



Photo courtesy of The New 49'ers.

California Governor Jerry Brown has signed into law [an extension of the existing moratorium](#) on suction dredge gold mining.

I confess that the appeal of recreational mining in any form escapes me, and that I don't even like to vacuum my own living room. So it mystifies me to learn that there are people who like nothing better than running giant vacuum cleaners over the beds of rivers in their spare time, in the hope of catching a little gold. But [it's true](#), especially with the price of gold at over \$1600 per ounce.

And it's a problem [for fish](#), especially salmon and steelhead, according to premier fish biologist Peter Moyle of UC Davis. According to Professor Moyle, suction dredging should be approached cautiously because, although its impacts are not well understood, it *"represents a chronic unnatural disturbance of habitats supporting fish that are already likely to be stressed by other factors"* (emphasis in original).

It may also be bad for people, because it [remobilizes mercury pollution](#) from 19th century gold mining.

Because it disturbs the state's streambeds, suction dredging [requires a permit](#) from the Department of Fish and Game. The Department is supposed to issue a permit only if it determines that the proposed dredging "will not be deleterious to fish." Until forced to reconsider by litigation, though, the Department had been issuing permits routinely, with little consideration of their potential impacts.

Since July 2009, the Department has been [prohibited by court order](#) from issuing suction dredging permits until it complies with CEQA, California's environmental review law. Since August 2009, DFG has also been statutorily prohibited from issuing permits, and mining under existing permits has been banned, pending completion of an Environmental Impact Report and adoption and implementation of new regulations. DFG has prepared a [draft EIR](#). Because it is proposing regulations which would require that dredgers notify DFG of their location, level tailing piles, and avoid disturbing fish and redds (spawning nests), DFG contends that the effects of suction dredging won't be significant.

Really? Without more than a listing of those regulations, I'm not persuaded that they will be effective. Even if dredgers do notify DFG of where they are mining, it seems unlikely that DFG will have the resources to adequately investigate those locations. It's an awfully big state, and DFG is an awfully small agency. Nor does it seem obvious, especially considering the low risk of detection, that dredgers will take the time to level their tailing piles, or do that well even if they try. And finally, it seems highly unlikely to me that someone holding a 4-inch vacuum cleaner under water in the turbid conditions those dredges create will notice (even with the best of intentions) when they might be disturbing fish or redds.

The draft EIR does identify other significant or potentially significant environmental impacts, including mercury resuspension, increases in turbidity (which can themselves be bad for fish), effects on cultural resources, and effects on birds. But it deems all of those effects unavoidable because, it says, DFG has no authority to deal with them. That matters because CEQA (unlike NEPA) requires mitigation of adverse environmental impacts if possible.

The new law amounts to a legislative disapproval of DFG's lukewarm efforts so far. It prohibits dredging until 2016 or until a final EIR is filed, new regulations are developed and implemented, and those regulations fully mitigate all significant impacts. Looks to me like DFG has just been sent back to the drawing board. And rightly so.