate of the earliest that I can get down to CA and start spending some dollars?

Thank you for any update / clarification that you can provide.

David



**From:** [Sherry Andersen](#)  
**To:** [mstopher@dfg.ca.gov](mailto:mstopher@dfg.ca.gov);  
**Subject:** Re: Status of DFG work on suction dredge EIR and Regulations, June 20, 2011  
**Date:** Monday, June 20, 2011 1:45:58 PM

---

Thanks for taking the time to keep us informed.  
Sherry

Sherry Andersen  
Secretary, River City GPAA  
916.812.7813  
[PartyLite.Biz/LightYourWay](#)

**From:** Mark Stopher <MStopher@dfg.ca.gov>  
**To:** Mark Stopher <MStopher@dfg.ca.gov>  
**Sent:** Monday, June 20, 2011 12:00 PM  
**Subject:** Status of DFG work on suction dredge EIR and Regulations, June 20, 2011

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

voice 530.225.2275  
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For more options, visit this group at <http://groups.google.com/group/ca->

suction-dredge-eir?hl=en

**From:** [rick](#)  
**To:** [Mark Stopher;](#)  
**Subject:** Re: Status of DFG work on suction dredge EIR and Regulations, June 20, 2011  
**Date:** Monday, June 20, 2011 2:33:58 PM

---

Mr Stopher, since I seem to have time on my hands and do not believe that you received 9000 emails opposing dredging and only a few hundred supporting it perhaps I can set up an appointment to help recount the letters. All this down time with no gold dredging is giving me an urge to help make some changes in the system. Richard Brubaker

---

PeoplePC Online  
A better way to Internet  
<http://www.peoplepc.com>

**From:** [Mike Carion](#)  
**To:** [Mark Stopher](#);  
**Subject:** Re: Status of DFG work on suction dredge EIR and Regulations, June 20, 2011  
**Date:** Saturday, January 01, 4501 12:00:00 AM

---

Great summary, Mark.

Thank you very much!

>>> Mark Stopher 6/20/2011 12:00 PM >>>  
Interested Parties

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Budget Trailer Bill AB 120, (amended June 8, 2011), and approved by the Assembly (on June 15) and Senate (on June 10) includes the following language on page 6:

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**additionally require the director to certify that the new regulations fully mitigate all identified significant environmental impacts and that a fee structure is in place that will fully cover all costs to the department related to the administration of the program."**

I am not aware of any action taken yet by Governor Brown on this bill.

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

voice 530.225.2275  
fax 530.225.2391  
cell 530.945.1344  
mstopher@dfg.ca.gov

**From:** [Diana Clayton](#)  
**To:** [mstopher@dfg.ca.gov](mailto:mstopher@dfg.ca.gov);  
**Subject:** RE: Status of DFG work on suction dredge EIR and Regulations, June 20, 2011  
**Date:** Monday, June 20, 2011 2:06:25 PM

---

Thank you

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

From: ca-suction-dredge-eir@googlegroups.com  
[<mailto:ca-suction-dredge-eir@googlegroups.com>] On Behalf Of Mark Stopher  
Sent: Monday, June 20, 2011 12:00 PM  
To: Mark Stopher  
Subject: Status of DFG work on suction dredge EIR and Regulations, June 20, 2011

Interested Parties

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voice 530.225.2275  
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--

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To unsubscribe from this group, send email to [ca-suction-dredge-eir+unsubscribe@googlegroups.com](mailto:ca-suction-dredge-eir+unsubscribe@googlegroups.com).  
For more options, visit this group at <http://groups.google.com/group/ca-suction-dredge-eir?hl=en>.

**From:** [chuck@socalsk8andsurf.com](mailto:chuck@socalsk8andsurf.com)  
**To:** [mstopher@dfg.ca.gov](mailto:mstopher@dfg.ca.gov);  
**cc:** [CHUCK DUNN](#); [pat keene](#);  
**Subject:** RE: Status of DFG work on suction dredge EIR and Regulations, June 20, 2011  
**Date:** Monday, June 20, 2011 6:17:19 PM

---

MARK PLEASE READ THIS CHUCK  
I LL BE 74 IN 2016..

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

Subject: THIS WOULD MAKE A GOOD NEWS ITEM..

From: <[chuck@socalsk8andsurf.com](mailto:chuck@socalsk8andsurf.com)>

Date: Fri, June 17, 2011 6:28 pm

To: "FOX " <[stosseltix@foxbusiness.com](mailto:stosseltix@foxbusiness.com)>

IF WE WERE TO BRING A DREDGE TO SACRAMENTO TO SHOW  
LEGISLATORS ,WHAT THIS IS ALL ABOUT WOULD YOU BE  
INTERESTED IN COVERING THE EVENT..

THIS HOW I SEE IT..

AGAIN OUR LEGISLATORS FAILED TO READ A BILL THAT THEY  
RE SO EAGER TO PASS. CLOSING ALL THE RIVERS TO SUCTION  
DREDGING WILL NOT HELP THE SALMON. ESPECIALLY THE  
ONES THAT FLOW EASTWARD FROM THE EAST SIDE OF THE  
SIERRAS. NOR WILL IT DO MUCH ON ALL THE WESTERN  
FLOWING RIVERS THAT ARE DAMNED UP WITHOUT FISH  
LADDERS. THE KERN RIVER FOR EXAMPLE HAS NO WAY IN HELL  
FOR A SALMON TO SWIM UP STREAM FROM THE OCEAN. WE  
HAVE NO MONEY TO KEEP PRISONERS IN JAIL, YET WE WILL  
FUND A STUDY AND CRIPPLE AN INDUSTRY THAT PROVIDES 60  
MILLION DOLLARS A YEAR TO OUR CALIFORNIA ECONOMY. TO  
MY KNOWLEDGE A ENVIRONMENTAL REPORT ON SUCTION  
GOLD DREDGING WAS COMPLETED BY THE STATE IN 1994.  
DREDGERS TAKE OUT "MERCURY AND LEAD" FROM THE RIVERS  
WHICH ARE FAR MORE DETRIMENTAL TO OUR ENVIRONMENT.  
IF WE HAVE ENOUGH MONEY TO WASTE IN OUR BUDGET  
PERHAPS A SELECT GROUP OF RIVERS THAT HAVE SALMON  
WOULD BE A BETTER CHOICE.HOW MANY RIVERS ARE OPEN TO  
SALMON FROM THE OCEAN?HOW DO DAMS HELP THE SALMON?  
NOW AFTER COMPLETING THE STUDY THE DFG WANTS DO  
ANOTHER STUDY..THE COHO SALMON ARE ALSO UNDER  
ATTACK FROM THE JAPANESE AND OTHER COUNTRIES, THAT

USE NETS UP TO 25 MILES LONG TO HARVEST FISH..  
ALSO THE GREAT WHITE HAS BEEN KNOWN TO DINE ON THE  
CO HOE SALMON..

**Press Release** Source: Gold Pan California On Thursday June 9, 2011, 7:55 pm EDT

CONCORD, Calif., June 9, 2011 /PRNewswire/ -- Gold Pan California ([www.goldpancalifornia.com](http://www.goldpancalifornia.com)), a gold mining supply shop located in the Bay Area, is bustling with suction dredge gold miners who are anxiously seeking a last-minute deletion of a math mistake in the current State Budget battle. "This is a new financial disaster headed straight to the heart of the Golden State," says owner Mike Dunn.

What the gold miners and Dunn are in upheaval about is a proposed budget "cut" of a non-existent \$1.8 million deficit in the suction dredging gold mining program.

Dunn says that a consultant preparing this year's budget for the Department of Fish and Game used a 3-year old estimate of costs to arrive at a deficit in the suction mining program. The real cost was later formally determined, and provided by Attorney General Jerry Brown's office.

According to legal correspondence to the Superior Court of California from then-Attorney General Jerry Brown, "As we informed the Court at the hearing, issuance of suction dredge permits is supported chiefly, if not exclusively, by funds received from permit fees."

A second, more precise communication to the Court from Jerry Brown's office stated: "In no uncertain terms, General Fund Monies have not been expended on suction dredge permitting."

If the California Legislature passes the trailer budget bill language, the consequences would be sweeping: 4,000 miners will be put out of work permanently, 15,000 inter-related jobs will be affected, and the entire suction dredge gold mining industry will be killed.

"The task at hand is daunting," Dunn states. "But the disaster awaiting is even worse, so I am trying to reach every Legislator before they go to the floor to vote."

