

SISKIYOU COUNTY DISTRICT ATTORNEY
311 4TH Street, Room 204
Yreka, CA 96097
(530) 842-8125 – Fax (530) 842-8137

Date: 10/07/2015

Re: State of California vs. Derek Eimer

DA Case: 093455484
Invoice No.: 13763

Case Number: YKCRM 15-1123
Agency Number: AD2079326

Requested by:

James Buchal

3425 SE Yamhill, SUite 100
Portland, OR 97214

We have provided discovery in the above mentioned case.

| Description | Number | Bate Stamp # | |
|-------------------|--------|--------------|--------------|
| Initial Discovery | 43 | 1-37 R1-R6 | 10.75 |
| TOTAL | | | 10.75 |

Please submit payment to the District Attorney's Office
311 4th Street, Room 204
Yreka, California 96097
Thank You

I hereby acknowledge receipt of the above discovery and agree to pay for it within 30 days at the rates set forth above. Payment must be sent by either check or money order to above address.

DATE _____ SIGNATURE _____

Please enclose a copy of this invoice with your payment.

DEPARTMENT OF FISH AND GAME

NOTICE TO APPEAR FG-900

MISDEMEANOR

Traffic ☐ Non-Traffic ☒

AD2079326

Date of Violation 4/3/2015 Time 1245 ☐ AM ☒ PM Day of Week FRI Case No.
 Name (First, Middle, Last) DEREK DOUGLAS EIMER Owner's Responsibility (Ven. Code § 40001)

Address PO BOX 590 / 921 ELK CREEK RD #26
 City HAPPY CAMP State CA ZIP Code 96039 Phone Number 530-681-4538

Driver's Lic. No. E2461688 State CA Class C ☐ Yes ☒ No 54 Birth Date 10/26/1964

Sex M Hair BRN Eyes HZL Height 6-00 Weight 160 Race W Other Description WMA

Ven. Lic. No. or VIN State ☐ COMMERCIAL VEHICLE (Ven. Code § 15210(b)) ☐ HAZARDOUS MATERIAL (Ven. Code § 353)

Yr. of Ven. Make Model Body Style Color

Evidence of Financial Responsibility ☐ Same as Driver ☐ Same as Driver

Registered Owner or Lessee ☐ Same as Driver ☐ Same as Driver

Address City State ZIP Code

Correctable Violation (Ven. Code § 40610) ☐ Booking Required ☐ Misdemeanor or Infraction (Circle)

Yes No Code and Section Description M I
☐ A 5653.1(b) CA FISH & GAME CODE (1)

☐ OPERATE AN UNPERMITTED M I

☐ SECTION DREDGE ON Klamath M I

☐ RIVER M I

Speed Approx. P.F./Max Spd. Ven. Lmt. GPS Lat Long

Location of Violation(s) at Klamath River Hwy 96 MP 34.78 City/County of Occurrence Siskiyou CalTIP yes (1)

Evidence Seized (SECTION NOZZLE, (1) HOSE)
☐ Violations not committed in my presence, declared on information and belief.

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct.
ML Cervelli Arresting or Citing Officer 827 Badge No.

Date Name of Arresting Officer, if different from Citing Officer Badge No.

WITHOUT ADMITTING GUILT, I PROMISE TO APPEAR AT THE TIME AND PLACE INDICATED BELOW.
☒ Signature FORMAL COMPLAINT

WHEN: ON OR BEFORE THIS DATE Time ☐ AM ☐ PM
 WHAT TO DO: FOLLOW THE INSTRUCTIONS ON THE REVERSE.

WHERE: Name of Court SISKIYOU SUPERIOR COURT
 Section or Division, Room No. YREKA
 Street Address 311 Fourth Street, Yreka CA 96097
 Phone Number (530) 842-2182 Ext. Court 47690

☐ Juvenile ☐ You may arrange with the clerk to appear at a night session of the court.

☒ To be notified ☐ You may arrange with the clerk to appear at a night session of the court.

AD2079326
 COURT COPY
 SEE REVERSE TR-130

Original

Court Copy

RESOURCES AGENCY OF CALIFORNIA
 DEPARTMENT OF FISH AND GAME
 EVIDENCE / FIREARMS RECEIPT

Location Klamath River Date 4/3/15
MP 34.78 Hwy 96

Received from DEREK D. EIMER
 (Name)

ELK CREEK CAMP RD HAPPY CAMP CA
 (Address) 96039

The following birds, mammals, fish, reptiles, amphibians, equipment, firearms or evidence have been seized.

Description: (Make, Model, Serial Number, Etc.)
(1) SECTION NOZZLE, (1) HOSE

SEIZED IN PLACE OPPOSITE
SIDE OF THE RIVER

* SEIZE IN PLACE *

Address of District Office Where Stored: (Firearms Only)

Date Firearm May Be Returned (Within 180 days of case adjudication)
 (For firearms see reverse)

Citation / Case No: DEPARTMENT OF FISH AND GAME

By ML Cervelli Badge Number 827
 (Officer)

Acknowledged Derek Eimer
 (Signature of person property was seized from)

FG 902D (11/05)

STATE OF CALIFORNIA
DEPARTMENT OF FISH AND WILDLIFE**ARREST/INVESTIGATION REPORT**

ENF 6a (1/2013)

Region # NED Page 1 Of 2

| | | | | |
|---|---|--|---|--|
| DATE OF INCIDENT/OCCURRENCE April 03, 2015 | | TIME (2400) 1245 HRS | CITY/COUNTY/JUDICIAL JURISDICTION Happy Camp/Siskiyou County | |
| "X" ONE <input type="checkbox"/> Arrest Report <input checked="" type="checkbox"/> Formal Complaint | "X" ONE <input checked="" type="checkbox"/> Self Initiated <input type="checkbox"/> Complaint | TYPE OF REPORT ("X" APPLICABLE) <input type="checkbox"/> Commercial Fishing <input type="checkbox"/> Hunting <input type="checkbox"/> Inland Pollution <input type="checkbox"/> CalTIP <input type="checkbox"/> Recreational Fishing <input type="checkbox"/> Trapping <input type="checkbox"/> Marine Pollution <input checked="" type="checkbox"/> Other | | |

Suspect Information

| | | | | |
|---|---|---|--|------------------------------|
| Name Suspect #1 (First, Middle, Last) Derek Douglas EIMER | | Sex <input checked="" type="checkbox"/> M <input type="checkbox"/> F | Date of Birth (MM/DD/YY) 10/26/1965 | Citation Number AD2079326 |
| Suspect Address (Street, Apt., City, State, Zip Code) P.O. Box 590 / 921 Elk Creek Rd. Space #26, Happy Camp, CA 96039 | | | | Home Phone 503-686-4338 |
| Business Address (Street, Apt., City, State, Zip Code) | | | | Business Phone |
| Identification Type ("X" APPLICABLE) <input checked="" type="checkbox"/> CDL/CID <input type="checkbox"/> Other State DL/ID <input type="checkbox"/> Other ID: Number: F2461688 | Suspect Description ("X" APPLICABLE) GENERAL: HAIR: EYES: ETHNICITY: Height: 6-00 <input type="checkbox"/> Bln <input type="checkbox"/> Blk <input checked="" type="checkbox"/> Brn <input type="checkbox"/> Blu <input type="checkbox"/> Brn <input type="checkbox"/> Asian <input type="checkbox"/> Black <input type="checkbox"/> Hispanic Weight: 160 <input type="checkbox"/> Gry <input type="checkbox"/> Red <input type="checkbox"/> None <input type="checkbox"/> Gm <input checked="" type="checkbox"/> Hzl <input checked="" type="checkbox"/> White <input type="checkbox"/> Other: | | | |
| Vehicle Type ("X" APPLICABLE) <input type="checkbox"/> Auto <input type="checkbox"/> Vessel <input type="checkbox"/> Other | Description (Make, Model, Year, Color) | | License Plate Number/VIN | |

Offenses and Charges

| | |
|---|---|
| <input checked="" type="checkbox"/> F&G <input type="checkbox"/> JT-14 <input type="checkbox"/> Other: <input checked="" type="checkbox"/> Section: 5653.1(b) Description: Use of suction dredge prohibited without permit | <input type="checkbox"/> F&G <input type="checkbox"/> JT-14 <input type="checkbox"/> Other: <input type="checkbox"/> Section: Description: |
| <input type="checkbox"/> F&G <input type="checkbox"/> JT-14 <input type="checkbox"/> Other: <input type="checkbox"/> Section: Description: | <input type="checkbox"/> F&G <input type="checkbox"/> JT-14 <input type="checkbox"/> Other: <input type="checkbox"/> Section: Description: |
| <input type="checkbox"/> F&G <input type="checkbox"/> JT-14 <input type="checkbox"/> Other: <input type="checkbox"/> Section: Description: | <input type="checkbox"/> F&G <input type="checkbox"/> JT-14 <input type="checkbox"/> Other: <input type="checkbox"/> Section: Description: |


Evidence Seized

| | |
|---|---|
| Evidence Description (Amount, Type, Serial Number, etc.) "X" ONE <input checked="" type="checkbox"/> Held <input type="checkbox"/> Returned <input type="checkbox"/> Destroyed <input type="checkbox"/> Other (1) 2 inch metal suction nozzle with attached hose | Evidence Photographed? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |
| Evidence Description (Amount, Type, Serial Number, etc.) "X" ONE <input type="checkbox"/> Held <input type="checkbox"/> Returned <input type="checkbox"/> Destroyed <input type="checkbox"/> Other | Evidence Photographed? <input type="checkbox"/> Yes <input type="checkbox"/> No |
| Evidence Description (Amount, Type, Serial Number, etc.) "X" ONE <input type="checkbox"/> Held <input type="checkbox"/> Returned <input type="checkbox"/> Destroyed <input type="checkbox"/> Other | Evidence Photographed? <input type="checkbox"/> Yes <input type="checkbox"/> No |

Case Synopsis

On April 2, 2015, I, Warden Monty Cervelli, California Department of Fish and Wildlife (CDFW), received two separate reports of a suction dredge being operated on the Klamath River west of Happy Camp. On 04/03/15, Warden Dan Beck, CDFW and I, responded to the area. Upon arrival we saw Derek EIMER operating a suction dredge system on the far side of the river. EIMER told me he was using a pump, hose and suction nozzle to "suck" material into a container for later analysis. EIMER was clearly operating an unpermitted suction dredge in violation of section 5653.1(b) of the Fish and Game. The hose and nozzle were seized as evidence.

See WPD 6b For Additional Suspect and Witness Information "X" ONE ☒ Yes ☐ No

| | | | |
|---|--------------------|--|-----------------|
| Preparer's Name and Badge Number Monty Cervelli #827 | Date 04/06/2015 | Reviewer's Name Lt. Steve McDonald  | Date 4/20/15 |
|---|--------------------|--|-----------------|

STATE OF CALIFORNIA
DEPARTMENT OF FISH AND WILDLIFE**SUPPLEMENTAL SUSPECT/WITNESS INFORMATION**

ENF 6b (1/2013)

Region # NED Page 2

| | | |
|---|-------------------------|---|
| DATE OF INCIDENT/OCCURRENCE April 03, 2015 | TIME (2400) 1245 HRS | CITY/COUNTY/JUDICIAL JURISDICTION Happy Camp / Siskiyou County |
|---|-------------------------|---|

Additional Suspect Information

| | | | |
|--|--|--------------------------|-----------------|
| Name Suspect #2 (First, Middle, Last) | Sex [] M [] F | Date of Birth (MM/DD/YY) | Citation Number |
| Suspect Address (Street, Apt., City, State, Zip Code) | | | Home Phone |
| Business Address (Street, Apt., City, State, Zip Code) | | | Business Phone |
| Identification Type ("X" APPLICABLE) [] CDL/CID [] Other State DL/ID [] Other ID: Number: | Suspect Description ("X" APPLICABLE) GENERAL: HAIR: EYES: ETHNICITY: Height: [] Bln [] Blk [] Brn [] Blu [] Brn [] Asian [] Black [] Hispanic Weight: [] Gry [] Red [] None [] Grn [] Hzl [] White [] Other: | | |
| Vehicle Type ("X" APPLICABLE) [] Auto [] Vessel [] Other | Description (Make, Model, Year, Color) | License Plate Number/VIN | |
| Name Suspect #3 (First, Middle, Last) | Sex [] M [] F | Date of Birth (MM/DD/YY) | Citation Number |
| Suspect Address (Street, Apt., City, State, Zip Code) | | | Home Phone |
| Identification Type ("X" APPLICABLE) [] CDL/CID [] Other State DL/ID [] Other ID: Number: | Suspect Description ("X" APPLICABLE) GENERAL: HAIR: EYES: ETHNICITY: Height: [] Bln [] Blk [] Brn [] Blu [] Brn [] Asian [] Black [] Hispanic Weight: [] Gry [] Red [] None [] Grn [] Hzl [] White [] Other: | | |
| Name Suspect #4 (First, Middle, Last) | Sex [] M [] F | Date of Birth (MM/DD/YY) | Citation Number |
| Suspect Address (Street, Apt., City, State, Zip Code) | | | Home Phone |
| Identification Type ("X" APPLICABLE) [] CDL/CID [] Other State DL/ID [] Other ID: Number: | Suspect Description ("X" APPLICABLE) GENERAL: HAIR: EYES: ETHNICITY: Height: [] Bln [] Blk [] Brn [] Blu [] Brn [] Asian [] Black [] Hispanic Weight: [] Gry [] Red [] None [] Grn [] Hzl [] White [] Other: | | |

Witness Information

| | | | |
|--|--------------------|--|-------------------------------------|
| Name Witness #1 (First, Middle, Last) John Rose (New 49ers Prospecting Association) | Sex [x] M [] F | Date of Birth (MM/DD/YY) | Identification Number |
| Witness Address (Street, Apt., City, State, Zip Code) 27 Davis Road, Happy Camp, CA 96039 | | | Home Phone 530-493-2012 |
| Name Witness #2 (First, Middle, Last) Daniel James Collins | Sex [x] M [] F | Date of Birth (MM/DD/YY) 07/25/1967 | Identification Number 6270377 NC |
| Witness Address (Street, Apt., City, State, Zip Code) 9 Bunny Trail, Broadway NC 27505-9338 | | | Home Phone 919-770-2762 |

| | | | |
|---|--------------------|---------------------------------------|-----------------|
| Preparer's Name and Badge Number Monty Cervelli #827 | Date 04/06/2015 | Reviewer's Name Lt. Steve McDonald | Date 4/20/15 |
|---|--------------------|---------------------------------------|-----------------|

DA DISCOVERY
PG NO. 3

STATE OF CALIFORNIA
DEPARTMENT OF FISH AND WILDLIFE

NARRATIVE/SUPPLEMENTAL

ENF 6b p.2 (1/2013)

Region # NED Page 3

| | | |
|--|-------------------------|---|
| DATE OF INCIDENT/OCCURRENCE April 03, 2015 | TIME (2400) 1245 HRS | CITY/COUNTY/JUDICIAL JURISDICTION Happy Camp / Siskiyou |
| "X" APPLICABLE <input checked="" type="checkbox"/> Narrative <input type="checkbox"/> Arrest Report <input type="checkbox"/> Supplemental <input checked="" type="checkbox"/> Formal Complaint | | TYPE OF REPORT ("X" APPLICABLE) <input type="checkbox"/> Commercial Fishing <input type="checkbox"/> Hunting <input type="checkbox"/> Inland Pollution <input type="checkbox"/> Incident Report <input type="checkbox"/> Recreational Fishing <input type="checkbox"/> Trapping <input type="checkbox"/> Marine Pollution <input checked="" type="checkbox"/> Other |
| Location/Subject/Incident Name Klamath River/EIMER | | Arresting/Case Officer M. Cervelli Citation Number AD2079326 |

1 On April 2, 2015, I, Warden Monty Cervelli, California Department of Fish & Wildlife (CDFW), received two
2 separate citizen reports of a suction dredge being operated in the Klamath River, near State Highway 96 milepost
3 marker 34.78; upstream of the Wingate Bar river access.

4
5 The use of an unpermitted suction dredge is currently prohibited under California Fish and Game Code Section
6 5653.1:

7
8 5653.1. Vacuum or Suction Dredge Equipment Prohibited; Environmental Impact Review

9 (a) The issuance of permits to operate vacuum or suction dredge equipment is a project pursuant to the California Environmental
10 Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) and permits may only be issued, and vacuum
11 or suction dredge mining may only occur as authorized by any existing permit, if the department has caused to be prepared, and certified
12 the completion of, an environmental impact report for the project pursuant to the court order and consent judgment entered in the case of
13 Karuk Tribe of California et al. v. California Department of Fish and Game et al., Alameda County Superior Court Case No. RG
14 05211597.

15
16 (b) Notwithstanding Section 5653, the use of any vacuum or suction dredge equipment in any river, stream, or lake of this state is
17 prohibited until the director certifies to the Secretary of State that all of the following have occurred:

18 (1) The department has completed the environmental review of its existing suction dredge mining regulations, as ordered by the court
19 in the case of Karuk Tribe of California et al. v. California Department of Fish and Game et al., Alameda County Superior Court Case
20 No. RG 05211597.

21 (2) The department has transmitted for filing with the Secretary of State pursuant to Section 11343 of the Government Code, a
22 certified copy of new regulations adopted, as necessary, pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division
23 3 of Title 2 of the Government Code.

24 (3) The new regulations described in paragraph (2) are operative

25 (4) The new regulations described in paragraph (2) fully mitigate all identified significant environmental impacts.

26 (5) A fee structure is in place that will fully cover all costs to the department related to the administration of the program.

27
28 (c)(1) To facilitate its compliance with subdivision (b), the department shall consult with other agencies as it determines to be
29 necessary, including, but not limited to, the State Water Resources Control Board, the State Department of Public Health, and the Native
30 American Heritage Commission, and, on or before April 1, 2013, shall prepare and submit to the Legislature a report with
31 recommendations on statutory changes or authorizations that, in the determination of the department, are necessary to develop the

| | | | |
|---|--------------------|---------------------------------------|-----------------|
| Preparer's Name and Badge Number Monty Cervelli #827 | Date 04/06/2015 | Reviewer's Name Lt. Steve McDonald | Date 4/20/15 |
|---|--------------------|---------------------------------------|-----------------|

STATE OF CALIFORNIA
DEPARTMENT OF FISH AND WILDLIFE**NARRATIVE/SUPPLEMENTAL**

ENF 6b p.2 (1/2013)

Region # NED Page 4

| | | |
|--|-------------------------|---|
| DATE OF INCIDENT/OCCURRENCE April 03, 2015 | TIME (2400) 1245 HRS | CITY/COUNTY/JUDICIAL JURISDICTION Happy Camp / Siskiyou |
| "X" APPLICABLE <input checked="" type="checkbox"/> Narrative <input type="checkbox"/> Arrest Report <input type="checkbox"/> Supplemental <input checked="" type="checkbox"/> Formal Complaint | | TYPE OF REPORT ("X" APPLICABLE) <input type="checkbox"/> Commercial Fishing <input type="checkbox"/> Hunting <input type="checkbox"/> Inland Pollution <input type="checkbox"/> Incident Report <input type="checkbox"/> Recreational Fishing <input type="checkbox"/> Trapping <input type="checkbox"/> Marine Pollution <input checked="" type="checkbox"/> Other |
| Location/Subject/Incident Name Klamath River/EIMER | | Arresting/Case Officer M. Cervelli Citation Number AD2079326 |

32 suction dredge regulations required by paragraph (2) of subdivision (b), including, but not limited to, recommendations relating to the
 33 mitigation of all identified significant environmental impacts and a fee structure that will fully cover all program costs.

34 (2) The requirement for submitting a report imposed under this subdivision is inoperative on January 1, 2017, pursuant to Section
 35 10231.5 of the Government Code.

36 (3) The report submitted to the Legislature pursuant to this subdivision shall be submitted in accordance with Section 9795 of the
 37 Government Code.

38 (d) The Legislature finds and declares that this section, as added during the 2009-10 Regular Session, applies solely to vacuum and
 39 suction dredging activities conducted for instream mining purposes. This section does not expand or provide new authority for the
 40 department to close or regulate suction dredging conducted for regular maintenance of energy or water supply management
 41 infrastructure, flood control, or navigational purposes governed by other state or federal law.

42
 43 (e) This section does not prohibit or restrict nonmotorized recreational mining activities, including panning for gold.

44
 45 A suction dredge is defined in section 228 of Title 14 of the California Code of Regulations:

46
 47 **Title 14 § 228. Suction Dredging.**

48 The Department has adopted this Section and Section 228.5 pursuant to Fish and Game Code Section 5653.9, and to make specific and
 49 otherwise implement Fish and Game Code Section 5653, specifically. Pursuant to that authority, the Department finds that suction
 50 dredging subject to and consistent with the requirements of Sections 228 and 228.5 will not be deleterious to fish.

51
 52 (a) Suction dredging. For purposes of this Section and Section 228.5, the use of any vacuum or suction dredge equipment (i.e. suction
 53 dredging) is defined as the use of a suction system to vacuum material from a river, stream or lake for the extraction of minerals. These
 54 regulations do not apply to, prohibit or restrict nonmotorized recreational mining activities, including panning for gold.

