



The **SENTRY**

Public Lands for the People Inc. Est. 1990

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Prez Sez

For several weeks Public Lands for the People (PLP) has had it's nose to the grindstone on 3 ongoing legal issues. Of course one of those important issues was the Karuk v. DFG tax payer lawsuit where Judge Roesche put in place an Injunction that prevented the California DFG from issuing suction dredge permits. Although the Injunction did not cancel those permits that had already been issued for 2009 it didn't take long for the Ca. Legislature to come along with SB 670 and stop those who already had permits and close all of the waters in the state to suction dredge mining. PLP and other plaintiffs have filed an appeal in the California Appellate Court for the Karuk Tribe etal vs. California Department of Fish and Game taxpayer lawsuit and Injunction. The Karuk attempted to bring new evidence into the Appellate Court, that is evidence that was not brought up in the original case. PLP made a motion to strike the new evidence and opposed the Karuk Tribe etal attempt to bring in new evidence into the arguments in the appellate court. PLP and other plaintiffs have recently filed another state lawsuit against the State of California, the Department of Fish and Game and Governor Schwarzenegger for implementing SB 670 which closed all of the waterways in the state. This complaint alleges violations of both the California and the Federal Constitutions, the Mining Act of 1872, Federal Commerce Clause, Equal Protection Act and the California Water Laws.

Membership Supported-All Volunteer-No Salaries-501c3 Non-Profit Organization

Dues \$35 single - \$50 family - \$100 organizations

The 3rd lawsuit that PLP has filed is an Amended Complaint on Eldorado National Forest and their Travel Management Plan which essentially closes almost all dirt roads either part of or all of the year. Everyone is affected by the Travel Management Plan as far as access to the Forest, particularly miners and prospectors with mining claims. The Eldorado National Forest solution to this problem is that the prospectors and miners can submit a Plan of Operations to gain access to the forest or the mining claims. It is PLP's position that the Forest Service is not only violating federal law, including the mining law but they are also violating their own regulations (36 CFR 228.4 A-1(i)). This lawsuit whether it is won or lost will affect all National Forests, either in the forest users favor if won or against the forest users if lost.

Even though PLP has been quiet on the websites for obvious reasons, mainly because we are not the only entities that read the sites, We are continuing on a path to keep our public lands open and our rights intact. With this in mind and we know that when these issues are out of sight they are also out of mind and our donations have fallen off drastically. PLP's expenses continue and we need to rehabilitate our coffers to continue what we are doing. So if you folks can dig in to your pockets and help us out we would appreciate it very much. PLP would also like to thank all of those who have supported us in the past and continue to support us.

Don't forget that we have another great Raffle with some very nice prizes donated by other great supporters of the cause. There is a list of the raffle prizes in this newsletter, PLP2.org website, and the California Mining Journal. Please consider buying some of the tickets. The cost for Raffle tickets is \$1.00 each or 12 for \$10.00.

Thanks for all of our loyal supporters over the last 20 years. *Jerry Hobbs* PLP President

Suction Dredge Permitting Program-Subsequent Environmental Impact Report (SEIR)

Background

Small-scale suction dredge mining activity in California began in the 1960s and peaked during high gold prices in the late 1970s and early 1980s. The existing regulatory framework governing the activity as administered by DFG is rooted in statutory amendments to the Fish and Game Code that took effect originally in the late 1980's. Under the statute and regulations, any California resident or non-resident may obtain a suction dredge mining permit from DFG upon payment of a fee required by statute. On average, DFG has issued approximately 3,200 suction dredge mining permits to California residents every year for the last 15 years.

DFG's existing regulations governing suction dredge were promulgated after preparing and certifying an environmental impact report under CEQA in 1994. DFG considered proposed amendments to the existing regulations governing suction dredge mining in 1997, releasing a draft subsequent environmental impact report for public review that same year. However, the 1997 Draft SEIR was never completed or certified.

DFG's current effort to amend the existing regulations and comply with the California Environmental Quality Act (CEQA) is required by a court order issued in a lawsuit brought against DFG by the Karuk Tribe of California. The lawsuit focused on the Klamath, Scott and Salmon River watersheds in northern California; included allegations regarding impacts to various fish species, including coho salmon; and contended that DFG's administration of the suction dredging program violated the (CEQA) and various provisions of the Fish and Game Code.