The suction dredge gold mining industry generates \$23 million in California, and supports more than 14 sectors, including restaurants, hardware stores, gas stations and camping outfitters. "These are real mom and pop businesses that rely on miners every season," says Dunn.

There will never be a time when it doesn't make sense for a man

to prospect for gold, and if Mike Dunn is successful in his efforts to stop this bad budget proposal, 4,000 miners will be back at work in November, contributing millions of dollars in gold and paper back to the economy.

Hopefully, former Attorney General Jerry Brown's legal finding will get to Legislators in time to avert a disastrous end to the industry that put California on the map.

About Gold Pan California:

The company was founded in 2008 by Mike Dunn, an international gold mining specialist who has been suction gold dredge mining for 33 years.

For more information visit <http://www.goldpancalifornia.com>

- Logo 72dpi: [Send2PressNewswire.com/image/11-0531-goldpan\\_72dpi.jpg](http://Send2PressNewswire.com/image/11-0531-goldpan_72dpi.jpg)

- RSS News feed for Gold Pan California: <http://send2pressnewswire.com/author/gold-pan-california/feed>

This release was issued on behalf of the above organization by Send2Press(R), a unit of Neotrope(R). <http://www.Send2Press.com>

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

Subject: Status of DFG work on suction dredge EIR and Regulations, June

20, 2011

From: Mark Stopher <[MStopher@dfg.ca.gov](mailto:MStopher@dfg.ca.gov)>

Date: Mon, June 20, 2011 12:00 pm

To: Mark Stopher <[MStopher@dfg.cagov](mailto:MStopher@dfg.cagov)>

Interested Parties

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Mark Stopher  
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voice 530.225.2275  
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--

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**From:** [Rachel Dunn](#)  
**To:** [Mark Stopher](#);  
**Subject:** Re: Status of DFG work on suction dredge EIR and Regulations, June 20, 2011  
**Date:** Monday, June 20, 2011 1:25:03 PM

---

Hi Mark,

I have a question about the comments to the EIR. I was burned out that the DFG didn't consult with a dredger on the study, and wrote that in my comments. While the Dept is going through and considering the comments, is there any opportunity to participate in this part of the process?

If Horizon is interviewing people, looking at the equipment, or wants to observe dredging measurements in the water (in OR) etc, we would like to participate. My husband is a serious dredger and can discuss in depth the different types of equipment, processes and geographical info, and he has specific knowledge about certain waters (Trinity, Feather, Indian, Merced) plus smaller creeks.

Please let me know if this is possible.

Thanks,  
Rachel

--- On **Mon, 6/20/11, Mark Stopher**  
**<MStopher@dfg.ca.gov>** wrote:

From: Mark Stopher <MStopher@dfg.ca.gov>  
Subject: Status of DFG work on suction dredge EIR and Regulations, June 20, 2011  
To: "Mark Stopher" <MStopher@dfg.ca.gov>  
Date: Monday, June 20, 2011, 12:00 PM

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[mstopher@dfg.ca.gov](mailto:mstopher@dfg.ca.gov)

**From:** [racheldunn2010@yahoo.com](mailto:racheldunn2010@yahoo.com)  
**To:** [Mark Stopher](#);  
**Subject:** Re: Status of DFG work on suction dredge EIR and Regulations, June20, 2011  
**Date:** Monday, June 20, 2011 12:26:06 PM

---

Hi Mark

Thanks for sending this update out, I think it will be very helpful!

Rachel

Sent from my Verizon Wireless BlackBerry

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

From: Mark Stopher <MStopher@dfg.ca.gov>

Date: Mon, 20 Jun 2011 12:00:06

To: Mark Stopher <MStopher@dfg.ca.gov>

Subject: Status of DFG work on suction dredge EIR and Regulations, June 20, 2011

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voice 530.225.2275  
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mstopher@dfg.ca.gov

**From:** [Tim J Livingston](#)  
**To:** [mstopher@dfg.ca.gov](mailto:mstopher@dfg.ca.gov);  
**Subject:** RE: Status of DFG work on suction dredge EIR and Regulations, June 20, 2011  
**Date:** Monday, June 20, 2011 12:19:43 PM

---

Mark

Thanks for the update.

Tim Livingston

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

From: ca-suction-dredge-eir@googlegroups.com  
[<mailto:ca-suction-dredge-eir@googlegroups.com>] On Behalf Of Mark  
Stopher  
Sent: Monday, June 20, 2011 12:00 PM  
To: Mark Stopher  
Subject: Status of DFG work on suction dredge EIR and Regulations, June  
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simply too much substantive public comment to consider, respond to, and integrate into the Final EIR and regulations. This work takes time and it provides no enduring value if it is not done well.

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

voice 530.225.2275  
fax 530.225.2391  
cell 530.945.1344  
mstopher@dfg.ca.gov

--

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For more options, visit this group at

<http://groups.google.com/group/ca-suction-dredge-eir?hl=en>.

**From:** [Kent Mason](#)  
**To:** [mstopher@dfg.ca.gov](mailto:mstopher@dfg.ca.gov);  
**Subject:** Re: Status of DFG work on suction dredge EIR and Regulations, June 20, 2011  
**Date:** Monday, June 20, 2011 2:39:52 PM

---

Mark,

Thank-you for the update...

**Kent R. Mason**  
**Maintenance Supervisor**  
**Sundance Apartments**  
**Work-661-831-3182**  
**Fax-661-831-3566**  
**Kentsundance@yahoo.com**

---

**From:** Mark Stopher <MStopher@dfg.cagov>  
**To:** Mark Stopher <MStopher@dfg.ca.gov>  
**Sent:** Mon, June 20, 2011 12:00:06 PM  
**Subject:** Status of DFG work on suction dredge EIR and Regulations, June 20, 2011

Interested Parties

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

voice 530.225.2275  
fax 530.225.2391  
cell 530.945.1344  
[mstopher@dfg.ca.gov](mailto:mstopher@dfg.ca.gov)

--

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For more options, visit this group at <http://groups.google.com/group/ca-suction-dredge-eir?hl=en>.

**From:** [Ron Morris](#)  
**To:** [mstopher@dfg.ca.gov](mailto:mstopher@dfg.ca.gov);  
**cc:** [goldminer012@yahoo.com](mailto:goldminer012@yahoo.com);  
**Subject:** Re: Status of DFG work on suction dredge EIR and Regulations, June 20, 2011  
**Date:** Monday, June 20, 2011 11:23:25 PM

---

Dear Mark Stopher,

In your email that you have sent to us regarding the EIR, I have noticed that you have mentioned that you have received " Over 9,000 email form letters were received opposing any and all suction dredge mining. Several hundred form letters were received through regular mail supporting suction dredging. Many additional letters with substantive and detailed comments were also received. There is a lot of information to sift through, organize and consider in preparing the Final EIR and Final regulations."

I believe that I am correct in that the COURT ordered you to complete an EIR, to show or "PROVE" that the argument the Department of FISH and GAME made in court that "DREDGING IS DELETERIOUS TO FISH" Your EIR does NOT show that Dredging is DELETERIOUS to fish. THE COURT WAS "NOT" CONCERNED IF THE PUBLIC OPPOSED DREDGING! THEY WANTED SCIENCE!! NOT SPECULATION!! NOT SOMEONE'S OPINION!! BUT REAL SCIENCE THAT WHAT THE DEPARTMENT TOLD THE COURT IS TRUE THAT DREDGING IS DELETERIOUS TO FISH.

I for one will not stand by and watch "YOU" and The Department of fish and game close down Dredging because of what some Radical ENVIRONMENTALIST agenda or opinion is!!! Lawsuits will be filed costing California a lot of money in which your state does not have any of, all because of PUBLIC OPINION. I have a public opinion, that fishermen walk all over the REDDS and kill the salmon eggs while fishing, that there is more oil and gas being put into lakes and rivers in the country by allowing gas engines to be operated in them, this includes 2 stroke and 4 stroke motors. That the fishing license cannot possibly pay for the Fish and Game Wardens salary and program to patrol and also stock the streams and lakes with fish, so that the fishermen can KILL THE FISH!!!!

WE DREDGERS DO NOT KILL FISH!!!!!! Does the DEPT stock the rivers with GOLD??

I have so much more to say, but nobody gives a crap about my opinion, because I am just a DREDGER!! I seriously doubt you read this, so I just wasted my breath.

