

Western Mining Alliance

Voice of the Independent Miner

January 2018

THIS MONTH

Dredging legal fight update – what now?
New claim filings – where's the gold rush?
Jurassic Gold
Refresher on placer prospecting
Murphy's Bar
The Karuk Hustle



FIGHTING THE STATE

“We know through painful experience that freedom is never voluntarily given by the oppressor; it must be demanded by the oppressed.” Dr. Martin Luther King

Fighting the State is hard. They are arrogant, have unlimited resources, and they can arbitrarily change the laws in the middle of the game – as they did.

We have no intention of trying to spin the simple fact we just lost big time to the machine known as the State.

We have just one small complaint - we were never allowed a trial. Nor was Rinehart. If you recall, the court refused to allow Rinehart a defense. Rinehart appealed, the court said Rinehart should have a trial and so ordered it. The State fearing an actual trial, in an actual rural county, directly petitioned the California Supreme Court - which denied Rinehart a trial.

Yeah, I know, there's probably some type of legal mumbo jumbo which says he got a trial, but he didn't. Not once throughout the whole process did he ever have the opportunity to present a defense to the State's accusations of his crimes.

See, we're not lawyers, so don't follow our advice, but in our humble opinion, one ought to get a trial. We're pretty sure somewhere in the Constitution it says something about due process before they can take something from you.

What we didn't know was its all a shell game. The State makes the laws, the State enforces the laws; the State decides if their laws are lawful and when the State so desires it changes those same laws to ensure they win.

It's a moving target for us. To file a lawsuit you really have to get a quick ruling before the State moves the goal posts, as they did to us. Ironically, they're the only ones who can move the goal posts.

In the CEQA case there are over 200,000 pages in the trial record. It took us two months to write our lawsuit, and thousands of hours of research. After 5 years of delay our lawyer was allowed 15 minutes of oral argument.

We filed that lawsuit in 2012, immediately after the 2012 suction dredge environmental report was final.

According to the judge's ruling he based his decision that our case was moot, on a law, which modified a law, which modified another law which was passed in response to the publishing of the 2012 EIR – the document we took to court for a ruling on.

Follow?

In summary - we filed a lawsuit against the State; we asked the State to rule for us against the State; the State decided they would simply change the law which we challenged, by passing other laws which we challenged as illegal - the State found it was OK for the State to do this; then the State said our original lawsuit was moot because the State decided they would pass other laws which made it moot to sue the State over the original issue we sued on.

Then the State came back and told the State they wanted us to reimburse their legal fees for challenging the State's laws even though the State never won anything in regards to our case, they just managed to pass three laws in three years.

If you think about it, it's pretty sweet to be the State, but it damned sure sucks to be a citizen. Imagine suing somebody who can simply change the law under which you sued. Nice.

So now we ask three more judges whether our original legal question should be answered. It was a simple question of whether 150 years of previous mining should have been considered when they did the environmental review.

Like big dummies we had read a bunch of cases where judges had said they had to include prior effects in, and we believed somehow this would actually apply to us.

Now, here's the final piece to this whole crazy conspiracy thing - the way the CEQA law is written ensures no judge in a rural county will ever hear an environmental case. The law says only specially trained judges (in CEQA), and only in counties with populations over 250,000 can rule on CEQA cases.

You got to admit things would probably be different if judges in the counties where dredging takes place could hear dredging related cases.

What do you think the outcome would be with a jury trial in Sierra County?

No, it's not over. We're still fighting the State – and yeah, we could use some support on this effort.

SUPPORT WHAT WE'RE DOING

We have to come up with the money to pay the cost of the appeal. We could really use your support. We've never paid ourselves a dime, virtually all our money goes right to the lawyer with a little paying for things like annual license and web hosting. We are extremely efficient with your money. In the past we've helped fund the Rinehart case; we've provided Keith Walker with paid legal support; we've been to Congress to try to change federal laws; we're one of very few remaining plaintiff's against the State. If you want to fight – we could use your help.

CLAIM REPORT UPDATES

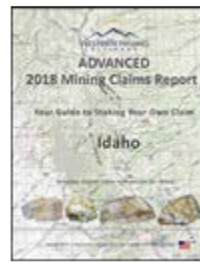
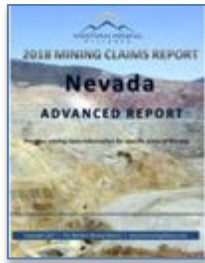
On January 31st we sent out to members the 2018 Advanced Report. Everyone should receive it early next week. If you don't get your copy, and you want it, please let us know. Each year we get some copies returned but we don't have forwarding addresses. We're currently watching 1,195 claims in NORCAL with only 98 of them being officially closed. For SOCAL we're following 2,677 claims with only 61 of them being officially closed.

mining this year – Nevada is a pretty good bet.

It's not all micro-gold and big companies. We're watching a number of claims right now which would be really nice for the small-scale miner. We'll probably be heading out to check some out over the next few weeks.

If you want to check out these and other reports you can use our online store link on the website.