In December 2006, the Alameda County Superior Court issued an order with the consent of all parties, directing DFG to "conduct further environmental review pursuant to CEQA of its suction dredge mining regulations and to implement, if necessary, via rulemaking, mitigation measures to protect Coho salmon and/or other special status fish species in the watershed of the Klamath, Scott, and Salmon Rivers, listed as threatened or endangered after the 1994 EIR."

Based on information DFG collected from interested parties, DFG informed the Alameda County Superior Court in early 2008 that DFG could not proceed with the court-ordered environmental review in reliance on an addendum to the 1994 EIR. DFG informed the court at the same time that more than minor additions or changes to the 1994 EIR would be necessary and that statewide issues would need to be addressed in a subsequent environmental document in order to fulfill DFG's obligations under CEQA. As a result, DFG informed the Alameda County Superior Court that it intended to prepare a subsequent or supplemental environmental impact report that would be statewide in scope to comply with the December 2006 Court Order.

Current Situation

In close coordination with the State Water Resources Control Board, DFG is working with a CEQA consulting firm to

prepare a Subsequent Environmental Impact Report. Public scoping for that effort will occur in the fall/winter of 2009 and a draft SEIR is anticipated to be available to the public in the fall of 2010. Any proposed updates to the suction dredge mining regulations would also be circulated alongside the draft SEIR. DFG is currently prohibited by court order from issuing suction dredge permits. Additionally, on August 6, 2009, Governor Schwarzenegger signed SB 670 (Wiggins) into law, prohibiting the use of vacuum or suction dredge equipment in any California river, stream or lake, regardless of whether the operator has an existing permit issued by DFG.

(These links below are from the CA. DIG website <http://www.dfg.ca.gov/suctiondredge/>)

- [March 2010 Newsletter](#) (PDF)
- [More information on Permit Program status and suction dredge moratorium](#)
- [Suction Dredge information from the State Water Resources Control Board](#)

Project Schedule

Public review of Initial Study and Notice of Preparation (including public scoping meetings)	(scoping report below) Winter 2009
Public review of Draft Supplemental EIR and regulatory updates (including public hearings)	Late December 2010
Final Supplemental EIR and regulatory updates	Summer 2011
File Notice of Determination and CEQA Findings	Fall 2011

Environmental Documents

- [Notice of Preparation and Initial Study](#) (PDF) Comments due December 3, 2009

Literature Review

As one component of DFG's efforts to evaluate the potential consequences of suction dredge mining we have conducted a review of the available literature. We are posting that review, with a list of the documents we reviewed, for your examination. If you are aware of additional relevant literature please advise us by emailing Mark Stopher at mstopher@dfg.ca.gov

- [Literature Review](#) (PDF)
- [Bibliography](#) (PDF)

Scoping Report

This report summarizes the comments and questions raised during the public scoping period for the preparation of the SEIR. Due to the size of the various appendices, the document is available in sections (PDF file downloads):

- [SCOPING REPORT - main report](#) (February 2010)

For more information

All questions related to the Suction Dredge Permitting Program environmental review may be directed to: Mark Stopher, Environmental Program Manager, at (530) 225-2275 or mstopher@dfg.ca.gov.
[Contact DFG - http://www.dfg.ca.gov/contact/---](http://www.dfg.ca.gov/contact/---)

The PLP Board of Directors is looking for 4 new members for the Board. (Not difficult)

Several of our volunteer Board Members are retiring after a great many years of hard work. PLP is the only organization that is pursuing several law suites in support of Prospecting and Mining. We need to pass the word of what we are doing for you! We need to hear from you of what problems you are facing and how can we help? The only way this can happen is if we can get folks like you to become an active participant. Help us spread the word! PLP needs your help. Thanks, Barret H, Wetherby, Secretary PLP---

OREGON MINERS TAKING OREGON DEQ TO COURT -- AGAIN

By Tom Kitchar, President Waldo Mining District

BACKGROUND: Back in 2005, right after Oregon Department of Environmental Quality (DEQ) issued their new 700-PM permit for suction dredge mining, a coalition of 3 environmental organizations (NEDC et al.) filed a challenge against the new permit in the Oregon Court of Appeals claiming among other things that the new permit wasn't restrictive enough. Shortly thereafter, the Eastern Oregon Mining Association (EOMA) filed to intervene in the NEDC challenge, and, filed a challenge of their own against the permit, claiming it was the wrong permit in the first place.

