

Mark Stopher

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Dear Sir,

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sincerely,

Name and Address

Date