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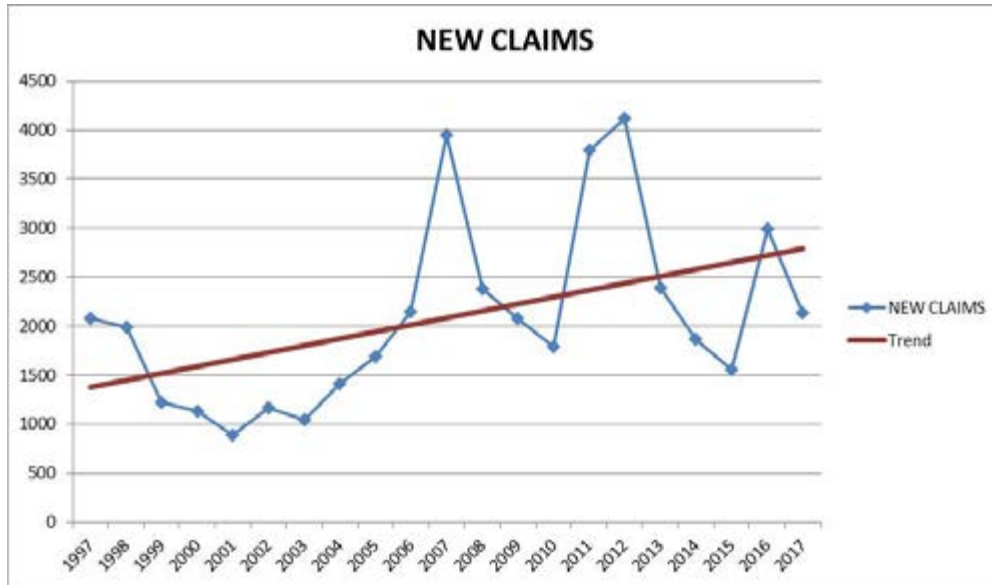
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NEW CLAIM STATISTICS

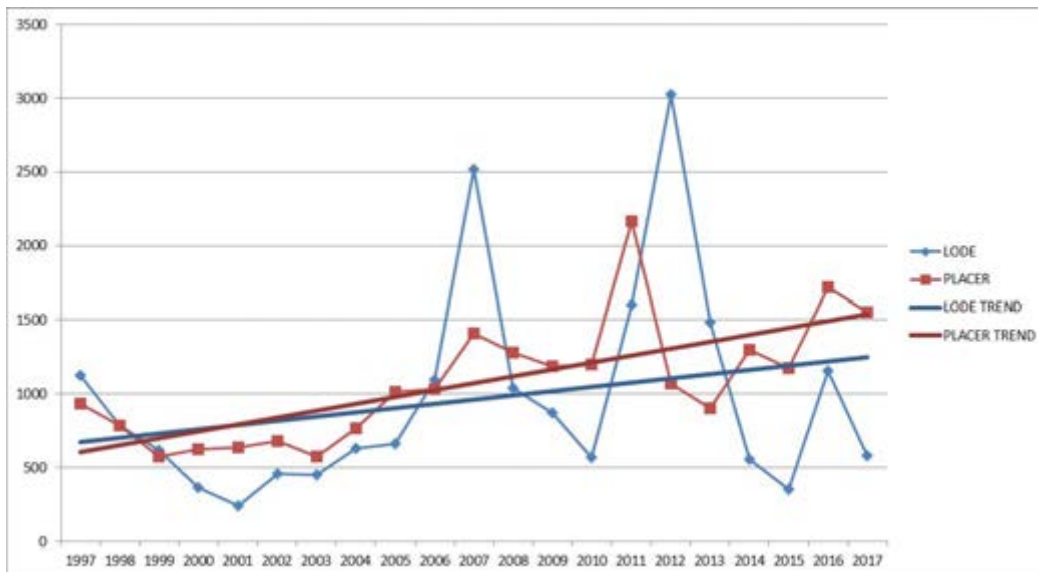
With the recent anti-mining laws in California we wondered whether people were getting rid of their mining claims. The results are surprising. To get some idea of the trend we had to go back before the dredging ban, so we decided on a time period of 20 years, or 1997 – 2017.

Below – new mining claim locations over the past 20 years.



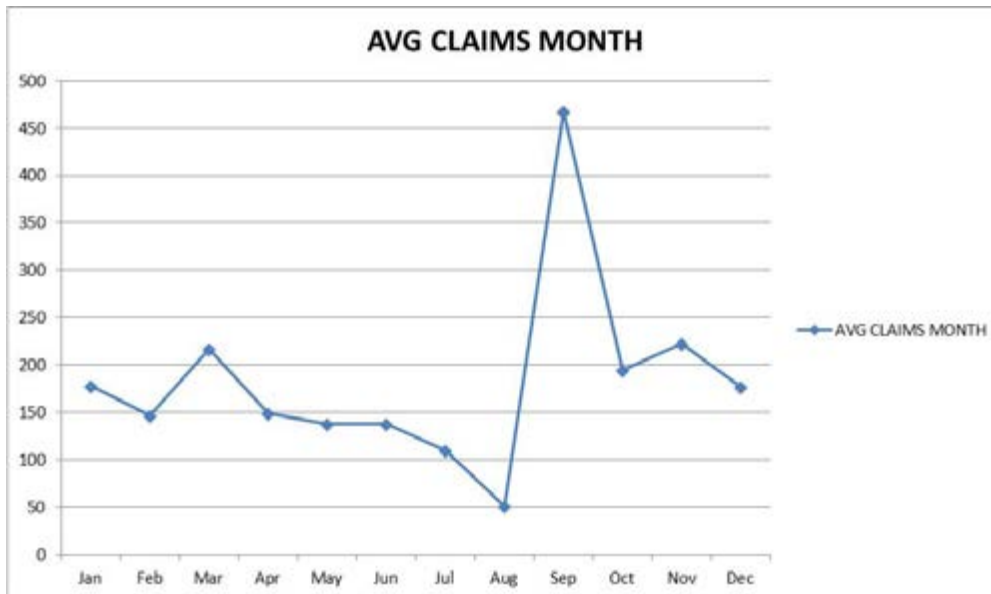
You can see just after the dredging ban (2009) new locations significantly increased, but then after 2012 there was a sharp decline, but not entirely inconsistent with history.

The general trend line over the past 20 years shows an increasing number of new locations each year. Below – placer and lode claims are split out.



NEW CLAIM STATISTICS

If you've ever wondered – the vast majority of new claims are filed in September of each year. Proving once again that miners behave rationally. If you file in August you pay the \$155.00 fee for the current year, then you must again pay the fee prior to September 1st. By simply waiting a few more weeks you save \$155.00 per 20 acres. Of course September is also the month when claims are forfeited so many new claims come available.



