Oregon Defense is Urgent
Legal Updates
What is a Mining Right
Diamonds in California
Environmentalism is an industry that has become a racket. Environmental organizations are nothing more than litigation machines generating huge amounts of cash.

We say this with some certainty. Having just completed reading over 400 California Environmental Quality Act (CEQA) cases we can say with confidence this is one of the most wasteful acts ever passed.

There are few examples of CEQA being used to actually protect the environment. It is used as a tool to block progress and development. The threat of having to comply with CEQA can ensure no business would consider locating in California. The odds of being able to fight your way through the review and permitting process are dependent on only two things: money and time. Eventually you'll beat CEQA but you need a healthy legal fund and years to defeat the ridiculous review they claim somehow protects the environment.

We suspect we may be some of the best read, and most knowledgeable people in the country on CEQA. There are likely few lawyers who've ever read every CEQA case. Who would pay them to do that? We're not paid by anyone so we don't worry about who would pay us to do it, we just did it.

As newly minted experts in CEQA we determined from forty years of CEQA there are perhaps ten cases of nearly five hundred where the plaintiffs had the interests of the environment at heart. All the other cases centered around money.

It's a racket. The same as the mob. If you are a company that wants to build a building you should prepare to make healthy “donations” to the environmental groups who say they'll sue. It's surprising how a large donation can suddenly make the environmental effects “less than significant.”

Our new reality is constant vigilance. These groups have been successful for two reasons. First, they are enjoying the fruits of over twenty years of lobbying and getting the right people elected. Second, they have successfully exploited laws originally established to give the little guy a chance to defend against State overreach.

The tools of their trade include the Equal Access to Justice Act; the Clean Water and Air Acts; the California Environmental Quality Act, the Endangered Species Act and the National Environmental Policy Act.

Our opponents have spent years honing their skills and obtaining grant money while we paid scant attention to their cause. Why would we, it didn't affect us down on the rivers.

Not until they exploited the Endangered Species Act. Some of the environmental groups have filed over 200 suits under the Endangered Species Act, overwhelming the government agencies and causing the government to essentially surrender to these groups. No one imagined when this act was passed the scope of what would happen.

Our new reality is to educate ourselves on using the same tools to defend and interdict. You don't go to a gunfight with a knife. We must understand the tools they use to shut down mining and become experts in these same laws.

It doesn't necessarily mean money. It means effort and organization as well as advocacy. In this newsletter we ask you to take action. Last week the WMA was at the California capitol building working against SB 391 and we found no legislators who knew the impact on small miners. Maybe they don't care, maybe they do. We have to try to influence bills to go our way and we must tirelessly work to inform the representatives. So we're asking you to:

• Call on California SB 391 - Amend to exempt claims
• Call on Oregon SB 115 - Vote NO
• Call on Oregon SB 838 - Vote NO
• Attend Reinharts hearing on 15 May in Quincy
• Attend Walkers hearing on 2 May in Sacramento
• Send a donation to PLP so we can afford to pay for the administrative record
• Write Senator Olsen (OR) thanking him for his support
On April 19th the California Department of Fish and Wildlife (CDFW) denied both the Center for Biological Diversity (CBD) and the Western Mining Alliance (WMA) petitions for administrative rule making.

We consider this a victory. The WMA immediately filed a petition following the CBD petition. Our intent was to ensure the CDFW wouldn’t negotiate with the CBD without having the miner’s interests represented. Our goal was for CDFW to deny both petitions and settle this case in court.

The CBD filed a petition with CDFW to ban all motorized methods of mining. The WMA filed a petition advising CDFW we were an affected party to any proposed action to ban motorized mining and we requested the repeal of the new regulations. We will not accept any further attempts to restrict mining.

On 19 April CDFW denied both petitions. WMA President Craig Lindsay said “We are satisfied with the CDFW’s decision. Our intent was to allow the courts to settle the issue - not the Center for Biological Diversity.”

In the denial of the petitions CDFW wrote “Initiating yet another rule making action as requested would only likely frustrate current judicial and legislative efforts to resolve the parties’ differences and this long simmering controversy. Finally, if past practice since 2005 is any indication, the only certainty for the Department following rule making as requested is additional litigation, likely by the Center, WMA, or both.”

In a cautionary note to the miners CDFW stated, “The Department does not intend to stand by and watch when other authorities exist to prevent instream activities from adversely affecting resources.”

While we consider the denial of the petitions a victory we are mindful that the long term cost to the mining community of unregulated dredging can be negative.

We are all anxious to put our dredges back in the water, but we must use some caution. What we do now will affect future regulation. If you intend on using alternate means of dredging, then please comply with the current seasons.

While suction dredging has been banned for over three years the practice of high banking has been allowed. The petition by the CBD sought to additionally ban high banking. It’s clear from CDFW’s letter the mining community should exercise some restraint and allow the judicial process to proceed. It’s inferred in the letter legislative relief will be sought and it’s likely the Water Board will additionally step in.

We can ill afford to defend against yet another lawsuit.

According to Jerry Hobbs PLP has been notified by the attorney for the CBD that they intend to sue to block all motorized mining on the rivers. The CBD has 28 lawyers on staff so we don’t take it as an idle threat when they say they’re going to sue. In addition to their 28 lawyers they have a long record of being reimbursed for their legal costs.

These actions follow on the coat tails of CDFW releasing their report on SB 1018 to the legislature. If you haven’t seen the report we’ve posted it on the website and you can download it and read it.

The summary of the report is really no surprise. We suspect if not for the environmental groups in play we could settle our differences with CDFW in a reasonable manner. CDFW recommends that the lead agency for suction dredging be passed from CDFW to either another agency or a collection of agencies. We’re not clear on how this would benefit us, but we need to carefully consider where suction dredging should be placed.