EXPLANATION: DEQ's suction dredge permits (i.e.; the earlier 700-J and the 700-PM) are issued in part

under an agreement with the U.S. Environmental Protection Agency (EPA) pursuant to Section 402 of the federal Clean Water Act (CWA) and are "National Pollutant Discharge Elimination System" (NPDES) permits. These types of CWA permits are required for any discharge from a point source that causes an "addition" of "pollutants" to the "waters of the United States"; and are typically required for such facilities as municipal sewage treatment plants and other large-scale industrial plants that discharge into waters. However, under the CWA, the U.S. Army Corps of Engineers (USACE) has jurisdiction over the discharge of "dredged materials" through their Section 404 permitting program. Add to this, the CWA clearly states that if one is permitted by or under the jurisdiction of the USACE, no EPA Section 402 NPDES permit is required (i.e.; one or the other, but not both). This concept was most recently decided in June of 2009 by the U.S. Supreme Court when they ruled in the case of COEUR ALASKA, INC. v. SOUTHEAST ALASKA CONSERVATION COUNCIL (Nos. 07-984 and 07-990) 486 F. *3d 638:"a two-permit regime is contrary to the statute and the regulations." So which is the legally correct permit? We believe that if the discharge from a suction dredge or other forms of in-stream mining even falls under the CWA (which is doubtful), then it would be under the jurisdiction of the USACE, and not the EPA; for the following reasons:

1. There is no "addition" of anything. 100% of everything being discharged by a suction dredge is already present in the water. The courts have consistently ruled that for a discharge to be an "addition", it must come from an outside source (such an onshore operation discharging into the water). Nor does the dredge change, in any way, the bottom sediments passed through the dredge (i.e.; the dredge does not cause the turbidity. the turbidity is caused by the movement of the streambed material and is present before the material and water even enter the intake nozzle).
2. Streambed sediments, when returned to the stream they came from, are not "pollutants".
3. Many if not most all small streams, creeks, gulches, etc. are not "waters of the United States" but instead are waters of the State of Oregon.

THE 2009 COURT OF APPEAL RULING: On December 23, 2009, the Oregon Court of Appeals ruled on EOMA's challenge to the 2005 700-PM permit in EOMA's favor. The court declared the permit invalid, because it did not specify what discharge was being permitted by the permit. The court stated that the discharge from suction dredges consisted of streambed sediments, and water. The court stated that discharges of streambed sediments were under the jurisdiction of the Army Corp, not the EPA And then they defied all logic (and the U.S. Supreme Court June 2009 ruling) and said that suction dredges also discharged turbid wastewater, and those discharges were under the jurisdiction of the EPA! The court ended by saying that suction dredging needed both a 402 and a 404 permit! EOMA promptly filed a Motion for Reconsideration, which was promptly denied. EOMA then filed a petition for review of the Appeals Court decision with the Oregon Supreme Court. On September 17, 2010, the Oregon Supreme Court agreed to hear the EOMA appeal (and, unfortunately, the NEDC appeal too); with briefs due in a matter of weeks, and a hearing scheduled for mid-January 2011. However, on September 27, 2010, the State filed a Motion to Dismiss the EOMA & NEDC appeals on the grounds that the 2005 700-PM permit had expired and had been replaced, making all appeals moot. EOMA then filed arguments against the State's motion to dismiss. At this time, we are waiting to hear from the court to see if they will dismiss the case, or not.

MINERS CHALLENGE THE NEW 2010 700-PM PERMIT: On September 27, 2010, the Waldo Mining District (WMD) et al. filed a petition in the Oregon Court of Appeals challenging the new 700-PM permit on the grounds that it too is another NPDES permit. On the same day, EOMA et al. filed a petition in the Circuit Court of Baker County challenging the new 700-PM permit on the grounds that it is a NPDES permit; that DEQ failed to properly consult with the affected parties while drafting the permit as required by state law; that DEQ failed to recognize the use of water for mining is both a beneficial use and a public necessity, and that such use is "granted" (under state law); plus several other reasons. *** **

Folks, the WMD and EOMA need the financial support of every suction dredge miner in Oregon. We are fighting for YOUR RIGHTS to mine... not just ours! DEQ says there are (or were) approximately 2,000 permitted suction dredge miners in Oregon. If each of you donated just 2 dwt of gold, or \$100.00, we would have more than enough funds to see us through this litigation. WE (WMD & EOMA) are actively fighting to keep what happened in California from happening in Oregon (i.e.; a prohibition on dredging).