Where's the Gold Rush?

RANK	RIVER	CLAIMS FILED
1	Inyo Mountains	941
2	Panamint Valley	830
3	Pinto Mountains	769
4	Chocolate Mountains	756
5	Bristol Lake	530
6	Alkali Flat	501
7	Calico Mountains	456
8	Ord Mountain	388
9	Upper Johnson Valley	388
10	Trinity River	385
11	Yuba River North Fork	362
12	Rodman Mountains	361
13	Mojave Valley	355
14	Cargo Muchacho Mountains	331
15	Klamath River	326
16	Lanfair Valley	323
17	West Ord Mountain	321
18	Indian Creek	317
19	Rose Valley	312
20	Ord Mountains	298
21	Turquoise Mountain	298
22	Coso Mountains	281
23	Long Valley Creek Tributary	266
24	East Ord Mountain	265
25	McCoy Mountains	262

The chart to the left sorts out where the most claims have been filed in California, over the previous 20 years. This includes both placer and lode.

Consistently we see the most claims filed down in the desert regions of Southern California.

The Yuba River, and Klamath, are subject to frequent claim turnover and we see this all the time in our yearly claims reports.

The chart to the left gives you a pretty good idea of where the gold is with some exceptions.

You can be fairly certain the guys with claims in a place called Alkali Flat are probably mining minerals other than gold.

WHERE'S THE GOLD RUSH?

Once you get started on this data stuff you can just keep right on going. This time we wanted to know what the top 25 areas were for only lode claims, and then what year had the most claims for that area.

The below table sorts new lode locations by the top area, and the year in which that number of claims was filed.

RANK	YEAR	GEO AREA	CLAIMS FILED
1	2012	Calico Mountains	277
2	1997	Cargo Muchacho Mountains	223
3	2012	East Ord Mountain	206
4	2012	West Ord Mountain	200
5	1998	Chocolate Mountains	188
6	2012	Mojave Valley	188
7	2007	McCoy Mountains	173
8	2012	Ord Mountains	172
9	2012	Rodman Mountains	170
10	2012	Ord Mountain	164
11	2011	Ord Mountain	163
12	2007	Turquoise Mountain	162
13	2013	Inyo Mountains	154
14	2006	Inyo Mountains	148
15	2007	Cactus Ridge	148
16	2016	Lanfair Valley	136
17	2011	Inyo Mountains	135
18	2007	Pinto Mountains	128
19	1999	Bullion Mountains	114
20	2016	Darwin Hills	112
21	2013	Darwin Hills	110
22	2013	Indian Wells Valley	109
23	2013	Black Hills	108
24	2011	Pinto Mountains	102
25	2011	Conglomerate Mesa	101

So what do you do with this new found information? By our way of thinking there's got to be a reason for so many people filing claims in an area, and that reason is likely gold. Many of you are familiar with the names listed above and on the previous pages. Placing your bet, and staking a claim, in the same areas as a lot of other people have isn't a bad strategy for finding gold.

Good luck.

NEVADA GOLD RUSH

Ever wonder where the big boys are filing claims?

Hint - It's not California.

From September 1 to January 25th there were 22,630 new claims filed in Nevada. Which, by the way, exceeds all existing California claims.

- Barrick Gold filed 433
- Newmont filed 4,335

OK, if you just did the quick math on Newmont you concluded Newmont has already spent over \$953,000 on filing fees.

Some other mining companies are betting big on Nevada as well including:

- Basin and Range Resources – 1,365 new claims
- Intermountain Exploration - 1,048 new claims
- Kinross Gold USA - 1,485 new claims
- Silver One Resources – 1,099 new claims.

So you're probably wondering where these companies are filing their claims - ?

Well, the claims really aren't all that concentrated, but there is a general trend.

For Newmont they've been locating a lot of claims in the Ravenswood Mountains Area with another concentration around Antelope Creek Wash.

Barrick Gold has been concentrating in the Gold Quartz and Altenburg areas with a couple hundred claims in each.

Basin and Range Resources are betting big on the Cherry Creek Mountains and the Shoshone Mountains.

Intermountain Exploration has been spreading their claims around between about 20 areas with no more than 150 claims in each area. The highest concentration is in the Coils Creek area.

Kinross Gold has really got their claims spread all over the place. The highest concentration is in the Bailey Mountain area.

Silver Ore Resources has been looking hard in the Clover Mountains area with 518 new claims being located there.

GOLD'S TRIASSIC PARK

By Jim Rocha, copyright 2017

GOLD'S "TRIASSIC PARK"

At some point or another you've probably seen at least one of Hollywood's "Jurassic Park" films wherein well-intentioned bio-engineers mess around with dinosaur DNA and their greedy corporate counterparts create a park filled with all sorts of these long-extinct critters, including the meat-eating types. Even if you haven't seen any of these films, you can pretty well guess that combining meat-eating dinosaurs with humans isn't the best of ideas. Sooner or later this co-mingling is bound to go wrong and bad things are going to happen. Which they do...in spades.

But I'm not here to review the "Jurassic Park" series. Nor am I going to bore you with a long-winded discussion of dinosaurs or the Jurassic Period. What I am going to do, however, is bring your attention to another geological epoch where large deposits of placer gold were laid down in the eastern, northeastern, and southeastern United States. I like to call these ancient rivers of gold the East Coast's "Triassic Park" as a tongue-in-cheek nod to Hollywood's efforts (which they may or may not appreciate). Perhaps the billionaire movie moguls and pampered, over-paid actors in Hollywood would consider a film where those Jurassic meat-eaters are turned loose in Beverly Hills, Brentwood, or along Sunset Boulevard. It's a nice thought, but I digress here as I often do.

