

SJR

39



ALASKA STATE LEGISLATURE

PLEASE ENTER INTO THE RECORD MY TESTIMONY TO THE Nat. Res. Comm.
COMMITTEE ON SUB # 39 DATED _____
BILLSUBJECT COMMITTEE NAME

Rep Green

MAR 25 199

SIGNED _____

TESTIFIER

Paul May Sr.
POLAR MINING INC.

REPRESENTING (OPTIONAL)

9545 WOODRV. DR. FBK. AK. 99709

ADDRESS/PHONE NUMBER

(907-479-2493)

POLAR MINING INC

4545 Wood River Dr., Fairbanks, Alaska. 99709 Phone 907-455-4198, Fax 907-455-8245

Pamela Grefsrud
Water Quality Technical Services
Alaska Dept of Environmental Conservation
555 Cordova Str,
Anchorage, Alaska. 99501

March 19, 1996

RE: Comments on proposed revisions to Water Quality Standards Revision

Dear Ms. Grefsrud,

As a second generation Alaskan Placer Miner and President of Polar Mining Inc I am very concerned about the current water quality standards revision and their effects on our industry. Further I must protest the timing of the public comment period and would request these regulatory revisions be delayed.

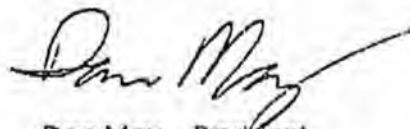
Whereas the current Alaska Placer Mining General Permit modifications proposed by EPA as a result of the Sierra Club lawsuit, and their effects on placer miners, have been contested by the Alaska Miners Association, the outcome of the Federal changes is unclear at this time. Since the Alaska DEC Water Quality Standards are inter-related with those of the EPA, I would request an extension of the Alaska DEC water standards revision process in order to first resolve the uncertainties arising from the EPA/Sierra Club lawsuit. Once the EPA General Permit issues are resolved we will need additional time to study the revisions in light of the Federal regulation outcome.

I would further request that if the EPA issues excessively restrictive regulations, as are currently proposed, the Alaska D.E.C. take a good look at what state regulations it could modify, or even implement, in order to allow and encourage the continuation of our industry. Our mining company strives to maintain its good reputation and has struggled to adapt to the many regulatory changes faced over the past 10 years. However there comes a point in which it will no longer be possible to comply with these unreasonable regulations, as in the current EPA proposal. To require a miner to discharge water with effluent limitations based on "drinking water" status while the natural receiving water is unfit for human consumption is absurd, superfluous, and lacks a scientific basis. From where I stand these proposed changes appear designed by environmental extremists with the purpose of eliminating placer mining in Alaska.

Over the past 10 years Polar Mining Inc. has provided year round jobs near Fairbanks and has a current work force of 43 employees. During that time this one mining company has produced in excess of 40 million dollars in new revenue which has turned over and over again in our community. Given the chance to continue our mining operations I see a 10-20 year future for our employees, just within a 20 mile radius of my hometown.

I applaud the Alaska State Legislature for passing an act allowing for a mineral exploration incentive credit, designed to stimulate and encourage mineral exploration and development, and to allow mining to play an increasing role in our states economy. Once the EPA/Sierra Club lawsuit is settled it will be time for the Alaska D.E.C. to implement reasonable regulatory standards that will both provide protection for our environment and allow for our mineral industry to survive and to grow again.

Sincerely,



Dan May, President



Alaska State Legislature

Official Business

State Capitol
Juneau AK 99801

SPONSOR STATEMENT

SJR 39: Relating to NPDES Permits for Placer Mining

Why must Alaska continue to be treated more stringently than other states with economic development? The Environmental Protection Agency, as a result of a negotiated lawsuit with the Sierra Club Legal Defense Fund, now proposes standards for dredge and recreational mining activities that are as strict as some standards set for large, commercial mining operations.

Despite its 30 percent budget reduction by Congress, EPA still manages to propose rulemakings and negotiate settlements which cost independent businesses time, money and effort for little environmental gain.

Alaska has a long, solid history of mineral production. As other regions of the U.S. have perhaps lost touch with the bounty of natural resources, the EPA should not subject Alaska to unscientific, burdensome reporting and permitting requirements at the whim of someone who has never had dirt under his or her fingernails.