55
 56
 57 On April 03, 2015, Warden Dan Beck, CDFW, and I responded to the area in full uniform driving marked CDFW
 58 patrol vehicles. We arrived at the location at approx. 1230 hours. I saw a silver Dodge Ram pickup bearing
 59 Oregon license plate 493GEP parked on the eastbound shoulder of Highway 96. I recognized the vehicle as
 60 belonging Daniel Collins. Collins' vehicle was unoccupied. There was a blue colored sport utility vehicle (SUV)
 61 also parked in the area with one occupant. The occupant was later identified as John Rose with the New 49ers
 62 Prospecting Association, internal affairs.

| | | | |
|---|--------------------|---------------------------------------|-----------------|
| Preparer's Name and Badge Number Monty Cervelli #827 | Date 04/06/2015 | Reviewer's Name Lt. Steve McDonald | Date 4/20/15 |
|---|--------------------|---------------------------------------|-----------------|

STATE OF CALIFORNIA
DEPARTMENT OF FISH AND WILDLIFE

NARRATIVE/SUPPLEMENTAL

ENF 6b p.2 (1/2013)

Region # NED Page 5

| | | |
|--|-------------------------|---|
| DATE OF INCIDENT/OCCURRENCE April 03, 2015 | TIME (2400) 1245 HRS | CITY/COUNTY/JUDICIAL JURISDICTION Happy Camp / Siskiyou |
| "X" APPLICABLE <input checked="" type="checkbox"/> Narrative <input type="checkbox"/> Arrest Report <input type="checkbox"/> Supplemental <input checked="" type="checkbox"/> Formal Complaint | | TYPE OF REPORT ("X" APPLICABLE) <input type="checkbox"/> Commercial Fishing <input type="checkbox"/> Hunting <input type="checkbox"/> Inland Pollution <input type="checkbox"/> Incident Report <input type="checkbox"/> Recreational Fishing <input type="checkbox"/> Trapping <input type="checkbox"/> Marine Pollution <input checked="" type="checkbox"/> Other |
| Location/Subject/Incident Name Klamath River/EIMER | | Arresting/Case Officer M. Cervelli Citation Number AD2079326 |

63

64 Warden Beck and I parked our patrol vehicles in a nearby turnout on the south side of Highway 96 between the
65 highway and the river. When I exited my vehicle I saw two men that I recognized from prior contacts as Derek
66 EIMER and Daniel Collins. EIMER and Collins were standing near a small boat on the far side of the river. A
67 short distance downstream from where the men were standing was a small pump on floats tied against the
68 shoreline. Warden Beck and I both got our binoculars and looked at the pump. There was a hose attached to
69 what appeared to be the water suction valve on the pump. There was a small suction dredge nozzle attached to
70 the end of the hose. It appeared that there was no venturi system and that the hose and nuzzle were being used to
71 suck material directly into the pump.

72

73 While Warden Beck and I were looking at the pump system through our binoculars, Rose contacted us at the
74 turnout. Warden Beck and I were standing in plain view and it was clear that both Collins and EIMER saw us
75 looking at the suction system. EIMER began walking downstream in the direction of the pump. While EIMER
76 was walking to the pump he looked at us and waved. When EIMER got to the pump he started it up. Water began
77 flowing into the pump from the nozzle that was lying in the water. The water was going into a container sitting
78 near the pump. EIMER went to the nozzle, got down on his knees, and picked it up. EIMER held the suction
79 nozzle in one hand and began using his other hand to dig in the sand. EIMER was using the nozzle to suck
80 material directly through the pump into the container. I could see muddy water being sucked up into the pump and
81 discharged into the container.

82

83 I asked Rose if he knew what kind of system it was that EIMER was using. Rose said that's a "dredge". He
84 described the pump as a "trash" pump that is used to suck material directly through the pump. Rose said that the
85 system is typically used to sample locations in preparation for the use of a larger dredge.

86

87 We watched EIMER operate the dredge for approximately 5 minutes. EIMER then put the nozzle down in the
88 water and turned off the pump. EIMER walked back to where the boat and Collins were located upstream of the
89 dredge. The two men got in the boat and began rowing back over across the river.

| | | | |
|---|--------------------|---------------------------------------|-----------------|
| Preparer's Name and Badge Number Monty Cervelli #827 | Date 04/06/2015 | Reviewer's Name Lt. Steve McDonald | Date 4/20/15 |
|---|--------------------|---------------------------------------|-----------------|

STATE OF CALIFORNIA
DEPARTMENT OF FISH AND WILDLIFE**NARRATIVE/SUPPLEMENTAL**

ENF 6b p.2 (1/2013)

| | | | | |
|--|--|---|---|------------------------------|
| DATE OF INCIDENT/OCCURRENCE April 03, 2015 | | TIME (2400) 1245 HRS | Region # NED Page 6 CITY/COUNTY/JUDICIAL JURISDICTION Happy Camp / Siskiyou | |
| "X" APPLICABLE <input checked="" type="checkbox"/> Narrative <input type="checkbox"/> Arrest Report <input type="checkbox"/> Supplemental <input checked="" type="checkbox"/> Formal Complaint | | TYPE OF REPORT ("X" APPLICABLE) <input type="checkbox"/> Commercial Fishing <input type="checkbox"/> Hunting <input type="checkbox"/> Inland Pollution <input type="checkbox"/> Incident Report <input type="checkbox"/> Recreational Fishing <input type="checkbox"/> Trapping <input type="checkbox"/> Marine Pollution <input checked="" type="checkbox"/> Other | | |
| Location/Subject/Incident Name Klamath River/EIMER | | Arresting/Case Officer M. Cervelli | | Citation Number AD2079326 |

90

91 Warden Beck and I returned to our vehicles and drove over to where the Dodge pickup was parked. We

92 contacted EIMER and Collins at the rear of Collins' pickup. Rose also joined us at the back of the truck. Warden

93 Beck and I began a consensual conversation with both EIMER and Collins. The conversation was digitally

94 recorded.

95

96 EIMER produced a laminated copy of an excerpt from the San Bernardino Superior Court Judge Ochoa's recent

97 ruling regarding suction dredging. I asked EIMER what kind of system he was running, EIMER said I guess you

98 can call it a "dredge", "for all intensive purposes it's a suction device." EIMER said that four judges have sided

99 for the miners regarding suction dredging and that he has to make a living. I explained to the men that I was

100 aware of the current litigation regarding suction dredging. I also explained to them that as of this date there has

101 been no order rescinding the current prohibition of suction dredging and that suction dredging is still against the

102 law. I explained to the men that this issue has been addressed by our superiors at CDFW and that we will be

103 enforcing the law. Warden Beck told EIMER that we would be seizing his suction nozzle and hose as evidence.

104 EIMER said that he would not go across the river to get it for us and that if we don't take it, he would be back

105 tomorrow to use it.

106

107 I asked EIMER to explain the system he was using. EIMER said he was "sucking" up material into a container for

108 later analysis for gold with a pan. He was "prospecting" small samples for later analysis. EIMER said he made a

109 big gold strike in the area a couple years ago. EIMER felt that he had "granted rights" to use a suction dredge and

110 that several judges have agreed that miners have "granted rights". EIMER said that if I write him a citation he

111 would not sign it and that he wanted to see a judge. I explained to EIMER that I would be seizing the nozzle and

112 hose, and filing a formal complaint with the Siskiyou County District Attorney's Office.

113

114 During the course of our conversation, EIMER said that he was upset that the other property of his we had taken

115 near Dragon's Tooth rapid, as evidence, had not been returned. EIMER was referring to the suction nozzle,

116 venturi, and regulator that I had seized in the area of Dragon's Tooth rapid on August 31, 2014. I explained to the

| | | | |
|---|--------------------|---------------------------------------|----------------|
| Preparer's Name and Badge Number Monty Cervelli #827 | Date 04/06/2015 | Reviewer's Name Lt. Steve McDonald | Date 4/6/15 |
|---|--------------------|---------------------------------------|----------------|

STATE OF CALIFORNIA
DEPARTMENT OF FISH AND WILDLIFE

NARRATIVE/SUPPLEMENTAL

ENF 6b p.2 (1/2013)

Region # NED Page 7

| | | |
|--|-------------------------|---|
| DATE OF INCIDENT/OCCURRENCE April 03, 2015 | TIME (2400) 1245 HRS | CITY/COUNTY/JUDICIAL JURISDICTION Happy Camp / Siskiyou |
| "X" APPLICABLE <input checked="" type="checkbox"/> Narrative <input type="checkbox"/> Arrest Report <input type="checkbox"/> Supplemental <input checked="" type="checkbox"/> Formal Complaint | | TYPE OF REPORT ("X" APPLICABLE) <input type="checkbox"/> Commercial Fishing <input type="checkbox"/> Hunting <input type="checkbox"/> Inland Pollution <input type="checkbox"/> Incident Report <input type="checkbox"/> Recreational Fishing <input type="checkbox"/> Trapping <input type="checkbox"/> Marine Pollution <input checked="" type="checkbox"/> Other |
| Location/Subject/Incident Name Klamath River/EIMER | | Arresting/Case Officer M. Cervelli Citation Number AD2079326 |

117 men that the statute of limitations is one year and that we have that amount of time to complete an investigation
 118 and file charges in a misdemeanor case. EIMER asked if he could get another property receipt for the items taken
 119 at Dragon's Tooth. EIMER said that when he got the receipt I left at the unoccupied camp, he put it in his pocket
 120 and jumped in the river. Collins, who had refused to speak with me regarding the Dragon's Tooth dredge
 121 operation, when I attempted to interview the two men regarding the case in September of 2014, said that the
 122 suction nozzle that we had taken at that time cost \$500.00.

123
 124 EIMER and Collins told Warden Beck that we could use their boat to cross the river to get the nozzle. Warden
 125 Beck made an attempt to cross the river using their boat, it was clearly not safe and the attempt was terminated.
 126 The water current in the Klamath River is very strong and directly downstream from the location of the dredge are
 127 several large rapids, surrounded by large rocks.

128
 129 I told EIMER that the suction nozzle and hose would still be seized as evidence and "seized in place," at this
 130 time. I explained that Warden Beck and I would return tomorrow with a kayak to retrieve the hose and nozzle. I
 131 clarified with EIMER that he knew he was not to remove the evidence. I gave EIMER a CDFW property receipt
 132 for the suction nozzle and hose. EIMER said that he was going to go back home and put something else together
 133 and that he would be back tomorrow or the next day to continue dredging. Warden Beck and I then left the scene.

134
 135 On April 04, 2015, at approximately 1530 hours, Warden Beck and I returned to the scene. The equipment was
 136 still visible on the far side of the river. Warden Beck utilized a CDFW inflatable kayak to cross the river. Warden
 137 Beck crossed the river and checked the suction system (refer to supplemental report by Warden Beck). Warden
 138 Beck seized the hose and suction nozzle and returned to the near side of the river. I took custody of the hose and
 139 nozzle.

140
 141 After returning to Yreka, the hose and nozzle were booked into evidence at the Yreka CDFW Office. I measured
 142 and photographed the nozzle and hose. The nozzle had a 2 inch diameter suction end. The hose had an
 143 approximate 2 1/2 inch diameter.

| | | | |
|---|--------------------|---------------------------------------|-----------------|
| Preparer's Name and Badge Number Monty Cervelli #827 | Date 04/06/2015 | Reviewer's Name Lt. Steve McDonald | Date 4/20/15 |
|---|--------------------|---------------------------------------|-----------------|

STATE OF CALIFORNIA
DEPARTMENT OF FISH AND WILDLIFE

NARRATIVE/SUPPLEMENTAL

ENF 6b p.2 (1/2013)

Region # NED Page 8

| | | |
|--|-------------------------|---|
| DATE OF INCIDENT/OCCURRENCE April 03, 2015 | TIME (2400) 1245 HRS | CITY/COUNTY/JUDICIAL JURISDICTION Happy Camp / Siskiyou |
| "X" APPLICABLE <input checked="" type="checkbox"/> Narrative <input type="checkbox"/> Arrest Report <input type="checkbox"/> Supplemental <input checked="" type="checkbox"/> Formal Complaint | | TYPE OF REPORT ("X" APPLICABLE) <input type="checkbox"/> Commercial Fishing <input type="checkbox"/> Hunting <input type="checkbox"/> Inland Pollution <input type="checkbox"/> Incident Report <input type="checkbox"/> Recreational Fishing <input type="checkbox"/> Trapping <input type="checkbox"/> Marine Pollution <input checked="" type="checkbox"/> Other |
| Location/Subject/Incident Name Klamath River/EIMER | | Arresting/Case Officer M. Cervelli Citation Number AD2079326 |

144

145 Based on my observations, EIMER's statement, and the evidence collected at the scene; EIMER was clearly
 146 operating a suction dredge as defined in section 228 of Title 14 of the California Code of Regulation and in
 147 violation of section 5653.1(b) of the California Fish and Game Code.

148

149 This case will be forwarded to the Siskiyou County District Attorney's Office.

150

| | | | |
|---|--------------------|---------------------------------------|-----------------|
| Preparer's Name and Badge Number Monty Cervelli #827 | Date 04/06/2015 | Reviewer's Name Lt. Steve McDonald | Date 4/20/15 |
|---|--------------------|---------------------------------------|-----------------|

STATE OF CALIFORNIA
DEPARTMENT OF FISH AND GAME**NARRATIVE/SUPPLEMENTAL**

WPD 6b p.2 (10-98)

Region # NED Page

| | | |
|---|---------------------------|---|
| DATE OF INCIDENT/OCCURRENCE April 03, 2015 | TIME (2400) 1245 Hours | CITY/COUNTY/JUDICIAL JURISDICTION Happy Camp / Siskiyou / Superior Court |
| "X" APPLICABLE <input type="checkbox"/> Narrative <input type="checkbox"/> Arrest Report <input checked="" type="checkbox"/> Supplemental <input type="checkbox"/> Formal Complaint | | TYPE OF REPORT ("X" APPLICABLE) <input type="checkbox"/> Commercial Fishing <input type="checkbox"/> Hunting <input type="checkbox"/> Inland Pollution <input type="checkbox"/> Incident Report <input type="checkbox"/> Recreational Fishing <input type="checkbox"/> Trapping <input type="checkbox"/> Marine Pollution <input checked="" type="checkbox"/> Other: Suction Dredge |
| Location/Subject/Incident Name Hwy 96, mkr34.84 / Klamath River Suction dredging / Derek D. Eimer | | Arresting/Case Officer Warden Monty Cervelli Citation Number |

1 On 4/03/2015 at approximately 12:45 hours, I assisted Wildlife Officer Monty Cervelli with contacting
 2 miners at a mining claim on the Klamath River southwest of Happy Camp along Highway 96 near mile
 3 marker 34.84. While there I saw a miner later identified as Derek Douglas Eimer, using suction dredge
 4 equipment across the river on the south bank of the Klamath River. During the contact, I attempted to cross
 5 the river in the same flat bottom john boat that I had seen Mr. Eimer and his mining partner Daniel James
 6 Collins use to cross the river. I quickly determined that it was not a safe method of crossing the river and
 7 ended the attempt. Warden Cervelli explained to Mr. Eimer that the suction dredge equipment would be
 8 seized in place and that we would return the next day to retrieve the suction hose and nozzle.

9

10 On 04/04/2015 at approximately 15:30 hours, Wildlife Officer Monty Cervelli and I returned to the same
 11 mining area as the prior day. The suction dredge mining equipment that we had seen Mr. Eimer operating the
 12 day before was still in the same location. By using a Department of Fish and Wildlife kayak, I was able to
 13 safely cross the Klamath River and inspect the suction dredge equipment that Mr. Eimer had been using. The
 14 equipment consisted of pontoons with a blue and white motor attached on top. There was a suction hose
 15 attached to the left side of the motor that went into the river and was on rocks in the river. There was a
 16 suction nozzle attached to the end of the hose. Near the nozzle were two locations in the placer gravel that
 17 showed signs of suction dredging activity. There was also a black colored bucket with placer gravel material
 18 in it between the pontoons that the motor was resting on. There was a screen over the bucket. Using my
 19 hands, I disconnected the suction hose, with the suction nozzle still attached to it, from the motor and seized
 20 it as evidence. I placed it in the kayak and then crossed river and gave the suction hose and nozzle to Wildlife
 21 Officer Monty Cervelli for evidence for this case.

| | | | |
|---|--------------------|-----------------|-----------------|
| Preparer=s Name and Badge Number Wildlife Officer Daniel Beck, Badge # 516 | Date 04/19/2015 | Reviewer=s Name | Date 4/23/15 |
|---|--------------------|-----------------|-----------------|

STATE OF CALIFORNIA
DEPARTMENT OF FISH AND GAME

NARRATIVE/SUPPLEMENTAL

WPD 6b p.2 (10-98)

Region # NED Page

| | | |
|---|---------------------------|---|
| DATE OF INCIDENT/OCCURRENCE April 03, 2015 | TIME (2400) 1245 Hours | CITY/COUNTY/JUDICIAL JURISDICTION Happy Camp / Siskiyou / Superior Court |
| "X" APPLICABLE <input type="checkbox"/> Narrative <input type="checkbox"/> Arrest Report <input checked="" type="checkbox"/> Supplemental <input type="checkbox"/> Formal Complaint | | TYPE OF REPORT ("X" APPLICABLE) <input type="checkbox"/> Commercial Fishing <input type="checkbox"/> Hunting <input type="checkbox"/> Inland Pollution <input type="checkbox"/> Incident Report <input type="checkbox"/> Recreational Fishing <input type="checkbox"/> Trapping <input type="checkbox"/> Marine Pollution <input checked="" type="checkbox"/> Other: Suction Dredge |
| Location/Subject/Incident Name Hwy 96, mkr34.84 / Klamath River Suction dredging / Derek D. Eimer | | Arresting/Case Officer Warden Monty Cervelli Citation Number |



22

| | | | |
|---|--------------------|---------------------------------------|-----------------|
| Preparer's Name and Badge Number Wildlife Officer Daniel Beck, Badge # 516 | Date 04/19/2015 | Reviewer's Name LT. S. M. N. N. N. | Date 4/20/15 |
|---|--------------------|---------------------------------------|-----------------|

restrictions on military disaster relief are prohibited by federal law based on its
impairment regarding the nature of relief in moving items where federal law and
regulations and the doctrine of federal preemption, generally, and in the moving context.
The arguments of the House Ways and Means in House of P.L.P. and House.
Notes
On its challenge for summary judgment, the Court finds there is no triable issue of
material fact on the issue of Federal Preemption and that as a matter of law and in
actual fact, that the House's extraordinary scheme of requiring parties and their delivery
to have their relief under being unable to have controls for power, which "as an
attack on the achievement of the full purposes and objectives of Congress" under
Disaster Relief and the facts law.
Material Facts - 14
Evidence - Document declaration
COURT USA, National Wildlife, P.L.P. and House of P.L.P.
The Court motions for summary judgment as to Kinetic, P.L.P. and House of P.L.P. are
granted for reasons discussed above.
Prevailing parties to proper notice and order.

ties to prepare notice and order.