"Redbeds"

When was the Triassic Period? Some 200-251 million years ago during the birth of the Mesozoic Era when life outside our oceans first began to diversify. This makes the placer gold contained in ancient Triassic deposits much older than those rich Tertiary deposits worked during the California Gold Rush by...oh, let's say...200 million years, give or take 30 or 40 million years. Although there are other regions in the U.S. and elsewhere in the world that contain Triassic period gold deposits, the good old U.S. is one of the main regions where these ancient gold placers exist. Even more interesting is the fact that it's the eastern U.S. (not the West or Southwest) where the bulk of this Triassic gold was deposited. Triassic Period gold can be found in Massachusetts, Connecticut, New York, New Jersey, Pennsylvania, Maryland, Virginia, and North Carolina. That's quite a chunk of Triassic gold-bearing real estate, to say the least.

Triassic gold deposits are sometimes called "[redbeds](#)" by geologists since much of the rock associated with them has a distinct reddish or reddish-orange coloration. This colorization is the result of ferrous sulfide oxidation on a massive scale, as any mineralogist or geologist worth his or her salt could verify. "Redbeds" refer to rock strata composed of reddish-colored sedimentary rocks such as sandstone, siltstone, and shale which were formed either on land or in rivers and lakes. In the American West and Southwest most miners (small-scale or commercial) will turn their noses up at sedimentary rock since it's not known as much of a gold producer. This is due to the fact that most of the gold out West is much "newer" geologically speaking and its genesis is typically associated with large batholiths and igneous metamorphic rock structures.

Micron Fines and Small Flakes

Auriferous "Triassic Park" stream gravels are most often formed of breccia or conglomerates. Both of these types of rocks are rocks composed of smaller stones, pebbles, or mineral fragments cemented together by fine silts or clays. One of the largest "redbeds" on the East Coast of the U.S. is known as the Newark (yes, New Jersey) Super Group. The Newark "redbeds" are extremely thick and their conglomerates or breccia often contain the imprints of fossilized fish called *Semionotus*. Other prominent "redbed" formations in the East are the Passaic, New Oxford, and Gettysburg Formations. However, if you're on the hunt for Triassic gold don't let the localized names of these formations fool you. These "redbed" formations often stretch for hundreds of miles, if not more.

Although few nuggets of any size have been recovered from Triassic conglomerates they can hold good gold values in the form of micron-sized fines and very small flakes. Your best bet for finding gold-bearing "redbeds" is through extensive research via state or federal geological bulletins or papers. One tip I can give you is that you want to focus your attention on eastern mountain or fault uplifts, not on the western sides of the same.

Best of luck!

You can read more of Jim's articles at:

www.bedrockdreams.com

A QUICK REFRESHER ON PLACER DEPOSITS

Lots of new people show up on the river banks, and deserts, every year, so no harm in doing a quick refresher on how to find placer deposits in these areas.

By
D.W. Webb Varnum, Geologist

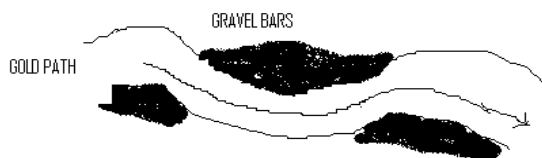
The gold you find in a placer deposit started as a load deposit. It weathered out of quartz was carried down to a stream, then to a river. The gold is dropped in a location where the water can no longer support its weight and it is deposited in the stream in what's known as the gold path, or run.

Irregularities on the bedrock channel of a stream can change where the gold path runs. So you must determine the gold path, and you can never be certain where that's going to be. A good place to start is on the inside of a bend, going in a line across the stream sampling until you find gold and then in a straight line to the inside of the next bend.

The gold is unpredictable so sample on both sides of the line. Dredge or dig test holes and compare the results, and determine where the best results are coming from, until you can identify the boundaries of the pay streak.

Most gold bearing streams have some amount of gold in the gravel, usually low grade. The gold path will hold more gold than the average of the rest of the gravel, the path will also carry more black sands and other heavy minerals.

In dry areas you can usually follow the path of the black sands using a metal detector.

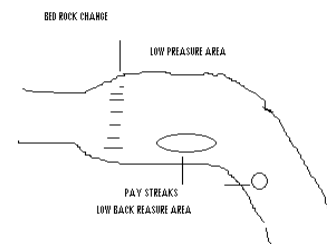


When sampling, keep track of the amount of black sands and other heavies, including any iron objects, and the amount of gold from each hole. After a number of samples you will get a good idea of the average value of the gravel in the stream bed. Areas above average will indicate the gold path.

Micro - gold will move whenever water is moving, but the gold the small miners are interested in will move only during flood stage.

The size of deposit depends on the size of the trap. The pay-streak forms along the path of the moving water. Where the water slows the gold will drop out and form a streak or deposit.

One example is the tail end of a bend. the fast flow goes to the outside and the stream leaving low pressure on the inside of the bend, causing the gold to deposit.



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The pay streak usually has definite sides and tapers out quickly. To locate pay streaks I usually trench or dredge across the stream, constantly testing the gravel

Dry Placers

Dry placers follow the same rules as wet placers. Sample across the dry stream and test pan in tub or dry wash. The same rules apply about curves and gold paths in the dry area as in a wet stream. One difference I've found between wet and dry deposits is when working dry areas there may be several pay streaks.