PLEASE DONATE WHAT YOU CAN-THANK YOU!

DONATIONS CAN BE SENT TO: Waldo Mining District, P.O. Box 1574, Cave Junction, OR 97523

Check this website out and see what we are up against long term

<http://video.google.com/videoplay?docid=7934453684194357754#>

Why Join The PLP?

Where do you think you would be today had there been no one out there fighting for your rights? If you and I don't care enough to make the case for our rights, who will? Public Lands for the People has been working tirelessly for 19 years with land managers, politicians and other user groups to ensure that you get to use public lands where and when you want. We have had many successes and you have benefited. We can promise you the other side is always making the case that mining and prospecting is noisy, polluting, and the source of conflicts. They want us in smaller and smaller areas with fewer opportunities to access the public lands and backcountry. Ultimately, they want us off public lands altogether. This is your fight whether you like it or not. Doesn't it make sense to join and support others who are taking their time and money to protect your rights and opportunities? There is plenty you can do with \$35.00 other than join another organization. You could buy a couple gallons of gas, a drink, and a bag of popcorn at a movie or simply save it for that proverbial rainy day that Mom said would eventually come. However, if you value the preservation of your rights of the public to access, use, and enjoy our public lands, and you want to protect that right for yourself, family, friends, and future generations, you want to reconsider where that \$35.00 would be best put to use. You could do all of those things or none of them; it is your choice because it is your 35 bucks. Doesn't it make sense to equip those who are fighting for you with the resources needed for them to have a chance at success? Doesn't it make sense for you to invest \$35 in the Public Lands for the People?

Yes, it really does !!



WHO IS PLP?

PLP was constructed for the purpose of representing all outdoor user groups and individuals that are interested in keeping public and private lands open to prospecting, mining, and outdoor recreation on a non-discriminatory basis! PLP assists groups to join forces to maintain the laws and rights of all citizens on public and private lands (Federal, State and City). PLP will assist with representation at public hearings of government agencies that are proposing limitations and restrictions on the lands that belong to the people.

PLP DOES LITIGATE! We will file injunctions, when necessary, to prevent governmental agencies from discussing public issues behind closed doors and calling them "personnel meetings".

We will come to the aid of, and give individual attention to, persons or groups who are being harassed, intimidated or misled by people in authority (in or out of uniform) who are attempting to enforce their own ideas or opinions of laws, rules or regulations, rather than the actual laws, rules or regulations, and what it actually means.

Remember....

PUBLIC LANDS FOR THE PEOPLE

means....

Our **right** to Use Public Lands,
Not to Abuse Public Lands.

What does PLP do for you?

1. PLP is pursuing a lawsuit charging California for illegally passing a bill (SB670) into law prohibiting suction dredge mining.
 2. PLP filed a lawsuit against Eldorado National Forest for their illegal closures of over 2200 miles of roads in their Travel Management Plan (TMP). PLP is also making comments in several other forests on their TMP.
 3. PLP is in court fighting the California Department of Fish and Game who has violated a Court order by failing to do an Environmental Impact Report (EIR) on suction dredging in California.
 4. PLP assists on many individual issues that concern small-scale miners.
 5. PLP assists miners in other states, and those-state representatives.
 6. PLP makes formal comments on the Federal Register (FR) for the US Forest Service (USFS) road closures, trying to cite miners criminally, & rule making changes.
 7. PLP assists miner filing "takings" case against BLM for taking house & claims. BLM donated away leaving miner as legal owner/claimant & taxpayer w/o due process or compensation. Miner prevailed
 8. PLP and the miners prevailed in Siskiyou Regional Education Project (SREP) vs. U.S. Forest Service when the USFS attempted to force dredgers into a Plan of Operation.
 9. PLP was a party to 2 lawsuits in the Center for Biological Diversity (CBD), vs. USFS and CBD vs. the BLM. PLP and the miners prevailed
 10. PLP and Dee Stapp prevailed in a lawsuit against the BLM on separating bond issues of occupancy and casual use mining operations.
 11. PLP participated in the Washington, Oregon, and California Water Resources Board study on turbidity and mercury as a method to stop suction dredging and similar issues there.
 12. PLP assisted with Washington State Resources Coalition and others in the rule making process on suction dredging.
 13. Made legal & scientific comments & was instrumental in defeat of CA Bill AB 1032.
- PLP strives to be involved with issues that affect the small-scale mining community. We would not be able to continue these battles without the past support of its membership.