Alaskans are for the wise use of our resources. We are far closer to our resources than some other areas of the United States where inhabitants enjoy the end product of mineral extraction, but have no concept of how their computer components were created.

We must continue to pressure the federal government to stop requesting information and permits that serve no useful purpose and to cease from imposing onerous restrictions such as 0.18 parts per billion arsenic levels for mining discharges - orders of magnitude less than what is required for drinking water.

FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO. SJR 39

Revision Date: initial Dept. Affected: _____
 Title: Relating to NPDES general permit BRU: _____
for placer mining Component: _____
 Sponsor: Senate Resources Committee
 Requester: Senate Resources Committee COMPONENT SERIAL NO. _____

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 100	FY 01	FY 02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

FUND SOURCE	FY 97	FY 98	FY 99	FY 100	FY 01	FY 02
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

Estimate of any current year (FY96) cost: \$ -0-

POSITIONS

POSITIONS	FY 97	FY 98	FY 99	FY 100	FY 01	FY 02
FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Senate Resources Committee
 Division: _____
 Approved by ~~COMMISSIONER~~: Senator Loren Leman, Chairman
 Agency: _____

Phone: 465-4907
 Date: 3-11-96
 Date: 3-11-96

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* * * * MINERS ALERT * * * *

February 23, 1996

TO: Miners, Dredge Miners, Recreational Miners
SUBJECT: New NPDES General Permit for Alaska

Your immediate action is needed! If the Draft NPDES General Permit now out for public comment is accepted, most placer operations will be required to meet conditions that are nearly impossible. Under this GP all dredge mining in the state will be effectively eliminated or each will require an Individual Permit.

Background - In 1994 the EPA issued a General Permit (GP) for placer mining in Alaska. If you have an NPDES discharge permit it is likely that you have one of these GPs. SCLDF (Sierra Club Legal Defense Fund) sued EPA arguing, among other things, that the permit did not guarantee protection from metals in the discharge water. Rather than allow the Federal Court to dictate a solution, EPA and SCLDF reached a negotiated settlement. This Draft NPDES GP is the resulting settlement.

Your Action

1. You need to write EPA and tell them why you feel this Draft GP will not work. Send comments to: Tim Hamlin; U.S. EPA Region 10; 1200 Sixth Avenue SO-155; Seattle, Washington 98101. Comments must be received at EPA by March 18, 1996.
2. If possible, attend the Public Hearing to be held Tuesday, March 5, 1996, 5:30 p.m. to 11 p.m. at the BLM Northern District Office Building, Main Conference Room, 1150 University Ave., Fairbanks, AK.
3. Get a copy of the Draft GP from EPA at 222 W. 7th Avenue, Room 537 or call (907) 271-5083.

The following are some of the major problems with the Draft GP. You may wish to use these topics as part of your comment letter and/or public comments:

1. The Draft GP is a substantive change to the existing GP due to its impact on existing GP holders, expanded application to new operators and new reporting rules.
2. The Draft GP contains unrealistic restrictions: a) prohibits moving an outfall location during the mining season, and b) requires a minimum 1,000 ft. separation distance between dischargers having modified turbidity limits.
3. The 30Q10 flow limit is excessively restrictive. The 30Q10 formula was designed for another purpose and is not applicable here.
4. There is no scientific basis for requiring an arsenic level of 0.18 ppb as proposed in the GP. EPA Headquarters in Washington, D.C. does not support this level. EPA Headquarters has already approved arsenic levels of 50 ppb in at least 25 states whereas this GP requires 0.18 ppb. To impose this requirement only on Alaska placer mines is arbitrary and capricious.
5. The Draft GP includes reporting requirements for arsenic levels that are below detection. This is arbitrary and capricious and is in conflict with EPA Headquarters.
6. The Draft GP assumes "0" for background levels of arsenic and turbidity which is seldom the case. The current GP assumes actual background.
7. The reporting requirements would require the miner to report arsenic levels that cannot be measured and then charge him civilly and/or criminally if he reports finding arsenic.
8. The Draft GP is in conflict with and seeks to override state regulations which allow mixing zones.
9. The Draft GP will increase the number of Individual Permits and permit processing costs, rather than reducing permit processing costs which was the purpose of the GP.
10. Because of the stipulations in this GP regarding a) silt, and b) adjacent dredgers, all dredge mining in the state will now be required to have an NPDES Individual Permit.
11. This GP, for the first time ever, requires that all dredgers have an NPDES permit and stipulations of this GP are so onerous that no dredge miner will qualify for a GP. This will add between 1,000 and 2,000 new permittees, all of which will be forced to have an Individual Permit. All of which, because of their minimal impact, are not required to have any other permit. It is arbitrary and capricious to require this change without scientific basis and is a violation of due process.
12. The Fortymile River, and some other areas surrounded by "Wild & Scenic River" designations, are State-owned navigable waterways and not a Wild & Scenic River as envisioned in the Draft GP. It is arbitrary and capricious to require a different standard for this state river or any other river or stream unless there is scientific support and no such support has been offered.
13. EPA does not have the people to process the new GPs or the IPs that will be generated by this Draft GP. Also, there is not time for EPA to review all existing GPs, publish them, and still issue them in time for the upcoming mining season.