Best Regards,

Ron Morris  
7720 Garden Grove ct  
White City, OR 97503

--- On **Mon, 6/20/11**, **Mark Stopher** <MStopher@dfg.ca.gov> wrote:

From: Mark Stopher <MStopher@dfg.ca.gov>  
Subject: Status of DFG work on suction dredge EIR and Regulations, June 20, 2011  
To: "Mark Stopher" <MStopher@dfg.ca.gov>  
Date: Monday, June 20, 2011, 7:00 PM

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601 Locust Street  
Redding, CA 96001



voice 530.225.2275  
fax 530.225.2391  
cell 530.945.1344  
mstopher@dfg.ca.gov

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**From:** [summerhillfarmpv@aol.com](mailto:summerhillfarmpv@aol.com)  
**To:** [mstopher@dfg.ca.gov](mailto:mstopher@dfg.ca.gov)  
**Subject:** Suction Dredging  
**Date:** Monday, June 20, 2011 8:13:21 PM

---

Good public comments, Mark. Thanks for sending this out and not caving to pressure to speed the process. We spent much time putting together substantive comments to assist DFG in making the regulations and EIR protective of fishery resources and habitats. We hope these will be taken in that context and reviewed carefully as part of the review process you discuss.

We support your position.

Mark Rockwell

Federation of Fly Fishers

Endangered Species Coalition

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

**Subject:**Status of DFG work on suction dredge EIR and Regulations, June 20, 2011

**Date:**Mon, 20 Jun 2011 12:00:06 -0700

**From:**Mark Stopher <[MStopher@dfg.ca.gov](mailto:MStopher@dfg.ca.gov)>

**Reply-**[mstopher@dfg.ca.gov](mailto:mstopher@dfg.ca.gov)

**To:**

**To:**Mark Stopher <[MStopher@dfg.ca.gov](mailto:MStopher@dfg.ca.gov)>

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California Department of Fish and Game  
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Redding, CA 96001

voice 530.225.2275  
fax 530.225.2391  
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env-trinity@velocipede.dcn.davis.ca.us  
<http://www2.dcn.org/mailman/listinfo/env-trinity>

**From:** [Finch, Michelle](#)  
**To:** [mstopher@dfg.ca.gov](mailto:mstopher@dfg.ca.gov);  
**Subject:** Suction Dredge permits  
**Date:** Thursday, July 21, 2011 1:44:49 PM

---

Dear Mark Stopher,

I have been getting inquires regarding the status of the Environmental Impact Report for the reinstatement of dredging permits. Can you give me an update with information that I may pass to our constituents.

I appreciate you time

Thank-you

Michelle Finch  
Case Worker-Constituent Services  
Office of Assemblymember Kristin Olsen  
25th Assembly District

[Michelle.Finch@asm.ca.gov](mailto:Michelle.Finch@asm.ca.gov)

Office: (209) 576-6425

Fax :(209) 576-6426

3719 Tully Road Suite C

Modesto, Ca. 95356

**AMADOR COUNTY  
ADMINISTRATIVE AGENCY**

County Administration Center  
810 Court Street • Jackson, CA 95642-9534  
Telephone: (209) 223-6470  
Facsimile: (209) 257-0619  
Website: www.co.amador.ca.us

**RECEIVED**

JUN 27 2011

June 15, 2011

DFG  
DIRECTOR'S OFFICE

The Honorable Senator Barbara Boxer  
501 I Street, Suite 7-600  
Sacramento, CA 95814

RECEIVED  
CALIFORNIA  
FISH AND GAME  
COMMISSION  
2011 JUN 23 PM 2:44

Re: SB 670 – Suction Dredging

Dear Senator Boxer,

The Amador County Board of Supervisors voted unanimously on June 14, 2011 to oppose Senate Bill 670 and to send this letter asking that you support the Gold Country in opposition to this bill.

It appears to the Board that, by restricting funding for the permitting process, the California Legislature is attempting to permanently end all suction dredging in the State without having the political courage to pass legislation that indicates that such a ban is being passed.

Mother Lode residents have a very deep respect for gold mines, given the history that they have brought to this part of the State, and those residents do not want to see this part of our history, as well as our current economy, banished forever for political reasons that have very little to do with actual science.


A moratorium on suction dredging permits was previously enacted by the California Legislature in 2009 while an EIR was completed to identify the impacts associated with suction dredging, as well as potential means to mitigate those impacts. The science associated with those reports allow for suction dredging to proceed in a manner that is compliant with environmental regulations. All we are asking is that the permitting process be followed through for suction dredging just like it is for every other permitted activity, and that the process and mitigation identified in the EIR be followed and allowed to be permitted.

As a local agency, we acutely understand the potential for the loss of revenue when fees for services do not adequately offset the costs to provide those services. If this is indeed a concern for the State, then please consider raising the fees to an appropriate amount that will cover the costs rather than bringing an end to a valuable operation in many rural communities.

cc: Susan LaGrande  
John Mattox  
Mark Stogher

Again, we are concerned about the end to suction dredge mining and the impacts to our economy, our history, and our way of life that would be brought about by the passage of SB 670, and we ask that you stand with Gold Country residents everywhere in opposition to this bill.

Sincerely,



John Plasse, Chairman  
Amador County Board of Supervisors

cc: Governor Jerry Brown  
California State Association of Counties  
Regional Council of Rural Counties  
California State Department of Fish and Game ✓  
Federal Mining Bureau  
file

**From:** [Michael Owens](#)  
**To:** [mstopher@dfg.ca.gov](mailto:mstopher@dfg.ca.gov);  
**Subject:** suction dredging  
**Date:** Wednesday, June 29, 2011 8:48:26 AM

---

Just a quick question

Is ANY suction dredging allowed on ANY stream in CA?

I know, a quick question with a possibly LOOOONG answer.

Thanks

Mike

--



**From:** [John E. Smith](#)  
**To:** [Marc Stopher; Director@dfg.ca.gov;](#)  
**Subject:** Definition of Booming, Request For Directive  
**Date:** Monday, July 11, 2011 4:04:15 PM

---

Dear Mr. McCamman And Mr. Stopher,

I have been informed by Mr. John Mattox (Senior Staff Counsel) that he has forwarded my letter of July 5, 2011 to you and the Director for action.

As I am sure you are aware, the current Moratorium and prohibition (as currently codified) uses the term

"*Suction Dredge* \_\_\_\_\_", **NOT**

"*Suction Dredge*

*Equipment*

\_\_\_\_\_"; to interpret the language as containing the latter term is to exceed the legal authority granted by the actual text of the statute. Under California Fish and Game Code Section 5653(d), a

"*Suction Dredge* \_\_\_\_\_" is

prohibited within 100 yards of any active waterway --

"*Suction Dredge*

*Equipment*

\_\_\_\_\_ " is not, unless it is actually a \_\_\_\_\_".

Component parts, unless present in their entirety, do not constitute a "Suction Dredge".

**Since the entire body of California law fails to define the term "*Suction Dredge* \_\_\_\_\_",**

**your department lacks legal authority to issue citations for the possession or use of anything other than a complete suction dredge as defined by common usage of the term. A suction dredge is commonly defined as a floating platform(s) which contain one or more motor/pump units, pontoons, a gold recovery mechanism, and a suction nozzle to remove material from the bottom of a stream, river or lake.**

**I am sending you this email in order to clarify the relief requested in my letter to Mr. Mattox as relates to the mining method commonly referred to as "booming", and to make it crystal clear that I am asking for an official "Policy Directive" from the Director to your department's law enforcement dictating the following points:**

- . A suction dredge is commonly defined as a floating platform(s) which contain one or more motor/ pump units, pontoons, a gold recovery mechanism, and a suction nozzle to remove material from the bottom of a stream, river or lake;**
- . Mining equipment which is alleged to be a "Suction Dredge" must meet *at least* \_\_\_\_\_ the common definition of a "Suction Dredge" as listed above;**
- . Mining equipment which is alleged to be a "Suction Dredge" must consist of all of all of the component parts – either attached or separate but within very close proximity to each other;**
- . Citations *ARE NOT* \_\_\_\_\_ to be issued in the case of a miner using a "booming" sluice, suction hose and separate water pump unless such equipment is actually seen to be used to remove material from the active waterway;**
- . Anyone engaged in "booming" is not to be subject to any form of intimidation by Law Enforcement.**

**Thank you for your cooperation in this matter.**

**John E. Smith  
c/o New 49'ers Mining Association  
27 Davis Road  
Happy Camp, CA 96039  
Telephone (661)644-9776**

Email [j.everett.smith@gmail.com](mailto:j.everett.smith@gmail.com)

**From:** [CJ](#)  
**To:** [Mark Stopher](#);  
**cc:** [Joseph Greene](#); [Jim Aubert](#); [Ric Costales](#); [Rachael Dunn](#); [Jim Foley](#);  
[Chip Hess](#); [Gerald Hobbs](#); [Pat Keene](#); [Ray Nutting](#); [Ken Oliver](#);  
[Walt Wegner](#); [George Wheeldon](#); [Dave Mack](#);  
**Subject:** Re: AB 120 - Enrolled  
**Date:** Wednesday, July 13, 2011 3:08:18 PM

---

Mark,

Thanks for the update.