CALIFORNIA IDENTIFICATION CARD

10 F2461668

EXP 10/26/2016

MR EINER

MR DEREK DOUGLAS

PO BOX 586

HARTY CAMP CA 94029

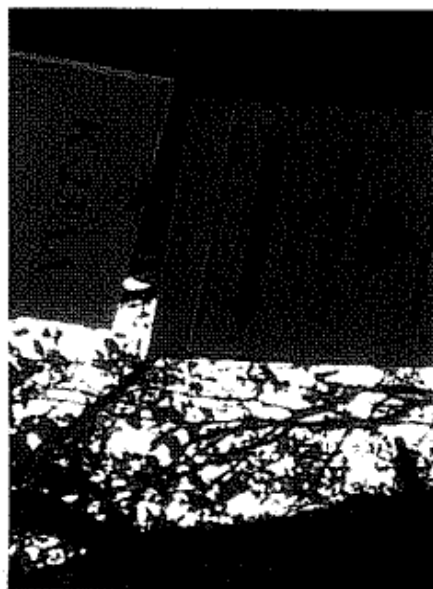
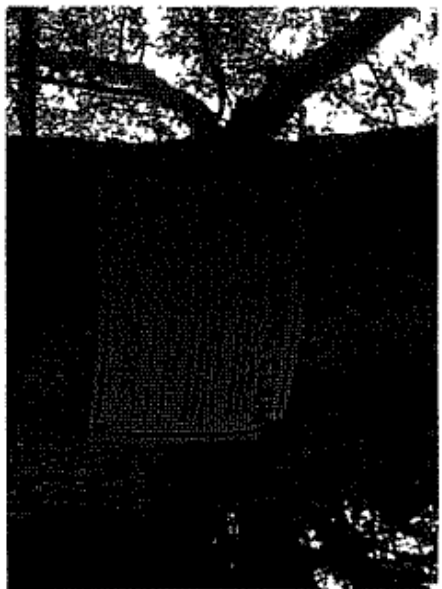
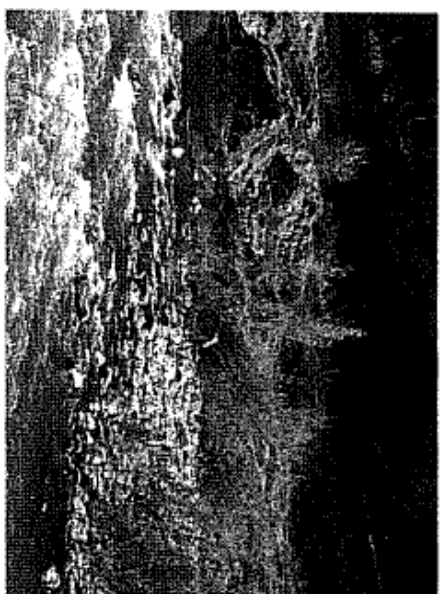
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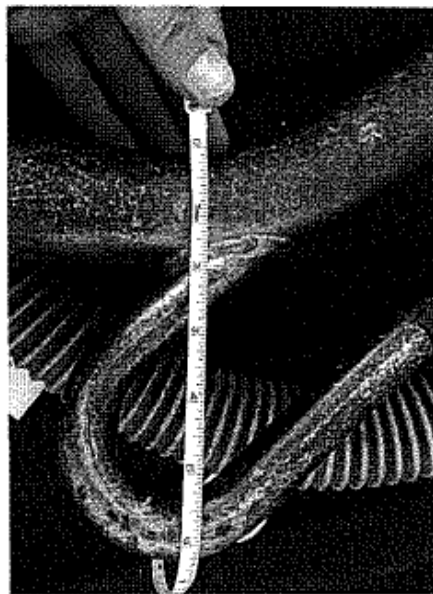
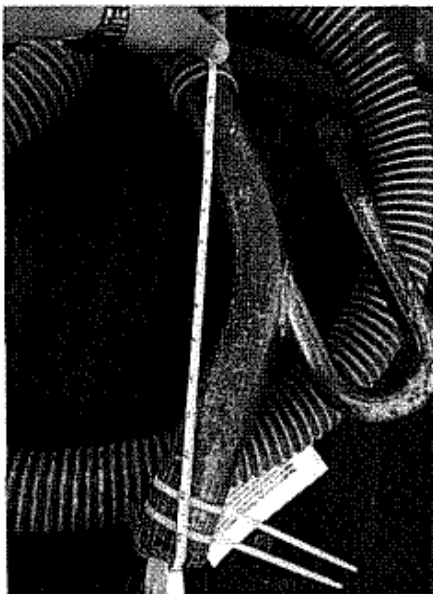
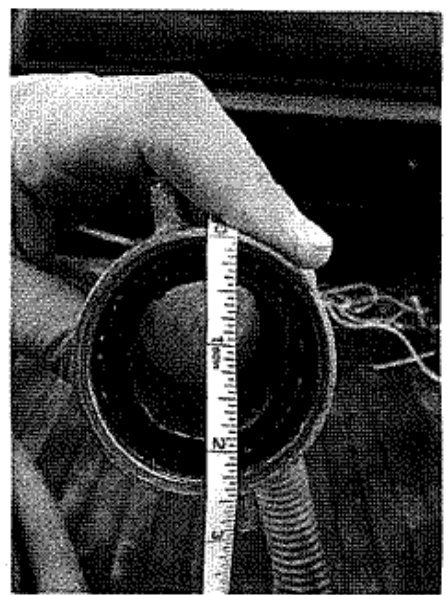
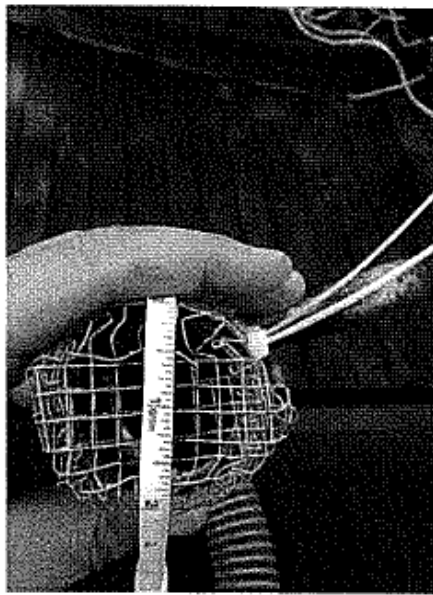
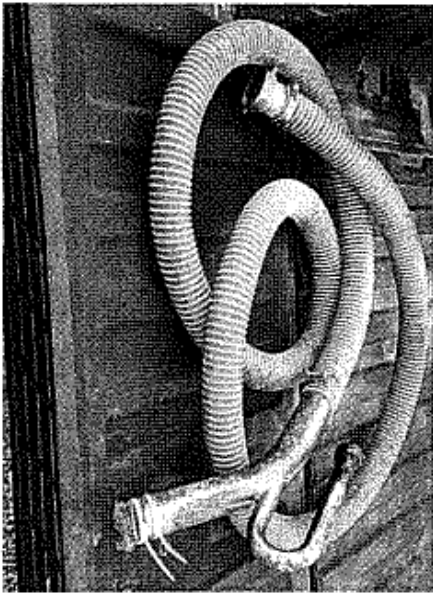
SEX M HGT 5'00 EYES BL

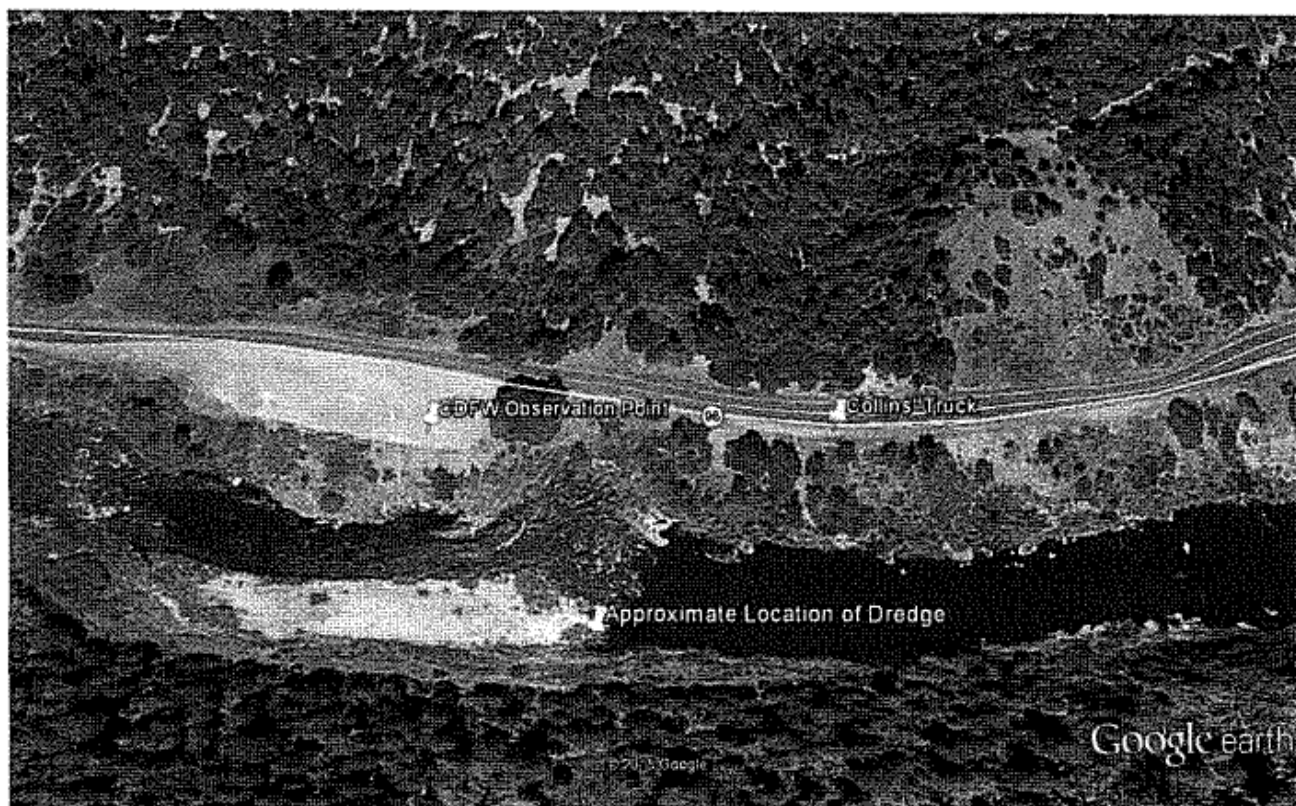
WGT 160 LB

DOB 10/26/1965

10281965







Google earth

feet 400
meters 100



DEPARTMENT OF FISH AND GAME

NOTICE TO APPEAR FG-600

MISDEMEANOR

Traffic ☒ Non-traffic

AD2002000

| | | | | | |
|--------------------------------------|-------|-------|--|-------------|--|
| Date of Violation | Time | AM | PM | Day of Week | Case No. |
| 8/31/2014 | 1230 | | | FRI | |
| Name (First, Middle, Last) | | | | | |
| DEREK DOUGLAS EIMER | | | | | |
| Address | | | | | |
| PO BOX 590/921 ELK CREEK RD #26 | | | | | |
| City | | | | | |
| HAPPY CAMP CA 96039 | | | | | |
| State | | | | | |
| ZIP Code | | | | | |
| Phone Number | | | | | |
| 503 | | | | | |
| Driver Lic. No. | State | Class | Commercial | Age | Birth Date |
| F246168A | CA | C | <input checked="" type="checkbox"/> Yes <input checked="" type="checkbox"/> No | 54 | 10/26/1964 |
| Sex | Hair | Eyes | Height | Weight | Race |
| M | BRO | BLU | 6-00 | 160 | WMA |
| Veh. Lic. No. or VIN | | | | | |
| State | | | | | |
| Yr. of Veh. | Make | Model | Body Style | Color | |
| | | | | | |
| Evidence of Financial Responsibility | | | | | <input type="checkbox"/> COMMERCIAL VEHICLE (Veh. Code § 5210(c)) <input type="checkbox"/> HAZARDOUS MATERIAL (Veh. Code § 253) |
| Registered Owner or Lessee | | | | | <input type="checkbox"/> Same as Driver |
| Address | | | | | <input type="checkbox"/> Same as Driver |
| City | | | | | State ZIP Code |

| | | | |
|---|-------------|---------------------------|------------------------------------|
| Correctable Violation (Veh. Code § 40610) | Description | Booking Required | Misdemeanor or Infraction (Circle) |
| Yes No Code and Section | | | |
| <input checked="" type="checkbox"/> 5653.1(a) CA F&G CODE - | | | (M) 1 |
| <input type="checkbox"/> OPERATE UNPERMITTED SECTION DREDGE | | | (M) 1 |
| <input checked="" type="checkbox"/> 5653.1(a) CA F&G CODE - POSSESS | | | (M) 1 |
| <input type="checkbox"/> SECTION DREDGE WITHIN 100 YARDS CREEK WATERS | | | (M) 1 |
| Speed | P.F./Max | Veh. | GPS |
| Approx. | Spd | Lim. | Lat/Long |
| | | | 41° 37' 19" N 123° 27' 56" W |
| Location of Violation(s) | | City/County of Occurrence | Call TIP |
| at Klamath River (Downstream) | | Siskiyou | Yes () No (X) |
| Evidence Seized | | | |
| WIRE (1) WIRE (1) REGULATION MISC TRASH | | | |

☐ Violations not committed in my presence, declared on information and belief.

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct.

M. Eimer Arresting or Citing Officer 827 Badge No.

| | | |
|---|--|---|
| Date | Name of Arresting Officer, if different from Citing Officer | Badge No. |
| | | |
| WITHOUT ADMITTING GUILT, I PROMISE TO APPEAR AT THE TIME AND PLACE INDICATED BELOW. | | |
| X Signature <u>FORMAL COMPLAINT</u> | | |
| WHEN: | ON OR BEFORE THIS DATE | Time: <input type="checkbox"/> AM <input type="checkbox"/> PM |
| WHAT TO DO: | FOLLOW THE INSTRUCTIONS ON THE REVERSE. | |
| WHERE: | Name of Court <u>Siskiyou County Superior Court</u> | |
| | Section or Division, Room No. <u>YAKA</u> | |
| | Street Address <u>311 FORT ST. YAKA CA 96097</u> | |
| | Phone Number <u>(530) 942-8182</u> Ext. <u></u> Court <u>47690</u> | |
| <input type="checkbox"/> Juvenile | <input type="checkbox"/> You may arrange with the clerk to appear at a night session of the court. | |
| <input checked="" type="checkbox"/> To be notified | | |



AD2002000

COURT COPY

SEE REVERSE TR-130

Judicial Council of California Form
Rev. 06-20-05 (Veh. Code §§ 40500(b), 40513(b), 40522, 40600 Pen. Code § 853.9)

STATE OF CALIFORNIA
DEPARTMENT OF FISH AND WILDLIFE

ARREST/INVESTIGATION REPORT

ENF 6a (1/2013)

Region # NED Page 1 Of 14

| | | | | |
|---|---|--|---|--|
| DATE OF INCIDENT/OCCURRENCE 08/31/2014 | | TIME (2400) 1230 HRS | CITY/COUNTY/JUDICIAL JURISDICTION Happy Camp/Siskiyou County | |
| "X" ONE <input type="checkbox"/> Arrest Report <input checked="" type="checkbox"/> Formal Complaint | "X" ONE <input checked="" type="checkbox"/> Self Initiated <input type="checkbox"/> Complaint | TYPE OF REPORT ("X" APPLICABLE) <input type="checkbox"/> Commercial Fishing <input type="checkbox"/> Hunting <input type="checkbox"/> Inland Pollution <input type="checkbox"/> CalTIP <input type="checkbox"/> Recreational Fishing <input type="checkbox"/> Trapping <input type="checkbox"/> Marine Pollution <input checked="" type="checkbox"/> Other | | |

Suspect Information

| | | | | |
|---|--|---|--|------------------------------|
| Name Suspect #1 (First, Middle, Last) Derek Douglas EIMER | | Sex <input checked="" type="checkbox"/> M <input type="checkbox"/> F | Date of Birth (MM/DD/YY) 10/26/1965 | Citation Number AD2002000 |
| Suspect Address (Street, Apt., City, State, Zip Code) P.O. Box 590 / 921 Elk Creek Rd. Space #26, Happy Camp, CA 96039 | | | | Home Phone 503-686-4338 |
| Business Address (Street, Apt., City, State, Zip Code) | | | | Business Phone |
| Identification Type ("X" APPLICABLE) <input checked="" type="checkbox"/> CDL/CID <input type="checkbox"/> Other State DL/ID <input type="checkbox"/> Other ID: Number: F2461688 | Suspect Description ("X" APPLICABLE) GENERAL: HAIR: EYES: ETHNICITY: Height: 6-00 <input type="checkbox"/> Bln <input type="checkbox"/> Blk <input checked="" type="checkbox"/> Brn <input type="checkbox"/> Blu <input type="checkbox"/> Brn <input type="checkbox"/> Asian <input type="checkbox"/> Black <input type="checkbox"/> Hispanic Weight: 160 <input type="checkbox"/> Gry <input type="checkbox"/> Red <input type="checkbox"/> None <input type="checkbox"/> Grn <input checked="" type="checkbox"/> Hzl <input checked="" type="checkbox"/> White <input type="checkbox"/> Other: | | | |
| Vehicle Type ("X" APPLICABLE) <input type="checkbox"/> Auto <input type="checkbox"/> Vessel <input type="checkbox"/> Other | Description (Make, Model, Year, Color) | | License Plate Number/VIN | |

Offenses and Charges

| | |
|---|--|
| <input checked="" type="checkbox"/> F&G <input type="checkbox"/> T-14 <input type="checkbox"/> Other: <input checked="" type="checkbox"/> Section: 5653.1(b) Description: Operate an unpermitted suction dredge | <input type="checkbox"/> F&G <input type="checkbox"/> T-14 <input type="checkbox"/> Other: <input type="checkbox"/> Section: Description: |
| <input checked="" type="checkbox"/> F&G <input type="checkbox"/> T-14 <input type="checkbox"/> Other: <input checked="" type="checkbox"/> Section: 5653(d) Description: Possession of a suction dredge within 100 yards of closed waters | <input type="checkbox"/> F&G <input type="checkbox"/> T-14 <input type="checkbox"/> Other: <input type="checkbox"/> Section: Description: |
| <input type="checkbox"/> F&G <input type="checkbox"/> T-14 <input type="checkbox"/> Other: <input type="checkbox"/> Section: Description: | <input type="checkbox"/> F&G <input type="checkbox"/> T-14 <input type="checkbox"/> Other: <input type="checkbox"/> Section: Description: |

Evidence Seized

| | |
|--|---|
| Evidence Description (Amount, Type, Serial Number, etc.) "X" ONE <input checked="" type="checkbox"/> Held <input type="checkbox"/> Returned <input type="checkbox"/> Destroyed <input type="checkbox"/> Other (1) 5 inch suction nozzle, (1) 5 inch venturi (1) dive regulator, (2) empty cigarette packs, duct tape, (1) aluminum can, (1) plastic bottle | Evidence Photographed? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |
| Evidence Description (Amount, Type, Serial Number, etc.) "X" ONE <input type="checkbox"/> Held <input type="checkbox"/> Returned <input type="checkbox"/> Destroyed <input type="checkbox"/> Other | Evidence Photographed? <input type="checkbox"/> Yes <input type="checkbox"/> No |
| Evidence Description (Amount, Type, Serial Number, etc.) "X" ONE <input type="checkbox"/> Held <input type="checkbox"/> Returned <input type="checkbox"/> Destroyed <input type="checkbox"/> Other | Evidence Photographed? <input type="checkbox"/> Yes <input type="checkbox"/> No |

Case Synopsis

| | | | |
|--|------------------|---------------------------------------|-----------------|
| In August of 2014, I, Warden Monty Cervelli, California Department of Fish & Wildlife (CDFW), received information that Daniel Collins and Derek EIMER were using hidden underwater suction dredge systems to dredge for gold on the Klamath River, in a remote location below the Dragon's Tooth rapid. Wildlife Officers located the mining camp as reported and found a suction dredge at the location. The suction equipment was hidden underwater. At the time of our inspection the mining camp was unoccupied. Several items of evidence were seized including a 5" suction nozzle, 5" venturi, and a dive regulator. EIMER and Collins were contacted several days later. EIMER admitted to operating the suction dredge in violation of the CA Fish & Game Code and to possessing the suction dredge within 100 yards of closed waters in violation of the CA Fish & Game Code. | | | |
| Preparer's Name and Badge Number Monty Cervelli #827 | Date 09/10/14 | Reviewer's Name Lt. Steve McDonald | Date 4/20/15 |

STATE OF CALIFORNIA
DEPARTMENT OF FISH AND WILDLIFE**SUPPLEMENTAL SUSPECT/WITNESS INFORMATION**

ENF 6b (1/2013)

Region # NED Page 2

| | | |
|---|-------------------------|---|
| DATE OF INCIDENT/OCCURRENCE 08/31/2014 | TIME (2400) 1230 HRS | CITY/COUNTY/JUDICIAL JURISDICTION Happy Camp / Siskiyou County |
|---|-------------------------|---|

Additional Suspect Information

| | | | |
|---|---|--|----------------------------|
| Name Suspect #2 (First, Middle, Last) Daniel James COLLINS | Sex [x] M [] F | Date of Birth (MM/DD/YY) 07/25/1967 | Citation Number |
| Suspect Address (Street, Apt., City, State, Zip Code) 9 Bunny Trail, Broadway, NC 27505-9338 | | | Home Phone 919-770-2762 |
| Business Address (Street, Apt., City, State, Zip Code) | | | Business Phone |
| Identification Type ("X" APPLICABLE) [] CDL/CID [x] Other State DL/ID [] Other ID: Number: 6270377 North Carolina | Suspect Description ("X" APPLICABLE) GENERAL: HAIR: EYES: ETHNICITY: Height: 6-00 [x] Bln [] Blk [] Brn [x] Blu [] Brn [] Asian [] Black [] Hispanic Weight: 200 [] Gry [] Red [] None [] Grn [] Hzl [x] White [] Other: | | |
| Vehicle Type ("X" APPLICABLE) [] Auto [] Vessel [] Other | Description (Make, Model, Year, Color) | | License Plate Number/VIN |
| Name Suspect #3 (First, Middle, Last) | Sex [] M [] F | Date of Birth (MM/DD/YY) | Citation Number |
| Suspect Address (Street, Apt., City, State, Zip Code) | | | Home Phone |
| Identification Type ("X" APPLICABLE) [] CDL/CID [] Other State DL/ID [] Other ID: Number: | Suspect Description ("X" APPLICABLE) GENERAL: HAIR: EYES: ETHNICITY: Height: [] Bln [] Blk [] Brn [] Blu [] Brn [] Asian [] Black [] Hispanic Weight: [] Gry [] Red [] None [] Grn [] Hzl [] White [] Other: | | |
| Name Suspect #4 (First, Middle, Last) | Sex [] M [] F | Date of Birth (MM/DD/YY) | Citation Number |
| Suspect Address (Street, Apt., City, State, Zip Code) | | | Home Phone |
| Identification Type ("X" APPLICABLE) [] CDL/CID [] Other State DL/ID [] Other ID: Number: | Suspect Description ("X" APPLICABLE) GENERAL: HAIR: EYES: ETHNICITY: Height: [] Bln [] Blk [] Brn [] Blu [] Brn [] Asian [] Black [] Hispanic Weight: [] Gry [] Red [] None [] Grn [] Hzl [] White [] Other: | | |