Please write immediately and ask that EPA: 1) withdraw from the settlement; 2) discard the Draft GP; 3) hold public hearings in each state of Region 10 (including at least two locations in Alaska) before any other Draft GP is included in a settlement agreement.

Steven C. Borell, P.E.
Executive Director

The Anchorage Times

Publisher: BILL J. ALLEN

"Believing in Alaskans, putting Alaska first"

Editors: DENNIS FRADLEY, PAUL JENKINS, WILLIAM J. TOBIN

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Gold rip-off

THE SCAM artists are at it again — and Alaska is the intended victim. The Clinton administration, in cahoots with environmental lawyers, is preparing to pull off another heist, and this time the target is Alaska gold.

As the result of an out-of-court settlement proposed between the Environmental Protection Agency and the American Rivers environmental group, the EPA has proposed regulations that threaten to wipe out small gold mining operations that use suction hoses to scoop up gravel and gold bits from river beds. Recreational dredge mining also is in peril.

The Alaska Miners Association says the regulations envisioned by the EPA are far stricter than those that apply in other states. For instance, no paperwork is required for suction dredge operators in California. By requiring small operators in Alaska to comply with the same permitting rules that apply to the larger, commercial operators, the net result will be to benefit businesses in other states at Alaska's expense.

But the impact would extend beyond commercial operations. Steve Herschbach, owner of Alaska Mining & Diving Supply, says the Gold Prospector's Association of America each year brings to Alaska thousands of visitors who hunt for gold. Once the EPA proposed regs go into effect, he says, these vacation prospectors will choose California and elsewhere.

The EPA held hearings in the state this past week on its regulations and, as expected, a number of Alaskans testified against them. The miners' association, however, isn't hopeful that the testimony alone will persuade EPA to change its mind. The miners are seeking help from the congressional delegation in Washington to use its clout to stop the regulatory rip-off. Gov. Tony Knowles may want to step in as well. After all, Alaska's constitutional right to regulate activities on its rivers will be usurped if the EPA rules take effect.

The technique used by the feds and environmentalists to give themselves the authority to deny the state its rights in this instance is a familiar one.

Two years ago, lawyers for American Rivers sued to halt what had been the accepted practice of exempting recreational miners from the extensive permitting requirement. Rather than fight it out before a judge, the EPA "settled" with the environmental lawyers by basically agreeing to their demands.

This technique of settling a lawsuit in the environmentalists' favor is played out often in Alaska. The Forest Service uses it routinely to block its own timber sales. The Park Service used it to shut down gold mines in Kantishna. Now the EPA is using it to squeeze out gold seekers from recreational activity on Alaska rivers.

The scam's not likely to end until Alaskans, together, get mad enough to stop it.



ALASKA MINERS ASSOCIATION, INC.