How is the EIR process going? Seems you have plenty of scientific data to help fully mitigate mercury issues especially if you consider selenium mercury antagonism. A new article was or is in the process of being published that experts in the field say is the definitive proof that selenium is protective of mercury poisoning. Research completed by Dr. Peterson USEPA presented to CDFG PAC this spring shows that California has adequate selenium to fully protect fish/wildlife and human health from mercury poisoning.

Please do not let this proven science slip through the cracks.

Claudia Wise

Physical Scientist  
USEPA retired

--- On **Wed, 7/13/11, Mark Stopher** <[MStopher@dfg.ca.gov](mailto:MStopher@dfg.ca.gov)> wrote:

From: Mark Stopher <[MStopher@dfg.ca.gov](mailto:MStopher@dfg.ca.gov)>  
Subject: AB 120 - Enrolled  
To: "Mark Stopher" <[MStopher@dfg.ca.gov](mailto:MStopher@dfg.ca.gov)>  
Date: Wednesday, July 13, 2011, 11:49 AM

Interested Parties,

The legislative website [http://www.leginfo.ca.gov/cgi-bin/postquery?bill\\_number=ab\\_120&sess=CUR&house=B&author=committee\\_on\\_budget](http://www.leginfo.ca.gov/cgi-bin/postquery?bill_number=ab_120&sess=CUR&house=B&author=committee_on_budget) indicates that AB 120 was enrolled on July 12. I understand that to mean that it has gone to the Governor's Office for his consideration. I understand the Governor has 12 days to approve or veto legislation. I don't know for sure which date ends the 12 day period. If he takes no action, it is automatically approved.

Mark Stopher  
Environmental Program Manager

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voice 530.225.2275  
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**From:** [CJ](#)  
**To:** [Mark Stopher;](#)  
**Subject:** Re: AB 120 - Enrolled  
**Date:** Wednesday, July 13, 2011 6:53:00 PM

---

Mark,

Yes, I will send you a copy as soon as I receive it.

Claudia

--- On **Wed, 7/13/11, Mark Stopher**  
**<MStopher@dfg.ca.gov>**

wrote:

From: Mark Stopher <MStopher@dfg.ca.gov>  
Subject: Re: AB 120 - Enrolled  
To: "CJ" <notsowise\_55@yahoo.com>  
Date: Wednesday, July 13, 2011, 3:19 PM

Claudia

If you have or receive a copy of the publication can you forward it to me? Thanks

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

voice 530.225.2275  
fax 530.225.2391  
cell 530.945.1344  
[mstopher@dfg.ca.gov](mailto:mstopher@dfg.ca.gov)

>>> CJ <[notsowise\\_55@yahoo.com](mailto:notsowise_55@yahoo.com)> 7/13/2011 3:08 PM >>>

Mark,

Thanks for the update.

How is the EIR process going? Seems you have plenty of scientific data to help fully mitigate mercury issues especially if you consider selenium

mercury antagonism. A new article was or is in the process of being published that experts in the field say is the definitive proof that selenium is protective of mercury poisoning. Research completed by Dr. Peterson USEPA presented to CDFG PAC this spring shows that California has adequate selenium to fully protect fish/wildlife and human health from mercury poisoning.

Please do not let this proven science slip through the cracks.

Claudia Wise

Physical

Scientist USEPA retired

--- On Wed, 7/13/11, Mark Stopher <[MStopher@dfg.ca.gov](mailto:MStopher@dfg.ca.gov)> wrote:

From: Mark Stopher <[MStopher@dfg.ca.gov](mailto:MStopher@dfg.ca.gov)>

Subject: AB 120 - Enrolled

To: "Mark Stopher" <[MStopher@dfg.ca.gov](mailto:MStopher@dfg.ca.gov)>

Date: Wednesday, July 13, 2011, 11:49 AM

Interested Parties,

The legislative website [http://www.leginfo.ca.gov/cgi-bin/postquery?bill\\_number=ab\\_120&sess=CUR&house=B&author=committee\\_on\\_budget](http://www.leginfo.ca.gov/cgi-bin/postquery?bill_number=ab_120&sess=CUR&house=B&author=committee_on_budget) indicates that AB 120 was enrolled on July 12. I understand that to mean that it has gone to the Governor's Office for his consideration. I understand the Governor has 12 days to approve or veto legislation. I don't know for sure which date ends the 12 day period. If he takes no action, it is automatically approved.

Mark Stopher

Environmental Program Manager

California Department of Fish and Game

601

Locust Street

Redding, CA 96001

voice 530.225.2275

fax 530.225.2391

cell 530.945.1344

[mstopher@dfg.ca.gov](mailto:mstopher@dfg.ca.gov)

**From:** [Eugene Beley](#)  
**To:** [MStopher@dfg.ca.gov](mailto:MStopher@dfg.ca.gov);  
**Subject:** AB #120  
**Date:** Tuesday, July 19, 2011 3:34:59 PM

---

Hi Mark,

Please take a look at the following links in regards to what started SB 670, and AB 120.

It's amazing what lengths are taking to eliminate the rights of thousands of hard working miners and prospectors that are suppose to be protected under the 1872 mining law.

<http://www.youtube.com/watch?v=oWHiJiSRJT0>

<http://wwwyoutube.com/watch?v=Af9-dvn4XY0>

Thanks,  
Eugene Beley  
818-887-2923



**From:** [Randy Davis](#)  
**To:** [mstopher@dfg.ca.gov](mailto:mstopher@dfg.ca.gov);  
**Subject:** Dredging & 1872 Mining Law  
**Date:** Tuesday, July 19, 2011 7:22:55 PM

---

Good Morning Mark;

I have finally read all the info and so-called research and have been trying to keep up with the water resources peoples determination and have found only one thing. NOTHING is based on any science only SPECULATION and SUPPOSITION, MISINFORMATION and possible OUTRIGHT LIES including the water people That no conclusion can be made.

The more I have studied the more I find it was impossible to come to any conclusion within the scoping period and even the extended time period, There is just too much JUNK SCIENCE ! No body knows a single bit of truth. Now after watching a video of Kurak tribe and how they use a non native species (Koho Salmon introduced in the 1800s.) as a spotted owl surrogate to remove all dredgers and other resource users from the rivers.

I have come to the conclusion that there should be "No Action Taken" and revert back to 1994 regulations.

Knowing how the dredging moratorium is in violation of the 1872 Mining Law I will be putting one of my dredges into the water within a week. The 1872 Mining Law gives me full protection to mine my mining claims, it does not specify in which manner I am to do so. In a local court or possible Federal Court, this is where I would win a legal battle against the dredging moratorium.

Sincerely,  
Randy Davis  
rid2222@newdaybb.net

**From:** [Finch, Michelle](#)  
**To:** [mstopher@dfg.ca.gov](mailto:mstopher@dfg.ca.gov);  
**Subject:** Suction Dredge permits  
**Date:** Thursday, July 21, 2011 1:44:49 PM

---

Dear Mark Stopher,

I have been getting inquires regarding the status of the Environmental Impact Report for the reinstatement of dredging permits. Can you give me an update with information that I may pass to our constituents.

I appreciate you time

Thank-you

Michelle Finch  
Case Worker-Constituent Services  
Office of Assemblymember Kristin Olsen  
25th Assembly District

[Michelle.Finch@asm.ca.gov](mailto:Michelle.Finch@asm.ca.gov)

Office: (209) 576-6425

Fax :(209) 576-6426

3719 Tully Road Suite C

Modesto, Ca. 95356

**From:** [Dave](#)  
**To:** [mstopher@dfg.ca.gov](mailto:mstopher@dfg.ca.gov);  
**Subject:** RE: Suction dredge status July 26, 2011  
**Date:** Tuesday, July 26, 2011 4:20:07 PM

---

We just got screwed didn't we Mark.

