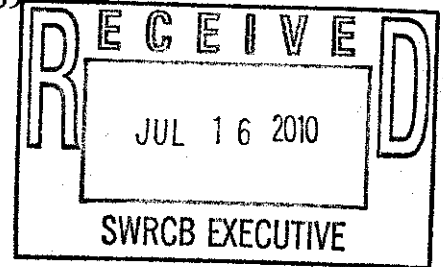


The New 49'ers

27 Davis Road, Happy Camp, CA 96039
(530) 493-2012 www.goldgold.com



16 July 2010

Dear Sirs,

Thank you for considering our concerns about your proposed restrictions upon suction dredging within the Klamath River to protect areas of thermal refugia.

Since 1986, we have been providing small-scale mining opportunities to members of our organization along the Klamath River and some of its tributaries. Our organization presently consists of approximately 2,000 active members. These comments are on their behalf.

While many of our active members participate in other types of small-scale mining activity other than suction dredging, many of our members do like to dredge. It is because of the substantial amount of prospecting opportunity we make available that brings our members to the area. Ours is the most substantial private enterprise along the mid-Klamath River that brings economic activity into the area. Many businesses along the river depend upon small-scale miners to stay in business.

While we are not familiar with all the tributaries which you have listed as refugia to be protected along the Klamath River, we are very familiar with those tributaries that exist on the mining properties which we make available to our members. It is about those particular tributaries that we are voicing concern in this letter.

Before I get started on that, I would first acknowledge that in some cases (like Ukonom Creek), we have witnessed an abundance of fish (compared to other parts of the river) holding in the cooler water refugias during the warm months out of the year (August and September). For years, we have been voluntarily agreeing to prevent suction dredging within these established areas during the warm months of the year.

Therefore, these concerns are expressed from the spirit of cooperation. While we understand the need to leave the refugias alone during the periods that fish depend upon them, we are requesting that common sense be applied to avoid overkill in a way that clearly will reduce economic opportunity while not providing any meaningful benefit to the fish. It is with that in mind that we make the following comments:

- 1) It looks as though your proposal lists nearly every side tributary to the Klamath River as a refugia and creates a 1,000 foot restricted area (to suction dredging) for each location. Some of the side tributaries are quite small during the warm summer months, and the associated refugia may be very small or nonexistent altogether. Just because a side tributary exists there, does not mean that there is a viable holding area being used by fish during the warmer months of the year. But 1,000 feet is nearly the full length of a mining claim. So you are proposing to eliminate productive economic activity in many, many places along the Klamath River (your list is very long) over very long stretches where you may not provide any benefit to fish.
- 2) We do not understand or agree with your proposed dredging restriction to begin in April. Please adjust the restriction to the warm months when the refugias are actually being used by the fish. Otherwise, you are restricting much-needed economic activity during several months of the year when small-scale miners could be active, while providing little or no benefit to fish.

On this note, we have spent thousands of hours along the bottoms of these California rivers, and there is no doubt that the fish consider the work that we do as an improvement. The holes that we make, and the piles of rocks along the bottom of the river, create diversity that the fish will appreciate within the established refugias during the warm months. If you want to help the fish, you should be encouraging the activity (dredging) during the spring and early summer months.

- 3) While we understand the proposed 500 foot restriction below the mouth of a tributary (because that's where the fish hold), we do not understand or agree with the proposed 500 foot restriction above the tributaries (where the fish do not hold). We believe a 200 foot restriction above the tributaries would be plenty to protect the refugias from any meaningful negative impacts from suction dredging activity.

We request that you please carefully review the study literature concerning the (very) localized impacts which result downstream of suction dredges. Once again, we are concerned that your 500 foot proposal (upstream from a tributary) is removing 300 feet of potential productive economic opportunity in many, many sections of the Klamath River while not providing any viable benefit for fish.

- 4) We do not understand or agree with your proposal to restrict suction dredging activity across the full width of the Klamath River within the vicinity of a side tributary. Most of the tributaries are quite small in comparison the size of the Klamath River, creating just a narrow band of cooler water alongside the edge of the river just downstream from the source of cooler water. Even the largest tributaries (Scott and Salmon Rivers) do not create refugias that extend to the center of the river!