Witness Information

| | | | |
|---|----------------------|--|------------------------------------|
| Name Witness #1 (First, Middle, Last) George Knight Clark | Sex [x] M [] F | Date of Birth (MM/DD/YY) 07/25/1938 | Identification Number 529853 OR |
| Witness Address (Street, Apt., City, State, Zip Code) 32887 Nesika Beach Rd., Gold Beach, OR 97444 | | | Home Phone 202-256-5419 |
| Name Witness #2 (First, Middle, Last) | Sex [] M [] F | Date of Birth (MM/DD/YY) | Identification Number |
| Witness Address (Street, Apt., City, State, Zip Code) | | | Home Phone |

| | | | |
|---|-----------------|---------------------------------------|-----------------|
| Preparer's Name and Badge Number Monty Cervelli #827 | Date 9/10/14 | Reviewer's Name Lt. Steve McDonald | Date 9/20/15 |
|---|-----------------|---------------------------------------|-----------------|

DA DISCOVERY
PG NO. 17

STATE OF CALIFORNIA
DEPARTMENT OF FISH AND WILDLIFE

NARRATIVE/SUPPLEMENTAL

ENF 6b p.2 (1/2013)

Region # NED Page 3

| | | |
|---|-------------------------|--|
| DATE OF INCIDENT/OCCURRENCE 08/31/2014 | TIME (2400) 1230 HRS | CITY/COUNTY/JUDICIAL JURISDICTION Happy Camp / Siskiyou |
| "X" APPLICABLE <input checked="" type="checkbox"/> Narrative <input type="checkbox"/> Arrest Report <input type="checkbox"/> Supplemental <input checked="" type="checkbox"/> Formal Complaint | | TYPE OF REPORT ("X" APPLICABLE) <input type="checkbox"/> Commercial Fishing <input type="checkbox"/> Hunting <input type="checkbox"/> Inland Pollution <input type="checkbox"/> Incident Report <input type="checkbox"/> Recreational Fishing <input type="checkbox"/> Trapping <input type="checkbox"/> Marine Pollution <input checked="" type="checkbox"/> Other |
| Location/Subject/Incident Name Klamath River/EIMER | | Arresting/Case Officer M. Cervelli Citation Number AD2002000 |

1 On August 22, 2014, I, Warden Monty Cervelli, California Department of Fish & Wildlife (CDFW) was
 2 contacted by a confidential citizen informant (CI). The CI told me that two miners identified as Derek EIMER
 3 and Daniel COLLINS were bragging about recovering large amounts of gold from the Klamath River near Happy
 4 Camp. The CI believed the two men were mining illegally, using suction dredges. The CI said the two men were
 5 mining in a remote area of the Klamath River near the Dragon's Tooth Rapid. The mining location had to be
 6 accessed on foot by walking along a rugged area of the river's edge. The CI believed the men may be concealing
 7 their dredging activity by leaving their dredging equipment hidden underwater. The men were also using quick
 8 connect/disconnect type fittings to attach/detach the dredging equipment (nozzle/venturi) underwater. This way
 9 the men could drop the equipment quickly underwater should they be contacted by law enforcement. The CI also
 10 believed the two men may be aggressive and/or non-cooperative if contacted by law enforcement.

11

12 On August 26, 2014, I received a report from the Karuk Tribe regarding possible illegal mining activity near the
 13 Dragon's Tooth Rapid. Tribal employees working along the river had come across a camp below the rapid. They
 14 saw three pumps on floats in the river, hoses, buckets, dive gear, and other indicia of mining activity. They took
 15 several photographs of the location and mining operation as they went by. There was no one visible at the camp
 16 or working in the water at the time.

17

18 ///

| | | | |
|---|--------------------|---------------------------------------|-----------------|
| Preparer's Name and Badge Number Monty Cervelli #827 | Date 04/15/2015 | Reviewer's Name Lt. Steve McDonald | Date 4/20/15 |
|---|--------------------|---------------------------------------|-----------------|

STATE OF CALIFORNIA
DEPARTMENT OF FISH AND WILDLIFE

NARRATIVE/SUPPLEMENTAL

ENF 6b p.2 (1/2013)

Region # NED Page 4

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19 The use of an unpermitted suction dredge is currently prohibited under California Fish and Game Code Section
20 5653.1:

21

22 5653.1. Vacuum or Suction Dredge Equipment Prohibited; Environmental Impact Review

23

24 (a) The issuance of permits to operate vacuum or suction dredge equipment is a project pursuant to the California Environmental
25 Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) and permits may only be issued, and vacuum
26 or suction dredge mining may only occur as authorized by any existing permit, if the department has caused to be prepared, and certified
27 the completion of, an environmental impact report for the project pursuant to the court order and consent judgment entered in the case of
28 Karuk Tribe of California et al. v. California Department of Fish and Game et al., Alameda County Superior Court Case No. RG
29 05211597.

30

31 (b) Notwithstanding Section 5653, the use of any vacuum or suction dredge equipment in any river, stream, or lake of this state is
32 prohibited until the director certifies to the Secretary of State that all of the following have occurred:

33 (1) The department has completed the environmental review of its existing suction dredge mining regulations, as ordered by the court
34 in the case of Karuk Tribe of California et al. v. California Department of Fish and Game et al., Alameda County Superior Court Case
35 No. RG 05211597.

36 (2) The department has transmitted for filing with the Secretary of State pursuant to Section 11343 of the Government Code, a
37 certified copy of new regulations adopted, as necessary, pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division
38 3 of Title 2 of the Government Code.

39 (3) The new regulations described in paragraph (2) are operative

40 (4) The new regulations described in paragraph (2) fully mitigate all identified significant environmental impacts.

41 (5) A fee structure is in place that will fully cover all costs to the department related to the administration of the program.

42

43 (c)(1) To facilitate its compliance with subdivision (b), the department shall consult with other agencies as it determines to be
44 necessary, including, but not limited to, the State Water Resources Control Board, the State Department of Public Health, and the Native
45 American Heritage Commission, and, on or before April 1, 2013, shall prepare and submit to the Legislature a report with
46 recommendations on statutory changes or authorizations that, in the determination of the department, are necessary to develop the
47 suction dredge regulations required by paragraph (2) of subdivision (b), including, but not limited to, recommendations relating to the
48 mitigation of all identified significant environmental impacts and a fee structure that will fully cover all program costs.

49 (2) The requirement for submitting a report imposed under this subdivision is inoperative on January 1, 2017, pursuant to Section
50 10231.5 of the Government Code.

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51 (3) The report submitted to the Legislature pursuant to this subdivision shall be submitted in accordance with Section 9795 of the
52 Government Code.

53 (d) The Legislature finds and declares that this section, as added during the 2009-10 Regular Session, applies solely to vacuum and
54 suction dredging activities conducted for instream mining purposes. This section does not expand or provide new authority for the
55 department to close or regulate suction dredging conducted for regular maintenance of energy or water supply management
56 infrastructure, flood control, or navigational purposes governed by other state or federal law.

57
58 (e) This section does not prohibit or restrict nonmotorized recreational mining activities, including panning for gold.

59
60 A suction dredge is defined in section 228 of Title 14 of the California Code of Regulations:

61
62 **Title 14 § 228. Suction Dredging.**

63
64 The Department has adopted this Section and Section 228.5 pursuant to Fish and Game Code Section 5653.9, and to make specific and
65 otherwise implement Fish and Game Code Section 5653, specifically. Pursuant to that authority, the Department finds that suction
66 dredging subject to and consistent with the requirements of Sections 228 and 228.5 will not be deleterious to fish.

67
68 (a) Suction dredging. For purposes of this Section and Section 228.5, the use of any vacuum or suction dredge equipment (i.e. suction
69 dredging) is defined as the use of a suction system to vacuum material from a river, stream or lake for the extraction of minerals. These
70 regulations do not apply to, prohibit or restrict nonmotorized recreational mining activities, including panning for gold.

71
72 Based on the information stated above Lt. McDonald and I met and discussed how to approach the situation. We
73 reviewed the various photographs and maps of the area and came up with an operational plan to check the mining
74 operation.

75
76 On August 31, 2014 at approximately 0800 hours, Lt. Steve McDonald, Warden Dan Beck, Warden Rich
77 Wharton, Warden Chad Edwards and I met at the Yreka CDFW Officer for a preoperational briefing. Warden

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78 Wharton was assigned to dive the location if deemed necessary during the inspection of the mining operation.

79

80 After the briefing we drove to the location in marked CDFW patrol vehicles. We arrived at the access point at
81 approximately 1200 hours. The access point was a dirt road off of Highway 96 that ended in a clearing above the
82 river. We were joined at that location by United States Forest Service (USFS) Law Enforcement Officer (LEO)
83 Jason Rasmussen. LEO Rasmussen and an additional USFS LEO agreed to stay in the parking area with our
84 vehicles in case someone should arrive behind our group and to provide additional support if needed. From the
85 parking area there was a steep trail down to the river. We exited our vehicles, geared up and began walking down
86 the hill to the river. Just below the clearing we found a white van (OR H990433) parked in the trees and a small
87 camp. There was no one at the vehicle/camp.

88

89 We continued on the trail to the river. Near where the trail met the river's edge we found a pump on floats along
90 with some mining equipment and dive gear. The pump was on blue plastic floats and covered with a green
91 camouflage tarp. The pump was tied up to the river's edge with commercial crabbing rope. There were several
92 large diameter hoses attached to the pump, going out into the river.

93

94 We continued past the first pump, heading downstream toward the target location. While heading down river I
95 saw an individual (later identified as George Knight CLARK) mining along the river's edge. Warden Edwards

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96 and I broke off from the group and contacted CLARK. CLARK was cooperative and allowed me to inspect his
 97 mining operation. CLARK was using a gravity fed sluice device and was in compliance with the regulations.
 98 CLARK said he was camping in the area and identified the white van we had checked on the way down to the
 99 river as his. I told CLARK that I may need to speak with him later. CLARK said the pump we had found near
 100 where the trail met the river was not his. Warden Edwards and I continued downstream and rejoined the group as
 101 they arrived at the target location.

102

103 When we arrived at the mining operation below the Dragon's Tooth Rapid we found a small camp in the trees
 104 above the site. There was garbage scattered around the campsite. There were several wetsuits hung up in a tree,
 105 boots, duct tape, hoses and other items consistent with suction dredging activity scattered around the camp. There
 106 were three tents set up on a sandy area along the river downstream of the pumps. There were three pumps set up
 107 on floats in the river. The pumps were secured with ropes and/or anchored, to keep from floating down the river.
 108 There was dive equipment including regulators and dive weights on the shore.

109

110 After checking the area and determining that there was no one at the site. Lt. McDonald, Warden Wharton and I,
 111 went back to the first pump we had found near where the trail met the river.

112

113 Warden Wharton entered the water and began checking the hoses that led out into the water. Warden Wharton

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114 located a large piece of corrugated plastic pipe (approximately 5 foot long with a 12 inch diameter) that was
 115 designed to be used as a gold recovery device (sluice); the gold recovery device was inline and attached by hoses
 116 to a venturi mechanism and a suction nozzle which when powered by the pump completed the suction dredge
 117 system. We checked the system and found the pump was operational. This was a suction dredge as defined by
 118 section 228 of Title 14 of California Code of Regulations and a violation of current regulations prohibiting there
 119 use.

120

121 After photographing the dredge at the first site we returned downstream to the target location below Dragon's
 122 Tooth Rapid.

123

124 We began by inspecting the first pump which was located at the upper most location on the river.

125 The pump was on green plastic floats and tied to the shore. The pump was positioned next to the shore.

126 There was a metal sluice box standing on the bank nearby. There were several 5 gallon buckets containing
 127 material from the river also nearby. There were several hoses leading off the pump into the water. The pump
 128 was equipped with an air supply reservoir and an air hose to supply air to a diver with a dive regulator. There
 129 were dive weights and other dive related equipment on the shore near the pump.

130

131 Warden Wharton entered the water to inspect the equipment. Warden Wharton dove under the water and

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132 followed the main hose leading from the pump into the river. The line went out towards the middle of the river in
 133 deep water with a swift current. Warden Wharton was using only a snorkel and fins to attempt to inspect the
 134 operation and was having a difficult time negotiating the currents. Warden Wharton began pulling the hose in.
 135 The equipment on the end of the line was heavy and tough to retrieve. Warden Wharton located a 5 inch venturi
 136 device and a 5 inch suction dredge nozzle at the end of the hose. Warden Beck assisted from the shore as Warden
 137 Wharton retrieved the equipment from the river. There was no inline gold collection device.

138

139 We inspected the first pump. The first pump was a Honda model GX270-270 pump with a serial number of
 140 GCAB-1576881. The pump was operational. The pump with the attached venturi and suction nozzle created a
 141 suction dredge system as defined by section 228 of Title 14 of California Code of Regulations and was prohibited
 142 under the current regulations.

143

144 After securing the venturi and suction nozzle off the first pump; Warden Wharton went back into the river to
 145 check the hoses attached to the second pump. Warden Wharton followed the main suction hose into the river and
 146 was unable to reach the end due to the depth of the water and the swift currents. Warden Wharton attempted to
 147 pull the hose in. Whatever was on the end of the hose was very heavy. As Warden Wharton attempted to pull the
 148 hose in, the equipment on the end came loose disconnecting in the deep water. Warden Wharton retrieved the
 149 hose and attempted to locate what had been disconnected from the end but was unable to find it in the deep water.

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150

151 Warden Wharton checked the third pump and found nothing connected to the end of the suction hose.

152 After photographing and documenting the evidence that Warden Wharton had found, I went back and checked for

153 evidence in the camp. I took an empty plastic drink bottle, an aluminum can, two cigarette packages and used

154 duct tape for possible fingerprint evidence.

155

156 The entire scene was photographed and I also seized the 5 inch suction nozzle, the 5 inch venturi, and a diving

157 regulator with the attached hose.

158

159 I wrote out a property receipt for the evidence I seized. I did not have a duplicate property receipt with me. I left

160 the original single copy property receipt I had with me and took a digital photograph of the receipt for the case

161 (photo attached). I posted the property receipt in the unoccupied camp.

162

163 After securing the evidence at the second location we took the evidence back to the first location and the first

164 dredge we had encountered. I seized the 4 ½ inch suction nozzle, a 5 inch venturi, and the 12 inch diameter by 5

165 foot long, corrugated, black plastic, under water sluice.

166

167 I wrote out a property receipt for the evidence I seized a location number one. I did not have a duplicate property

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168 receipt with me. I left the original single copy property receipt I had with me. I took a digital photograph of the
169 receipt for the case (photo attached). I posted the property receipt at the location.

170

171 After securing the evidence from both locations we began walking back up the trail to the vehicles. After placing
172 the evidence in our vehicles we contacted George CLARK at his van. I asked CLARK if he knew who was
173 mining at the second location where the camp and three pumps were located. CLARK said three men were
174 working there and he believed their first names were Derek, Danny and Steve. The physical description he gave
175 was consistent with the information I had regarding Derek EIMER and Danny COLLINS. I had no information
176 regarding "Steve." CLARK said Steve spoke with an accent and he believed he may be from New Zealand.
177 CLARK said the first pump where the trail from the parking area met the river belonged to an older individual
178 whom he did not know. CLARK said he had only seen him once.

179

180 After speaking with CLARK we left the area.

181

182 On September 11, 2014, at approximately 1230 hours, Lt. Steve McDonald and I went to the Elk Creek
183 Campground in an attempt to locate Derek EIMER and Daniel COLLINS. We found the two men sitting at a
184 campsite. There was a large amount of disassembled mining equipment lying around the camp. I exited my
185 CDFW patrol vehicle and introduced myself as well as Lt. McDonald. I asked the men if they were Daniel

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186 COLLINS and Derek EIMER and they said that they were. I explained to COLLINS and EIMER that I was
 187 following up on a mining investigation and that I wanted to talk to them about it. I told the men that I had located
 188 a suction dredge in area where I was told they were mining. I asked the men for their identification. COLLINS
 189 said he did not have his identification with him and that it was in his trailer. EIMER provided me with his
 190 identification. COLLINS told me that he was not going to say anything to me about any mining issues and said
 191 he would not talk without a lawyer. I told COLLINS that was fine and asked Lt. McDonald to go with COLLINS
 192 to get his identification.

193

194 I asked EIMER if he would be willing to speak to me. EIMER said that he thought he should have an attorney
 195 before answering any questions. I told him he was not in custody or under arrest and that it I was just trying to
 196 find out about the mining operation. I asked EIMER how long he had been mining near Dragon's Tooth rapid.
 197 EIMER said he had been there for three weeks. EIMER identified the camp at the second location with the three
 198 floating pumps as their operation. I asked EIMER how long he had been using a suction dredge at the location
 199 and EIMER said since about a week before we got there. EIMER said he blew a bunch of material around under
 200 water and needed a suction device to move the material from one place to another. He said he was using the
 201 suction device to move the material from one place to another. He said he did not have an underwater collection
 202 device or sluice. I asked EIMER if the nozzle we took was his and he said it was. EIMER said he was the only
 203 one using a suction dredge at the location. EIMER said the others were blow mining. I asked EIMER about the

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204 third individual who was with them at the location. I asked if his name was Steve and EIMER said it was. I
 205 asked EIMER Steve's last name and EIMER said he didn't know. I asked if he knew where Steve lived and he
 206 said he wasn't sure, maybe the Bigfoot RV Park.

207

208 Lt. McDonald returned to my location with COLLINS and COLLINS' identification. I contacted CDFW dispatch
 209 via radio and requested a wants and warrants check on both subjects. COLLINS became upset and began
 210 accusing me of violating his rights by running his name. I explained to COLLINS that I was investigating a
 211 criminal offense and he and EIMER were suspects; I was checking to make sure they had no outstanding
 212 warrants. COLLINS then began a lengthy discussion with me regarding the 4th Amendment of the United States
 213 Constitution.

214

215 I explained to the men that the items I had seized were on public land and the mining operation was open to
 216 inspection by CDFW Officers; the seized items were being used in violation of the California Fish and Game
 217 Code. I told the men I would be continuing my investigation and filing a case with the Siskiyou County District
 218 Attorney's Office.

219

220 I provided EIMER with my contact information. Lt. McDonald and I then left the location.

221

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222 At approximately 1330 hours, Lt. McDonald and responded to Big Foot RV and Cabins in Happy Camp. I
 223 contacted the manager. The manager told me that no one named "Steve" was staying there. The manager said
 224 there were no gold miners that he knew off staying there and no one matching Steve's description.

225

226 Based on my observations, EIMER's statement, and the evidence collected at the scene; EIMER was operating a
 227 suction dredge as defined in section 228 of Title 14 of the California Code of Regulations, in violation of section
 228 5653.1(b) and 5653(d) of the California Fish and Game Code.