Scientists to inspect each dredge site before issuing permits? For a 4" dredge? Permits will be what? \$1,000 each or more? All that to be able to dredge in September for maybe 3 weeks before the first snows might fall and of course the water will be too low to dredge in September anyway.

Do you actually know how few dredges are actually running each summer? About 20% of what was reported. Everyone acted ignorantly believing by inflating the reported amount they dredged it would show how important of a financial impact this would have. In effect, they made it look like there are dredgers in the water every 100 yards all summer. How sad. The truth is about 20% of the permits are never even used....jobs, vacation, family....it all gets rearranged and plans fall apart. Another 50% may dredge for a couple of weeks on summer vacation. And the last 30%...that's a mixed bag of full time dredgers and folks who have the summer off and they might dredge 6-10 weeks a summer. All you have to do is go look....its all claimed but its all quiet 95% of the time.

Ya, our little group just got in the way of a political freight train....again, how sad and unjust.

Sincerely,  
Dave Antonucci  
775-220-7129

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

From: [ca-suction-dredge-eir@googlegroups.com](mailto:ca-suction-dredge-eir@googlegroups.com)  
[<mailto:ca-suction-dredge-eir@googlegroups.com>] On Behalf Of Mark Stopher  
Sent: Tuesday, July 26, 2011 3:49 PM  
To: Mark Stopher  
Subject: Suction dredge status July 26, 2011

Interested Parties

Today, July 26, 2011, Assembly Bill 120 was approved by Governor Brown. This legislation amends seven different codes within California State law including the Fish and Game Code. Two paragraphs in this bill refer to suction dredge mining and have substantial impacts on the process to conduct environmental review and adopt amended regulations guiding

suction dredge mining in California.

The Department of Fish and Game released draft regulations and a related Draft Subsequent Environmental Impact Report (SEIR) for public review on February 28, 2011. We held six public meetings and accepted public comments through May 10, 2011. At that time we projected that we would be adopting new regulations and certifying the Final SEIR by the end of 2011. This would then have permitted the sale of suction dredge permits under newly adopted regulations.

Assembly Bill 120 affects this effort in four important ways.

First, it establishes an end date for the current moratorium of June 30, 2016. The current moratorium was established by SB 670, and took effect on August 9, 2009, without any specific end date. The new law specifies that the moratorium will end on June 30, 2016, regardless of whether DFG completes court-ordered environmental review of its existing permitting program or adopts new regulations. Of course, further legislation or action by the courts could modify that circumstance.

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permitting program is prescribed by statute. Any change to that structure is beyond the authority of DFG and any such change will require action by the California Legislature and related approval by the Governor. Because of the legislative calendar for submittal of new legislation and the legislative process itself, it is very unlikely that any change to the existing fee structure will occur within the 2011 calendar year.

Finally, the previous moratorium established by SB 670 was clear that DFG needed to take several actions (i.e. comply with CEQA and adopt amended regulations) which would then allow suction dredge mining to resume, under the new regulations. Said another way, DFG had the final State approval to complete the process, subject only to the Alameda County Superior Court's concurrence. AB 120 adds a legislative step, described in the previous paragraph. Simply put, the legislature will need to affirmatively approve a new fee structure, before suction dredge mining can resume under new regulations. The perspectives of legislators about sufficiency of a fee structure and suction dredge mining generally will affect the probability of such legislation being approved.

With this set of new facts in front of DFG, we are evaluating the extent to which the work we have already done can be used under the requirements of AB 120, and how we might proceed. We do not yet have a revised workplan or schedule. However, our previous projection that this process would be complete by the end of 2011 is no longer viable. It will likely be several weeks from now before we have determined what we will need to proceed and how we can do so. I will provide additional information to the recipients of this message when there is something new to report.

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

voice 530.225.2275  
fax 530.225.2391  
cell 530.945.1344  
mstopher@dfg.ca.gov

--

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For more options, visit this group at

<http://groups.google.com/group/ca-suction-dredge-eir?hl=en>.

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No virus found in this message.

Checked by AVG - [www.avg.com](http://www.avg.com)

Version: 10.0.1390 / Virus Database: 1518/3789 - Release Date: 07/26/11

**From:** [Diana Clayton](#)  
**To:** [mstopher@dfg.ca.gov](mailto:mstopher@dfg.ca.gov);  
**Subject:** RE: Suction dredge status July 26, 2011  
**Date:** Tuesday, July 26, 2011 6:00:28 PM

---

Mark, This news is disappointing, and we appreciate you keeping us up to date on the issue.

Cc: shasta Miners  
Shasta Miners and Prospectors  
Diana Clayton, M.A.  
Newsletter Editor  
Tel: (530) 222-6070  
Cell: (530)524-1226  
Email: [dianaeclayton@aol.com](mailto:dianaeclayton@aol.com)  
Mailing Address:  
SM&P  
P.O.Box 10929  
Anderson, CA 96007

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

From: [ca-suction-dredge-eir@googlegroups.com](mailto:ca-suction-dredge-eir@googlegroups.com)  
[<mailto:ca-suction-dredge-eir@googlegroups.com>] On Behalf Of Mark Stopher  
Sent: Tuesday, July 26, 2011 3:49 PM  
To: Mark Stopher  
Subject: Suction dredge status July 26, 2011

Interested Parties

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

voice 530.225.2275  
fax 530.225.2391  
cell 530.945.1344  
mstopher@dfg.ca.gov

--

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For more options, visit this group at

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**From:** [Mark Dowdle - TCRCD](#)  
**To:** [mstopher@dfg.ca.gov](mailto:mstopher@dfg.ca.gov);  
**Subject:** Thank you for doing an excellent job keeping all of us so well informed  
**Date:** Tuesday, July 26, 2011 6:12:06 PM

---

Mark,  
Thank you for doing such a superb job in communicating to all interested parties the many aspects of this process. It certainly can't be easy to do it so well. You are appreciated.

Best regards,

Mark

Mark Dowdle  
Trinity County RCD  
[www.tcrd.net](http://www.tcrd.net)

**From:** [Steve Evans](#)  
**To:** [Mark Stopher](#);  
**Subject:** RE: Suction dredge status July 26, 2011  
**Date:** Tuesday, July 26, 2011 5:10:25 PM

---

Instead of hunting up a definition from other statutes or creating one that may support the agency's preconceptions, I suggest that DFG simply use the plain language definition of "fully mitigate all significant impacts."

Steven L. Evans  
Wild Rivers Project Director  
Friends of the River  
1418 20th Street - Suite 100, Sacramento, CA 95814  
Phone: (916) 442-3155, Ext. 221  
Fax; (916) 442-3396  
Email: [sevans@friendsoftheriver.org](mailto:sevans@friendsoftheriver.org)  
Web Site: [www.friendsoftheriver.org](http://www.friendsoftheriver.org)

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

From: Mark Stopher [<mailto:MStopher@dfg.ca.gov>]  
Sent: Tue 7/26/2011 3:49 PM  
To: Mark Stopher  
Subject: Suction dredge status July 26, 2011

Interested Parties

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

voice 530.225.2275  
fax 530.225.2391  
cell 530.945.1344  
mstopher@dfg.ca.gov

**From:** [yrchiro@aol.com](mailto:yrchiro@aol.com)  
**To:** [MStopher@dfg.ca.gov](mailto:MStopher@dfg.ca.gov);  
**Subject:** Re: Suction dredge status July 26, 2011  
**Date:** Tuesday, July 26, 2011 4:49:44 PM

---

Dear Mark,

Thanks for your update.

It is beyond frustrating that suction dredging has been curtailed under these circumstances in California. When you consider what has happened in the rivers this season with the high flows and turbidity, how can anyone assume a few recreational suction dredgers are going to do significant damage when the water level drops back a bit?

You must agree this is nonsense?

Thanks again for you update.

Dr Douglas Ferguson

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

From: Mark Stopher <[MStopher@dfg.ca.gov](mailto:MStopher@dfg.ca.gov)>  
To: Mark Stopher <[MStopher@dfg.ca.gov](mailto:MStopher@dfg.ca.gov)>  
Sent: Tue, Jul 26, 2011 3:50 pm  
Subject: Suction dredge status July 26, 2011

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Environmental Program Manager  
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For more options, visit this group at

<http://groups.google.com/group/ca-suction-dredge-eir?hl=en>.

