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SUPERIOR COURT OF CALIFORNIA
COUNTY OF ALAMEDA
HAYWARD DIVISION

Karuk Tribe of California;
and Leaf Hillman,

Plaintiffs,

vs.

California Department of Fish
and Game; and Ryan Broddrick,
Director, California Department of
Fish and Game,

Defendants.

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) Case No.: RG 05 211597
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) [PROPOSED] STIPULATED JUDGMENT
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) DEPT: 512 (Hayward)
) JUDGE: Hon. Bonnie Sabraw
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STIPULATED JUDGMENT

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2 In this action, Plaintiffs Karuk Tribe of California and Leaf Hillman have filed a
3 Complaint against Defendants California Department of Fish and Game (“DF&G”), and Ryan
4 Broddrick, Director of DF&G. Plaintiffs alleged in their Complaint that Defendants had violated
5 the California Environmental Quality Act (“CEQA”), Cal. Pub. Res. Code §§ 21000 *et seq.*, and
6 Fish and Game Code § 5653(b) in issuing permits for suction dredge mining, and sought
7 declaratory and injunctive relief. Defendants have denied these allegations. The Court has been
8 advised that the Parties have reached a settlement of this matter and has now received a Joint
9 Stipulation for Entry of Judgment (hereinafter “Joint Stipulation”), bearing a header dated
10 November 28, 2005, executed by the Plaintiffs and the Defendants, in which the Parties stipulate
11 to the entry of this Stipulated Judgment. The Court having considered the Joint Stipulation and
12 the other papers and pleadings filed, and good cause existing therefor, hereby issues the
13 following as its Stipulated Judgment herein.

14 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that:

- 15 1. As used in this Stipulated Judgment, “permits for suction dredge mining” refers to the
16 permits issued by Defendants pursuant to Fish and Game Code §§ 5653-5653.9, and
17 the regulations codified at 14 Cal. Code Regs. §§ 228, 228.5.
- 18 2. DF&G is hereby enjoined and restrained from issuing permits for suction dredge
19 mining that allow suction dredge mining during any of the periods of a year
20 prohibited in Exhibit 1 attached hereto for the Klamath, Salmon, and Scott Rivers,
21 their tributaries and thermal refugia.
- 22 3. In the event that DF&G hereinafter adopts amendments to its regulations for permits
23 for suction dredge mining, which amendments address the same areas as are covered
24 in Exhibit 1, it may apply to this Court for a termination of the injunction set forth in
25 paragraph 2 above. Any such application by Defendants shall be filed within 15 days
26 of DF&G’s adoption of the amendments and shall include a copy of the amendments
27 to the regulations so adopted.
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- 1 4. Plaintiffs shall have 30 days after the filing of any such application to state whether
2 they object to the termination of the injunction, provided that Plaintiffs shall not file
3 any such objections if the amendments to the regulations provide for the closures of
4 the water bodies in Exhibit 1 for periods identical to or longer than the periods set
5 forth therein. Any such objections shall include a statement of the grounds for the
6 objections, which are limited to the scope of the claims in Plaintiffs' Complaint, and
7 may include allegations of a failure to comply with CEQA or Fish & Game Code,
8 section 5653. Upon the filing of proper objections by the Plaintiffs, they shall request
9 that the Court set a hearing date to determine the merits of Plaintiffs' objections, and
10 the Parties may request that the Court set intermediate deadlines for the filing of an
11 administrative record for the amendments, for briefing and for such other matters as
12 are necessary to bring the matter on for hearing. Plaintiffs may also seek to amend
13 their Complaint herein, as provided by law.
- 14 5. In the event that the Court determines that Defendants have not complied with law in
15 the adoption of the regulations, the Court may continue the injunction in Paragraph 2
16 in effect or enter such other relief as the Court determines is just and proper.
- 17 6. The injunction set forth in paragraph 2 of this Stipulated Judgment shall otherwise
18 terminate if Defendants have filed an application for termination of the injunction
19 pursuant to Paragraph 3 above, and either (i) no proper objection has been filed
20 thereto by Plaintiffs pursuant to Paragraph 4 above, or (ii) the Court has entered an
21 order or judgment ruling against all of Plaintiffs' objections. In either case the
22 injunction shall remain in effect until the amendments to the regulations submitted to
23 the Court pursuant to Paragraph 3 have become effective under California law.
- 24 7. DF&G shall pay Plaintiffs' reasonable attorneys fees and costs incurred in this action.
- 25 8. This Stipulated Judgment is binding upon and shall inure to the benefit of the Parties
26 and their respective agents, employees, successors, assigns, trustees, and personal
27 representatives.
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1 9. This Court shall retain jurisdiction to interpret, modify, and enforce the terms and
2 conditions of this Stipulated Judgment and to enforce the Joint Stipulation for Entry
3 of Judgment until such time that the injunction is terminated pursuant to paragraphs 3
4 and 6 above.