CDFW pointed out there have been fourteen dredging related lawsuits and likely they are as tired of these lawsuits as we are. We fault CDFW for caving into the environmentalists in 2005 and not defending their own EIR. CDFW has studied suction dredging since 1961 and consistently found that with appropriate regulation the practice caused no lasting effects on the environment or wildlife.

Suddenly in 2005, under pressure from environmental groups they decide to entirely re-do the EIR.

It is the fight against CDFW and the environmental groups that is our main effort. We can’t afford to be distracted with additional lawsuits and we mean that in a financial sense. It’s easier to say you’ll sue, than to actually sue.

We have a short term victory that can result in a long term loss. Let’s keep our eyes on the ball and get behind the San Bernardino lawsuits and PLP.
Oregon Fight Sparks Up Again

Help Oregon Miners Save Dredging

There are two anti-mining bills still surviving and moving towards passage in Oregon. Senate Bill 838 and Senate Bill 115. We need your immediate support to help kill these bills.

Senate Bill 838 will impose a five year moratorium on all motorized methods of mining within 100 yards of any river, this includes high banking.

Senate Bill 115 will designate just about every river in the State as a Scenic River which will also prohibit mining.

Last month we reported it looked like Oregon miners were close to victory in acquiring sufficient votes to defeat the anti-mining bills. The opponents of mining took another page from the California play book and changed the rules. The bills were pulled, renamed and then sent to the Ways and Means committee ensuring that a full vote of the Oregon legislature would not happen. Once in the Ways and Means Committee the Committee needs only vote on the bill and it becomes law.

The opponents of mining have repeatedly resorted to backroom deals that never see the light of day to ram this legislation through. No discussion, no debate and certainly no dissent is allowed.

We must take immediate action and support the Oregon miner’s relentless efforts to stop this bill.

On the following page we provide the contact information for the legislators, it is urgent that you call now. Time is running short and we need a concerted effort to head off these anti-mining bills.

You don’t need to be an Oregon resident to voice your opposition to these bills. Please call and email. We need you to focus on the democrats, but don’t take our Republican support for granted. Call the Republicans and thank them for opposing the bills. Call the Democrats and inform them of the negative effects these bills will have based on mere supposition. The science and facts don’t support a dredging ban. Remind them we have over fifty years of actual science and studies on suction dredging and they all conclude the same: there are no lasting effects.

You can find detailed information related to the Oregon fight by going to the Galice Mining Districts website at www.galicemining.com.

The Oregon fight is being organized, led and fought by The Galice Mining District; the Waldo Mining District and the New Millenium Diggers Association. They have made repeated trips to the capitol, provided testimony; wrote responses on behalf of representatives; organized a miners rally and provided factual based testimony.

All of which was ignored.

We need a public outcry and we need your help. We must create enough friction so the supporters of this bill will pull it, or we can gain enough votes to defeat it. As we mentioned it doesn’t appear this bill is headed for a full vote so we must focus on the members of the committee. We provide the names and addresses of those you must call on the following page, but it’s clear the lead on this is Senator Dingfelder, so please focus your attention on her.
Oregon Fight Continued

This is not an impossible task. We must stop it from leaving the Ways and Means Committee. There are 26 representatives on the committee; there are 14 democrats and 12 republicans. We must convince at least 3 democrats to vote against the bill and we can kill it.

Please help support the Oregon miners by spending some time on the phone. If you’re not comfortable with making phone calls then email the people on the list and voice your opposition.

The Oregon bills are ostensibly in reaction to the increase in miners that are mining in Oregon after the closure of California. The representatives need to be reminded that permitting fluctuates dependent on the price of gold.

Some talking points:
- The science and studies show no lasting effects from suction dredging
- The moratorium in California has resulted in five lawsuits
- The moratorium is an illegal prohibition on mining
- Suction dredging doesn’t harm the environment and sufficient regulations are in place
- In regards to SB 115 tell them to vote no. The bill would label almost every river in the State as “scenic” which will affect all activities along the river including private property. This bill robs people of their private property rights; installs a system of oppressive regulation and discriminates against miners.

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Oregon Senator Stands Up For Mining

Oregon Lawmakers Moonlight as Amateur Scientists


My name is Alan Olsen, and I am a member of the Oregon Senate, representing District 20. I am also Vice Chair of the Senate Committee on Environment and Natural Resources. This will be the third legislative session I have served on this committee, and I am still consistently surprised by the type of policy that I see moving through the committee.

Last week the committee voted on two bills to ban legally permitted small-scale mining operations on Oregon’s waterways. SB 838 will impose a five-year moratorium on small-scale mining with suction dredge equipment, and SB 401 will declare 14,000 miles of Oregon waterways as "scenic waterways." I voted against both bills for one simple reason; not once during the many hours of public testimony was the committee presented with scientific evidence that the practice of small-scale suction dredge mining is damaging to fish populations or the environment.

The opponents of the bill; including scientists and members of the mining community, provided countless examples of how the practice is environmentally sound and unobtrusive to streams and rivers. The proponents of the bill argued that their "gut instinct" is that the practice must be bad and that Oregon must ban the practice for 5 years in order to determine if their instincts are correct. The majority of my colleagues on the committee must have the same gut instinct because the bill passed.

So there you have it Oregon; your lawmakers have taken it upon themselves to make scientific judgments about things they do not understand so that they can ban an activity they personally disapprove of. The five-year moratorium is a last-ditch effort by the bill's proponents to allow science to catch up with their personal beliefs. The bill calls for a scientific study of the practice's environmental impact to take place during the moratorium.

In the meantime we can say goodbye to small-scale mining in Oregon. Who needs science when you have the Oregon Legislature?

Alan Olsen (R-Canby) is a member of the Oregon State Senate, representing District 20.
San Bernardino Update

Supporters of Mining Step up to Fund the Cause

In last month's newsletter we told you that funds were urgently needed to continue the San Bernardino lawsuit. Thank you to everyone who has donated to the PLP legal fund, we have made significant progress in raising the funds to pay for the Administrative Record.