501 W. Northern Lights Blvd., Suite 203, Anchorage, Alaska 99503 FAX: (907) 278-7997 Telephone: (907) 276-0347

February 27, 1996

Honorable Michele Brown
Commissioner
Department of Environmental Conservation
410 Wiloughby Ave., Suite 105
Juneau, AK 99801-1795

RE: Placer Mining Settlement

Dear Commissioner Brown,

On behalf of the Alaska Miners Association I wish to thank DEC for its involvement during the negotiations between EPA and SCLDF over the SCLDF complaint against the NPDES General Permit for placer mining in Alaska. We are certain that the settlement would have been even more onerous had it not been for the role played by DEC.

We are still evaluating the Draft NPDES General Permit (Draft GP) but it is clear that this permit is totally un-workable for the miners holding the existing GP and for the large number of additional dredge operations that will now be required to have a permit for the first time. Your November 9, 1995 letter to EPA described DEC's position on some of the provisions that EPA was considering for inclusion in the Draft GP.

However, EPA did not incorporate your points as specified and furthermore, EPA made numerous other changes to the GP that surely were not brought to your attention. Regarding your specific points, the Draft GP does not give the miner the assurance that he will be able to get an Individual Permit (IP). He may request an IP but is not assured that EPA will issue one. This is contrary to your letter where you state "Our willingness to extend such assurances is based on EPA's commitment to process applications for individual NPDES permits from miners who may be unable or unwilling to operate under the revised permit." Your statement makes it clear that the choice was to be the miner's but the Draft GP makes no such guarantee.

There are also numerous other changes to the GP that DEC could not have known about and I will address just a few of these. One such change is that the Draft GP now requires all suction dredgers to have permits. Under the existing GP only a very few suction dredgers were required to have a permit (those with intake nozzles of greater than 8 inches diameter). The Draft GP requires that all dredgers have permits. Because of the way the Draft GP is written, dredgers will not qualify for a GP but each will need an Individual

Permit. Our estimate is that this will require between 1000 and 2000 new IPs.

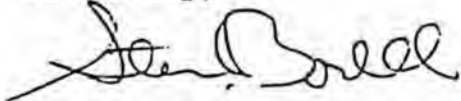
Another major change is that the Draft GP contains unrealistic restrictions. It prohibits moving an outfall location during the mining season. It also requires a minimum 1000 feet separation between dischargers having modified turbidity limits. These restrictions are at times operationally impossible to meet. There are many more and our comment letter to EPA will lay all of them out in detail.

However, the reason for this current letter is to request that DEC withdraw its letter of November 9, 1995 for the following reasons:

- 1) the Draft GP does not conform to the assumptions and objectives of your November 9 letter,
- 2) the Draft GP includes other substantial changes of tremendous adverse consequence to the industry that must not be endorsed by DEC,
- 3) the Draft GP is so unworkable DEC should retreat so they have no association with it, particularly in light of the fact that DEC is being asked to pay legal fees to plaintiffs.

Also, we request that DEC formally notify EPA that DEC will not certify the Draft GP should this permit be taken to final. We believe that it is only through such a notice that EPA will make the changes that are absolutely required for a General Permit for placer mining to be workable.

Sincerely,



Steven C. Borell, P.E.
Executive Director



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10
1200 Sixth Avenue
Seattle, Washington 98101

Reply To
Attn Of: SO-155

Re: Proposed Modified General Permit for Placer Miners

To Persons Covered under the Placer Miner General Permit for
Alaska:

The Environmental Protection Agency is proposing to modify the National Pollutant Discharge Elimination System (NPDES) General Permit for Alaska Placer Miners. EPA anticipates issuing a final modified general permit in early April, in time for the next mining season.

The EPA has scheduled a public hearing to occur on March 5, 1996 from 5:30 p.m. until 11:00 p.m. at the State of Alaska Department of Natural Resources Offices in Fairbanks, Alaska. A copy of the public notice of this hearing is enclosed.

Comments may be made at the hearing or may be mailed to EPA Region 10. Written comments must be received by March 15, 1996. Comments must be received by this date to be considered by the agency prior to final issuance of a modified general permit. Please include the name and address of the commenter and a concise statement of the precise basis of any comment and the relevant facts on which it is based. Written comments should be submitted to EPA at the above address to the attention of the Director, Office of Water, OW-134.