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6 Dated:

7 The Honorable Bonnie Sabraw
8 Judge of the Superior Court
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EXHIBIT 1 TO STIPULATED JUDGMENT
PROHIBITIONS ON SUCTION DREDGE MINING

I. THE KLAMATH RIVER AND ITS TRIBUTARIES

SUCTION DREDGE MINING SHALL NOT BE ALLOWED:

- On the main stem of the Klamath River from its confluence with the Trinity River to Iron Gate Dam *except from July 1 through September 15.*
- On the following tributaries of the Klamath at any time of the year: Indian, Elk, Dillon, Independence, Bluff, Red Cap, Camp and Clear Creeks.
- On all other Klamath River tributaries, *except from July 1 through September 15.*

II. THE SALMON RIVER AND ITS TRIBUTARIES

SUCTION DREDGE MINING SHALL NOT BE ALLOWED:

- On the main stem Salmon River from its confluence on the Klamath River to the Forks of the Salmon River (i.e., the confluence of the North and South Forks of the Salmon River) at any time during the year.
- On the North and South Forks of the Salmon River, *except from July 1 through September 15.*
- On the following tributaries of the Salmon River at any time of the year: Butler Creek, East Fork Knownothing Creek, Indian Creek, Kelly Gulch, Knownothing Creek, Little North Fork, Methodist Creek, Negro Creek, Nordheimer Creek, and Specimen Creek.

III. THE SCOTT RIVER AND ITS TRIBUTARIES

SUCTION DREDGE MINING SHALL NOT BE ALLOWED:

- On the Scott River from its mouth to Headwaters, *except from July 1 through September 15.*
- On the following tributaries of the Scott River at any time of the year: Big Mill Creek (East Fork), Boulder Creek (South Fork), Canyon Creek, Etna Creek, French Creek, Kangaroo Creek (East Fork), Kelsey Creek, Kidder Creek, McAdam Creek, Mill Creek (Scott Bar), Mill Creek (aka Shackleford/Mill), Miners Creek, Moffett Creek, Patterson

1 Creek, Shackleford Creek, South Fork Scott River, Sugar Creek, Tompkins Creek,
2 Wildcat Creek, and Wooliver Creek.

3 **IV. THERMAL REFUGIA**

4 Thermal refugia areas are located at the confluence of the tributary and the main stem of the
5 river. Suction dredge mining shall not be permitted at the thermal refugia areas designated
6 below within five hundred (500) feet up the named tributary from the confluence with the
7 main stem and five hundred (500) feet up and downstream on the main stem from the
8 confluence of the tributary with the main stem.

9 **SUCTION DREDGE MINING SHALL NOT BE ALLOWED AT ANY TIME IN THE**
10 **FOLLOWING THERMAL REFUGIA:**

- 11 • The thermal refugia on all direct tributaries on the Klamath, Salmon, and Scott Rivers
12 that are closed to suction dredge mining for the entire year as listed above.
- 13 • The thermal refugia areas at the confluence of the following tributaries with the main
14 stem of the Klamath River: Beaver Creek, Bluff Creek, Bogus Creek, Boise Creek, Camp
15 Creek, Clear Creek, Coon Creek, Elk Creek, Grider Creek, Hopkins Creek, Horse Creek,
16 Hunter Creek, Independence Creek, Indian Creek, Irving Creek, Little Grider Creek,
17 Pearch Creek, Pecwan Creek, Red Cap Creek, Rogers Creek, Salmon River, Salt Creek,
18 Scott River, Slate Creek, Swillup Creek, Thomas Creek, Ti Creek, Tom Marten Creek,
19 Trinity River, and Ukonom Creek.
- 20 • The thermal refugia at the confluence of all tributaries on the North Fork of the Salmon
21 River from Eddie Gulch to the Forks of the Salmon (i.e., the confluence of the North and
22 South Forks of the Salmon River) and Crapo Creek on the mainstem below the Forks of
23 the Salmon.