229

230 This case will be forwarded to the Siskiyou County District Attorney's Office for prosecution.

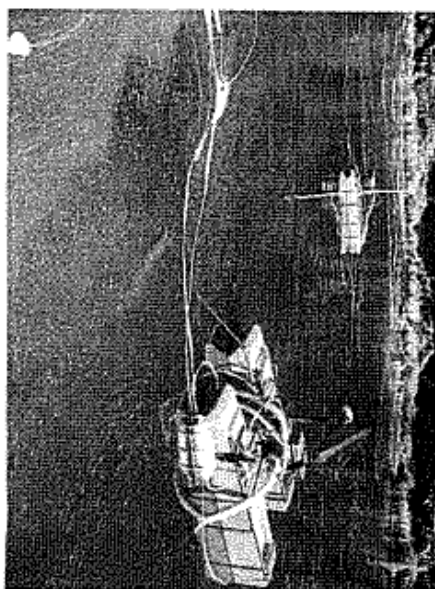
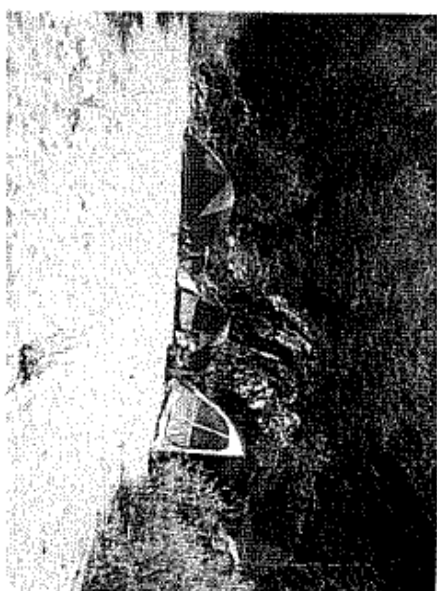
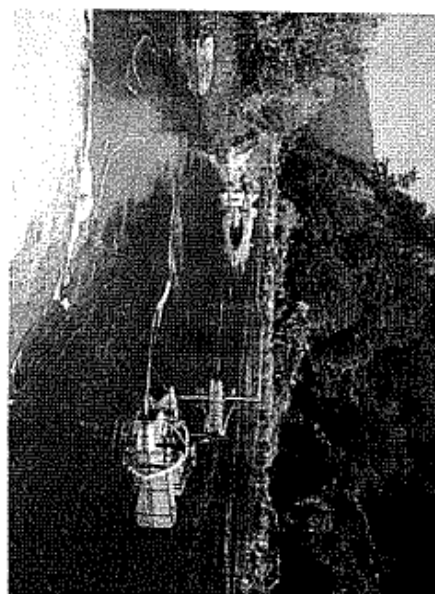
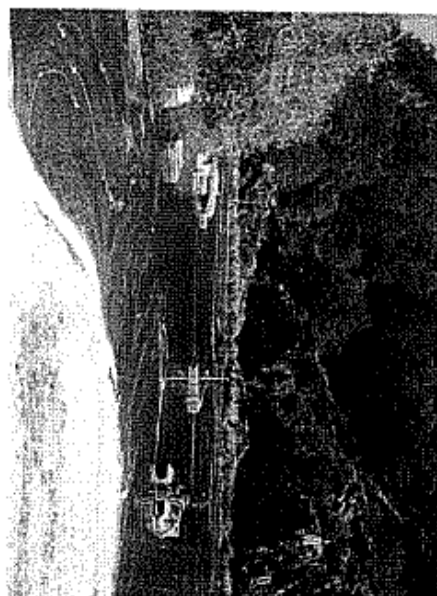
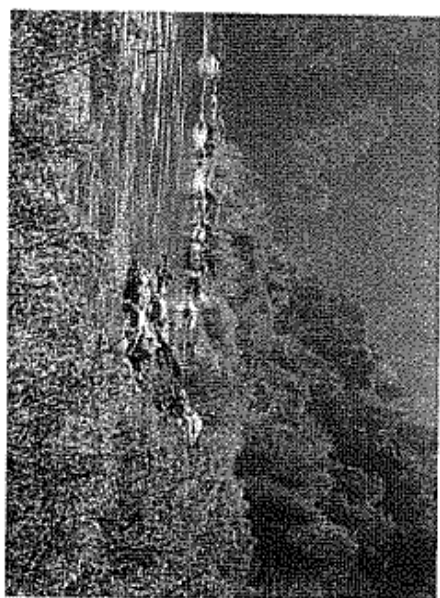
231

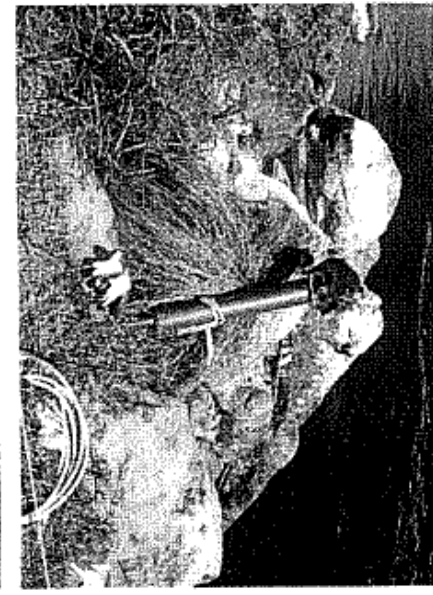
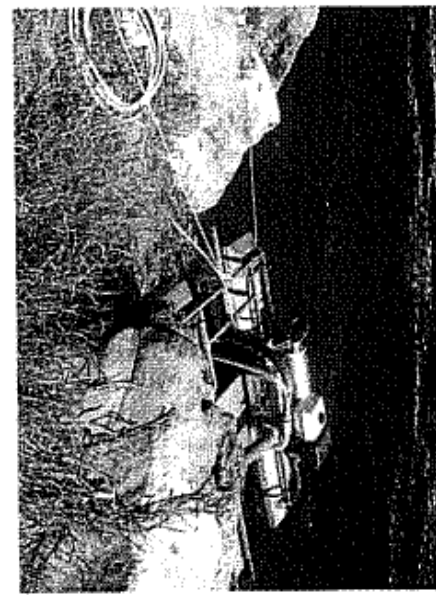
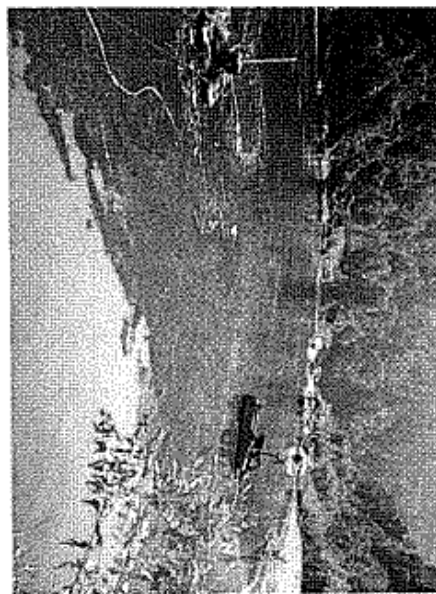
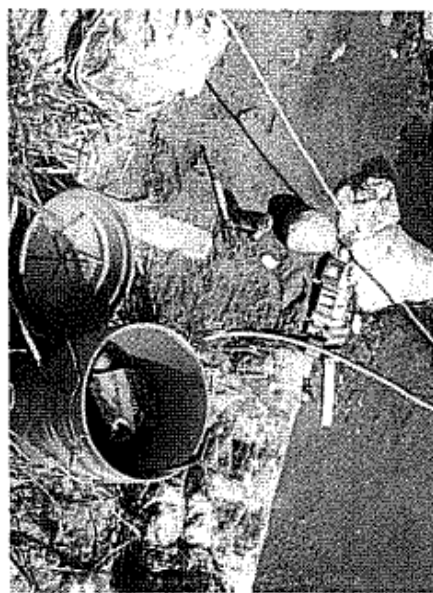
232

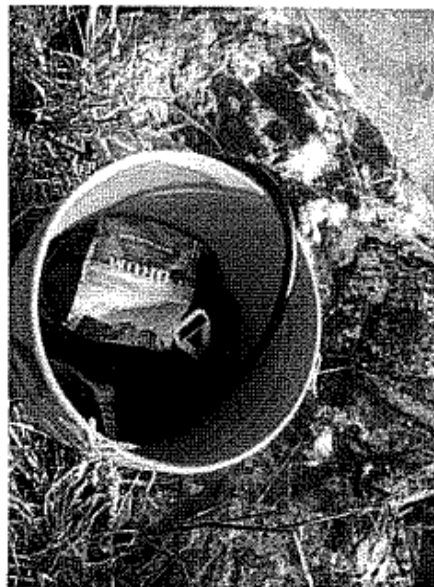
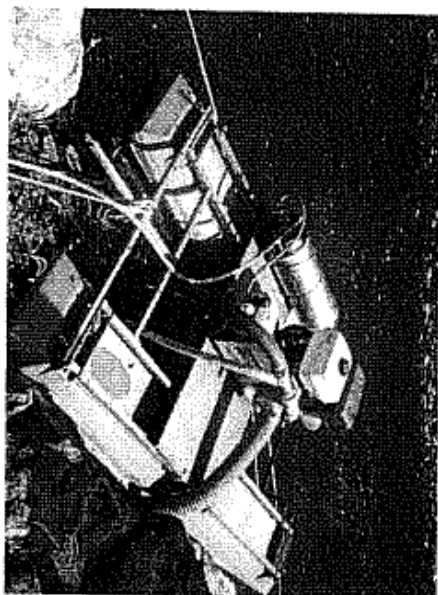
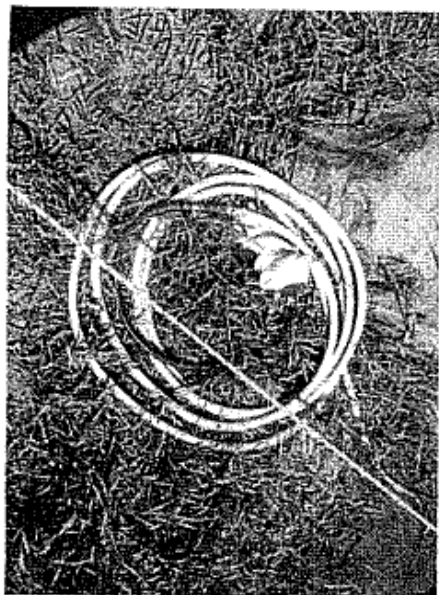
233

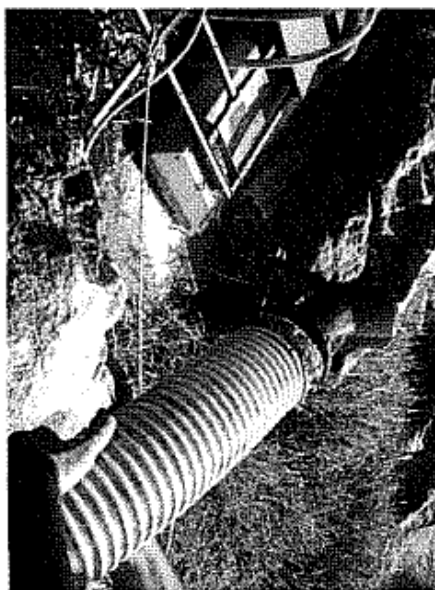
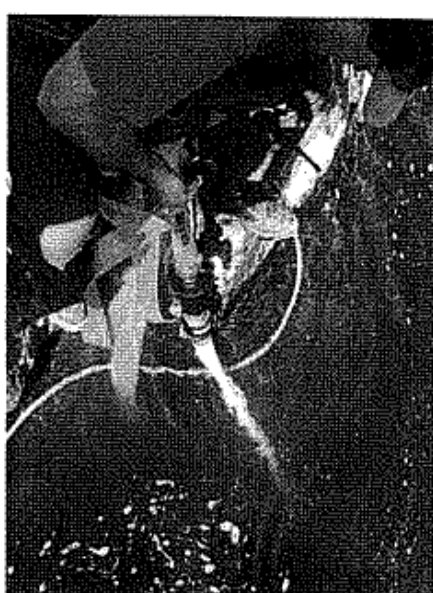
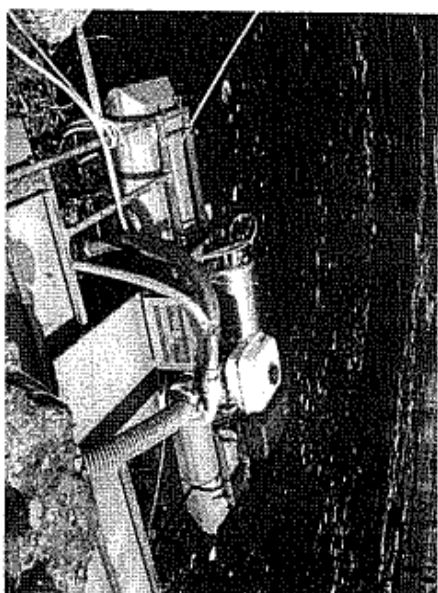
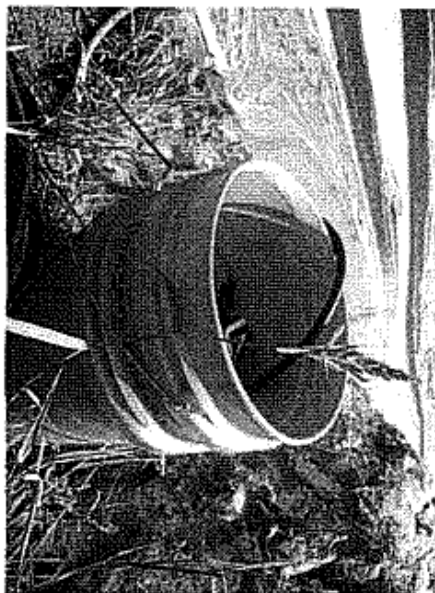
234

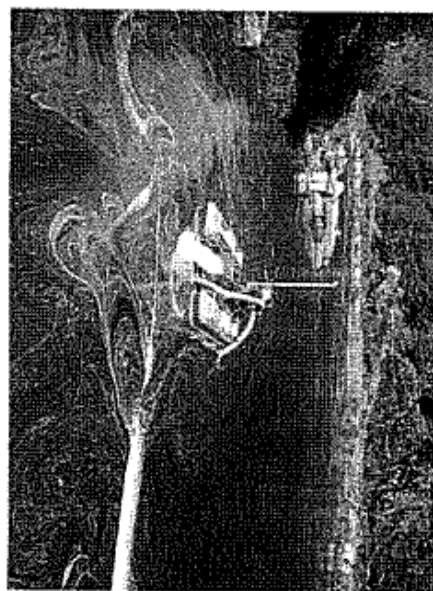
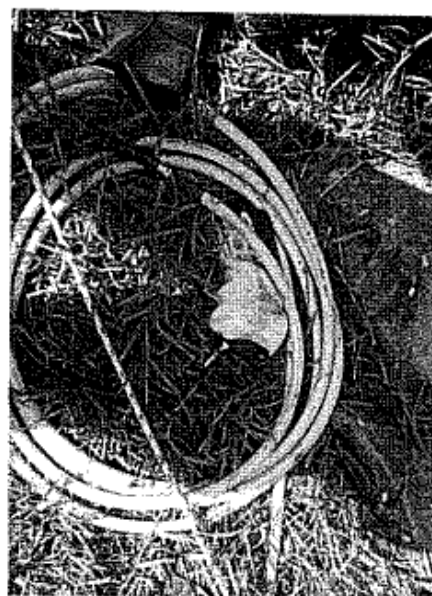
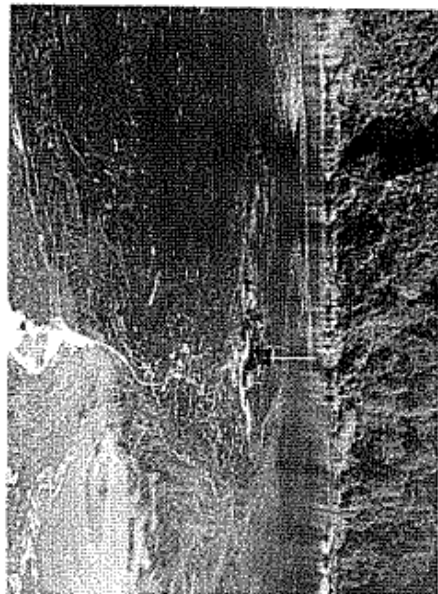
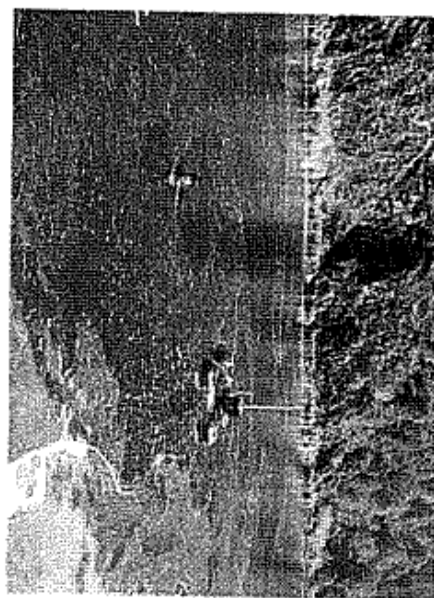
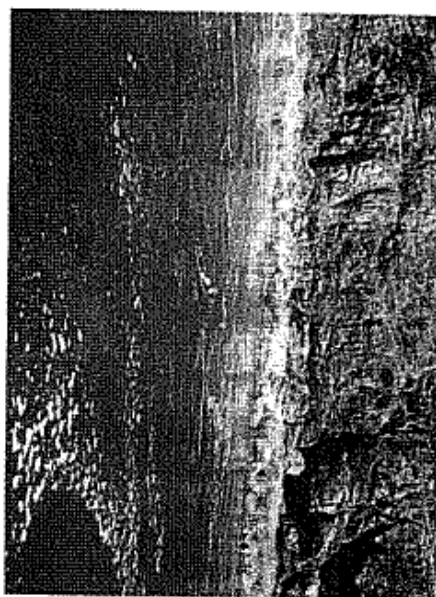
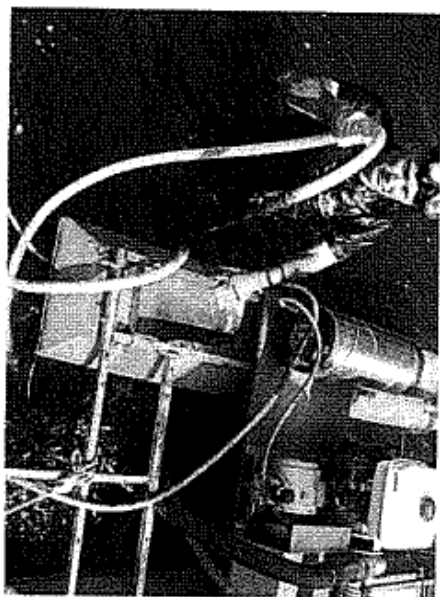
| | | | |
|---|--------------------|---------------------------------------|-----------------|
| Preparer's Name and Badge Number Monty Cervelli #827 | Date 04/15/2015 | Reviewer's Name Lt. Steve McDonald | Date 4/20/15 |
|---|--------------------|---------------------------------------|-----------------|

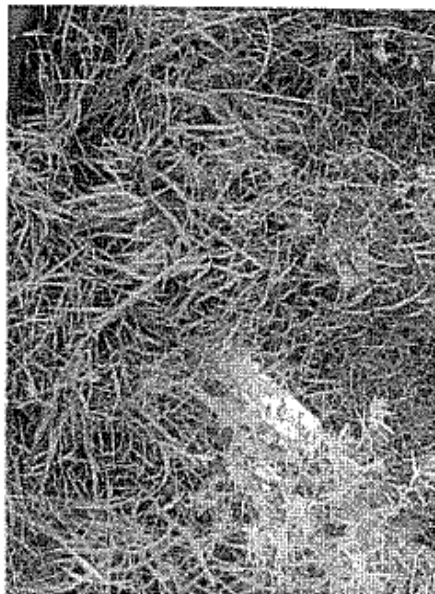
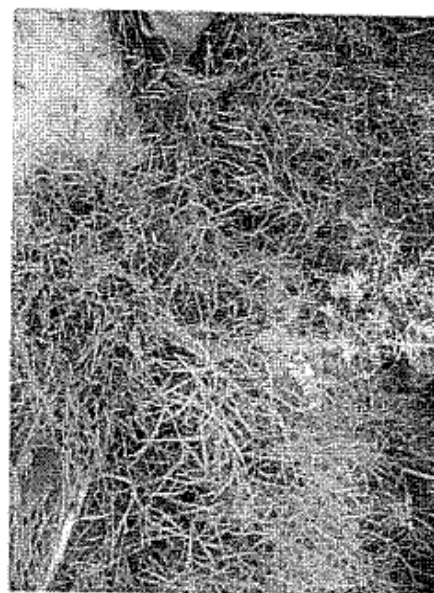
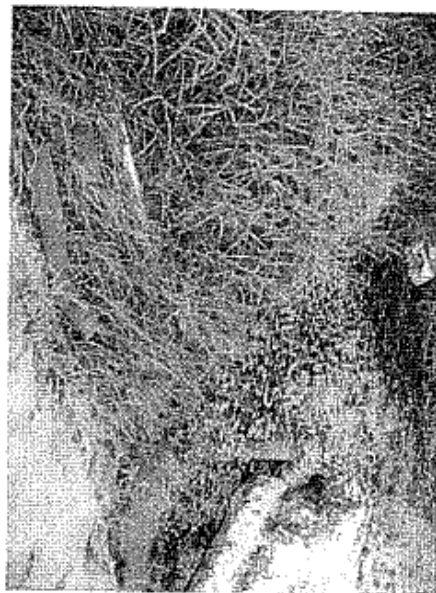


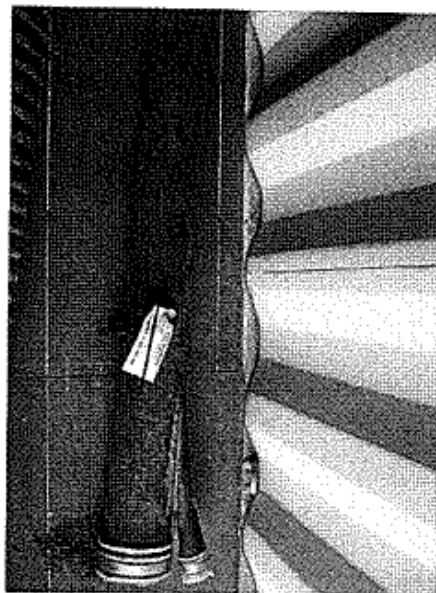
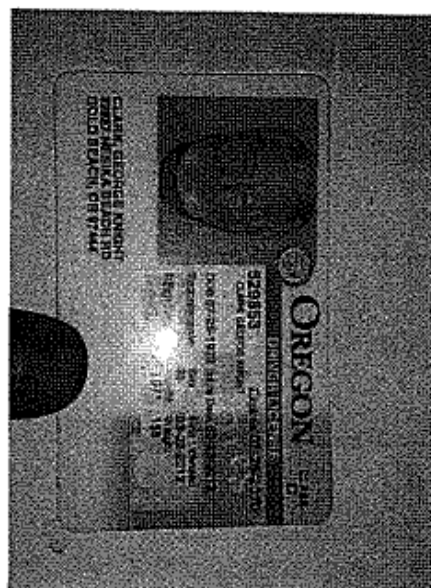










[illegible]



Google earth

feet 1000
meters 500



04/16/2015 10:47 9163581078

NORCOM

PAGE 03/08

Return for query [DMV Drivers License] sent to [CLETS]:

4CC80458955.ID

DATE:04-16-15*TIME:09:56*

DMV RECORD FOR LAW ENFORCEMENT USE ONLY

DL/NO:F2461688*B/D:10-26-1965*NAME:EIMER DEREK DOUGLAS*

MAIL ADDR AS OF 12-28-10:PO BOX 590 HAPPY CAMP 96039*

IDENTIFYING INFORMATION:

SEX:MALE*HAIR:BALD*EYES:HZL*HT:6-00*WT:150*

ID CARD MLD:01-24-11*EXPIRES:10-26-16*BATES:LIS*

ORGAN AND TISSUE DONOR: NO UPDATED:1228-10

LICENSE STATUS:

NONE ISSUED*

DEPARTMENTAL ACTIONS:

NONE

CONVICTIONS:

NONE

FAILURES TO APPEAR:

NONE

ACCIDENTS:

NONE

END

04/16/2015 10:47 9163581078

NORCOM

PAGE 07/08

Return for query [NLETS Driver License] sent to [CLETS]:

4CC80458933.I*

DR.ORDMVR00

09:45 04/16/2015 08443

09:45 04/16/2015 22513 CA0341200

*FPROJTWOXD

TXT

Query data:

NAM/COLLINS,DANIEL.DOB/19670725.IMQ/N.