A heartfelt thanks to everyone that has stepped up and donated to the legal cases being led by Public Lands for the People (PLP). Thanks also for purchasing the raffle tickets that help fund PLP. We have six mining related cases consolidated in one legal case before Judge Ochoa in San Bernardino County.

It is our opinion this case is as important to mining as the Sawyer Decision or as Granite Rock. This is a precedent setting case and will determine for our generation and future generations whether we have a right to mine.

In San Bernardino we are essentially arguing two things. First, that Federal law preempts the prohibition against mining passed by the California legislature. Secondly, we are challenging the Environmental Impact Report that found suction dredging creates significant adverse effects on the environment.

An effective legal strategy is to drive your opponents broke through repeated legal maneuvering. The State and the environmental groups are taking this approach. The State has requested depositions from all plaintiffs in the consolidated case which means increased costs as the plaintiffs and our lawyer must spend more time in traveling and making the deposition.

The State has issued their draft index of the Administrative Record and the index alone has over 1,400 lines of individual documents, studies, cases and letters. After reviewing the index it's clear we have even more work to do to ensure the record is complete. There are some obvious missing documents that are key to our case.

The environmental groups have over 28 lawyers to sift through the record and prepare their case, we have one. The environmental groups have received $250,000 to date in legal reimbursement, we've received none. The environmental groups have requested another $500,000 in costs and we're covering our costs with your donations.

According to Jerry Hobbs, of PLP, we have continually surprised the environmentalists and the State by filing suits and staying in those suits. They can't figure out where we get the money from. Our money comes from committed people who are willing to fight. It is no wonder the environmental groups wonder; they're supporters would never provide the funds to fight for justice, they count on taxpayer funds to do that.

In a lawsuit the Administrative Record is the complete collection of all documents that are referenced by either party. In our case it's the SEIR, the draft SEIR, the 1994 EIR, all the studies cited; correspondence; prior cases and supporting documentation and over 110,000 pages of documents.

The cost to assemble the Administrative Record is paid by the plaintiff's when suing the state in accordance with California law.

Without the Administrative Record we have no lawsuit. You can't file an opening brief, or argue your case without the record. In the San Bernardino lawsuits the cost of the Administrative Record is currently $100,000. We have agreed to split the cost of the record with the environmental groups so our share is $50,000.

The support of these lawsuits is an ongoing expense. To stay in this fight funds are needed every year. Public Lands for the People is a non-profit activity funded by us miners.

We understand the fatigue of constantly asking for donations, but your all we got. We can't rely on reimbursement by the taxpayers for our defense.

We count on all of us to donate to the cause to keep us in the fight and we still need funds.

If you've donated to PLP, please consider an additional donation. If you haven't donated please donate now. Any amount helps. We've got some huge bills and the legal costs are running more than the entire operating budget of PLP for an entire year.

We have one fight, let's all get behind it and support this case. Even if Reinhart and Walker are successful we must still defeat the EIR. We must win both issues.

Please continue to fund this lawsuit. It's easier for all of us who are claim holders, permit holders or who want to mine in the future to donate some amount than it is for the guys fighting their cases on their own.
Don’t Count the Miners Out Yet

Reinhart v. the State

Brandon Rinehart, a young miner from the Bay Area was charged on June 16th, 2012 with illegal mining on his Federal mining claim “Nugget Alley” in Plumas County California.

An initial hearing was held in Quincy, California in February where nearly fifty miners attended to show support for Brandon.

Attorney James Buchal, representing Rinehart, has presented an argument that Brandon is charged with an impossible act - mining without a permit. Permits aren’t issued. Mr. Buchal has presented an interesting argument that argues Federal preemption of the State laws. The essential argument is the State may not prohibit what Congress has authorized.

Brandon’s court trial date is set for May 15, 2013 at 1:30 p.m. in Quincy, California.

If possible, please plan to attend to show support for Brandon. During last February's preliminary hearing one of the courthouse employees told us Brandon’s hearing had drawn more people in attendance than any case in memory.

We need to continue the support for our fellow miners. Brandon is not a criminal. Mr. Buchal’s arguments are well prepared and there is a lot at stake. If Brandon wins then the State has no authority to cite a dredger for dredging without a permit.

The argument hinges on Federal preemption of the State’s ability to prohibit mining. As Mr. Buchal explains the “temporary” moratorium is now four years old with no end date. It is in effect a prohibition which is illegal.

We have read all Mr. Buchal’s arguments and we’re impressed with the case. Please show your support and continue your financial support by donating to Public Lands for the People.

Walker v. The State

Last month we reported on the case of miner Keith Walker and his lawsuit challenging the legality of gold mining.

Last week Walker amended his complaint, dropped his CEQA causes of action and sought summary judgement on the legality of the suction dredging ban.

At the center of Walker’s challenge is the legality of the passage of the bills. According to Walker the State has pressured him to drop his case or consolidate it with the cases in San Bernardino.

Walker argues his case is different. He is arguing that under Article IV, Section 9 of the California constitution an amendment to a Statute may not be included into a budget bill. He argues that a budget bill is a single topic bill with a definite period of life of one year. His argument centers specifically on AB 120 and SB 1018 which were both passed as “trailer” bills.

A trailer bill is a set of language tucked into a much larger bill. It is often used to avoid public scrutiny of contentious issues such as suction dredging.

Walker states that under Article IV the legislature may not include amendments to Statutes, they must reenact the entire statute to change it.

There is some merit to Walker’s arguments. On May 2nd the court will decide whether they will move to summary judgement on the constitutionality of the dredging ban. If Walker wins we all win in that AB 120 and SB 1018 could be ruled void.