The proposal arises from a settlement agreement reached with Northern Alaska Environmental Center and American Rivers, who filed a petition for review of the existing permit with the Federal Ninth Circuit Court of Appeals. The proposed modification reflects EPA Region 10's effort to resolve the petitioner's concerns in a manner that would both protect the environment by assuring compliance with environmental laws and also preserve the ability of placer miners to pursue their livelihood. As proposed, the modified general permit would require submission on a new notice of intent by all those currently covered under the existing general permit. Please be prepared to supply that information promptly to facilitate EPA's efforts to make a determination about coverage prior to the coming mining season.

The proposed modifications include:

- changes in those who can be covered under the general permit. Miners operating on special-use waters, including Wild & Scenic Rivers, utilize hydraulic removal of overburden, or who operate suction dredges with intake hoses larger than eight inches would not be covered by the modified general permit but may apply for an individual NPDES permit. Also, suction dredgers with intake hoses less than four inches in size would be covered, subject to the exclusion that applies to special-use waters.
- limitations on the volume of effluent that a miner may discharge and changes in the method of determining site-specific turbidity limits. The change in the method generally will result in lower site-specific turbidity limits.
- an increase in monitoring frequency of turbidity and arsenic from once per season to once per month. Also, background monitoring for turbidity, if necessary at all, would be taken immediately above the miner's operations.
- a change in the arsenic limitation. Discharges to natural background would not be authorized in the general permit, only in an individual permit.
- new management practices for suction dredge operations.

EPA looks forward to hearing from you. If you have questions about the proposed modified general permit, please contact Tim Hamlin in Seattle, Washington, at (206) 781-0366.

Sincerely,


Robert R. Robichaud, Manager
NPDES Permits Unit

Enclosure

U.S. Environmental Protection Agency (EPA), Region 10
1200 Sixth Avenue, OW-134
Seattle, Washington 98101-3188
(206) 553-1214

NOTICE OF PROPOSED MODIFICATION OF A GENERAL NATIONAL POLLUTANT
DISCHARGE ELIMINATION SYSTEM (NPDES) PERMIT TO
DISCHARGE TO WATERS OF THE UNITED STATES,
and
NOTICE OF STATE CERTIFICATION.

Public Notice Issuance Date: January 31, 1995
Public Notice Expiration Date: March 15, 1996

1. Applicant

This proposal is to modify the general permit regulating placer mining activities in the State of Alaska. On May 31, 1994, EPA, Region 10 issued a general permit for discharges of wastewater from placer mines in Alaska.

If issued, the proposed modified permit would modify effluent limitations, standards, prohibitions and other conditions on wastewater discharges set forth in the Alaska placer miner general permit. These conditions are based on existing national effluent guidelines, state water quality standards and material contained in the administrative record. A description of the basis for the conditions and requirements of the proposed modified general permit, and especially of the basis for the proposed modifications, is given in the fact sheet.

2. Tentative Determination

The Region 10 Office of EPA has tentatively determined to modify the general permit. If the modified general permit is issued, applicants could obtain coverage under the modified permit by submitting a Notice of Intent (NOI) to be covered by it. To comply with the National Environmental Policy Act (NEPA), an Environmental Assessment (EA) had been completed previously in connection with the existing general permit. A Finding of no Significant Impact (FNSI) was issued in connection with that permit. The modified general permit would require that NEPA review be completed for new sources; an EA and/or an Environmental Impact Statement must be completed prior to a decision being made as to whether to grant coverage under the modified general permit.

3. State Certification

This Notice will also serve as Public Notice of the intent of the State of Alaska, Department of Environmental Conservation to consider certifying that the subject discharge will comply with the applicable provisions of Sections 208(e),

301, 302, 303, 306 and 307 of the Clean Water Act. The NPDES permit will not be issued until the certification requirements of Section 401 have been met.

4. Coastal Zone Management Program Consistency

This Notice will also serve as Public Notice that the State of Alaska Department of Government Coordination will be considering whether the subject discharge will comply with the State's Coastal Zone Management Program.

4. Public Comments

Persons wishing to comment on the tentative determinations contained in the proposed permits may do so, in writing, within 45 days of the date of this public notice. Comments must be received within this 45-day period to be considered in the formulation of final determinations regarding the application. All comments should include the name, address and telephone number of the commenter and a concise statement of the exact basis of any comment and the relevant facts upon which it is based. All written comments should be submitted to EPA at the above address to the attention of Director, Water Division.