--OVER 5 RECS MATCHED SEARCH CRITERIA--

-----RECHECK DOB AND INITIALS-----

IF STILL PROBLEM, CONTACT MVR (OROLN0000)

04/16/2015 10:47 9163581078

NORCOM

PAGE 02/08

Return for query [Crim History By Name] sent to [CLETS]:

4CC80459106.IH

RE:QHA.CA0341200.NAM/EIMER,DEREK

DATE:20150416 TIME:10:33:58

ATTN:150403NORFW0024 F2121 FG56311A

NO HIT BUREAU OF CRIMINAL IDENTIFICATION FILES

* * * * * END OF MESSAGE * * * * *

04/16/2015 10:47 9163581078

NORCOM

PAGE 06/08

Return for query [Firearm Hist Check] sent to [CLETS]:

4CCB0458963.IG

CA0341200 RE: QGH.CA0341200.NAM/EIMER,DEREK D.DOB/10261965

RESPONSE TO QGH INQUIRY

NO HISTORY RECORD IN AFS
END AFS RESPONSE.

04/16/2015 10:47 9163581078

NORCOM

PAGE 05/08

RE:QM.CA0341200.EIMER,DEREK D.M.DOB/1026196

*** NO MATCH ON NAM FIELD ***

*** CHECKING NCIC ***

***** END OF MPS MESSAGE *****

Return for query [CLETS SRF Query] sent to [CLETS]:

4CC80458960.IJ

1L01ICAHQFPR07MBN6R
CA0341200

NO NCIC WANT NAM/EIMER,DEREK D DOB/19651026 SEX/M

***MESSAGE KEY QWA SEARCHES ALL NCIC PERSONS FILES WITHOUT LIMITATION

Return for query [CLETS CARPOS Query] sent to [CLETS]:

4CC80458959.IB

EYXX.CA0341200

RE: QRR.CA0341200.NAM/EIMER,DEREK D.SEX/M.DOB/19651026

NO MATCH NAM FIELD

NO RESTRAINING ORDERS

***** END OF CARPOS MESSAGE *****

04/16/2015 10:47 9163581078

NORCOM

PAGE 04/08

Return for query [CLETS SRF Query] sent to [CLETS]:

4CC80458960.IB

6YYX.CA0341200
RE: ORR.CA0341200.NAM/EIMER,DEREK D.SEX/M.DOB/19651026
NO MATCH NAM FIELD
NO RESTRAINING ORDERS
***** END OF CARPOS MESSAGE *****

Return for query [CLETS SRF Query] sent to [CLETS]:

4CC80458960.IR

CA0341200 RE: QVC.CA0341200.NAM/EIMER,DEREK D.SEX/M.DOB/1965102
NO MATCH NAM FIELD
NO SUPERVISED RELEASE RECORDS

CHECKING NCIC
***** END OF SUPERVISED RELEASE FILE MESSAGE *****

Return for query [CLETS SRF Query] sent to [CLETS]:

4CC80458960.IX

CA0341200 RE: QSA.CA0341200.EIMER,DEREK D.M.DOB/19651026
NAME FIELD SEARCH REVEALS:
** NO HITS ON SEX/ARSON REGISTRATION **
***** END OF CSAR MESSAGE *****

Return for query [CLETS SRF Query] sent to [CLETS]:

4CC80458960.IW

CA0341200 RE: QW.CA0341200.NAM/EIMER,DEREK D
NO MATCH NAM FIELD
NO WANTS
***** END OF WPS MESSAGE *****

Return for query [CLETS MPS Query] sent to [CLETS]:

4CC80458961.IJ

1L01ICAHQFPR07MBN76
CA0341200

NO NCIC WANT NAM/EIMER,DEREK D DOB/19651026 SEX/M
***MESSAGE KEY QWA SEARCHES ALL NCIC PERSONS FILES WITHOUT LIMITATION

Return for query [CLETS MPS Query] sent to [CLETS]:

4CC80458961.IM

MPS INQUIRY

MISSING PERSON

DATE:2015-04-16 TIME:09:56:53

SISKIYOU COUNTY DISTRICT ATTORNEY
311 4TH Street, Room 204
Yreka, CA 96097
(530) 842-8125 – Fax (530) 842-8137

Date: 10/07/2015

Re: State of California vs. Dyton Gilliland

DA Case: 093455492

Case Number: YKCRM 15-1124

Invoice No.: 13764

Agency Number: AD2079333

Requested by:

James Buchal

3425 SE Yamhill, SUite 100
Portland, OR 97214

We have provided discovery in the above mentioned case.

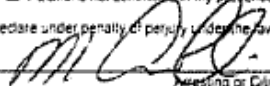

| Description | Number | Bate Stamp # | |
|-------------------|--------|--------------|--------------|
| Initial Discovery | 50 | 1-36 R1-R14 | 12.50 |
| TOTAL | | | 12.50 |


Please submit payment to the District Attorney's Office
311 4th Street, Room 204
Yreka, California 96097
Thank You

I hereby acknowledge receipt of the above discovery and agree to pay for it within 30 days at the rates set forth above. Payment must be sent by either check or money order to above address.

DATE _____ SIGNATURE _____

Please enclose a copy of this invoice with your payment.

| | | | | | |
|--|--|---|---|---|------------|
| DEPARTMENT OF FISH AND GAME | | MISDEMEANOR | | AD2079329 | |
| NOTICE TO APPEAR FG-900 | | Traffic <input checked="" type="checkbox"/> Non-Traffic | | | |
| Date of Violation | Time | AM <input type="checkbox"/> PM <input checked="" type="checkbox"/> | Day of Week | Case No. | |
| 5/11/15 | 245 | PM | FRI | | |
| Name (First, Middle, Last) | | Owner's Responsibility (Ven. Code § 40001) | | | |
| DYTON WILLIAM GILLILAND | | | | | |
| Address | | | | | |
| PO Box 47 | | | | | |
| City | | State | Zip Code | Phone Number | |
| HAPPY CAMP | | CA | 96039 | 1502 262-2634 | |
| Driver's Lic. No. | State | Class | Commercial: Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> | Age | Birth Date |
| ALABAMA 7743 | | | | 54 | 10/31/1960 |
| Sex | Hair | Eyes | Height | Weight | Race |
| M | GRY | BLU | 6'01" | 185 | W |
| Veh. Lic. No. or VIN | | State | | | |
| Yr. of Veh. | | Make | Model | Body Style | Color |
| | | | | | |
| Evidence of Financial Responsibility | | <input type="checkbox"/> COMMERCIAL VEHICLE (Ven. Code § 15210(b)) <input type="checkbox"/> HAZARDOUS MATERIAL (Ven. Code § 353) | | | |
| Registered Owner or Lessee | | <input checked="" type="checkbox"/> Same as Driver | | | |
| Address | | <input type="checkbox"/> Same as Driver | | | |
| City | | State | Zip Code | | |
| Correctable Violation (Ven. Code § 40610) | | Description | | Misdemeanor or Infraction (Circle) | |
| Yes | No | Code and Section | | | |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | 5653.1(a) CA FISH + GAME CODE OPERATE | | (M) 1 | |
| <input type="checkbox"/> | <input type="checkbox"/> | Suction Dredge without permit | | M 1 | |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | 228(1)(2) USE OF 5 INCH Suction Dredge | | (M) 1 | |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | 228(1)(4) INSUFFICIENT NO CONTAINMENT SYSTEM | | (M) 1 | |
| Speed | P.F./Max | Veh. | GPS | Long | |
| Approx | Spd | Lmt | Lat | | |
| Location of Violation(s) | | City/County of Occurrence | | Call TIP: Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> | |
| at Klamath River Siskiyou | | | | | |
| Evidence Seized | | | | | |
| (1) Suction Dredge System on BUS Floor 3 Pumps 1 Air | | | | | |
| <input type="checkbox"/> Violations not committed in my presence, declared on information and belief. REFER TO SYSTEM RECEIPT | | | | | |
| I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct. | | | | | |
|  Arresting or Citing Officer | | | | 827 Badge No. | |
| Date | Name of Arresting Officer, if different from Citing Officer | | | Badge No. | |
| | | | | | |
| WITHOUT ADMITTING GUILT, I PROMISE TO APPEAR AT THE TIME AND PLACE INDICATED BELOW. <input checked="" type="checkbox"/> Signature <u>HAT LIRE TO SPAN</u> | | | | | |
| WHEN | ON OR BEFORE THIS DATE: <u>06/09/2015</u> Time: <u>9:00</u> AM <input checked="" type="checkbox"/> PM <input type="checkbox"/> | | | | |
| WHAT TO DO | FOLLOW THE INSTRUCTIONS ON THE REVERSE. | | | | |
| WHERE | Name of Court <u>SISKIYOU SUPERIOR COURT</u> | | | | |
| | Section or Division, Room No. <u>Yuba</u> | | | | |
| | Street Address <u>311 FOREST STREET YUBA CA 95901</u> | | | | |
| | Phone Number <u>(530) 842-8187</u> Ext. <u></u> Court <u>47690</u> | | | | |
| <input type="checkbox"/> Juvenile | | | | | |
| <input type="checkbox"/> To be notified | <input type="checkbox"/> You may arrange with the clerk to appear at a night session of the court. | | | | |
|  | | | AD2079329 | | |
| Judicial Council of California Form Rev. 09-20-05 (Ven. Code §§ 40520(b), 40513(b), 40522, 40600; Pen. Code § 853.01) | | | COURT COPY SEE REVERSE TR-130 | | |

| DEPARTMENT OF FISH AND GAME | | | | | | | | | | MISDEMEANOR | |
|---|--|--|--|--|--|--|--|----------|--|--|--|
| NOTICE TO APPEAR FG-900 | | | | | | | | | | Traffic <input checked="" type="checkbox"/> Non-Traffic <input type="checkbox"/> | |
| Date of Violation | | Time | | AM <input type="checkbox"/> PM <input checked="" type="checkbox"/> | | Day of Week | | Case No. | | AD2079330 | |
| Name (First, Middle, Last) | | | | | | | | | | Owner's Responsibility (Ven. Code, § 40001) | |
| STEPHEN ROBERT JONES | | | | | | | | | | | |
| Address | | | | | | | | | | | |
| ELK CREEK CAMPground #13 | | | | | | | | | | | |
| City | | State | | ZIP Code | | Phone Number | | | | | |
| HAPPY CAMP | | CA | | 96039 | | () NONE | | | | | |
| Driver Lic. No. | | State | | Class | | Commercial <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | | Age | | Birth Date | |
| | | | | | | | | 43 | | 5/27/1971 | |
| Sex | | Hair | | Eyes | | Height | | Weight | | Race | |
| M | | BRN | | GRN | | 5-08 | | 180 | | W | |
| Veh. Lic. No. or VIN | | | | | | | | | | State | |
| | | | | | | | | | | | |
| Yr. of Veh. | | Make | | Model | | Body Style | | Color | | | |
| | | | | | | | | | | | |
| Evidence of Financial Responsibility | | | | | | | | | | <input type="checkbox"/> COMMERCIAL VEHICLE (Ven. Code, § 45210(a)) | |
| | | | | | | | | | | <input type="checkbox"/> HAZARDOUS MATERIAL (Ven. Code, § 353) | |
| Registered Owner or Lessee | | | | | | | | | | <input type="checkbox"/> Same as Driver | |
| Address | | | | | | | | | | <input type="checkbox"/> Same as Driver | |
| City | | | | | | | | | | State | |
| | | | | | | | | | | ZIP Code | |
| Correctable Violation (Ven. Code, § 40510) | | | | | | | | | | <input type="checkbox"/> Booking Required | |
| Yes No Code and Section Description | | | | | | | | | | Misdemeanor or Infraction (Circle) | |
| <input type="checkbox"/> 5653(d) CA FISH & GAME CODE | | | | | | | | | | (M) I | |
| <input type="checkbox"/> POSSESSION OF A Suction Dredge | | | | | | | | | | (M) I | |
| <input type="checkbox"/> WITHIN 100 YARDS CLOSED WATER | | | | | | | | | | (M) I | |
| <input type="checkbox"/> | | | | | | | | | | (M) I | |
| Speed Approx. | | P.F. Max Spd. | | Veh. Lmt. | | GPS Lat | | Long | | | |
| | | | | | | | | | | | |
| Location of Violation(s) | | | | | | | | | | City/County of Occurrence | |
| at Klamath River Siskiyou | | | | | | | | | | CalTIP: Yes (No) | |
| Evidence Seized | | | | | | | | | | | |
| <input type="checkbox"/> Violations not committed in my presence. Declared on information and belief. | | | | | | | | | | | |
| I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct. | | | | | | | | | | | |
| Signature of Arresting Officer | | | | | | | | | | Badge No. | |
| Date | | | | | | | | | | Name of Arresting Officer, if different from Signing Officer | |
| | | | | | | | | | | Badge No. | |
| WITHOUT ADMITTING GUILT, I PROMISE TO APPEAR AT THE TIME AND PLACE INDICATED BELOW. | | | | | | | | | | | |
| X Signature FAILURE TO SIGN | | | | | | | | | | | |
| WHEN | | ON OR BEFORE THIS DATE 06/09/2015 Time 9:00 AM <input checked="" type="checkbox"/> PM <input type="checkbox"/> | | | | | | | | | |
| WHAT TO DO | | FOLLOW THE INSTRUCTIONS ON THE REVERSE. | | | | | | | | | |
| | | Name of Court SISKIYOU SUPERIOR COURT | | | | | | | | | |
| WHERE | | Section or Division, Room No. YERKA | | | | | | | | | |
| | | Street Address 311 FORTH ST YERKA CA 96097 | | | | | | | | | |
| | | Phone Number (530) 842-8182 Ext. Court 47690 | | | | | | | | | |
| <input type="checkbox"/> Juvenile | | <input type="checkbox"/> You may arrange with the clerk to appear at a night session of the court. | | | | | | | | | |
| <input type="checkbox"/> To be notified | | | | | | | | | | | |
|  | | | | | | | | | | AD2079330 | |
| JUL 06 COURT OF CALIFORNIA FORM | | | | | | | | | | COURT COPY | |
| Rev. 05-25-26 (Ven. Code, §§ 40502(a), 40513(b), 40522, 40602; Pen. Code, § 653 g) | | | | | | | | | | SEE REVERSE TR-130 | |

STATE OF CALIFORNIA
DEPARTMENT OF FISH AND WILDLIFE**ARREST/INVESTIGATION REPORT**

ENF 6a (1/2013)

Region # NED Page 1 Of 13

| | | | | |
|---|---|--|---|--|
| DATE OF INCIDENT/OCCURRENCE 05/01/2015 | | TIME (2400) 1100 Hours | CITY/COUNTY/JUDICIAL JURISDICTION Happy Camp/Siskiyou County | |
| "X" ONE <input checked="" type="checkbox"/> Arrest Report <input type="checkbox"/> Formal Complaint | "X" ONE <input checked="" type="checkbox"/> Self Initiated <input type="checkbox"/> Complaint | TYPE OF REPORT ("X" APPLICABLE) <input type="checkbox"/> Commercial Fishing <input type="checkbox"/> Hunting <input type="checkbox"/> Inland Pollution <input type="checkbox"/> CalTIP <input type="checkbox"/> Recreational Fishing <input type="checkbox"/> Trapping <input type="checkbox"/> Marine Pollution <input checked="" type="checkbox"/> Other | | |

Suspect Information

| | | | | |
|---|--|---|--|------------------------------|
| Name Suspect #1 (First, Middle, Last) Dyton William GILLILAND | | Sex <input checked="" type="checkbox"/> M <input type="checkbox"/> F | Date of Birth (MM/DD/YY) 10/31/1960 | Citation Number AD2079329 |
| Suspect Address (Street, Apt., City, State, Zip Code) P.O. Box 1004, Homer, AK, 99603 / P.O. Box 47, Happy Camp, CA 96039 | | | | Home Phone 520-262-8639 |
| Business Address (Street, Apt., City, State, Zip Code) | | | | Business Phone |
| Identification Type ("X" APPLICABLE) <input type="checkbox"/> CDL/CID <input checked="" type="checkbox"/> Other State DL/ID <input type="checkbox"/> Other ID: Number: AK 0587943 | | Suspect Description ("X" APPLICABLE) GENERAL: HAIR: EYES: ETHNICITY: Height: <u>6-01</u> <input type="checkbox"/> Bln <input type="checkbox"/> Blk <input type="checkbox"/> Brn <input checked="" type="checkbox"/> Blu <input type="checkbox"/> Brn <input type="checkbox"/> Asian <input type="checkbox"/> Black <input type="checkbox"/> Hispanic Weight: <u>185</u> <input checked="" type="checkbox"/> Gry <input type="checkbox"/> Red <input type="checkbox"/> None <input type="checkbox"/> Grn <input type="checkbox"/> Hzl <input checked="" type="checkbox"/> White <input type="checkbox"/> Other: | | |
| Vehicle Type ("X" APPLICABLE) <input type="checkbox"/> Auto <input type="checkbox"/> Vessel <input type="checkbox"/> Other | | Description (Make, Model, Year, Color) | | License Plate Number/VIN |

Offenses and Charges

| | |
|---|---|
| <input checked="" type="checkbox"/> F&G <input type="checkbox"/> T-14 <input type="checkbox"/> Other: <input type="checkbox"/> Section: 5653.1(b) Description: Operate a suction dredge without a permit | <input checked="" type="checkbox"/> F&G <input type="checkbox"/> T-14 <input type="checkbox"/> Other: <input type="checkbox"/> Section: 5653(d) Description: Possession of a suction dredge within 100 yards of closed water |
| <input type="checkbox"/> F&G <input checked="" type="checkbox"/> T-14 <input type="checkbox"/> Other: <input type="checkbox"/> Section: 228(k)(1) Description: Use of a 5 inch suction nozzle | <input type="checkbox"/> F&G <input checked="" type="checkbox"/> T-14 <input type="checkbox"/> Other: <input type="checkbox"/> Section: 228(k)(3) Description: Oversized intake screen openings |
| <input type="checkbox"/> F&G <input checked="" type="checkbox"/> T-14 <input type="checkbox"/> Other: <input type="checkbox"/> Section: 228(k)(4) Description: Inadequate fuel containment system | <input type="checkbox"/> F&G <input type="checkbox"/> T-14 <input type="checkbox"/> Other: <input type="checkbox"/> Section: Description: |

Evidence Seized

| | |
|---|---|
| Evidence Description (Amount, Type, Serial Number, etc.) "X" ONE <input checked="" type="checkbox"/> Held <input type="checkbox"/> Returned <input type="checkbox"/> Destroyed <input type="checkbox"/> Other Refer to attached property receipt | Evidence Photographed? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |
| Evidence Description (Amount, Type, Serial Number, etc.) "X" ONE <input type="checkbox"/> Held <input type="checkbox"/> Returned <input type="checkbox"/> Destroyed <input type="checkbox"/> Other | Evidence Photographed? <input type="checkbox"/> Yes <input type="checkbox"/> No |
| Evidence Description (Amount, Type, Serial Number, etc.) "X" ONE <input type="checkbox"/> Held <input type="checkbox"/> Returned <input type="checkbox"/> Destroyed <input type="checkbox"/> Other | Evidence Photographed? <input type="checkbox"/> Yes <input type="checkbox"/> No |

Case Synopsis

On May 1, 2015, at approximately 1100 hours, I, Warden Monty Cervelli, California Department of Fish & Wildlife (CDFW), saw Dyton GILLILAND and Stephen JONES operating a suction dredge on the Klamath River downstream from the Dragon's Tooth rapid. I contacted both men. GILLILAND admitted to owning the suction dredge and operating the nozzle in violation of 5653.1(b) of CA Fish & Game Code. JONES was assisting GILLILAND with the mining activity underwater. Both men were attached to the suction dredge by air hoses while working underwater. GILLILAND was using a 5 inch suction nozzle in violation of 228(k)(1) of Title 14, CA Code of Regulations. There were four motors on the dredge with inadequate fuel containment systems in violation of 228(k)(4) of Title 14, CA Code of Regulations. GILLILAND refused to sign a citation and was taken into custody. JONES had no identification and was taken into custody for possession of a suction dredge within 100 yards of closed water, a violation of 5653(d) of CA Fish & Game Code. Both men were transported to Siskiyou County Jail. Upon further inspection of the dredge, a violation of section 228(k)(3) of Title 14 of the CA Fish & Game Code-oversized intake screen openings was also found.