Walker’s story merits much more attention and we cover his case in greater detail later in following pages.

If you live near the Sacramento area please consider attending Walker’s hearing on May 2nd at the Sacramento County Courthouse. He could use some support and we’ve not paid enough attention to his solitary fight against the State.
Bruce Beatty v. the State

We’ve wanted to provide more coverage to the Beatty case for a number of months. In Washington Bruce Beatty is fighting the State to overturn restrictive dredging regulations that are again based on emotion and environmentalist pressure rather than science. The Beatty case is an interesting study in what’s happening across the West. The Beatty story is another story of one person standing up against the State in a Don Quixote struggle to right a wrong. Beatty has been fighting to overturn the Washington State restrictions on suction dredging. His case is now headed for appeal.

The case of Bruce Beatty reminds us that there is enormous individual sacrifice in this fight to win back the West. On days when we see nothing but the dark clouds we need only consider people like Beatty, Walker, Rinehart and a miner from Oregon, Tom Kitchar. The front lines of this battle is in the court room and we have individual miners standing up against the full power of the state with nothing more than a shred of a document called the US Constitution. Even after receiving beatings from the State’s attorneys they get off the mat and get back in the fight, refusing to let the State defeat them.

If we all refuse to stay down we can win this. We believe we should never let a miner fight alone so this month we’re going to start covering the very long fight Beatty has been waging against the Washington Department of Fish and Game in efforts to restore his mining rights.

Miner Bruce Beatty has been in the midst of a protracted fight against the State of Washington for over ten years. He has relentlessly fought the State’s dredging and prospecting regulations at great personal expense in both terms of time and money. He has largely accomplished this on his own. Unknown to most of us, there is a small community of these dedicated miners who have been fighting the Forest Service, the State and the environmentalists for years. They don’t ask for publicity, they do it because its the right thing, not the easy thing, to do.

Beatty is an accidental hero to the mining community. While the rest of were enjoying years of dredging the miners in Washington were being denied the right to mine their own claims. Like California, the environmental groups and Indian tribes heavily influenced the writing of new dredging regulations which in effect drove the miners from the rivers with the exception of some limited recreational mining. Under the new regulations it became impossible to break even on your effort.

Beatty’s case begins in 1999 when the Washington Department of Fish and Wildlife issued new rules on prospecting and mining. The mining community immediately recognized these rules essentially eliminated independent mining and prospecting on Federal mining claims. They imposed rules establishing work windows and extremely shortened seasons.

The miners reacted by forming the Resources Coalition and began a campaign to convince the Washington legislature and WDFW the truth about the negligible effects of running a suction dredge. Their efforts fell on deaf ears despite the science and the facts. For several years the miners held an annual rally and invited members of the legislature and the WDFW to attend. Having exhausted their attempts to reason with WDFW the miners filed a petition to rewrite the rules in 2005. WDFW agreed to review the regulations but with one important exception, the work windows would not be open to review. The review took over a year and a half and finally in 2007 WDFW issued their new rules, which essentially were the same as the old rules.

Having exhausted their administrative options the miners in Washington decided they would need to sue and consulted with attorney James Buchal and Public Lands for the People. Beatty volunteered to be the test case and applied for an exception to the restrictions on his claim. Beatty’s claim had been severely restricted due to the possible presence of the endangered Bull Trout. Beatty requested a four month mining season but received only a 15 day period each year in which he could mine his claim, however, the special permit was only valid for two years and he would then need to reapply.
Bruce Beatty v. the State

The denial of Beatty’s request based on a “possible” presence of the trout was followed by a letter from Fish and Wildlife stating his river also had both spring and fall spawning seasons and they stated they needed further specific information on the exact location he would mine. Beatty refused to provide them this information and filed an appeal to the Pollution Control Board which governed the mining regulations.

Realizing the State intended to wear him out with motions, counter-motions, depositions and fact finding Beatty hired attorney James Buchal. The State responded by assigning two attorneys to the case and the lawsuit began in earnest covering eight months of endless petitions and responses.

Key to Beatty’s arguments were constitutional issues. These issues centered on whether the State could deny him his right to mine even without proof the fish existed in his river, or proof dredging would cause any harm to the fish. There simply was no evidence, no research or cases of a dredge harming the Bull Trout.

The court refused to hear the constitutional issues in regards to preemption and due process. After a long summer and fall of fighting with the State the Pollution Control Board ruled against him. They refused to even consider the constitutional issues. As is often the case with miners, the constitutional arguments are ignored while regulations are held in higher regard than the U.S. Constitution.

Buchal immediately filed an appeal for a judicial review. Over the ensuing eleven months the State continued to barrage Beatty with motions, counter motions, requests for additional information and testimony. In December 2012 the reviewing judge again denied Beatty’s appeal and issued the final order on January 2013.

After a six year fight, at great personal expense of both time and money Beatty paused to consider the value of pursuing the issue any further. The probability of ever recovering enough gold from his mining claim to even pay the costs to date were remote. He had a choice to make, quit or file an appeal to the Appeals Court.

It was a gut wrenching decision. Having been through six years of living and breathing nothing but legal issues Beatty was ready to quit. He considered his options.

In March Beatty filed the appeal with attorney James Buchal. The Opening Brief was filed three weeks ago on April 10th, and once more Bruce Beatty dusted himself off and entered the ring.

Beatty is arguing that the law doesn’t require there be no risk to any fish or any fish egg prior to allowing some type of activity and are the permit conditions reasonable in relation to the activity. Beatty challenges the permit conditions by arguing there are reasonable mitigation measures he can take to ensure he doesn’t harm the Bull Trout. In effect, Beatty has stepped back in the ring and called “bull” on the continuing lunacy that is called environmental protection.