Because your proposal suggests removing large sections of the Klamath River from potential productive economic activity (the sections of river that are on the opposite side of the river from the refugias), without providing any meaningful benefit to fish, we encourage you to please revise your proposed restriction to only extend out to the center of the waterway on the side where the tributary is located.

On this note, we ask that you review the scientific literature concerning suction dredging. Clearly, studies have shown that suction dredging provides a temporary source of food for fish that are holding within the area. If you are trying to protect cool water pools within the river because so many fish are holding there, an additional source of food nearby during the warm summer months should be a very good thing. All those fish have to be hungry, right? Therefore, officials should be encouraging suction dredging activity during the warmer months nearby, but outside of established refugias. This would apply to the areas alongside refugias, the areas upstream from refugias, and the areas downstream.

Respectfully, we do not agree with your language that suction dredgers need to be prevented from "discharging waste in and around known thermal refugia..." We are not sucking up and discharging anything that is not already present along the bottom of the Klamath River. The scientific literature on this subject has very clearly defined what that is, and what its impacts are. Perhaps of most importance to the refugias is the discharge of an immediate source of food. The literature clearly states that the insect population disturbed by suction dredging repopulates itself rather quickly.

- 5) While we are not prepared to comment concerning the many other side tributaries listed within your proposal, we believe our comments above should generally apply to those areas, as well.

The following tributaries are located either on or adjacent to mining properties along the Klamath River which we make available to the members of our organization. We are very familiar with the Klamath River where the following tributaries are located. These sections of the Klamath River are potentially very economically productive. We agree that active suction dredge activity should stop in the associated refugia, but only during the warm periods of the late summer while fish congregate in them (August and September). Being very familiar with these sections of river, along with potential for refugia, we believe the following recommendations will provide ample protection for fish, while allowing potential economic activity to continue:

- A) Each restricted area only to the center of the waterway on the side of the river where the tributary enters.
- B) **Portuguese Creek:** 200 feet above the confluence. We do not own or lease the mineral rights downstream of the creek.

- C) **Independence Creek:** 200 feet above the confluence. We do not own or lease the mineral rights downstream of the creek.
- D) **Thompson Creek:** 300 feet blow the confluence. This is very small refugia. But the section of river is very productive, especially on the opposite side of the river. We do not own or lease the mineral rights upstream of the creek.
- E) **Coon Creek:** 200 feet on upstream and downstream. This is very small refugia.
- F) **Little Grider Creek:** 200 feet on upstream and downstream. This is very small refugia.
- G) **Elk Creek:** 200 feet upstream and 500 feet downstream. This section of river is very productive on both sides of the river and the middle.
- H) **Negro Creek:** 200 feet above the confluence. We do not own or lease the mineral rights downstream of the creek.
- I) **Oak Flat Creek:** 300 feet blow the confluence. This is very small refugia. This section of river is very productive on both sides of the river and the middle. We do not own or lease the mineral rights upstream of the creek.
- J) **O'Neil Creek:** 200 feet above and 300 feet downstream of the confluence. This is very small refugia. This section of river is very productive on both sides of the river and the middle. Our agreement with the Karuk Tribe and U.S. Forest Service is that we can dredge below the raids which exist around 300 feet downstream of the tributary (very productive area).
- K) **Clear Creek:** 200 feet above the confluence. We do not own or lease the mineral rights downstream of the creek.
- L) **Grider Creek:** 200 feet on upstream and downstream. This is a very small refugia.
- M) **Indian Creek:** 200 feet upstream and 1,000 feet downstream. This section of river is very productive on both sides of the river and the middle.
- N) **Swillup Creek:** 200 feet above the confluence. We do not own or lease the mineral rights downstream of the creek.
- O) **Ukonom Creek:** 200 feet upstream and 1,500 feet downstream. This section of river is very productive on both sides of the river and the middle.

Dave McCracken
President, The New 49'ers