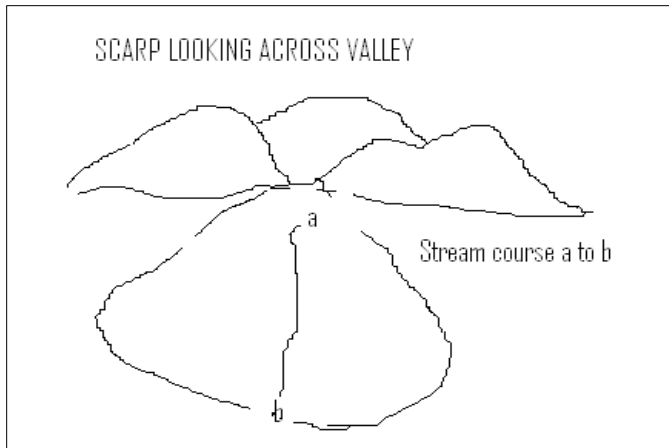
I've found when working dry areas the gold washed down in wet weather may not be able to work its way

A QUICK REFRESHER ON PLACER DEPOSITS

down to bed rock leaving a pay streak above the bed rock and possibly one above that or even more.

Scarps

Scarp deposits are commonly found in areas such as Nevada.



As the gold is washed from the hills and out of the canyon it carries the gold in the sand, rock and mud. The water spreads out as a fan. The heavy gold is dropped first near point "a" at the canyon mouth at the point that the water starts to slow down, the gold by weight is dropped along course 'a' to 'b'.

Summary

Placer deposits follow certain rules. The primary rule being gold is heavy and will drop out quickly.

When prospecting for placers, either wet or dry, keep that simple rule in mind. Gold is lazy, it wants to move the least, and take the shortest path.

Good luck out there.

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The advertisement displays a variety of mining equipment including crushers, wash pans, tables, and tools. The background features a collage of mining-related images.

We, the people...

“Injustice anywhere, is a threat to justice everywhere.” Dr. Martin Luther King



We've argued, since 2012, what we needed was environmental lawyers, not mining law lawyers. We need people who understand CEQA, NEPA and Water Law – more so than the 1872 Mining Law.

We're not in a mining law fight. There are some who may disagree, but from where I'm standing there aren't that many people left in the fight and we've lost pretty decisively on the preemption argument.

Some may argue we just need to get to the Supreme Court and we'll turn all this around – but imagine that argument for a second. Are you going to base your future on whether we can get a case to the Supreme Court? And when will that day be?

And what question will the Supreme Court answer: Whether a state may ban mining.

That's it. So if, at some point in the future, a case makes it to the Court, and the Court rules for us we are still left with regulations and permitting.

Which is right where we started. With a completed EIR and a set of regulations.

Some people believed if we just won preemption we would win it all. The State couldn't even require permits. That school of thought has proven to be false.

Now, consider the big mining companies. Do you think Newmont is arguing over whether the state or federal government can regulate them, or do you believe they spend their resources on ensuring

those regulations are as workable as possible?

The last legal case we have alive is the CEQA case.

Whether the folks in the Takings Case appeal, or not, still won't get you dredging again. The only issue in the Takings Case is whether certain claim owners should be reimbursed for their claims being classified as “no dredging.”

Even if they win big, it won't restore dredging, it will just give them a final check.

The CEQA case is valid and we can win it – if we can get a judge to actually read it.

Although the case, and the legal stuff behind it, is complex, the essential question is based on CDFW unlawfully expanding the subject matter of the court order and then using a baseline which ignored the existing environment.

The judge in San Bernardino didn't rule we had no case – he ruled our case was moot based on SB 637.

There is a huge difference between our argument and SB 637 and in fact the judge pointed out neither we, nor the State, had briefed the impact of SB 637 on our case, but it's a simple brief.

Yes, SB 637 lifted the dredging ban, but our CEQA case was never about a dredging ban. It has always been about the preparation of the EIR.

Our focus has always been on the EIR and the resultant regulations. Garbage in – garbage out. We showed in our case where the State deliberately misled the public about the effects of suction dredging.

Does no one really care anymore about corruption in the government, or has this become so commonplace that it just doesn't even warrant the attention of a judge, even when we present it to them.

We need a ruling, either we win or lose, but moot gives us nothing. Moot is the worst possible outcome.

I know everyone is tired of this – but what do you do? Do you quit and just let the corrupt bastards win?

What's Next in the Legal Case

We'll appeal.

We really need your financial support to do that.

We're down to very few people or organizations left in the legal fight. The Rinehart case is over, The Walker Case is done, the One Subject Case is gone, it's just the CEQA case .

So what do we hope to accomplish with an appeal?

First, we want an appeal court to force it back to the trial court so we can obtain a ruling on the questions we presented. We don't believe any part of the case is moot.

Second, we must exhaust our legal remedies in State court prior to taking it to federal court – so the quicker we get this over with, the better.

THE TENTATIVE RULING

On October 17th, the San Bernardino Court issued a tentative opinion which was confusing in regards to both Takings and CEQA, but did issue a clear ruling in the One Subject issue.

The court wrote,

“CDFW has not demonstrated that these allegations are not sufficient to state the Miners' takings cause of action. Indeed, CDFW seems to primarily rest its argument on the Supreme Court's *Rinehart* decision. However, as discussed thoroughly above, while the *Rinehart* decision clearly stated that sections 5653 and 5653.1 are not federally preempted, the opinion does not address the question of whether the State's statutory scheme amounted to a regulatory taking of the Miners' mining claims. CDFW has not met its burden with regards to this motion. Accordingly, the motion for judgment on the pleadings is denied as to the takings cause of action.”

CEQA CASE

Neither of the parties adequately addresses the remaining CEQA and APA claims. Indeed, as noted above, after CDFW finalized the 2012 FSEIR, the Legislature required CDFW to submit a report and

recommendations regarding statutory changes or authorizations that CDFW thought were necessary to develop the suction dredge regulations. In April 2013, CDFW provided the requisite report and recommendations. In response, the Legislature enacted S.B. No. 637 which, in part, addressed the “significant and unavoidable” environmental effects identified by CDFW. (Stats. 2015, ch. 680.)