We’ll be following Beatty’s case as he moves forward. We think Beatty and Buchal have presented an excellent appeal. It takes an amazing amount of courage and will to continue this fight, but it’s people like Bruce Beatty that are carrying the burden of this fight to maintain our constitutional rights. If we all roll over and say there’s nothing we can do, then we’ve lost. We’ve seen the same pattern of approach time and again, that of finding some rare or endangered species and then using that to shut down mining. The strategy is clear, and we must continually challenge both the State and the environmental groups. To do that we need your help. If you want to assist the Beatty case make your donation to Public Lands for the People. PLP is assisting financially in supporting Beatty and they’ve been involved in this issue for over seven years.
Gold Miner Challenges Legality of Dredging Ban

Sonora, CA – On May 2nd an independent gold miner from Sonora will argue his case in Sacramento on why the current ban on mining is illegal. Sonoran miner Keith Walker using a typewriter purchased from a thrift shop spent two months typing and retyping his lawsuit against the State of California.

Walker’s petition joins the ongoing battle between environmentalists and gold miners. What began as a skirmish on the Klamath River has evolved into a war with the sides establishing their positions on the environmental effects.

Walker is challenging the constitutionality of the method in which the anti-mining legislation was passed and hoping the statewide ban on mining will be reversed in time for him to dredge this summer season.

Walker admits his hopes of being able to carry the lawsuit through are limited by his dwindling bank account but he intends to hold the State and environmental groups accountable for the ban on mining that has displaced an important source of his income.

Walker is raising his 13 year old daughter as a single parent. "I'd like to send her to college, but that's not going to happen on $11 an hour. Her mother passed away four months ago and I'm doing the best I can," Walker said standing outside the 31’ fifth wheel the two call home. “I've got a little money saved up for her college but I was counting on gold mining to provide a better life.”

“I think it’s easy for the environmentalists to dismiss guys like Walker.” Said Craig Lindsay, President of the Western Mining Alliance. “The environmentalists have been tremendously effective at shaping their message based on the slimmest of facts. Vacuum mining was the only program in the State actually removing mercury from the watersheds and it was effective. We’ve removed about two and a half tons of mercury over the past thirty years.” But, adds Lindsay, “It’s not about the environment, or about mining. It’s about money. We’re dealing with an environmental industry that is fed on taxpayer grants and their legal costs are reimbursed by taxpayer money.”

The battle between miners, environmental groups and the State is now in its eighth year of litigation. A dispute over whether vacuum mining may affect Coho salmon on the Klamath River resulted in a court order for CDFW to conduct further analysis of the effects of vacuum mining on the Coho salmon. The Alameda County court directed CDFW to determine if there were any effects on salmon that had previously not been evaluated. The court ordered review took nearly two years to complete and consisted of over 1,300 pages.

Miners contend the two hundred page Environmental Impact Report (EIR) prepared for gold mining in 1994 extensively evaluated the practice and the environmental effects. They point to over twenty reports and studies on the topic that show no significant effects on the environment. They counter the approved EIR carefully considered possible effects on salmon and implemented regulations that kept miners out of the water during the critical salmon spawning seasons.

While the court directed study was ongoing the environmental groups petitioned the California Senate to pass a law that imposed a temporary moratorium on vacuum mining statewide (Senate Bill 670 – Wiggins). The Wiggins Bill was intended to allow CDFW to complete the study while temporarily stopping vacuum mining.
Gold Miner Story Continued

The State imposed the ban even on rivers without salmon including the Stanislaus River where Walker mines.

In 2009 CDFW released the second EIR and was prepared to reopen vacuum mining across the State. One week later environmental groups obtained legislation that extended the ban another five years (Assembly Bill 120 – Huffman). The requirements of the second bill included measures that exceed requirements found within the California Environmental Quality Act (CEQA) and delayed the reopening of vacuum mining. As CDFW moved closer to fulfilling the requirements of AB120 the environmentalists again raised the bar by slipping in language to the budget bill that indefinitely extended the ban and imposed even more conditions.

“It takes a lot of money to buy legislation like that.” Walker said.

“There’s a lot of money in environmentalism.” Said Lindsay. “There’s over half a billion dollars allocated to California for clean water. No one is arguing against clean water but when there’s that kind of money floating around you have intense competition from groups with a water related issue. It doesn’t matter whether the science is valid. They need a high profile issue like mercury to justify grants and their legal costs are paid by taxpayers.”

The legal reimbursement for the environmental groups is over $250,000 with an additional request for another $500,000. The costs to defend outdoor activities are supported through donations to organizations like Public Lands for the People.

“We’ve got thousands of people donating.” Said Hobbs. “It’s not just miners, this issue affects everyone and we’ve had great support from fishermen, hunters and other outdoor enthusiasts. They realize if the miners lose they’ll be next. We’re doing pretty well matching the environmentalists in funding especially since our fight isn’t charged to the taxpayers.”

The costs are high according to Gerald Hobbs of Public Lands for the People, a non-profit advocacy group for outdoor enthusiasts. “The request from an environmental non-profit to dredge mercury at Lake Combie was $6 million. That works out to almost $50,000 per ounce of mercury recovered. It’s thirty times more profitable to mine mercury. They don’t call it mining, they call it remediation. Miners take a huge risk when they buy a mining claim, they never know if they’ll be able to recover their costs. The environmental groups could be paid $6 million even if they don’t recover a single ounce of mercury. That’s the nature of handing out money for these types of things, there’s no accountability.”

The issue between miners and environmentalists centers on mercury left over from the gold rush. Estimates by the US Geological Survey of mercury released into the watersheds during the gold rush indicate as much as 10,000 tons may have been flushed into the watershed. Environmentalists claim this mercury is locked in sediment layers at the bottom of streams and doesn’t move once locked up.