A public hearing will be held in Fairbanks, Alaska on March 5, 1996 at the offices of State of Alaska, Department of Natural Resources, Division of Mining and Water Resources, 3700 Airport Way from 6:30 p.m. until 11:00 p.m.

Persons wishing to comment on State Certification should submit written comments within this 30-day period to the State of Alaska, Department of Environmental Conservation (ADEC) at one of the following addresses:

410 Willoughby Avenue, Suite 105, Juneau, Alaska 99801-1795
610 University Avenue, Fairbanks, Alaska 99709
555 Cordova Street, Anchorage, Alaska 99501

5. Permit Documents

The proposed NPDES permit and other related documents are on file and may be inspected at the above EPA address any time between 8:30 a.m. and 4:00 p.m., Monday through Friday. Copies and other information may be requested by writing to the EPA at the above address to the attention of the Water Permits Section, or by calling (206) 553-1214. This material is also available from the EPA Alaska Operations Office, Room 537, Federal Building, 222 West 7th Avenue, #19, Anchorage, Alaska 99513. EPA Alaska Operations Office, 410 Willoughby Avenue, Suite 100, Juneau, Alaska 99801. Alaska Department of Environmental Conservation (ADEC), 610 University Avenue, Suite 350, Fairbanks, Alaska 99709.

To ensure effective communication with everyone, additional services can be made available to persons with disabilities by contacting an EPA representative. For those with impaired hearing or speech, please contact EPA's telecommunication device for the deaf (TDD) at (206) 553-1698.

Senator Drue Pearce
State Capitol
Room 111 Capitol
Juneau, AK 99801-1182

Dear Senator Drue Pearce,

I am writing because of proposed changes to the EPA General Permit for Placer Miners AKG-37-0000 that will have a significant impact on Alaskans and visitors to Alaska. The proposed changes discriminate against Alaskans and visitors to Alaska. The permit seeks to usurp State control of a local recreational activity.

I have a vested interest in this subject as a life-long resident of Alaska. For the past twenty years I have been an owner and operator of Alaska Mining & Diving Supply in Anchorage, as well as an avid outdoor enthusiast. One activity I have enjoyed since 1972 has been recreational gold dredging.

The permit as it currently exists covers small commercial mining operations. The EPA Region 10 office in Seattle now proposes to include small recreational suction dredges in this permit process. Until now, this recreational dredging has needed only a State Department of Fish & Game permit, and then only if dredging takes place on a salmon-bearing stream.

The requirements in the permit relating to dredging make it impossible to actually operate with the permit. The recreational dredger must choose between operating with this permit while violating its requirements, or filing a full-scale commercial mining permit to attempt to operate legally. This permit is not intended to govern a recreational activity and because of the onerous paperwork requirement, recreational suction dredging will cease to exist in Alaska. It is akin to asking all sport fishermen to undergo all the requirements for commercial fishing.

The issue of recreational dredging has been debated for years in California, and a full Environmental Impact Study on recreational dredging completed in 1994. The net effect of the study and debate has been to allow dredgers to operate with a simple State Fish & Game Permit which costs about \$30.00, with some extra fees for larger commercial style dredges. There are over 4000 permitted dredgers in California who provide over \$150,000.00 per year to the Fish & Game budget.

The proposed rules for Alaska are arbitrary and ignore the hard study and debate given the issue in California. Recreational dredging has been deemed a legitimate activity and to have little or no environmental impact in California, and is seen to contribute to the economy and tourism in California.

It is not proper for a federal agency to impose practices on any single State that are much more stringent than required in other States where the same activity occurs. This would be discriminatory to Alaskans, and to visitors to Alaska. It is also discriminatory to force regulation of one users group beyond what is required of others using the same resource. Dredgers share the streams with fishermen, river-rafters, and boaters, and these groups must conform to the same rules if they are put in force.

