
An Old Gold Miner Venting about the state of dredging in CA

Contributed by
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FACT 1.

The vast majority of all suction dredge gold mining in California takes place on federal public domain lands.

FACT 2.

The vast majority of those same federal lands, are open to mineral entry under federal mining laws & where gold exists are held under mining claims.

FACT 3.

Mining on federal lands, is encouraged by federal policy directive & governed by federal law & regulation.

FACT 4.

Once a valid mining claim is established, it grants the owner various protected private property rights.

FACT 5. State law, and regulation cannot prohibit what federal law encourages, and allows.

What we have here is a state agency who's primary responsibility is to regulate California's fish & game as follows:

CA F&G CODE Section 200

200. There is hereby delegated to the commission the power to regulate the taking or possession of birds, mammals, fish, amphibia, and reptiles to the extent and in the manner prescribed in this article.

201. Nothing in this article confers upon the commission any power to regulate any natural resources or commercial or other activity connected therewith, except as specifically provided.

For reasons only the California legislature can explain, they allocated CA DF&G authority to regulate the issuance of small scale suction dredge mining permits.

CA DF&G Section 201 provisions creates a conundrum, because valuable minerals are a "natural resource", and mining is both "commercial" & "activity" connected to it.

Regardless of the obvious conflict there, because the California legislature specifically provided CA DF&G with authority to regulate the issuance of mining permits, the public, and mining claim owners in California are forced to comply with it.

In the last decade approximately 3,200 suction dredge mining permits were issued in California by CA DF&G annually, under existing regulations that were comprehensive, relatively fair, and workable by all involved.

In the interim, a series of law suits were brought, primarily instigated by the Karuk indian tribe of California to protect what they assert to be their indigenous salmon fishery. Ignoring the fact, they have no reservation, nor protected fishing rights, over that of any other California citizen.

In one litigation, a state court ordered a CEQA study for the Klamath, Scott & Salmon rivers. In another, the state court ordered CA DF&G to halt the issuance of suction dredge permits, until CA DF&G complied with a mix of the two court orders. CA DF&G did not comply, under the premise issuing those permits is "ministerial, giving then no discretion to do otherwise.

Given the obvious conundrum there, the issue is then further complicated by the California legislature, without an Attorney General's legal opinion, whether or not SB 670 is legal. The legislature passed SB 670, which prohibits all suction dredging state wide until both state court orders are complied with, a state wide CEQA study is performed, and any new suction dredging regulations, if needed, are implemented.

In so far as the right to mine, on federal lands, on unpatented mining claims, is a federally protected private property right. Public Lands for People, et., al., immediately filed a lawsuit against the state of California, against numerous unlawful provisions of SB 670.

In the same span of time, CA DF&G spends \$1.5 million dollars hiring a "water quality" evaluation firm, to commence the state wide CEQA study. The firm presents CA DF&G with an "Initial Study" report that is fundamentally flawed, because neither CA DF&G or the firm have expertise, nor experience with federal land law, federal mining law, and associated private property rights conferred to owners of unpatented mining claims, where the vast majority of suction dredge gold mining takes place in California.

Furthermore, public meetings are scheduled by mandate of the California Administrative Procedures Act, in Fresno on

the 16th, Sacramento on the 17th, Redding Ca., on the 18th of November. Where the public may submit
“comments”. On, or before November 24th, the California state Attorney Generals Office (AG) will submit
its answer to the federal lawsuit against the illegal provisions of SB 670.

Depending on admissions, or denials in that AG answer, it is possible the court may issue an injunction, halting any or all
aspects of the process, until the matter is decided on the merits of briefs alone. Or, possibly the federal court process
plays out in a trial, leaving a jury to decide the matter.

Here we have a California Indian tribe, without any protected fishing rights, suing to protect, the rights they don’t
have.

Sport fishing associations supporting the Indian tribes litigation to protect fish, so they can catch, and kill them.

The state courts fumbling the matter, ignoring the private property rights, unpatented mining claim owners do have.

The CA DF&G doing flip flips whether or not the issuance of suction dredge permits is “ministerial” or not.

Meaning, they either have no discretion, and must issue them, or discretion to not issue them.

The legislature finding SB 670 has no or negligible economic impact. When in fact the economic impact toll may reach
\$100 million dollars annually.

The legislature passing SB 670, premised on “findings” that will be made at some future date, which is
laughable.

The legislature passing SB 670, as emergency legislation, where no emergency exists, which is unconscionable.

A state agency that does in fact regulate mining, which exempts permitting on mining of less than 1000 yards of material,
on less that one acre.

Which pales in comparison to what suction dredging can do on any one site.

Public hearings going on, the results of which will certainly effect the private property rights of as many as 60,000
individual owners of unpatented mining claims in California, without any notice to them.

A state agency that has very little expertise in what it regulates, hiring a private firm, that clearly has no expertise in much
of what it is being paid \$1.5 million dollars to do.

A “temporary” ban on all suction dredge gold mining in California, that is “indefinite”.

Private property being illegally taken, without just compensation being paid.

Not from one, but thousands of mining claim owners.

All in all here, we have an ever expanding comedy of bureaucratic bumbling.

The end of which is not yet in sight.

Apparently, this is a perfect example of California “governance” at it’s finest.