“That’s a ridiculous notion,” Counters Lindsay, “What do they think we’ve been doing the past 50 years? We’ve vacuumed every square foot of these watersheds, that’s the nature of recovering gold from the rivers. If a miner finds an un-vacuumed area of a river such as the Yuba he’s going to be rich. There isn’t any of this so-called locked sediment remaining, we’ve vacuumed it all. Mercury is never locked in sediments as they claim; it rolls down hill and ends up in reservoirs, and the State Water Board proved that.”

Lindsay is referring to a 2005 study by the State Water Board on the American River where researchers evaluated a contaminated mercury area on the American River. The Water Board evaluated the ability of equipment the miners use to recover mercury and discovered the miner’s equipment was 98% effective at recovering mercury. A second study in 2009, by the US Geological Survey on the Yuba River, found the same results and found no mercury was being released from the dredge.
Gold Miner Story Continued

In the study the researchers returned to the spot they had cleaned and found mercury had returned even during low summer flows.

Lindsay explained, “I think it’s a lot more effective to let miners capture this mercury in the high country before it moves downhill. In the cold mountain streams it stays in its harmless form. Allowing it to roll downhill to end up in reservoirs, as the environmentalists want, is worse than letting miners clean it up.”

Is mercury in California waterways known to be causing health problems?

“No,” Emphatically states Dr. Nicholas Ralston of the University of North Dakota, the country’s leading mercury toxicity researcher. Funded by the US EPA and the National Oceanic and Atmospheric Agency (NOAA), Dr. Ralston has been leading the effort to clarify and improve the mercury warnings issued by the FDA and EPA regarding fish consumption.

Dr. Ralston’s statements are the result of ongoing research into the protective ability of a natural occurring element called Selenium to offset the harmful effects of Mercury in both humans and animals.

“These two elements are in a healthy balance in freshwater fish from across most of the United States. There are exceptions, especially in areas with poor selenium availability, but to our knowledge, most of California tends to have selenium-rich soils.” Said Ralston.

Dr. Ralston says that the presence of selenium protects us from the harmful effects of mercury.

“[Mercury is only harmful] if it exceeds our dietary selenium intakes. [We found] the amount of mercury people were exposed [had little influence] in recent epidemiological studies. Unless people are eating seafoods with unusually high mercury contents and poor selenium contents, mercury exposures never come close to matching the amount of selenium in most people’s diets. [That’s] why we have not seen the harmful effects that many predicted would be seen from eating fish.”

The California Department of Health website states that no one in California has ever been sickened from eating sport fish.

“I think we need to be careful about emotional arguments based on rhetoric. It’s a strong emotional argument to say people will be harmed by eating fish. The data doesn’t show it.”

The ongoing fight between the State and the miners has moved from Alameda County to San Bernardino County where the miners have made their stand. San Bernardino County is home to over 11,000 Federal mining claims whereas Alameda County has none.

The ongoing litigation has been expensive for taxpayers. The State’s cost of preparing the second Environmental Impact Report was over one and a half million dollars. The legal fight over the fate of the EIR is costing far more than the report with State legal costs mounting.

According to the Department of Fish and Wildlife in a memo released in mid-April there have been fourteen lawsuits in regards to vacuum mining with both the environmentalists and the miners filing cases challenging or defending CDFW’s actions.

Meanwhile miners like Keith Walker are caught in the middle. The vast majority of miners in the State of California work their claims far from any salmon. Miners typically work gold claims that are a half mile in length using a single vacuum device with an engine the size of your typical lawnmower. They dispute the State’s claims there are any lasting effects from this type of mining and ask “where’s the proof?”

Reached as he was stranded on the side of the road with a failed water pump Walker said “I feel like I’m in the middle of the far left and the far right. I just want to return to mining, there’s not a salmon within a hundred miles of me.”
Proposed California Legislation could increase claim fees by $150.00 per year

Thanks to the California Clerk Recorders we were notified of a pending Senate Bill that will impact us all. Senate Bill 391, introduced on February 20th, passed out of committee on April 20th for a floor vote. The bill is authored by Senator DeSaulnier (D). The intent of the bill is to place a tax on recorded documents that relate to real estate to fund even more public housing projects. We must record documents every year and this places an additional $150.00 burden on us, the small miners, every year. This effort shifts the cost of providing public housing from the general public to the miners as real estate transactions for homes is exempt.

Sen. Cannella spoke against the bill and questioned the nexus between recorded documents and affordable housing. He said the bill would “shift the burden from counties and special districts and put the burden of affordable housing on random folks who want to record documents. According to one of our supporters who attended the initial hearings, “There were probably four times as many folks supporting the bill as opposing it. The support testimony focused exclusively on the need for affordable housing—no one addressed the funding mechanism and no one spoke about the burden this would have on the mining or resource industry.”

The Western Mining Alliance spoke to Senator DeSaulnier on April 25th in Sacramento. The Senator was unaware of the burden this would place on mining claims. We followed this conversation up with a phone call to other Senators who were equally unaware. We need you to call the Senators who authored the bill and speak to them about the effects this will have on us while exempting those with a one time recording.

Senate Bill 391, known as the California Homes and Jobs Act of 2013 will create neither homes or jobs, but it will mandate additional taxes and programs. The California legislature knowing the general dislike for additional taxes has carved out a specific funding source - the miners. The relevant text of the bill is provided in italics.

**Senate Bill No. 391 (DeSaulnier).** Under existing law there are programs providing assistance for, among other things, emergency housing, multifamily housing, farmworker housing, home ownership for very low and low-income households and downpayment assistance for first time homebuyers.

The bill would enact the California Homes and Jobs Act of 2013. The bill would make legislative findings and declarations relating to the need for establishing permanent, ongoing sources of funding dedicated to affordable housing development. The bill would impose a fee, except as provided, of $75 to be paid at the time of the recording of every real estate instrument, paper or notice required or permitted by law to be recorded.