Rulings

The Court denies the Department of Fish and Wildlife's Motion for Judgment on the Pleadings regarding the Takings Cause of Action, on the ground that CDFW has not met its burden of demonstrating that the cause of action is not adequately alleged, or that the underlying mining claims are invalid.

The Court denies the Department of Fish and Wildlife's Motion for Judgment on the Pleadings regarding the CEQA and APA causes of action, on the ground that CDFW has not met its burden of demonstrating that these causes of action are not adequately alleged.

The Court grants the Department of Fish and Wildlife's Motion for Judgment on the Pleadings to the extent it seeks an order vacating this court's earlier MSJ/MSA ruling on the issue of preemption due to the *Rinehart* decision in effect denying the MSJ/MSA brought by Plaintiffs.

THE FINAL OPINION

Ruling

The Motion for Summary Judgment of the Eimer Plaintiffs is denied, and AB 120 and SB 1018 are found to be constitutional under California Constitution Article IV, §9. Motion: Motion for Judgment on the Pleadings (SB 637) Movant: Defendant/Respondent California Department of Fish & Wildlife Respondent: Plaintiffs/Petitioners Derek Eimer, Stephen Jones, David Guidero, Marvin Lampshire II, and Dyton Gilliland.

The Legal Case

Ruling

The Court grants CDFW's Motion for Judgment on the Pleadings without leave to amend, as the Plaintiffs cannot demonstrate the defect can be cured by amendment. The remaining CEQA and Writ issues in this consolidated action are also mooted given the application of SB 637. Defendant CDFW to prepare Order and Judgment as necessary.

In regards to the CEQA case the judge writes - "Accordingly, none of the Plaintiffs in this consolidated action can prevail absent compliance with SB 637 which at this time is an impossibility."

Compliance with SB 637 has nothing to do with our lawsuit. We didn't contend in our lawsuit whether we required permits or not, in fact, we acknowledged there was a long history of permit issuance.

The judge apparently makes the ruling on the CEQA case in the belief SB 637's requirements for a permit in some way changes the entire environmental impact report – which it doesn't.

CEQA and Environmental Reviews

Here's the way the California Environmental Quality Act (CEQA) works. It was initially passed in 1972 in response to the federal government passing the National Environmental Policy Act (NEPA).

CEQA was essentially just a Californication of the national law and in the first few years of the Act it didn't apply to private projects at all.

However, this is how these laws always work. You start off with a law which says only the government has to comply with the law, sounds nice. Then the enviros sue and say any project which has to be approved by the government is subject to the act and the next thing you know they're banning dredges because the issuance of permits is a government act.

The core purpose of CEQA is to provide information on the environmental effects of a project. In this case the project was the issuance of suction dredge permits.

Now, this is where it gets a little muddy. CDFW stated the purpose of their environmental review wasn't to determine the effects of suction dredging on the environment, but to determine the effects of permitting on the environment.

Well, both permitting and suction dredging had been going on for about 60 years, so that should have been a quick report. Unfortunately it was driven by rabid environmentalists into an extremist liberal legislature which was all too happy to do the bidding of a couple crazy women in Grass Valley, who happened to find a legislature with dementia who could barely remember her name, let alone know what she was sponsoring.

That's how the dredging ban came about, and that's what prompted the second environmental review.

Once that review got rolling there was little we could do to stop it. In mid-course you can't stop an environmental review so we had to wait for its completion and file a lawsuit.

When the review was completed we sued saying CDFW had incorrectly prepared the EIR and had wildly exaggerated the environmental effects.

We later showed where the Water Quality data had been intentionally falsified to present a misleading picture of the effects of dredging. We further showed where the lead researcher for the mercury information was not the Board of Advisors of the group which sponsored the dredging ban. The researcher later acknowledged the California Water Board directed him to achieve certain results which would show suction dredges created water quality issues.

Our primary argument centered on CDFW's decision to use a "fresh look" baseline. This meant they would pretend no dredge ever operated in the previous 60 years, nor had any mining ever occurred in the rivers.

We claimed this fresh look approach wildly exaggerated the effects and led to the anti-dredging bills.

All of that has nothing to do with SB 637.

MURPHY'S BAR – IGNORANCE



Every month these guys think I ought to be writing about some mining issue. As if being an undocumented dredger makes me an expert on something other than not getting arrested.

I'm not sure how sitting around a bar in my off time in any way qualifies me as an expert in anything mining related, but if they want me to write – I'll write.

It's that time of year where, in my opinion, winter has about worn out its welcome.

Yeah, I know, it's just February. By my way of thinking we should be out dredging around Ground Hogs Day.

Now, for those of you who say dredging is illegal, I say no, it's not. You see the clever bastards down there in Sacramento devised this permitting system whereby you could try really hard and spend a lot of money - and not get a permit.

Or you could spend no time trying, spend no money, and not get a permit.

Either way you end up with no permit.

So with dredging being legal I'm doing a little undocumented dredging because the Rube Goldberg system of permitting doesn't really fit into my plans.

I am a free miner.

Now, I'm not standing on the corner and shouting about this, and how about if you kept this little conversation about dredging on the low down. I'm not the kind to be stupid enough to believe I can actually beat the State. It is a pretty big machine after all, but I've concluded I'm a pretty small guy, and it's actually tough to catch up to me out in the mountains.

It hasn't gone unnoticed by us undocumented dredgers that not a single representative from the rural counties voted for this anti-dredging nonsense, while the ones who introduced the laws were from places like Beverly Hills and San Francisco.

I don't particularly have anything against commies - I just wish they'd stick to their own business of building utopian homeless communities under the overpass and not be concerned about what my dredge is doing up on Starvation Creek.

I'm working, thank you very much and I don't expect any help out of the government. The commies who point out to me how much the government does for me are always wrong. I clear the road each spring, the government doesn't do that.

I pack my dredge in. I buy my equipment and gas and I pay plenty of taxes for the privilege of the government telling me I can't mine on my mining claim.