The proposed permit usurps the authority of the Alaska State Department of Fish & Game. It proposes requirements relating to fish and dredging that are far more stringent than any currently required in Alaska. The State of Alaska has long sought to retain its authority in matters relating to fisheries, and this permit will lead to growing EPA control over fisheries in Alaska. If the EPA is concerned about the impact a small number of recreational miners may have on fish, then the impact that tens of thousands of fishermen have on streambank erosion, disturbance of the stream-bottom environments and more will surely be next. The rules relating to recreational miners will be illegal unless applied to all stream users groups, not just one group to the exclusion of the others.

The proposed rules will have an impact on tourism in the State of Alaska. The State Division of Tourism has announced plans to make gold mining more visible in its advertising. Gold mining has proven to be an area of interest to Alaskan tourists. The Independence Mine in Hatcher Pass, Crow Creek Mine in Girdwood, the A-J Mine in Juneau, the Kennicott Mine in McCarthy and other sites are major tourist attractions. Tourists wish to experience the thrill of prospecting themselves. They flock to the beaches of Nome each year. The Gold Prospector's Association of America brings thousands of visitors to Alaska each year solely to look for gold. I personally have dealt with thousands at my store in the past twenty years who have come to Alaska for the summer to enjoy this recreational experience and touch the past.

The elimination of suction dredging will not eliminate all these visitors, but it will discourage many for whom dredging is a goal. They will look to other States which do not impose the same burden on dredgers. The main point is that this discouraging action is not needed and if done with a California style permit would generate income for the State of Alaska. The entire concept of recreational mining is a plus for tourism and the Alaska economy, and should be fostered for the vast potential it holds for the future.

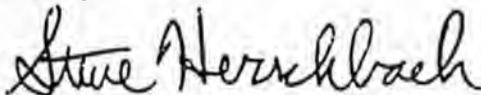
If these proposed rules do begin to be applied to fishermen, rafters, and others, the effect on tourism will be devastating.

Lastly, there will be the direct effect on businesses and their employees who cater to this market. Alaska Mining & Diving Supply is one such business. From a humble beginning as two Anchorage teenage kids selling recreational mining equipment it has grown to one of the nations largest retailers of outdoor recreational power products. We employ over 25 people and support their families. The impact on businesses such as mine ly arbitrary and discriminatory regulation is unwarranted.

The EPA is not even holding a public hearing in Anchorage. The enactment of these new rules is being rushed through with no attempt to notify the people it will impact most. The period for public comment ends March 15th, and so far the EPA is resisting attempts to hold a hearing in Anchorage because it would require them to extend the time required for public comment. They cite a need to have the new rules in effect before summer, but that is no reason to deny our citizens their right to due process.

I am enclosing information relating to this subject. I know the issue seems only to affect a relatively small number of recreational suction dredgers, but the potential threat to Alaskans by this proposed permit are subtle and widespread in nature. I strongly urge that the California regulations be used as a fair model for Alaska. No excess money need be spent to study an issue and formulate rules when a State with more dredgers and less area has done the work for us. The State of Alaska will be negligent if it ignores this threat to its sovereignty and its economic future. Thank you for taking the time to review this issue.

Sincerely,



Steve Herschbach, Owner
Alaska Mining & Diving Supply
3222 Commercial Drive
Anchorage, AK 99501
(907)277-1741

P.S. Please, if you can do nothing else on this issue, support our request for a public hearing in Anchorage. It is not proper that Alaska's largest population center be excluded from the public hearing process, especially when suction dredging is so popular in the Anchorage area.

Enclosure

POSITION PAPER ON SENATE JOINT RESOLUTION 39

The Alaska Legislature is contemplating passing a resolution urging EPA to rescind a settlement agreement that requires a revised Alaska General Placer NPDES Permit. As a member of the negotiating team, I would like to make the following observations about the settlement process, and the proposed/revised General Permit, and to urge the Alaska Legislature not to adopt Senate Joint Resolution 39.