There are 55,000 mining claims in California according to the BLM database. In addition to our normal recording fees this tax would create an additional tax of a minimum of $4.1 million on mining claims and could be as high as $8 million depending on documents recorded. As stated above this tax is on each document recorded. So in the transfer of a claim you would have the recording of the quit claim document; the new location notice and the annual BLM notice.

This bill is brought to you by the very same Senate that passed SB 1018 placing a indefinite moratorium on suction dredging and yet now they see our idle mining claims as a source of revenue. It’s important you tell the authors of the bill (provided on the next page) this bill is discriminatory and unfairly affects the poor (us). To fund low income housing on the backs of the low income is manifestly unfair.

In addition to writing the authors of the bill please call and visit your local representative. This bill will require a 2/3 vote to pass. We must stop this new tax on mining claims. Your help is urgently needed.
Issue Updates

Call the below representatives to stop SB 391 (California)

Talking Points:

Be polite but get your message across.

- Miners are required by Federal law to file two notices per year, the Affadavit of Assessment Work and the Small Miners Waiver, or Intent to Hold
- This bill places the burden of taxation on the small miners
- This bill is discriminatory against miners by unfairly taxing them without taxing everyone the same
- This bill shifts the burden of funding low income housing from all taxpayers to the low income miners
- This bill violates the equal protection clause of the Constitution by placing a discriminatory tax on a class of people

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Surprises from the Tertiary Gravels

**Diamonds from California**

In earlier articles we explained the nature of the Tertiary gravels and how they produced the placer gold we find in today's rivers.

The ancient Tertiary Rivers which originally drained the ancient landscape that is now the Sierras was pushed up from geologic forces to near the top of the present day Sierras. Later these same rivers were largely covered during a volcanic period and capped with lava.

When you read about the drift mines that tunneled through the lava to reach the old gravel channels you gain an understanding of how widespread the volcanic activity was for a long period of California's history. Remnants of these volcanoes can still be seen at places such as Mt. Lassen.

Diamonds are inevitably associated with volcanic activity and the gravels of the Tertiary contain diamonds. The California diamonds are usually a yellowish or pinkish tint and it's likely that while dredging you've run quite a few through your sluice box and perhaps even washed some out of your pan.

Surprisingly, the diamonds are more widespread and common than most people imagine.

Some of the earliest geologic surveys of California reported the presence of diamonds but these diamonds were found purely by chance in that they were seen gleaming in the sluice box, or someone picked up the crystal because of its unique glint.

In *The Auriferous Gravels of California*, 1880, Whitney provides a fairly thorough description of how and where these diamonds were found. You can find the digitized version of the report on Google Books as well as several other historic mining references. We've collected quite a few and there is some valuable historical information that can lead you to better gold.

Whitney writes, "The Number of localities where this gem has been observed is considerable. The following is a list of these occurrences which have been brought to the attention of the Geological Survey:

At the McConnell and Reed claim was found a colorless and brilliant diamond about three to four feet above the bedrock in the overburden, it was about the size of a small bean. Mr. McConnell believes he had previously thrown away a similar diamond the size of the end of his thumb, not recognizing what it was.

In the possession of a Mr. Robert Cruson was a diamond measuring nearly one quarter inch which was found when cleaning out the sluices. It weighs about 1.5 carats. "I have little doubt that a good many have been picked up here, looked at and thrown away.'"

At the mines near White Rock diamonds were found in the sluice box which had a slightly yellowish tint and the largest was nearly one half carat.

Diamonds have also been found near Jackass Gulch, near Volcano; Indian Gulch; Loafer Hill, near Fiddletown from which quite a number have been found.

French Corral, in Nevada County has produced a number of diamonds. At Cherokee Flat, in Butte County fifty six diamonds were picked out of the gravels at various times.

In El Dorado County diamonds have been found on the south side of Webber Hill, White Rock Canyon, Dirty Flat and Smith's Flat.

In Amador County diamonds have been found in Jackass Gulch, Rancheria, and Loafer Hill.

In Nevada County diamonds have been found near French Corral.

In Butte County diamonds have been found near Cherokee Flat and Yankee Hill.

In Plumas County diamonds have been found near Gopher Hill and in upper Spanish Creek.

In Sierra County diamonds have been found in the Lomonder Mining District.

Good luck!
JOIN THE WESTERN MINING ALLIANCE

The Western Mining Alliance is an organization that represents the interests of the independent miners throughout the West.

We are not a club, we are an advocacy organization with some simple goals. Our primary objective is to assist in raising the funds required to fight and win the legal cases to restore suction dredging. We are partnered with Public Lands for the People which a 501(c)3.

We are a volunteer organization. Since our inception we have pursued an agenda to engage politically; change the message on gold mining and organize support for the ongoing lawsuits.

In April we represented miner’s interests at the Water Board mercury meeting and challenged the administrative process. In May we will follow that up with an official letter.

In April we visited Sacramento and addressed members of the legislature on the effects of SB 391, we were able to speak with Senator DeSaulnier.

We attended a meeting of the Sierra Nevada Conservancy; issued public records requests for grant information on environmental groups and were able to gain membership in the Sierra Nevada Conservancy.

In April we filed a Freedom of Information Act request with the USGS requesting all data related to mercury studies in California.

We filed a request with the Nevada Irrigation District requesting records and information related to the Combie Dredging Project.

In March we filed a petition blocking the CBD from Administrative Rulemaking with CDFW.

We briefed the US Congress on issues affecting miners across the West and requested intervention.

Over the next few months we’ll be working to head off further restrictive regulations in the legislature while supporting the San Bernardino cases. It is our belief the environmental groups are already at work in the halls of Sacramento crafting new restrictions to further erode our rights.

It’s a new reality and it’s a reality that requires constant vigilance.

**Exciting Times!**

Wow, have we been busy. Whether we’re writing petitions to block further regulation or walking the halls of the capitol we’ve been going non-stop. We sincerely appreciate the support our members have provided us.