Your continued support, membership & donations is how we will continue into the future.

MEMBERSHIP APPLICATION

SINGLE \$35.00 FAMILY \$50.00 CLUBS / ORG / BUSINESSES \$100.00

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Please accept my enrollment as a member of **PLP**. Enclosed is my annual dues donation of _____. I will receive a membership card, the Sentry Post Newsletter, and access to our assistance network

NEW RENEWING I've enclosed an additional donation of _____ to help keep our Public Lands open.

Would you be willing to help with: (An excellent way to learn too!)

Circle several

Clean up Projects...Write a letter to Officials & Govt. Agencies... Serve as a Board member ...Point of Contact for your club

Assist in Membership Drives and Fund-raisers...Serve on a Committee... Place Phone Calls... Type...

Attend USFS, BLM and DFG Meetings & Hearings.... Research Activities....Legal research or composition

Signature _____ Date _____

MAIL TO

PLP c/o

Barry Wetherby

bhwetherby@aol.com

3700 Santa Carlotta

La Crescent, Ca. 91214

818-957-1455 ---

OPERATION SUPER CANYON SWEEP - A PROJECT FROM CTUC INC.

3550 FOOTHILL BLVD.

GLENDALE, CA. 91214

On June 9th we held our annual clean up of the San Gabriel Canyon. We had 160 volunteers present along with 50 plus men from County Fire Camp 19.

We were again able to fill a forty cubic yard dumpster with all sorts of trash.

The Off Roaders were able to clean up about ten acres and remark the crossings in their area and it will be open to the public in the very near future.

We transported the volunteers by bus out to a number of areas and they were able to clean 15 miles of streambed.

The folks from the FRFVC cleaned the West Fork and attacked many walls to remove the graffiti that had been painted on by some gang members.

Our horseback team was able to collect trash from along the stream and after lunch they treated the kids to rides. The senior member of this troop was Bert Bonnett who is still riding at 100.

This project has been performing this clean up for over 35 years and we always hope that this year will be the last year that we are need, but sadly so far that hasn't been the case. So when you hear from us about next year, please plan on joining us. Everyone gets a great t-shirt and we feed you and close out the day with a fantastic raffle.

See you all next year. Barry Wetherby-Coordinator

Come join PLP in the fight for your rights. We have to win them all. They only have to win one.

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These books offer 50% deals on everything from airline flights and car rentals to great restaurants, Grocery stores, even Harbor Freight Tools discounts. Areas covered in separate books are San Fernando Valley, San Gabriel Valley, Inland Empire, @ \$25 The rest of the U.S. is also available

Contact Barry Wetherby
3700 Santa Carlotta St,
La Crescenta, CA. 91214
818-957-1455

(For the third year in a row, I have one of these discount books and I saved over \$200, got my money back in only two uses and was a hero for taking my wife out. Ed.)

THESE ARE GREAT GIFTS!!

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c/o Jerry Hobbs
7184 Conejo Dr.
San Bernardino, Ca. 82404

Cut this out and save for when a government agent challenges you.

Suggested Challenge Procedure

While pursuing your outdoor endeavor of work, play, recreation or sport and you are challenged by a representative of a governmental Agency or Public Servant, regarding the legality of your activity in their area, you should **DO THE FOLLOWING:**

1. It is wise to politely ask if you are breaking any laws. If you are informed that you are breaking, then ask for an explanation of the law and any municipal code that pertain to the law.
2. You should do as you are asked by the government representative, then ask for their name, badge number, position and the agency and district the represent. Record this information along with the date, time and the location of the area you are in.
3. If you have a pleasant response from any of the agents, such as being informative, cooperative or helpful, we would like to hear about them.
4. Give this information to your local PLP office or representative and he or she will advise you of the appropriate procedure to follow.

...Preserving Public Land Use for the People...

Name _____
Badge # _____ Position _____
Agency & _____
District _____
Date _____ Time _____ : ^{AM}/_{PM} Location Detail _____

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Preserving Public Land Use for the People

Support Senate Bill 868 to repeal recreational fees!!!

YOU ARE MISSING THE ABILITY TO CLICK ON THE LINKS IN THE EMAIL VERSION, SAVE US MONEY & WORK. You can view the online version at www.plp2.org/forum/ ... then select "Sentry"

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