See WPD 6b For Additional Suspect and Witness Information "X" ONE ☒ Yes ☐ No

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| Preparer's Name and Badge Number Monty Cervelli #827 | Date 05/02/2015 | Reviewer's Name Lt. Steve McDonald | Date 05/08/15 |
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STATE OF CALIFORNIA
DEPARTMENT OF FISH AND WILDLIFE**SUPPLEMENTAL SUSPECT/WITNESS INFORMATION**

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| DATE OF INCIDENT/OCCURRENCE 05/01/2015 | TIME (2400) 1100 Hours | CITY/COUNTY/JUDICIAL JURISDICTION Happy Camp/Siskiyou |
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Additional Suspect Information

| | | | |
|--|---|--|------------------------------|
| Name Suspect #2 (First, Middle, Last) Stephen Robert JONES | Sex <input checked="" type="checkbox"/> M <input type="checkbox"/> F | Date of Birth (MM/DD/YY) 05/27/1971 | Citation Number AD2079330 |
| Suspect Address (Street, Apt., City, State, Zip Code) Elk Creek Campground, 921 Elk Creek Road, #13, Happy Camp, CA 96039 | | | Home Phone None |
| Business Address (Street, Apt., City, State, Zip Code) | | | Business Phone |
| Identification Type ("X" APPLICABLE) <input checked="" type="checkbox"/> CDL/CID <input type="checkbox"/> Other State DL/ID <input type="checkbox"/> Other ID: Number: 35148887 | Suspect Description ("X" APPLICABLE) GENERAL: HAIR: EYES: ETHNICITY: Height: 5-08 <input type="checkbox"/> Bln <input type="checkbox"/> Blk <input checked="" type="checkbox"/> Brn <input type="checkbox"/> Blu <input type="checkbox"/> Brn <input type="checkbox"/> Asian <input type="checkbox"/> Black <input type="checkbox"/> Hispanic Weight: 180 <input type="checkbox"/> Gry <input type="checkbox"/> Red <input type="checkbox"/> None <input checked="" type="checkbox"/> Grn <input type="checkbox"/> Hzl <input checked="" type="checkbox"/> White <input type="checkbox"/> Other: | | |
| Vehicle Type ("X" APPLICABLE) <input type="checkbox"/> Auto <input type="checkbox"/> Vessel <input type="checkbox"/> Other | Description (Make, Model, Year, Color) | | License Plate Number/VIN |
| Name Suspect #3 (First, Middle, Last) | Sex <input type="checkbox"/> M <input type="checkbox"/> F | Date of Birth (MM/DD/YY) | Citation Number |
| Suspect Address (Street, Apt., City, State, Zip Code) | | | Home Phone |
| Identification Type ("X" APPLICABLE) <input type="checkbox"/> CDL/CID <input type="checkbox"/> Other State DL/ID <input type="checkbox"/> Other ID: Number: | Suspect Description ("X" APPLICABLE) GENERAL: HAIR: EYES: ETHNICITY: Height: <input type="checkbox"/> Bln <input type="checkbox"/> Blk <input type="checkbox"/> Brn <input type="checkbox"/> Blu <input type="checkbox"/> Brn <input type="checkbox"/> Asian <input type="checkbox"/> Black <input type="checkbox"/> Hispanic Weight: <input type="checkbox"/> Gry <input type="checkbox"/> Red <input type="checkbox"/> None <input type="checkbox"/> Grn <input type="checkbox"/> Hzl <input type="checkbox"/> White <input type="checkbox"/> Other: | | |
| Name Suspect #4 (First, Middle, Last) | Sex <input type="checkbox"/> M <input type="checkbox"/> F | Date of Birth (MM/DD/YY) | Citation Number |
| Suspect Address (Street, Apt., City, State, Zip Code) | | | Home Phone |
| Identification Type ("X" APPLICABLE) <input type="checkbox"/> CDL/CID <input type="checkbox"/> Other State DL/ID <input type="checkbox"/> Other ID: Number: | Suspect Description ("X" APPLICABLE) GENERAL: HAIR: EYES: ETHNICITY: Height: <input type="checkbox"/> Bln <input type="checkbox"/> Blk <input type="checkbox"/> Brn <input type="checkbox"/> Blu <input type="checkbox"/> Brn <input type="checkbox"/> Asian <input type="checkbox"/> Black <input type="checkbox"/> Hispanic Weight: <input type="checkbox"/> Gry <input type="checkbox"/> Red <input type="checkbox"/> None <input type="checkbox"/> Grn <input type="checkbox"/> Hzl <input type="checkbox"/> White <input type="checkbox"/> Other: | | |

Witness Information

| | | | |
|---|--|--------------------------|-----------------------|
| Name Witness #1 (First, Middle, Last) | Sex <input type="checkbox"/> M <input type="checkbox"/> F | Date of Birth (MM/DD/YY) | Identification Number |
| Witness Address (Street, Apt., City, State, Zip Code) | | | Home Phone |
| Name Witness #2 (First, Middle, Last) | Sex <input type="checkbox"/> M <input type="checkbox"/> F | Date of Birth (MM/DD/YY) | Identification Number |
| Witness Address (Street, Apt., City, State, Zip Code) | | | Home Phone |

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| Preparer's Name and Badge Number Monty Cervelli #827 | Date 05/02/2015 | Reviewer's Name Lt. Steve McDonald | Date 05/08/15 |
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DA DISCOVERY

PG NO. 4

STATE OF CALIFORNIA
DEPARTMENT OF FISH AND WILDLIFE**NARRATIVE/SUPPLEMENTAL**

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| "X" APPLICABLE <input checked="" type="checkbox"/> Narrative <input checked="" type="checkbox"/> Arrest Report <input type="checkbox"/> Supplemental <input type="checkbox"/> Formal Complaint | | TYPE OF REPORT ("X" APPLICABLE) <input type="checkbox"/> Commercial Fishing <input type="checkbox"/> Hunting <input type="checkbox"/> Inland Pollution <input type="checkbox"/> Incident Report <input type="checkbox"/> Recreational Fishing <input type="checkbox"/> Trapping <input type="checkbox"/> Marine Pollution <input checked="" type="checkbox"/> Other |
| Location/Subject/Incident Name Klamath River/GILLILAND/JONES | | Arresting/Case Officer M. Cervelli #827 Citation Number AD2079329 AD2079330 |

1 On May 1, 2015, at approximately 1000 hours, I, Warden Monty Cervelli, California Department of Fish &
 2 Wildlife (CDFW), along with Lt. Steve McDonald, Lt. Jake Nicholas, Warden Dan Beck, Warden Chad
 3 Edwards and Warden Brian Gallaher, CDFW, met at a location on the Klamath River near Dragon's Tooth
 4 Rapid.

5
 6 We were following up on my prior contact with Dyton GILLILAND and Stephen JONES. On April 17, 2015, I
 7 contacted Dyton GILLILAND and Stephen JONES on the Klamath River downstream from Dragon's Tooth
 8 Rapid. I saw GILLILAND actively using a suction dredge at that time. JONES was assisting GILLILAND with
 9 using the suction dredge. Both men were working underwater and attached to the dredge by air hoses from a
 10 hookah system. GILLILAND admitted to operating the suction nozzle on the dredge. JONES stated he was
 11 assisting GILLILAND by helping move material underwater. GILLILAND told me that he was going to continue
 12 to actively use a suction dredge at the location in violation of California law and that he would not sign a citation.
 13 I explained to GILLILAND that I would be filing a formal complaint against him for the violation.
 14 GILLILAND's suction dredge is extremely large and located in a remote location along the river. We were
 15 unable to seize the suction dredge on April 17, 2015 because of its extremely large size and the difficult access to
 16 its remote location. It was clear from our observations of the suction dredge and its location that we were going to
 17 need additional manpower and equipment to remove it from the river. GILLILAND told me he was going to
 18 continue to operate the suction dredge in violation of the California Fish & Game Code. Refer to my incident
 19 report from April 17, 2015 citation numbers AD2079331 and AD2079332.

20
 21 The use of an unpermitted suction dredge is currently prohibited under California Fish and Game Code Section
 22 5653.1:

23
 24 **5653.1. Vacuum or Suction Dredge Equipment Prohibited; Environmental Impact Review**

25
 26 (a) The issuance of permits to operate vacuum or suction dredge equipment is a project pursuant to the California Environmental
 27 Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) and permits may only be issued, and

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STATE OF CALIFORNIA
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| Location/Subject/Incident Name Klamath River/GILLILAND/JONES | | Arresting/Case Officer M. Cervelli #827 Citation Number AD2079329 AD2079330 |

vacuum or suction dredge mining may only occur as authorized by any existing permit, if the department has caused to be prepared, and certified the completion of, an environmental impact report for the project pursuant to the court order and consent judgment entered in the case of Karuk Tribe of California et al. v. California Department of Fish and Game et al., Alameda County Superior Court Case No. RG 05211597.

(b) Notwithstanding Section 5653, the use of any vacuum or suction dredge equipment in any river, stream, or lake of this state is prohibited until the director certifies to the Secretary of State that all of the following have occurred:

(1) The department has completed the environmental review of its existing suction dredge mining regulations, as ordered by the court in the case of Karuk Tribe of California et al. v. California Department of Fish and Game et al., Alameda County Superior Court Case No. RG 05211597.

(2) The department has transmitted for filing with the Secretary of State pursuant to Section 11343 of the Government Code, a certified copy of new regulations adopted, as necessary, pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(3) The new regulations described in paragraph (2) are operative

(4) The new regulations described in paragraph (2) fully mitigate all identified significant environmental impacts.

(5) A fee structure is in place that will fully cover all costs to the department related to the administration of the program.

(c)(1) To facilitate its compliance with subdivision (b), the department shall consult with other agencies as it determines to be necessary, including, but not limited to, the State Water Resources Control Board, the State Department of Public Health, and the Native American Heritage Commission, and, on or before April 1, 2013, shall prepare and submit to the Legislature a report with recommendations on statutory changes or authorizations that, in the determination of the department, are necessary to develop the suction dredge regulations required by paragraph (2) of subdivision (b), including, but not limited to, recommendations relating to the mitigation of all identified significant environmental impacts and a fee structure that will fully cover all program costs.

(2) The requirement for submitting a report imposed under this subdivision is inoperative on January 1, 2017, pursuant to Section 10231.5 of the Government Code.

(3) The report submitted to the Legislature pursuant to this subdivision shall be submitted in accordance with Section 9795 of the Government Code.

(d) The Legislature finds and declares that this section, as added during the 2009-10 Regular Session, applies solely to vacuum and suction dredging activities conducted for instream mining purposes. This section does not expand or provide new authority for the department to close or regulate suction dredging conducted for regular maintenance of energy or water supply management

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59 infrastructure, flood control, or navigational purposes governed by other state or federal law.

60

61 (e) This section does not prohibit or restrict nonmotorized recreational mining activities, including panning for gold.

62

63 A suction dredge is defined in section 228 of Title 14 of the California Code of Regulations:

64

65 **Title 14 § 228. Suction Dredging.**

66

67 The Department has adopted this Section and Section 228.5 pursuant to Fish and Game Code Section 5653.9, and to make specific
68 and otherwise implement Fish and Game Code Section 5653, specifically. Pursuant to that authority, the Department finds that
69 suction dredging subject to and consistent with the requirements of Sections 228 and 228.5 will not be deleterious to fish.

70

71 (a) Suction dredging. For purposes of this Section and Section 228.5, the use of any vacuum or suction dredge equipment (i.e.
72 suction dredging) is defined as the use of a suction system to vacuum material from a river, stream or lake for the extraction of
73 minerals. These regulations do not apply to, prohibit or restrict nonmotorized recreational mining activities, including panning
74 for gold.

75

76 Based on GILLILAND's statement on April 17, 2015, that he was going to continue to operate the suction dredge
77 in violation of California law and the fact that we were unable to seize the suction dredge at that time; I began a
78 surveillance operation in the area. During the surveillance operation, additional CDFW resources were on hand
79 to seize and remove the suction dredge when GILLILAND was observed operating it again in violation 5653.1(b)
80 of the California Fish & Game Code.

81

82 On April 21, and 22, I returned to the location with additional resources and equipment to seize GILLILAND's
83 suction dredge. GILLILAND's suction dredge was observed in the water on both days in violation of 5653(d) of
84 the California Fish & Game Code, however GILLILAND was not at the location and the dredge was not
85 operating. On April 22, 2015 I observed an individual who I later identified as David GUIDERO operating a
86 smaller suction dredge slightly downstream from GILLILAND's operation. Refer to my incident report from

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STATE OF CALIFORNIA
DEPARTMENT OF FISH AND WILDLIFE**NARRATIVE/SUPPLEMENTAL**

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| Location/Subject/Incident Name Klamath River/GILLILAND/JONES | | Arresting/Case Officer M. Cervelli #827 |
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87 April 22, 2015.

88

89 On May 1, 2015, I returned to the location with additional resources in an attempt to locate GILLILAND and
90 remove GILLILAND's suction dredge. We accessed the location from downstream of GILLILAND's mining
91 operation through a piece of private property that allowed easier access to the river.

92

93 At approximately 1100 hours, from an observation point above the Klamath River, utilizing binoculars, I saw
94 GILLILAND and JONES in wetsuits near GILLILAND's suction dredge. The suction dredge was floating in the
95 river tethered to the shore. David GUIDERO was also at the location speaking with GILLILAND. GUIDERO
96 was dressed in regular clothes. GILLILAND started the motors on the suction dredge and entered the water.
97 JONES also entered the water. Both men went under the water attached to the suction dredge by air hoses. I
98 watched the operation with my binoculars. I could see bubbles coming to the surface indicating where the men
99 were working underwater. The sluice box on the dredge began producing a plume of muddy water and debris.
100 This indicated that they were actively using the suction system and processing material through the sluice box. Lt.
101 McDonald and I both videoed the suction dredge in operation.

102

103 GUIDERO was still in the area and it appeared that he had disassembled his suction dredge. GUIDERO was
104 packing pieces of his suction dredge upstream toward the public access point. It appeared that GUIDERO
105 eventually left the area.

106

107 We continued watching the mining activity. At approximately 1210 hours the motor to the dredge shut off and
108 GILLILAND and JONES exited the water. The men had retrieved the suction hose and nozzle from the river.
109 During my prior contact with GILLILAND on April 17, 2015, we were unable to remove the suction hose and
110 nozzle. The suction hose and nozzle were located in deep water and were difficult to remove without diving
111 equipment. GILLILAND agreed at that time to bring the suction nozzle to the surface so I could measure and
112 photograph it, as long as I agreed not seize it. We did not have a CDFW diver available to assist with the removal

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STATE OF CALIFORNIA
DEPARTMENT OF FISH AND WILDLIFE**NARRATIVE/SUPPLEMENTAL**

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113 of the suction hose and nozzle this date. Since GILLILAND appeared to be removing the equipment from the
 114 water, I decided to wait to make contact until they were done bringing the suction dredge equipment to the
 115 surface.

116

117 All six of us moved down to the edge of the river and began walking toward the location of the suction dredge.
 118 As I was watching the two men working it appeared that they were in the process of packing their mining
 119 equipment up and were intending on moving the dredge downstream. Due to the large size and difficulty of
 120 moving the suction dredge system downstream, and GILLILAND's familiarity with navigating the suction dredge
 121 on the river, we decided to let the GILLILAND and JONES move the dredge downstream prior to making
 122 contact. Warden Gallaher and I stood by on the river's edge and watched as GILLILAND and JONES secured
 123 equipment onto the dredge. The other four wardens returned to our original observation point in anticipation that
 124 GILLILAND and JONES may be moving the suction dredge closer to that location.

125

126 At approximately 1330 hours, GILLILAND began floating the dredge downstream toward our location. JONES
 127 walked along the river bank paralleling GILLILAND and the floating dredge. GILLILAND and JONES passed
 128 by Warden Gallaher and I. Lt. McDonald advised me that GILLILAND brought the dredge ashore on the edge of
 129 the river directly below our observation point. GILLILAND and JONES then began walking back upstream. At
 130 approximately 1400 hours, Warden Gallaher and I made contact with GILLILAND and JONES along the river.
 131 GILLILAND and I shook hands and I told him I was back to see if he was still using his suction dredge.
 132 GILLILAND said he was considering moving to a new location. I asked GILLILAND if we could return to where
 133 he had left his suction dredge. GILLILAND said that it was right around the corner. The four of us then walked
 134 the short distance downstream back to the suction dredge. I asked GILLILAND if he had been dredging today
 135 and he said "yes" and that he was on the nozzle. JONES was helping him but was not using the nozzle.
 136 GILLILAND said he was running the "same set up" as before. GILLILAND said he was considering pulling out
 137 because he was weighing the risk of having his equipment seized when the reward he was getting wasn't much
 138 gold. GILLILAND said that if he was on good gold he would be more inclined to risk the "confiscation" of his

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139 suction dredge. GILLILAND said he wasn't on that kind of gold. GILLILAND then said "on the other hand, if
 140 your here to arrest me, I am actively dredging." GILLILAND then said he didn't think that I had the legal right to
 141 arrest him. GILLILAND told me he felt that he was being harassed by CDFW. I explained to GILLILAND that
 142 the use of a suction dredge was still against the law. I asked GILLILAND if he would be willing to sign a citation
 143 and GILLILAND said he would not. GILLILAND said that he believed that it was "double jeopardy" for me to
 144 contact him again since I was filing a formal complaint against him for the earlier violation. I explained to
 145 GILLILAND that the contact I had with him two weeks ago was a separate violation. I explained to GILLILAND
 146 that today was a new violation. GILLILAND and I had a brief discussion regarding the current litigation regarding
 147 suction dredging and he related several of his opinions to me. I told GILLILAND that this was a new violation
 148 and if he refused to sign the citation, I would be taking him into custody, and he would be transported to Siskiyou
 149 County Jail.

150

151 I asked GILLILAND and JONES to walk up to our vehicles that were positioned on the hillside above our current
 152 location. The other wardens were there watching my contact with GILLILAND. The four of us walked up the
 153 hill and met with the other wardens. GILLILAND and JONES were seated at a picnic table in the shade and each
 154 given a bottle of water.

155

156 I walked back to the suction dredge and inspected the components per 5653.3 of the California Fish & Game
 157 Code:

158

159 **5653.3.** Any person required to possess a permit pursuant to Section 5653 shall present his or her dredging equipment for
 160 inspection upon request of a state or county fish and game warden.

161

162 During my inspection of GILLILAND's suction dredge I found additional violations of section 228(k) of Title 14
 163 Of the California Code of Regulations:

164

165 **§ 228. Suction Dredging.**

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| Preparer's Name and Badge Number Monty Cervelli #827 | Date 05/02/2015 | Reviewer's Name Lt. Steve McDonald | Date 05/08/15 |
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| DATE OF INCIDENT/OCCURRENCE 05/01/2015 | TIME (2400) 1100 Hours | CITY/COUNTY/JUDICIAL JURISDICTION Happy Camp/Siskiyou |
| "X" APPLICABLE <input checked="" type="checkbox"/> Narrative <input checked="" type="checkbox"/> Arrest Report <input type="checkbox"/> Supplemental <input type="checkbox"/> Formal Complaint | | TYPE OF REPORT ("X" APPLICABLE) <input type="checkbox"/> Commercial Fishing <input type="checkbox"/> Hunting <input type="checkbox"/> Inland Pollution <input type="checkbox"/> Incident Report <input type="checkbox"/> Recreational Fishing <input type="checkbox"/> Trapping <input type="checkbox"/> Marine Pollution <input checked="" type="checkbox"/> Other |
| Location/Subject/Incident Name Klamath River/GILLILAND/JONES | | Arresting/Case Officer M. Cervelli #827 Citation Number AD2079329 AD2079330 |

(k) Equipment Requirements.

(1) Nozzle Restriction. No suction dredge having an intake nozzle with an inside diameter larger than four inches may be used unless:

(A) The Department has conducted an on-site inspection and approved a larger nozzle size in writing; the maximum inside diameter of the intake nozzle is no larger than six inches, or eight inches where allowable under subdivision (k)(1)(E); and

(B) The permittee has a valid suction dredge permit; and

(C) The permittee has in their possession documentation of compliance with Fish and Game Code Section 1602, subdivision (a), for the proposed suction dredging operation, including a copy of his/her notification to the Department; any response to the notification by the Department pursuant to Fish and Game Code Section 1602, subdivision (a)(4)(A)(i); and specific authorization from the Department for a vacuum nozzle greater than four inches in diameter if a Lake or Streambed Alteration Agreement is required; or

(D) Except as provided by subdivision (k)(1)(A), a constricting ring with an inside diameter not larger than four inches has been attached to the intake nozzle. This constricting ring must be of solid, one-piece construction with no openings other than the intake and openings not greater than one inch between the constricting ring and nozzle. It must be welded or otherwise permanently attached over the end of the intake nozzle. No quick-release devices are permitted.