**From:** [Bill Fisher](#)  
**To:** [Mark Stopher](#);  
**Subject:** Re: Suction dredge status July 26, 2011  
**Date:** Tuesday, July 26, 2011 6:31:03 PM

---

Thanks Mark. Bill Fisher

---

**From:** Mark Stopher <MStopher@dfg.ca.gov>  
**To:** Mark Stopher <MStopher@dfg.ca.gov>  
**Sent:** Tuesday, July 26, 2011 3:49 PM  
**Subject:** Suction dredge status July 26, 2011

### Interested Parties

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

voice 530.225.2275

fax 530.225.2391

cell 530.945.1344

[mstopher@dfg.ca.gov](mailto:mstopher@dfg.ca.gov)

**From:** [Rebecca Moore](#)  
**To:** [MStopher@dfg.ca.gov](mailto:MStopher@dfg.ca.gov);  
**Subject:** RE: Suction dredge status July 26, 2011  
**Date:** Tuesday, July 26, 2011 4:35:32 PM

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Thank you. We appreciate the update.  
Rebecca Moore

<br><br><br>----- Original Message -----

On 7/26/2011 3:49 PM Mark Stopher wrote:<br>Interested Parties

<br>

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<br>

<br>Mark Stopher

<br>Environmental Program Manager

<br>California Department of Fish and Game

<br>601 Locust Street

<br>Redding, CA 96001

<br>

<br>voice 530.225.2275

<br>fax 530.225.2391

<br>cell 530.945.1344

<br>mstopher@dfg.ca.gov

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<br>

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**From:** [Mark Stopher](#)  
**To:** [Mark Stopher;](#)  
**Subject:** Suction dredge status July 26, 2011  
**Date:** Saturday, January 01, 4501 12:00:00 AM

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fax 530.225.2391  
cell 530.945.1344  
[mstopher@dfg.ca.gov](mailto:mstopher@dfg.ca.gov)

**From:** [Randy Adams](#)  
**To:** [MStopher@dfg.ca.gov](mailto:MStopher@dfg.ca.gov);  
**Subject:** Re: Suction dredge status July 26, 2011  
**Date:** Wednesday, July 27, 2011 8:23:05 AM

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Hi Mark,

Thank you for keeping me up to date on on this important topic. Are you also providing this information to Steven Becker, <[sbecker@dtsc.ca.gov](mailto:sbecker@dtsc.ca.gov)> and Charlie Ridenour, <[cridenou@dtsc.ca.gov](mailto:cridenou@dtsc.ca.gov)> ? (e.g. Steve is my supervisor and Charlie is a Branch Chief . Charlie and Steve are lead on Abandoned Mine Land matters. Thank you.

Randy

>>> Mark Stopher <[MStopher@dfg.ca.gov](mailto:MStopher@dfg.ca.gov)> 07/27/11 8:10 AM >>>  
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Redding, CA 96001

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cell 530.945.1344  
mstopher@dfg.ca.gov

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You received this message because you are subscribed to the Google Groups "CA Suction Dredge EIR" group.

To post to this group, send email to  
ca-suction-dredge-eir@googlegroups.com.

To unsubscribe from this group, send email to  
ca-suction-dredge-eir+unsubscribe@googlegroups.com.

For more options, visit this group at

<http://groups.google.com/group/ca-suction-dredge-eir?hl=en>.

**From:** [Jim Bonetti](#)  
**To:** [mstopher@dfg.ca.gov](mailto:mstopher@dfg.ca.gov);  
**Subject:** Re: AB-120  
**Date:** Wednesday, July 27, 2011 9:36:05 AM

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**Hello Mark,**

**Passage of this bill really puts the lid on suction dredging pretty much forever. Plus, the new regs AND fees will put dredging out of reach of a huge majority of gold miners who make a meager living working hard for whatever flakes they pan out.**

**These people are not on the welfare rolls. They collect no entitlements. They are poor, but they don't complain and they work hard for what flakes they get. As you should know, dredging is no picnic and not for the weak of heart.**

**I'm a recreational dredger. I'd get up on the rivers a few times a year. Sure the fees were about \$43 as I recall and I'd buy fuel and food on the way. I like getting up into the mountains and nature and the "luck of the draw" getting a few flakes. True, I don't NEED to dredge, but it's a labor of love for me and maybe get a few flakes. It was NEVER cost effective for me. I just loved all of it.**

**The original lawsuit was based on the local tribe of Indians concerned about the spawning of Salmon on the Klamath. How a judge in Alameda County determined that the entire state of California was in jeopardy because of dredgers on the Klamath, I WILL NEVER UNDERSTAND! The liberal, conservationist view that dredging has an adverse effect on rivers, fish and nature in general is ludicrous.**

**While I dredge, I pick up rocks, gravel and yes insects on the river bottom. And guess what are following my sluice box? Did you guess trout feasting on those helgramites and other insects without going through the effort to locate them for their lunch. Dredgers move the gravel and pick out whatever gold they can and leave therest of the river as they found it, pure and simple.**

**I am sorry that AB-120 authors, the signer and whoever have determined that dredgers are THE serious problem they claim. This is simply not true.**

**Sincerely,**



**Jim Bonetti**  
**P.O.Box 967**  
**Salida, CA 95368**

**From:** [James Conrad](#)  
**To:** ["Mark Stopher";](#)  
**Subject:** RE: Suction dredge status July 26, 2011  
**Date:** Wednesday, July 27, 2011 6:59:45 AM

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Thank you for sending me an update on the laws going into effect. I'm hoping that they leave gravity dredging alone. It seems to work well enough. James Conrad

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

From: Mark Stopher [<mailto:MStopher@dfg.ca.gov>]  
Sent: Tuesday, July 26, 2011 3:49 PM  
To: Mark Stopher  
Subject: Suction dredge status July 26, 2011

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No virus found in this message.  
Checked by AVG - [www.avg.com](http://www.avg.com)  
Version: 10.0.1390 / Virus Database: 1518/3790 - Release Date: 07/26/11

**From:** [Randy Davis](#)  
**To:** [mstopher@dfg.ca.gov](mailto:mstopher@dfg.ca.gov);  
**Subject:** Re: Suction dredge status July 26, 2011  
**Date:** Wednesday, July 27, 2011 11:40:55 AM

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Mark;

All of this is just political hog wash. As I read the **1872 Mining Law** it gives me certain legal rights and protections that cannot be circumvented by the state. Therefore the permitting process is just so much bunk. So long as I do not submit to a permit you have no jurisdiction over me as a permit is a contract between the state and myself.

**All** of the dredging moratorium is against **Federal law**. You need to study the 1872 mining law and also the (I believe) 1968 mining and reclamation act.

I am also aware that the Ca. Dept. Fish & Game had on their website in 1993/4 a study that dredging had no effect (Or that manufactured word Deleterious.) to any species within the active water ways. It was later removed. What happened to that study ??? There have been more studies of **active dredging** than a person can shake a stick at. They have been done in Oregon, Alaska and California. Why are all of these studies ignored by your dept ?

The truth needs to come out, one way or another !

I stand by my Federal Rights to mine my **Legal mining claim**

Sincerely,  
Randy Davis  
Weaverville, Ca.

**From:** [Rachel Dunn](#)  
**To:** [Mark Stopher;](#)  
**Subject:** dredging, booming  
**Date:** Wednesday, July 27, 2011 2:05:09 PM

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Hi Mark,

No steak for anyone....but I do really appreciate your thorough writeup after it was passed. I would not have written anything nearly that coherent.

But on another note, I am getting calls from miners about booming - do you have something in writing that people can take with them and have in the field?

I'm finishing up work that I've abandoned for the last 2 months, when completed I'm going dredging in OR. I look forward to seeing you on my way North:)

Rachel

**From:** [Kent Mason](#)  
**To:** [mstopher@dfg.ca.gov](mailto:mstopher@dfg.ca.gov);  
**Subject:** Re: Suction dredge status July 26, 2011  
**Date:** Wednesday, July 27, 2011 8:45:03 AM

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Mark.

Thanks for the update.....

**Kent R. Mason**  
**Maintenance Supervisor**  
**Sundance Apartments**  
**Work-661-831-3182**  
**Fax-661-831-3566**  
**Kentsundance@yahoo.com**

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**To:** Mark Stopher <MStopher@dfg.ca.gov>  
**Sent:** Tue, July 26, 2011 3:49:03 PM  
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Mark Stopher  
Environmental Program Manager  
California Department of Fish and Game  
601 Locust Street  
Redding, CA 96001

voice 530.225.2275  
fax 530.225.2391  
cell 530.945.1344  
[mstopher@dfg.ca.gov](mailto:mstopher@dfg.ca.gov)

--

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For more options, visit this group at <http://groups.google.com/group/ca-suction-dredge-eir?hl=en>.