Thank you government guys, but I think I'll just go my own way on this. I apologize up front if my ignoring your stupid laws causes a trigger event for you, or those who feel inclined to actually obey stupid laws.

Those of us who are undocumented dredgers have probably spent a fair amount of time as we're holding the dredge nozzle playing through our minds the conversation we'd have with the regulators should they show up. For me it would go something like this.

"What dredge?" Would be my first question.

"The one where the regulator is attached to." Fish cop says.

"Oh, that? I haven't seen that before."

"The engine is running." Would reply the humorless fish cop.

"Is it?"

"Why don't you step out of the water, sir." Fish and game cop would say.

"I'm in the middle of a mollusk count right now, I don't have a lot of time for chit chat." I would reply.

You get the gist of how this would play out.

Now, I've talked to folks who've had the fish cops find them dredging and they tell me all those imaginary conversations go right out the window when you look up from your dredge nozzle and there is a fish cop standing on the bank looking at you with a taser in his hand (or her, lately the chicks have been getting in on the action of busting miners).

MURPHY'S BAR

Did you ever wonder what the effects of being tased in wetsuit standing in the middle of the creek would be?

The fish cops probably wouldn't do that because the electricity may harm some fish and they'd probably have to do a three year study on the effects of tasing miners in the middle of the creek. Not that they'd really care about some dirt bag miner. Hell, it might even make an episode of Wild Justice. Imagine the ratings watching a miner in a wetsuit do the kicking chicken in the middle of a river.

So the guys who've been busted tell me they forget all their canned responses and just grovel at the feet of the fish cops begging for just a warning.

Me - ?

Nah. That's the advantage of being an old guy. I'm not going to apologize for running my dredge on my federal mining claim.

That doesn't mean I'm going to get in their face on it, or challenge them to taser me. Rather, my plan is ignorance.

"What dredge?"

"Is that what a dredge looks like?"

Never admit to anything. Even if you've got your hand stuck in the nozzle, one foot in the sluice and a gold nugget in your teeth - admit nothing.

"What this? I have no idea how I ended up like this, but I'm really embarrassed about it - say fellas could you help me out and shut that engine down?"

There are some who say ignorance comes natural to me. Flanagan and Rocky being among them, but the truth is being ignorant requires a good deal of practice.

You see there's two types of illegal dredgers. There are those who feel like they have some right to run their dredge and then there are guys like me. It's the well-informed versus the ignorant. Here's how this plays out.

Fish cop walks up on an informed undocumented dredger –

"Excuse me sir, it appears you are running an illegal dredge here."

"I've got my damned rights." Replies the dredger.

"Yes sir, you do, but I need you to shut of the engine and cease operating."

"I've got my damned rights."

"Yes sir, but I need you to stop your dredge and come out of the water."

"Ain't nobody telling me what to do on someone else's mining claim because I got my damned rights."

Bzzzt goes the taser and the dude wakes up in the county jail cell.

Now, the same scenario played out with the ignorant dredger - me. Fish cop walks up...

The first thing I do is pull out a joint and start smoking it, because it's legal.

I say "What's up fish dude?"

"Well sir, it looks like this is an illegal dredging operation."

"An illegal what operation?" I say as I take another deep toke.

"Dredge, dredge operations sir."

"Ooh, yeah dude, I don't like operations. I had one on my foot one time and it was really uncool for about a month." I reply.

"No sir, I need you to shut down your dredge."

"Hedge? I need to trim the hedge?" I respond.

"No sir, the dredge, the dredge."

"I can dredge?"

"No, you can't."

"Then what's that thing in the water fish dude?"

"It's a dredge, sir."

"Exactly my point."

"You know what," fish cop finally says, "Just stay in this canyon, don't leave, don't hurt anyone and don't tell anyone I was here."

So, at the end of the day, who wins – informed dredger, or ignorant dredger?

The Karuk Hustle

Something which has perplexed us for quite a while is the Karuk dismissal in 2015.

Just after we won the preemption argument in both the California Appeals Court, and in the trial court, the Karuks took their complaints about suction dredging to the legislature (again). The legislature passed SB 637 which gave the Karuk's everything they had hoped for in the legal case - which is a ban on dredging, an impossible permitting scheme, and a ban on any motorized device.

Here's the problem, in our opinion. The Constitution establishes three, separate, and equal, branches of government. The role of the courts is not just "justice" but rather to ensure those laws which are passed are constitutional. That is the role of the U.S. Supreme Court, and the role of State courts is the same, except at the state level.

The Karuks, while asking one branch of government to rule in their favor, were also working with another branch of government to pass new laws to give them what they asked the court to give them.

Now, if we truly had three branches of government one would have expected the Judicial branch to cry foul and say "Nope, you can't do that." After all, the question asked the Court was whether the EIR was legal - that's a Court question.

Which by the way was never answered. So, the Karuks take the question they presented the Court, then while it is still in front of the Court they get the law changed which essentially says the EIR needs to be redone, and there really is no dredging ban, because dredging is actually legal, if you could get a permit.

Do you see the deviousness in this? We miners had just received a ruling which said the State couldn't ban dredging. The Karuks turn around and get a law passed which said dredging isn't banned at all, just go get your permit and you can dredge.

But, now here's the real beauty – there is no permit, and there will likely never be a permit, and for 9 years now we've been hearing about the State evaluating the effects so they may one day issue permits – but there is no dredging ban.

We thought the Court would just explode over this

Karuk attempt to bypass the Court. But, they didn't. Here's an excerpt out of the ruling indicating the Court knew fully well what the Karuks were doing.

