

Environmental Protection Agency
Andrew Wheeler – EPA Administrator
Office of the Administrator 1101A
1200 Pennsylvania Ave., N.W.
Washington, DC 20460

U.S. Army Corps of Engineers
Lt General Todd T. Semonite Commander
Headquarters
441 G St., NW
Washington, DC 20314-1000

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September 16, 2019

RE: DONALD G. SMITH PETITION FOR RULEMAKING

Submitted August 12, 2019 to Chris Hladick (EPA R-10 Administrator)
and Duane Mitchell (USACE, Walla Walla District)

LETTER OF SUPPORT — IMMEDIATE ACTION NEEDED

Dear EPA Administrator Wheeler
USACE Commander Lt. Gen. Semonite

This Letter of Support to the above named Petition, which seeks national clarification (not just for EPA Region 10) is presented on behalf of:"

- Waldo Mining District (Oregon)
- Galice Mining District (Oregon)
- Happy Camp Mining District (California)
- Virginia Dale Mining District (California)
- Eagle Mountain Mining District (California)
- Couer D'Alene Mining District (Idaho)
- Summit Mining District (Idaho)
- Slate Creek Mining District (Washington)
- Josephine County (Oregon)
- Siskiyou County (California)
- American Exploration & Mining Association
- Eastern Oregon Mining Association
- Willamette Valley Miners
- Public Lands for the People, Inc.
- Resources Coalition
- Bohemia Mine Owners Association
- The New 49'ers Prospecting Association
- Gold Prospector's Association of America
- Rogue Recovery and Reclamation Alliance
- StreamSavers
- Northwest Minerals Prospecting Club
- North Bend Prospectors
- Douglas County Prospectors Association
- ICMJ's Prospecting and Mining Journal
- Dog Rock Enterprises
- O.G. Prospecting
- Proline Mining Equipment. Inc.
- Armadillo Mining Shop

In his Appeal & Petition, Mr. Smith requests that the EPA and USACE jointly promulgate regulations clarifying that suction dredges (used for in-stream placer gold mining):

"...do not as a matter of practice constitute a point source discharge of a pollutant namely because they *do not add a pollutant* within the meaning of the CWA."

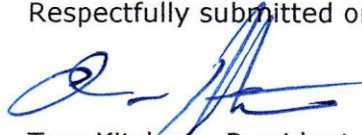
For nearly two decades now, miners in Oregon, Idaho, California and other affected states have questioned, protested, and challenged EPA Region 10's insistence that suction dredges are point sources that add pollutants to the waters of the United States, and thus are to be regulated under CWA § 402 and NPDES permitting, all without any relief. Most recently, the Petitioner is appealing a July 24, 2019 decision by Cindi Godsey (EPA Region 10, copy attached) that his suction dredge operation may be subject to Section 402 permitting (beyond Section 10 of the Rivers & Harbors Act).

THE PROBLEM: The Clean Water Act clearly states that NPDES permits are required for the "addition" of a pollutant to the waters of the United States. Suction dredges do not "add" anything; there is no "addition"; CWA Section 402 does not and cannot apply.

President Trump's Executive Order 13771 instructs federal agencies to reduce regulatory burdens. **The requirement of a Section 402 permit is not only a burden, but it's based on the false premise that a small suction dredge is a point source that adds pollutants.** Several western states continue to rely on this false premise to prevent otherwise lawful activity on federal mining claims.

We, the above named parties, have read and are familiar with Smith's Appeal and Rulemaking Petition; and fully and completely support and endorse it. We urge you to take immediate action to correct this error.

Respectfully submitted on behalf of the above named parties by,



Tom Kitchar – President
Waldo Mining District
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Enclosures:

- *Administrative Appeal & Petition for Rulemaking*, dated Aug. 12, 2019 by Donald G. Smith.
- EPA (R-10) Letter to Don Smith, dated July 24, 2019.

cc:

President Donald J. Trump
The White House
1600 Pennsylvania Avenue, NW
Washington, D.C. 20006

Francis Brooke
Special Asst., Energy and Environment Policy
The White House
1600 Pennsylvania Avenue, NW
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