- The EPA was in a weak legal position in defending its case before the court. If EPA loses in court, the court may require much more stringent standards that have been negotiated under the settlement agreement. For example: the appellants have asked that a complete set of metals (approximately 10 metals, not just arsenic as is the case in the settlement agreement) be required for testing; and, that the testing interval be once per week, as is required in NPDES permits for other mine discharges, rather than 3 times per year as required in the settlement agreement.
- The miner's chose not to intervene in the legal challenge to the General Permit when it was filed. In addition, they were offered an opportunity to comment on the settlement agreement when it was in its final stages, and declined. The appellants are still willing to hear substantive concerns from the miners even now, and to approach EPA about modifications in the settlement agreement if the changes requested will preserve the integrity of the settlement agreement.
- As is the case in most settlement negotiations, there were many compromises from all the participants (Northern Alaska Environmental Center & American Rivers, EPA, and the State). No one got "there way" in this settlement agreement.
- The arsenic level 0.18 parts per billion is not related to the settlement agreement. The permit arsenic level was not an issue discussed during the settlement negotiations. Moreover, if there is no settlement agreement, the arsenic standard for permits issued under the 1994 General Permit will still 0.18 parts per billion. This is an issue that is not relevant to the settlement agreement.
- Small suction dredges (less than 4") are now regulated under the General Permit, mainly to make sure operators know what Best Management Practices they should be utilizing.
- All dischargers, including small suction dredges, are required by the Clean Water Act to have an NPDES permit. Under the settlement agreement small suction dredges must apply (by mail) for a permit, and are obligated to abide by a set of simple Best Management Practices that EPA will send them. There is no monitoring or reporting requirement for small suction dredges.

- The public will now be allowed an opportunity to comment on permits and mixing zone authorizations issued under the General Permit.
- Mines using hydraulicking, or mines operating in sensitive areas, like Wild & Scenic Rivers and wilderness areas, are not covered under the General Permit, but must apply for a regular (individual) NPDES permit where the public will have an opportunity to comment on these as individual operations, rather than in a batch-comment process.
- EPA has agreed to conduct studies to quantify the effects of the discharges from large suction dredge operations (greater than 8"), and to analyze the quantities of metals being discharged from all placer operations, so that both miners and environmentalists will know whether these operations are causing metals pollution or damaging stream beds in Alaska.

If EPA rescinds their settlement agreement, they place themselves in a tenuous legal position, as evidenced by EPA's interest in a settlement. The Alaska placer miners place themselves in the position of having the court impose measurement requirements and permit restrictions that are much more severe than those reached during the compromises in the settlement agreement. Fine-tuning the terms of the settlement agreement, which EPA and the appellants have encouraged, is much more likely to produce a General Permit that is in the best interest of all parties, than would a potential court imposed change that would leave all involved dissatisfied.

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Post-It® Fax Note	7671	Date	3/19	# of pages	2
To	Bill / Sarah	From	David Chambers		
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03/22/96

LEGISLATIVE TELECONFERENCE NETWORK SYSTEM

LTN1150

08:32:43

PARTICIPANT LIST (ALL PARTICIPANTS)

BY:FBX

TCN:60578

SCHEDULED FOR:03/22/96 08:00 TO 10:00

FOR:FBX

PUBLIC HEARING

HOUSE RESOURCES

LOCATION: FAIRBANKS

✓ SJR 39

MR. JAMES

JOHNSON *oppose* *no*

TESTIFY

✓ SJR 39

MR. CLARKE

MILNE (MILN) *yes*

TESTIFY

✓ SJR 39

MR. GEORGE

LOUNSBURY *yes*

TESTIFY

✓ SJR 39

MR. FRED

HEFLINGER

TESTIFY

✓ SJR 39

MR. ROGER

BURGGRAF

TESTIFY

✓ SJR 39

MS. *Walden* MIKE

DALTON *yes*

TESTIFY

✓ SJR 39

MR. HARRY

JENKINS

TESTIFY

Don

May

Environmentalist
Polar mining

self
self
Environmentalist
yes

03/22/96 08:03:36

LEGISLATIVE TELECONFERENCE NETWORK SYSTEM

LTN1120

MESSAGE FROM: LIOCJEN

IN ANCHORAGE

JNU

RE TCN: 60578

SCHEDULED FOR:03/22/96 08:00 TO 10:00

SPONSOR: HOUSE RESOURCES

PURPOSE: PUBLIC HEARING

✓ MESSAGE TEXT: OF1 STEVE BURELL IN CO TO T ON SJR 39

EX. Director
AK MINERC A.I.C.C.

Favors