"On November 16, 2015, Karuk filed a Request for Dismissal of its action. A few days later, Karuk filed a Stipulation and Proposed Order Resolving Attorneys' Fees and Costs, wherein it stated that Karuk dismissed their action without prejudice due to the enactment of Senate Bill 637, which was signed into law on October 9, 2015, and became effective as of January 1, 2016. Karuk believed that through this new legislation, they had achieved the primary relief sought in this litigation, and thus, decided not to expend their resources on the remainder of this action. "

Adding further insult to injury the Court reasoned the Karuks were due \$350,000 in legal fees because of the "catalyst" theory.

"In the Stipulation and Order, Karuk and CDFW agreed that, pursuant to Code of Civil Procedure § 1021.5 under a catalyst theory, CDFW will pay Karuk's counsel \$350,000.00 in attorneys' fees. The Court signed this Order on November 19, 2015."

We're not lawyers, so all this legal stuff hurts our head, and it's more than likely our opinion that this little Karuk hustle should be illegal, is probably wrong.

The catalyst theory says the lawsuit forced the agency to voluntarily change its behavior – but in this case its not true. The only catalyst here was the Karuk's and their allies lobbying successfully for a new law, which wiped out our lawsuit.

I'm sure there's a whole bunch of California lawyers who will tell us how pimping the legislature to change a law in the middle of litigation is really OK.

You have to admit they were smarter than us, understood how to play this game better and succeeded. We are mere country rubes compared to what they just got away with.

In our unwashed opinion it appears as if the legislature just relegated the judiciary to the role of little sister.

UPDATES

You can find copies of the U.S. Solicitor General Brief, and the final San Bernardino ruling on our website under research - legal

CLAIM REPORTS

Advanced claim reports were sent out to all members on January 31st. If you don't get yours in the next week write to us with your correct address and the state or area report you want.

Of course you may not be paid up which is why you didn't get it, so you can check with us on that as well.

BOHMKER

Oral Arguments are set in the Bohmker case.

Oral Argument on Thursday, March 8, 2018 - 09:00 A.M. - PO 2nd Floor Ctrm - Portland OR.

Case #: [16-35262](#)

Bohmker is a duplicate of the Rinehart case. In this case Oregon dredgers filed a challenge to Oregon's ban on motorized mining (dredging) except they filed in federal court.

Should Bohmker lose, then the case will be petitioned to the U.S. Supreme Court. The timing is such the current justices will remember the issue, and this time it's coming from a federal court, so hopefully Bohmker will be accepted.

We have the litigation documents for Bohmker posted on our website under Research – Legal.

SB 2

It's 2018 and welcome to an additional \$75.00 fee on every claim you file in California. According to the Sierra County Recorder the \$75.00 fee will apply to:

- (1) New Claim Locations (per location document)
- (2) Affidavit of Assessments
- (3) Abandonments
- (4) Amendments

CLAIMS

We've got a chunk of the North Fork of the Yuba for sale near Indian Valley. The owner says it would be a perfect club claim and he's willing to negotiate on price and provide a variety of sale options. If you want more information you can email us at info@themineralalliance.com

It's likely we'll have another big chunk of creek to offer for sale in Sierra County probably around June. We're still doing prospecting work on it to determine value.

AFFORDABLE MINE COMPLIANCE ASSISTANCE

- Safety Person Mine Startup
- MSHA Approved Instructor
- Part 46 & 48 Training Policy
- CAL/OSHA Certified and Licensed
- Safety Representative
- Gas Tester
- Blaster
- FED/OSHA Authorized Trainer
- Red Cross, First Aid & CPR Trainer
- CAL State Certified Electrician



Bill Slack 530.277.3447

Call me – First Consultation is free



slack@jps.net

Downieville River Inn



When in Downieville, stay where the miners stay at the Downieville River Inn. With room sizes and small cabins to meet your needs you can stay for a night or a month. Conveniently located just steps from the courthouse you can do your claims research or annual filings within minutes. The Inn is located just steps from the Yuba River and includes a heated swimming pool and rooms with kitchenettes for long term stays.

Ask for the “Miners Rate” to receive a discount for your room rate.

Call Diane at (530) 289-3308

ONE MORE CHART ON THE GOLD RUSH

Below – top 5 areas for new locations for the past 10 years.

2017	GEO AREA	CLAIMS FILED	2012	GEO AREA	CLAIMS FILED
1	Panamint Valley	364	1	Calico Mountains	286
2	Panamint Mountains	115	2	East Ord Mountain	206
3	Alkali Flat	96	3	West Ord Mountain	200
4	Inyo Mountains	93	4	Mojave Valley	188
5	Pinto Mountains	90	5	Ord Mountains	173
2016			2011		
1	Panamint Valley	418	1	Bristol Lake	343
2	Alkali Flat	401	2	Cadiz Lake	228
3	Lanfair Valley	225	3	Cadiz Valley	172
4	Hector Valley	123	4	Ord Mountain	163
5	Darwin Hills	112	5	Inyo Mountains	162
2015			2010		
1	Long Valley Creek Tributary	75	1	Silurian Valley	46
2	Mesquite Valley	51	2	Trinity River	45
3	Mesquite Lake	49	3	Quartzite Mountain	44
4	Big Tableland Ridge (ridge)	44	4	Chocolate Mountains	42
5	Little Tableland	38	5	Klamath River	37
2014			2009		
1	Rodman Mountains	147	1	Cargo Muchacho Mountains	54
2	Upper Johnson Valley	99	2	Upper Johnson Valley	54
3	Long Valley Creek Tributary	90	3	Fry Mountains	53
4	Argus Mountains	61	4	Ivanpah Mountains	44
5	Fry Mountains	42	5	Trinity River	42
2013			2008		
1	Inyo Mountains	154	1	Chocolate Mountains	84
2	Indian Wells Valley	111	2	Pinto Mountains	69
3	Darwin Hills	110	3	Temblor Mountains	47
4	Black Hills	108	4	Buena Vista Lakebed	39
5	Lanfair Valley	98	5	San Bernardino Mountains	39