**From:** [monty p](#)  
**To:** [mstopher@dfg.ca.gov](mailto:mstopher@dfg.ca.gov);  
**Subject:** Re: Suction dredge status July 26, 2011  
**Date:** Wednesday, July 27, 2011 7:25:34 PM

---

Dear Mr. Stopher

Thankyou for the information on Assembly Bill 120, I still have hope that I will some day be able to use my suction dredge again before I get to old. Keep up the hard work....and Thankyou again.....Monty LPayne, Yuba City Ca.

On Tue, Jul 26, 2011 at 3:49 PM, Mark Stopher <[MStopher@dfg.ca.gov](mailto:MStopher@dfg.ca.gov)> wrote:

#### Interested Parties

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Redding, CA 96001

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fax [530.225.2391](tel:530.225.2391)

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For more options, visit this group at <http://groups.google.com/group/ca-suction-dredge-eir?hl=en>.

**From:** [Ray Nutting](#)  
**To:** [Mark Stopher](#);  
**Subject:** FW: Suction dredge status July 26, 2011  
**Date:** Wednesday, July 27, 2011 12:22:18 AM

---

Well! Now we know what the state thinks before the science. They don't care about science. Your hands are tied. Shame on the state!!!!!!!!!!

---

**From:** reddy2ctsp@aol.com [mailto:redy2ctsp@aol.com]  
**Sent:** Tuesday, July 26, 2011 4:13 PM  
**To:** the-wma@comcast.net; tylerprospecting@gmail.com; martin@modfather.org; lcolombo@jps.net; goldworld@wildblue.net; pmining@pioneermining.com; rabideno@aol.com; bjones@goldprospectors.org; dave@promackmining.com; bostwo@edc.gov.us; raynutting@hughes.net; ray@rayeddy.com; ancientgold@sbcglobal.net  
**Subject:** Fwd: Suction dredge status July 26, 2011

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

From: VOL IT <jerhobbs2@verizon.net>  
To: Paul <pcoombs@sbcglobal.net>; Gaty Goldberg <garyngoldberg@yahoo.com>; Barry <bhwetherby@aol.com>; scott coykendall <editor@plp1.org>; ric eddy <reddy2ctsp@aol.com>; Dee Stapp <stappmining@aol.com>  
Sent: Tue, Jul 26, 2011 3:58 pm  
Subject: Fw: Suction dredge status July 26, 2011

--- On Tue, 7/26/11, Mark Stopher <[MStopher@dfg.ca.gov](mailto:MStopher@dfg.ca.gov)> wrote:

> From: Mark Stopher <[MStopher@dfg.ca.gov](mailto:MStopher@dfg.ca.gov)>  
> Subject: Suction dredge status July 26, 2011  
> To: "Mark Stopher" <[MStopher@dfg.ca.gov](mailto:MStopher@dfg.ca.gov)>  
> Date: Tuesday, July 26, 2011, 3:49 PM  
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> Mark Stopher  
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> [mstopher@dfg.ca.gov](mailto:mstopher@dfg.ca.gov)  
>  
>  
>  
>  
>  
>  
>

**From:** [Kim Shepherd](#)  
**To:** [Mark Stopher](#);  
**Subject:** Re: Fwd: Suction dredge status July 26, 2011  
**Date:** Saturday, January 01, 4501 12:00:00 AM

---

The customers that have been calling thought that this bill would lift the moratorium. We are going to have some very angry customers.

Kim

Kimberly A. Shepherd  
Assistant Branch Chief  
License and Revenue Branch  
Department of Fish and Game  
(916) 928-6886

>>> Mark Stopher 7/27/2011 10:31 AM >>>

Additional detail is provided in the attachment. In short, the moratorium on suction dredge gold mining is extended to June 30, 2016. The legislation provides that the moratorium could be lifted earlier if DFG meets certain requirements. At the moment, we do not know if that is possible. We will have a clearer picture in the next few weeks, but for now, and for the foreseeable future, we will not be selling permits.

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Environmental Program Manager  
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Redding, CA 96001

voice 530.225.2275  
fax 530.225.2391  
cell 530.945.1344  
mstopher@dfg.ca.gov

**From:** [Auby](#)  
**To:** [mstopher@dfg.ca.gov](mailto:mstopher@dfg.ca.gov);  
**Subject:** RE: Suction dredge status July 26, 2011  
**Date:** Thursday, July 28, 2011 5:08:03 PM

---

Mark,

Thank you so much for keeping me up dated on the status of suction dredging in California. I know that you have dedicated a lot of hard work towards this issue only to have the legislature move the goal posts. At this point I am very disappointed with the recent outcome of suction dredging. I feel that the state politicians have let me down. I have tried to participate in the process as much as anyone can. I have wrote you and other officials letters. I have spoken with state representatives. I have attended and spoke at a DFG meeting. I have had meetings with my local state representative. I have tried to motivate my local mining club to lobby their politicians for positive result. I have placed info and regarding suction dredging on my own mining website. After all this effort on my part I am afraid that by the time dredging is allowed back in California that I will be too old to participate in this activity. I am also concerned that the whimsical nature of prospecting will be too restrictive and bogged down with extra fees and onsite inspections to have it any fun. I think it is a sad day.

After reading you last letter there be any hope that we will be allowed back in the water before 2016? Will we need new or different equipment? (Quieter motors) How much do you think it will cost in the future to purchase a suction dredge permit? Will an onsite inspection be required prior to each time the dredge is put in the water? Basically I have a lot of money tied up in my suction dredging equipment that has been sitting in my barn for the last two and half years, and I would like to sell it now in hopes that someone may be going to Oregon or somewhere that is not so restrictive and can use my equipment. But if there is some hope that dredging will be allowed again I don't want to have to repurchase all the same equipment. I would like to try to recover some of my investment if there is no hope in dredging being allowed in the near future in the Golden State.

Thank you very much for your work that you have put into this project. It is my hope that we will be allowed to dredge again. Please continue to keep me informed on any developments on this issue.

Chris Auby  
925-708-3099

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

From: ca-suction-dredge-eir@googlegroups.com

[<mailto:ca-suction-dredge-eir@googlegroups.com>] On Behalf Of Mark Stopher

Sent: Tuesday, July 26, 2011 3:49 PM

To: Mark Stopher

Subject: Suction dredge status July 26, 2011

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**From:** [Troy Carter](#)  
**To:** [mstopher@dfg.ca.gov](mailto:mstopher@dfg.ca.gov);  
**Subject:** Re: Suction dredge status July 26, 2011  
**Date:** Thursday, July 28, 2011 1:20:39 AM

---

You ruined my family and business, this was our job now have 50,000 in worthless equipment and 150,000 in now worthless dredging claims i still pay for [#@%!\\*&](#)

Thanks California

ps: I have never seen a fish or anything living in the drainages my claims are on!!!!

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**<MStopher@dfg.ca.gov>** wrote:

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

voice 530.225.2275  
fax 530.225.2391  
cell 530.945.1344  
[mstopher@dfg.ca.gov](mailto:mstopher@dfg.ca.gov)

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You received this message because you are subscribed to the Google Groups "CA Suction Dredge EIR" group.

To post to this group, send email to [ca-suction-dredge-eir@googlegroups.com](mailto:ca-suction-dredge-eir@googlegroups.com).

To unsubscribe from this group, send email to [ca-suction-dredge-eir+unsubscribe@googlegroups.com](mailto:ca-suction-dredge-eir+unsubscribe@googlegroups.com).

For more options, visit this group at <http://groups.google.com/group/ca-suction-dredge-eir?hl=en>.

**From:** [Manuel Figueiredo](#)  
**To:** [mstopher@dfg.ca.gov](mailto:mstopher@dfg.ca.gov);  
**Date:** Thursday, July 28, 2011 9:02:19 PM

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Thanks to the new calif, Govener and the sgining of the new bill, California goverment just shot them selfs in the foot. Thanks to the Kruk Tribe, your State will fall deeper into Debt with the New and Multipule Law suits over this bill stemming from a convict of a tribe leader.

Thank you for the up dates. Its to bad that it has come to this with everyones complince falling on deff ears, as well as your department time and effort. So Sad.