We’re not a club, and our objective is simple. We’re in this fight to restore and defend our rights to mine. We believe this right is guaranteed us in the 1872 Mining Law and the US Constitution.

We have really been gearing up politically and we’ve been doing significant outreach and interdiction.

We believe the next serious threat will come from the Water Board aided by the California legislature.

We know we must stop the anti-mining bills in Oregon and we’re considering what we should do about Idaho.

We’ve certainly got our hands full but with the recent attacks on the WMA on the environmental web sites and in the press we know we’re hitting a raw nerve with our opponents. The Western Mining Alliance has been both vocal and active in this fight and we’re now starting to draw the fire of our opponents.

That’s success in our books. We’re happy to take on this fight and we’ll beat them at their own game.

Our opponents use rhetoric and emotion, not science. Their approach works. People respond to emotion, not science.

We intend to change the rules under which we fight. We’re working tirelessly to level this playing field and we’re working to slow down the money flow to these groups.

It’s simple math. If you can shut off their funding they’ll go away. There is no scenario where these groups will continue if taxpayer funding dries up.

We’ve got a long difficult summer ahead of us. Please support the miners who are headed to court next month and please continue your support of the PLP legal fight.

*Molon Labe*
The Closing Statement

We've got some miners heading to court and that can be a lonely place. Please attend these hearings if you can, if for no other reason than to let these guys know you're there and you support their efforts.

We're also asking you to make some phone calls. The urgency of this request can't be overstated. Please call today and let them know what you think. We're not even on the slippery slope of socialism anymore, we're on a fast slide to the bottom. How many no income housing projects do we need? When I read about miners living out of RVs and having to pony up another $150.00 to buy a house for some slacker in L.A. it makes my blood boil.

Is there anything we're not taxed on anymore? A filing fee is a tax, yet now we'll be taxed on the tax.

The power of that phone call is important. One person can make a difference. Sometimes the people writing these bills just don't understand the truth, or the true effects or they could just be stupid, but we can't fix that. Those who are on the receiving end of these taxes are very vocal about their support of taking other people's money, but we tend to be silent. It's just another tax. But, where do we draw the line? When do we say enough?

We continue to surprise those that thought we were down for the count. We've been told by the State and the environmental groups have no idea how we stay in the fight. They thought they'd break us.

They thought the independent miners were easy pickings but they're finding it's a more difficult task than they imagined.

If we can stop the taxpayer money that's funding their legal cases we can stop them. We addressed this issue with Congress and they're well aware of the problem. We are confident if we can get a change in the makeup of the US Senate we can achieve some positive change after the 2014 elections.

Finally, the great quote of Teddy Roosevelt comes to mind when I think about our fellow miners headed to court. The miners who've been beaten time and again, get up brush the dust off and get back in the fight. This quote from Roosevelt sums up these miners perfectly.

“It is not the critic who counts; not the man who points out how the strong man stumbles, or where the doer of deeds could have done them better. The credit belongs to the man who is actually in the arena, whose face is marred by dust and sweat and blood, who strives valiantly; who errs and comes short again and again; because there is not effort without error and shortcomings; but who does actually strive to do the deed; who knows the great enthusiasm, the great devotion, who spends himself in a worthy cause, who at the best knows in the end the triumph of high achievement and who at the worst, if he fails, at least he fails while daring greatly. So that his place shall never be with those cold and timid souls who know neither victory nor defeat.”

Let's support our men in the arena.

Molon Labe
Down River

Here is another photo expedition of a remote mining claim. Another foot access only claim located near the top of the Sierras. If you would like to contribute a photo expedition you can email either MinerRick@theminingalliance.com or theminingalliance@theminingalliance.com.

Up until the dredging moratorium this claim had been continuously mined since the gold rush. Located near the very top of the Sierras the character of this claim changes dramatically from the top to the bottom.

Located in a rugged canyon in Sierra County the canyon is marked by relics from the historic mining days. There is plenty of evidence of the original miners; water flumes; hydraulic pipes and the activities of Chinese miners with their ever present stacked stone walls.

It’s incredible to think, after a few hours of traversing some of the most treacherous terrain imaginable, that these old miners were able to get heavy equipment into a canyon I can barely pack a light dredge into.

The picture above provides a view of nearly the top of the Sierras. The steep canyon in the foreground is the location of this claim. No roads or even trails access this canyon. It’s a long day of brutal and dangerous rock walking to get in. Once in the canyon it’s surprisingly easy to traverse up and downstream. The picture on the right shows the gentle grade of the river at the top end of the claim. Just to the left, but out of the view of this picture is an extensive pile of stones the Chinese removed from the bed of the river and stacked to clear the bedrock for their patient work.
Down River

The picture on the left provides evidence of Chinese miners having been here. Notice the piece of hydraulic pipe in the rocks. Directly below is the remnants of a water flume that ran the length of the canyon. Note how well preserved the boards are after all these years.

The picture to the left gives some idea of how steep the sides of this canyon are. There is no thought of going straight up it. Below is a home made dredge sitting idle.
Support the Western Mining Alliance

Thanks for the great response from last month. All profits go to supporting the political and legal fights. We’re probably one of very few businesses organized to sell things where we contribute all the profits to the fight to restore dredging. We’re increasing our inventory and selection for one purpose - to raise money to restore mining. We’ll be offering even more items next month, so continue to watch our website and the newsletter.

Price Drop on Bumper Stickers
Buy a bumper sticker, your truck will look better
We’ve consolidated our bumper stickers to just two and thanks to price breaks for ordering larger quantities we’re able to pass the savings on to you. Now Only $3.50 each!

NEW! OD Green hat, we just found our new favorite hat.

New Patches! Each hat ships with a WMA patch, you can order additional patches by going to the WMA store at www.westernminingalliance.org.