**From:** [paul sydow](#)  
**To:** [mstopher@dfg.ca.gov](mailto:mstopher@dfg.ca.gov);  
**Subject:** dredging  
**Date:** Thursday, July 28, 2011 7:56:35 AM

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way to go yuou assholes! now you have taken away our heritage bacause of a bunch of chickenshit indians and envro-freaks.

DFG SUCKS!!!! now you will come and take our fishing & hunting & boating and hiking, etc. etc.

SCREW YOU!

**From:** [Madeleine Hirn](#)  
**To:** [mstopher@dfg.ca.gov](mailto:mstopher@dfg.ca.gov);  
**Subject:** Suction Dredging  
**Date:** Friday, July 29, 2011 9:32:07 AM

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Hi Mark,

I just read your synopsis of the new dredging restrictions on the GPAA web site. Thank you for interpreting the information for us.

From other articles, and from the EIR, I see that historical resources mitigation may also be a hindrance to completing the requirements and issuing new permits. I believe it was a mistake in the EIR to say that impacts to historic resources was unavoidable. I think reasonable mitigations are possible and would like to offer my assistance to whoever is charged with working on this aspect.

I am presently the cultural resources officer for the state water board, but am writing as a private citizen. I am a qualified archaeologist and have over 12 years experience working within the state and federal regulatory system. (over 25 years total in the archaeological field) I would work on my own time and not as a state representative.

If you think I could be of any help, please let me know.

Cookie Hirn



**From:** [bob bar](#)  
**To:** [mstopher@dfg.ca.gov](mailto:mstopher@dfg.ca.gov);  
**Subject:** dregdes  
**Date:** Sunday, July 31, 2011 9:30:29 AM

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When will permits be out, and how much, thank you for your time, Robert

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Visit <http://www.inbox.com/photosharing> to find out more!

**From:** [ROD JOHNSON](#)  
**To:** [MStopher@dfg.ca.gov](mailto:MStopher@dfg.ca.gov);  
**Subject:** booming  
**Date:** Sunday, July 31, 2011 7:22:33 PM

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I talked to you the other day on the phone, i am in Texas. What is booming and where is it allowed?

I have a large gravel bar on my claim that runs on 1 side of a rapids that's more than 200 yards long and over 100 feet wide that has no water running over it. I want to mine it but do not want to break any rules. What would i be able to legally do on this gravel bar to extract the gold? Do to the slope of the bar I can easily recycle any water used.

Thanks for your time and efforts,  
Rod Johnson

**From:** [ROD JOHNSON](#)  
**To:** [Mark Stopher;](#)  
**Subject:** Re: booming  
**Date:** Monday, August 01, 2011 10:55:59 AM

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Are there any waivers available on a claim by claim basis to boom less than 100 yards from an active waterway? I wouldn't mind paying an inspection fee if needed. Do to the size configuration of the gravel bar, it would be easy to make sure muddy effluent would never get back to the river.

On Mon, Aug 1, 2011 at 10:33 AM, Mark Stopher <[MStopher@dfg.ca.gov](mailto:MStopher@dfg.ca.gov)> wrote:

Rod

Booming is the use of a suction dredge, dry land dredge, or any other vacuum arrangement to mine outside of the live stream. Sometimes a miner will use a water pump to take water from the stream to create a pool of water to vacuum from. You might take a look at <http://www.goldgold.com/newsletter092008.htm> for an example. You need to know, however, that the Fish and Game Code section 5653(d) says " It is unlawful to possess a vacuum or suction dredge in areas, or in or within 100 yards of waters, that are closed to the use of vacuum or suction dredges". So, DFG's interpretation is that booming must be more than 100 yards from a live stream. You could use a high banker on the gravel bar. Just don't let the muddy effluent flow directly into the stream.

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>>> ROD JOHNSON <[northgate@nctv.com](mailto:northgate@nctv.com)> 7/31/2011

7:22 PM >>>

I talked to you the other day on the phone, i am in Texas  
What is booming  
and where is it allowed?

I have a large gravel bar on my claim that runs on 1 side of a  
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be able to legally do on this gravel bar to extract the gold?  
Do to the  
slope of the bar I can easily recycle any water used.

Thanks for your time and efforts,  
Rod Johnson

**From:** [bostwo@edcgov.us](mailto:bostwo@edcgov.us)  
**To:** [Mark Stopher;](#)  
**Subject:** Re: Suction dredge status July 26, 2011  
**Date:** Tuesday, August 02, 2011 10:02:55 PM

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Mark,

Well, private industry is out of business. You have zero dollars coming in and how are you going to fully fund your millions with no source? I guess you can take 5 years to give a thorough review and charge the recreation suction dredgers the full cost.

Thank you,

Ray Nutting, Chairman  
El Dorado County Board of Supervisors  
530) 621-5651

### **Suction dredge status July 26, 2011**

**Mark Stopher**

to: Mark Stopher

07/26/2011 03:49 PM

Interested Parties

Today, July 26, 2011, Assembly Bill 120 was approved by Governor Brown. This legislation amends seven different codes within California State law including the Fish and Game Code. Two paragraphs in this bill refer to suction dredge mining and have substantial impacts on the process to conduct environmental review and adopt amended regulations guiding suction dredge mining in California.

The Department of Fish and Game released draft regulations and a

related Draft Subsequent Environmental Impact Report (SEIR) for public review on February 28, 2011. We held six public meetings and accepted public comments through May 10, 2011. At that time we projected that we would be adopting new regulations and certifying the Final SEIR by the end of 2011. This would then have permitted the sale of suction dredge permits under newly adopted regulations.

Assembly Bill 120 affects this effort in four important ways.

First, it establishes an end date for the current moratorium of June 30, 2016. The current moratorium was established by SB 670, and took effect on August 9, 2009, without any specific end date. The new law specifies that the moratorium will end on June 30, 2016, regardless of whether DFG completes court-ordered environmental review of its existing permitting program or adopts new regulations. Of course, further legislation or action by the courts could modify that circumstance.

Second, AB 120 requires that any "new regulations fully mitigate all identified significant environmental impacts." As directed by the Alameda County Superior Court and SB 670, DFG prepared the Draft SEIR to meet requirements of the California Environmental Quality Act (CEQA). In addition to CEQA, AB 120 now requires DFG to meet a "fully mitigate" standard for any adopted suction dredge mining regulations in order for the new moratorium to end any earlier than June 30, 2016. "Fully

mitigate" is not defined in statute or regulation, however, and previously the term has only been used in the Fish and Game Code in section 2081, subdivision (b), of the California Endangered Species Act.

Third, a new condition, required by AB 120 is "a fee structure is in place that will fully recover all costs to the department related to the administration of the program." DFG takes the view that the current fee structure is not sufficient to support the level of effort which should be devoted to implementing our authority to regulate suction dredge gold mining. In addition to the administrative costs of selling permits, DFG believes we should have environmental scientists funded through suction dredge permit fees to conduct on-site inspections as needed prior to issuing permits and also to monitor suction dredge mining to collect data on effects on aquatic and terrestrial organisms and habitat. Further, suction dredge permit fees should provide funding for game wardens to inspect, monitor and enforce compliance with any new regulations. Under current law, however, the fee structure for DFG's permitting program is prescribed by statute. Any change to that structure is beyond the authority of DFG and any such change will require action by the California Legislature and related approval by the Governor. Because of the legislative calendar for submittal of new legislation and the legislative process itself, it is very unlikely that

any change to the existing fee structure will occur within the 2011 calendar year.

Finally, the previous moratorium established by SB 670 was clear that DFG needed to take several actions (i.e. comply with CEQA and adopt amended regulations) which would then allow suction dredge mining to resume, under the new regulations. Said another way, DFG had the final State approval to complete the process, subject only to the Alameda County Superior Court's concurrence. AB 120 adds a legislative step, described in the previous paragraph. Simply put, the legislature will need to affirmatively approve a new fee structure, before suction dredge mining can resume under new regulations. The perspectives of legislators about sufficiency of a fee structure and suction dredge mining generally will affect the probability of such legislation being approved.

With this set of new facts in front of DFG, we are evaluating the extent to which the work we have already done can be used under the requirements of AB 120, and how we might proceed. We do not yet have a revised workplan or schedule. However, our previous projection that this process would be complete by the end of 2011 is no longer viable. It will likely be several weeks from now before we have determined what we will need to proceed and how we can do so. I will provide additional information to the recipients of this message when there is something new to report.



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