(E) Suction dredge intake nozzles up to eight inches in diameter may be permitted at the Department's discretion in accordance with subdivision (k)(1)(A) only on the following rivers:

1. American (Placer and El Dorado Counties);
2. Cosumnes (Sacramento, Amador and El Dorado Counties);
3. Feather (Butte, Plumas and Yuba Counties);
4. Klamath (Del Norte, Humboldt and Siskiyou Counties);
5. Merced (Mariposa and Merced Counties);
6. Mokelumne (Amador, Calaveras and San Joaquin Counties);
7. Scott (Siskiyou County);
8. Trinity (Trinity and Humboldt Counties); and
9. Yuba (Sierra, Nevada and Yuba Counties).

(2) Hose Restriction. The inside diameter of the intake hose may not be more than two inches larger than the permitted intake nozzle size or constricting ring, whichever is smaller.

| | | | |
|---|--------------------|---------------------------------------|------|
| Preparer's Name and Badge Number Monty Cervelli #827 | Date 05/02/2015 | Reviewer's Name Lt. Steve McDonald | Date |
|---|--------------------|---------------------------------------|------|

STATE OF CALIFORNIA
DEPARTMENT OF FISH AND WILDLIFE
NARRATIVE/SUPPLEMENTAL

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| DATE OF INCIDENT/OCCURRENCE 05/01/2015 | TIME (2400) 1100 Hours | CITY/COUNTY/JUDICIAL JURISDICTION Happy Camp/Siskiyou |
| "X" APPLICABLE <input checked="" type="checkbox"/> Narrative <input checked="" type="checkbox"/> Arrest Report <input type="checkbox"/> Supplemental <input type="checkbox"/> Formal Complaint | | TYPE OF REPORT ("X" APPLICABLE) <input type="checkbox"/> Commercial Fishing <input type="checkbox"/> Hunting <input type="checkbox"/> Inland Pollution <input type="checkbox"/> Incident Report <input type="checkbox"/> Recreational Fishing <input type="checkbox"/> Trapping <input type="checkbox"/> Marine Pollution <input checked="" type="checkbox"/> Other |
| Location/Subject/Incident Name Klamath River/GILLILAND/JONES | | Arresting/Case Officer M. Cervelli #827 Citation Number AD2079329 AD2079330 |

197
198 (3) Pump Intake Screening. The intake for the suction dredge pump shall be covered with screening mesh. Screen mesh
199 openings shall not exceed 3/32 inch (2.38 mm) for woven wire or perforated plate screens, or 0.0689 inch (1.75 mm) for profile
200 wire screens, with a minimum 27% open area.
201
202 (4) Suction dredges must include a containment system under the motor and fuel tanks. The containment system must be
203 sufficient in size to completely accommodate the full volume of all fuel, lubricants and chemicals without overtopping or
204 leaking.
205
206 During my inspection of GILLILAND's suction dredge; I found it had a 5 inch suction nozzle in violation of
207 section 228(k)(1) requiring the suction nozzle have an inside diameter of no larger than 4 inches and section
208 228(k)(4) requiring that suction dredges have a containment system under the motor and fuel tanks.
209 GILLILAND's suction dredge had four motors having either no containment system or an inadequate
210 containment system. I was unable to inspect the intake screen at this time because it was hard mounted beneath
211 the dredge and would require some disassembly to inspect it. There was also a detached hose with a 4 inch
212 suction nozzle lying on top of the suction dredge.
213
214 After inspecting GILLILAND's suction dredge I returned the upper location where GILLILAND and JONES
215 were located.
216
217 Both GILLILAND and JONES were wearing wetsuits. They requested that they be able to change before being
218 transported to jail. Lt. McDonald clarified with GILLILAND that there were no other items of value that needed to
219 be secured for safekeeping at their camp. Per GILLILAND and JONES' request, Lt. Nicholas and Warden
220 Edwards went back to GILLILAND's and JONES' campsite and retrieved dry clothes and shoes for the two men.
221
222
223 GILLILAND was advised by Lt. McDonald that we would be seizing his suction dredge as evidence.

| | | | |
|---|--------------------|---------------------------------------|------------------|
| Preparer's Name and Badge Number Monty Cervelli #827 | Date 05/02/2015 | Reviewer's Name Lt. Steve McDonald | Date 05/08/15 |
|---|--------------------|---------------------------------------|------------------|

STATE OF CALIFORNIA
DEPARTMENT OF FISH AND WILDLIFE
NARRATIVE/SUPPLEMENTAL

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|--|---------------------------|---|
| DATE OF INCIDENT/OCCURRENCE 05/01/2015 | TIME (2400) 1100 Hours | CITY/COUNTY/JUDICIAL JURISDICTION Happy Camp/Siskiyou |
| "X" APPLICABLE <input checked="" type="checkbox"/> Narrative <input checked="" type="checkbox"/> Arrest Report <input type="checkbox"/> Supplemental <input type="checkbox"/> Formal Complaint | | TYPE OF REPORT ("X" APPLICABLE) <input type="checkbox"/> Commercial Fishing <input type="checkbox"/> Hunting <input type="checkbox"/> Inland Pollution <input type="checkbox"/> Incident Report <input type="checkbox"/> Recreational Fishing <input type="checkbox"/> Trapping <input type="checkbox"/> Marine Pollution <input checked="" type="checkbox"/> Other |
| Location/Subject/Incident Name Klamath River/GILLILAND/JONES | | Arresting/Case Officer M. Cervelli #827 Citation Number AD2079329 AD2079330 |

224

225 I contacted JONES and asked about his identification. JONES said he did not have any identification with him
226 and that he had a passport back in Happy Camp.

227

228

229 At 1445 hours, I told GILLILAND that he was in custody and not free to leave. I advised GILLILAND of his
230 rights under Miranda from a CDFW Miranda advisement card. GILLILAND told me he understood his rights and
231 invoked his right to remain silent. I did not ask GILLILAND any other questions regarding his activity.

232

233 At 1450 hours, I met with JONES. JONES told me again he was from Whales in the United Kingdom and has
234 been in Happy Camp for two years on a visa. JONES said he did not know how long he was allowed to stay in the
235 United States on the visa. JONES said that they were both attached to the suction dredge by the air hoses from the
236 hookah system. I explained to JONES that since he was attached to the suction dredge he was in possession of a
237 suction dredge in violation of section 5653(d) of the California Fish & Game Code:

238

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5653.

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251

(a) The use of any vacuum or suction dredge equipment by any person in any river, stream, or lake of this state is prohibited, except as authorized under a permit issued to that person by the department in compliance with the regulations adopted pursuant to Section 5653.9. Before any person uses any vacuum or suction dredge equipment in any river, stream, or lake of this state, that person shall submit an application for a permit for a vacuum or suction dredge to the department, specifying the type and size of equipment to be used and other information as the department may require.

(b) Under the regulations adopted pursuant to Section 5653.9, the department shall designate waters or areas wherein vacuum or suction dredges may be used pursuant to a permit, waters or areas closed to those dredges, the maximum size of those dredges that may be used, and the time of year when those dredges may be used. If the department determines, pursuant to the regulations adopted pursuant to Section 5653.9, that the operation will not be deleterious to fish, it shall issue a permit to the applicant. If any person operates any equipment other than that authorized by the permit or conducts the operation in any waters or area or at any time that is not authorized by the permit, or if any person conducts the operation without securing the permit, that person is guilty of a misdemeanor.

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| Preparer's Name and Badge Number Monty Cervelli #827 | Date 05/02/2015 | Reviewer's Name Lt. Steve McDonald | Date 05/08/15 |
|---|--------------------|---------------------------------------|------------------|

STATE OF CALIFORNIA
DEPARTMENT OF FISH AND WILDLIFE
NARRATIVE/SUPPLEMENTAL

ENF 6b p.2 (1/2013)

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|--|---------------------------|---|
| DATE OF INCIDENT/OCCURRENCE 05/01/2015 | TIME (2400) 1100 Hours | CITY/COUNTY/JUDICIAL JURISDICTION Happy Camp/Siskiyou |
| "X" APPLICABLE <input checked="" type="checkbox"/> Narrative <input checked="" type="checkbox"/> Arrest Report <input type="checkbox"/> Supplemental <input type="checkbox"/> Formal Complaint | | TYPE OF REPORT ("X" APPLICABLE) <input type="checkbox"/> Commercial Fishing <input type="checkbox"/> Hunting <input type="checkbox"/> Inland Pollution <input type="checkbox"/> Incident Report <input type="checkbox"/> Recreational Fishing <input type="checkbox"/> Trapping <input type="checkbox"/> Marine Pollution <input checked="" type="checkbox"/> Other |
| Location/Subject/Incident Name Klamath River/GILLILAND/JONES | | Arresting/Case Officer M. Cervelli #827 Citation Number AD2079329 AD2079330 |

(c) The department shall issue a permit upon the payment, in the case of a resident, of a base fee of twenty-five dollars (\$25), as adjusted under Section 713, when an onsite investigation of the project size is not deemed necessary by the department, and a base fee of one hundred thirty dollars (\$130), as adjusted under Section 713, when the department deems that an onsite investigation is necessary. In the case of a nonresident, the base fee shall be one hundred dollars (\$100), as adjusted under Section 713, when an onsite investigation is not deemed necessary, and a base fee of two hundred twenty dollars (\$220), as adjusted under Section 713, when an onsite investigation is deemed necessary.

(d) It is unlawful to possess a vacuum or suction dredge in areas, or in or within 100 yards of waters, that are closed to the use of vacuum or suction dredges.

I advised JONES of his rights under Miranda from a CDFW Miranda advisement card. JONES told me he understood his rights and agreed to speak with me. I asked JONES what his involvement was with GILLILAND. JONES said he helped GILLILAND and was an extra set of hands underwater. JONES said that GILLILAND would operate the suction nozzle underwater and that he (JONES) would move rocks and other material around to assist GILLILAND. JONES told me that they were operating the suction dredge today. JONES said that GILLILAND was using the 5 inch suction nozzle.

I asked JONES if he would be willing to sign a citation and he said that he would have to consult with GILLILAND. I told JONES that since he had no valid form of identification and because of a possible issue with his visa and the legality of his stay in the United States, I would be taking him into custody for 5653(d) of the California Fish & Game Code and transporting him to Siskiyou County Jail for fingerprinting to confirm his identity.

I filled out the jail booking forms and two citations that were unsigned by GILLILAND and JONES. I put a general description of the property we were seizing in the evidence box on the citation for a property receipt for GILLILAND. I explained to GILLILAND that I would be preparing an itemized property receipt for the equipment that we seized. I told him that after I inventoried the equipment I would get him a copy of the property receipt for his records. Items of non-evidentiary value would be taken for safekeeping since GILLILAND and

| | | | |
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| Preparer's Name and Badge Number Monty Cervelli #827 | Date 05/02/2015 | Reviewer's Name Lt. Steve McDonald | Date 05/08/15 |
|---|--------------------|---------------------------------------|------------------|

STATE OF CALIFORNIA
DEPARTMENT OF FISH AND WILDLIFE
NARRATIVE/SUPPLEMENTAL

ENF 6b p.2 (1/2013)

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|--|---------------------------|---|
| DATE OF INCIDENT/OCCURRENCE 05/01/2015 | TIME (2400) 1100 Hours | CITY/COUNTY/JUDICIAL JURISDICTION Happy Camp/Siskiyou |
| "X" APPLICABLE <input checked="" type="checkbox"/> Narrative <input checked="" type="checkbox"/> Arrest Report <input type="checkbox"/> Supplemental <input type="checkbox"/> Formal Complaint | | TYPE OF REPORT ("X" APPLICABLE) <input type="checkbox"/> Commercial Fishing <input type="checkbox"/> Hunting <input type="checkbox"/> Inland Pollution <input type="checkbox"/> Incident Report <input type="checkbox"/> Recreational Fishing <input type="checkbox"/> Trapping <input type="checkbox"/> Marine Pollution <input checked="" type="checkbox"/> Other |
| Location/Subject/Incident Name Klamath River/GILLILAND/JONES | | Arresting/Case Officer M. Cervelli #827 Citation Number AD2079329 AD2079330 |

279 JONES were being taken to jail.

280

281 GILLILAND and JONES changed clothes and were secured in handcuffs for officer safety and their safety during
282 transport. Warden Beck left our location with GILLILAND and JONES. Warden Beck took GILLILAND to his
283 vehicle which was parked at the public access, upstream from our current location so GILLILAND could retrieve
284 his wallet. Per GILLILAND's request, his truck was locked and left parked at the public access. Warden Beck
285 then transported the two men to Siskiyou County Jail.

286

287 After GILLILAND and JONES were on their way to Siskiyou County Jail we began the lengthy and difficult
288 process of removing the suction dredge from the river.

289

290 During the course of the removal of the suction dredge I examined the intake screening and found that the
291 openings in the screen were oversized in violation of section 228(k)(3) of Title 14 of the California Code of
292 Regulations.

293

294 At approximately 2130 hours the suction dredge and related equipment was safely secured on a flatbed trailer.
295 The equipment was transported to the Yreka CDFW Office where it was placed in a locked hangar for processing
296 at approximately 2330 hours.

297

298 On May 4, 2015, I removed the trailer from the locked hangar and completed the itemized property receipt (copy
299 attached). The evidence was tagged and secured in a locked storage facility at the CDFW Office in Yreka.

300

301 This case will be forwarded to the Siskiyou County District Attorney's Office for prosecution.

302

| | | | |
|---|--------------------|---------------------------------------|------------------|
| Preparer's Name and Badge Number Monty Cervelli #827 | Date 05/02/2015 | Reviewer's Name Lt. Steve McDonald | Date 05/08/15 |
|---|--------------------|---------------------------------------|------------------|



Google earth

feet
meters700
200

DEPARTMENT OF FISH AND GAME
NOTICE TO APPEAR FG-500MISDEMEANOR
☒ Traffic ☒ Non-traffic

AD2079331

Date of Violation 4/17/2015 Time 1:30 ☐ AM ☒ PM Day of Week FRI Case No. —
Name (First, Middle, Last) DYTON WILLIAM GILLILAND ☐ Owner's Responsibility (Veh. Code § 40001)Address P.O. Box 47
City HAPPY CAMP State CA ZIP Code 96039 Phone Number (520) 262-8639Driver Lic. No. 0587943 State AK Class — Commercial ☒ Yes ☐ No Age 54 Birth Date 10/31/1960
Sex M Hair GRN Eyes BLU Height 6-01 Weight 185 Race W Driver DescriptionVeh. Lic. No. or VIN ☐ COMMERCIAL VEHICLE (Veh. Code § 15210(c))
Yr. of Veh. Make Model Body Style Color ☐ HAZARDOUS MATERIAL (Veh. Code § 353)Evidence of Financial Responsibility
Registered Owner or Lessee ☐ Same as Driver
Address ☐ Same as Driver
City State ZIP CodeCorrectable Violation (Veh. Code § 40610) ☐ Booking Required ☐ Misdemeanor or Infraction (Circle)
Yes No Code and Section Description ☐ ☒ 5653.1(b) (A) Fish & Game Code-Operate (M) I
☐ ☐ SECTION DREDGE WITHOUT PERMIT (M) I
☐ ☒ 228(K) (1) T-H OR USE OF SINGLE SEASONAL NET (M) I
☐ ☒ 228(K) (4) T-H OR INSUFFICIENT NO CONTAINMENT (M) ISpeed Approx. — P.F./Max Spd — Veh. Lmt. — GPS Lat. — Long. 57.2 KM
Location of Violation(s) at Klamath River Siskiyou City/County of Occurrence Cal. TIP. Yes (No)Evidence Seized ☐ Violations not committed in my presence, declared on information and belief.

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct.

Arresting or Citing Officer M. C. EDWELL 827 Badge No.

Date Name of Arresting Officer, if different from Citing Officer Badge No.
WITHOUT ADMITTING GUILT, I PROMISE TO APPEAR AT THE TIME AND PLACE INDICATED BELOW. ☒ Signature FORMAL COMPLAINTWHEN: ON OR BEFORE THIS DATE 1/1 Time ☐ AM ☐ PM
WHAT TO DO FOLLOW THE INSTRUCTIONS ON THE REVERSE
Name of Court SISKIYOU SUPERIOR COURT
WHERE Section or Division, Room No. YREKA
Street Address 311 FIFTH ST. YREKA CA 96097
Phone Number (530) 847-4147 Ext. — Court 47690
☐ Juvenile ☒ To be notified ☐ You may arrange with the clerk to appear at a night session of the court.

AD2079331

COURT COPY

SEE REVERSE TR-130

Judicial Council of California Form
Rev. 09-20-05 (Veh. Code §§ 40500(c), 40513(b), 40522, 40600; Pen. Code § 653.9)

DEPARTMENT OF FISH AND GAME

MISDEMEANOR

NOTICE TO APPEAR FG-930

Traffic ☒ Non-Traffic

AD2079332

| | | | | |
|--|-------------------------------------|---|---|--|
| Date of Violation 4/17/15 | Time 1:30 | <input type="checkbox"/> AM <input checked="" type="checkbox"/> PM | Day of Week FRI | Case No. |
| Name (First, Middle, Last) STEPHEN ROBERT JONES | | Owner's Responsibility (Veh. Code § 40001) | | |
| Address ELK CREEK CAMPGROUND, 921 ELK CREEK RD. #15 | | | | |
| City HAPPY CAMP | State CA | ZIP Code 96031 | Phone Number NONE | |
| Driver Lic. No. NONE | State — | Class — | Commercial <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | Age 43 |
| Sex M | Hair BRN | Eyes GRN | Height 5-06 | Weight 180 |
| Veh. Lic. No. or VIN | | State | Race W | Other Description |
| Yr. of Veh. | Make | Model | Body Style | Color |
| Evidence of Financial Responsibility | | | <input type="checkbox"/> COMMERCIAL VEHICLE (Veh. Code § 15210(c)) | |
| Registered Owner or Lessee | | | <input type="checkbox"/> HAZARDOUS MATERIAL (Veh. Code § 353) | |
| Address | | | <input type="checkbox"/> Same as Driver | |
| City | | | <input type="checkbox"/> Same as Driver | |
| State | | | ZIP Code | |
| Correctable Violation (Veh. Code § 40610) | | | | |
| Yes | No | Code and Section | Description | Booking Required |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | 5653(d) | CA FISH + GAME CODE | <input checked="" type="checkbox"/> M I |
| <input type="checkbox"/> | <input type="checkbox"/> | | POSSESSION OF A SLICED DRENCH | <input type="checkbox"/> M I |
| <input type="checkbox"/> | <input type="checkbox"/> | | WITHIN 100 YARDS OF CLOSED WATER | <input type="checkbox"/> M I |
| <input type="checkbox"/> | <input type="checkbox"/> | | | <input type="checkbox"/> M I |
| Speed Approx. | P.F. Max Spd. | Veh. Lmt. | GPS Lat | Long |
| Location of Violation(s) at RAMATH RIVER | | | City/County of Occurrence SISKIYOU | Call/TIP Yes <input checked="" type="checkbox"/> No |
| Evidence Seized | | | | |

☐ Violations not committed in my presence, occurred on information and belief.

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct.

[Signature]
 Arresting Officer

827
 Badge No.

| | | |
|---|---|-----------|
| Date | Name of Arresting Officer, if different from Citing Officer | Badge No. |
| WITHOUT ADMITTING GUILT, I PROMISE TO APPEAR AT THE TIME AND PLACE INDICATED BELOW. X Signature <i>[Signature]</i> FORMAL COMPLAINT | | |

WHEN: ON OR BEFORE THIS DATE 4/17/15 Time: 1:30 ☐ AM ☒ PM

WHAT TO DO: FOLLOW THE INSTRUCTIONS ON THE REVERSE

WHERE: Name of Court SISKIYOU SUPERIOR COURT

Section or Division, Room No. YREKA

Street Address 311 FORTY STREET, YREKA CA 96097

Phone Number 5309428152 Ext 47690 Court 47690

☐ Juvenile ☐ To be notified ☐ You may arrange with the clerk to appear at a night session of the court.



AD2079332

COURT COPY

SEE REVERSE TR-130

Judicial Council of California Form
 Rev. 06-20-06 (Veh. Code §§ 40500-40522, 40600-40630; Pen Code § 853.9)

STATE OF CALIFORNIA
DEPARTMENT OF FISH AND WILDLIFE

ARREST/INVESTIGATION REPORT

ENF 6a (1/2013)

Region # NED Page 1 Of 10

| | | | | |
|--|---|---|---|--|
| DATE OF INCIDENT/OCCURRENCE 04/17/2015 | | TIME (2400) 1330 Hours | CITY/COUNTY/JUDICIAL JURISDICTION Happy Camp/Siskiyou County | |
| "X" ONE <input type="checkbox"/> Arrest Report <input type="checkbox"/> Formal Complaint | "X" ONE <input checked="" type="checkbox"/> Self Initiated <input type="checkbox"/> Complaint | TYPE OF REPORT ("X" APPLICABLE) <input type="checkbox"/> Commercial Fishing <input type="checkbox"/> Hunting <input type="checkbox"/> Inland Pollution <input type="checkbox"/> CaTIP <input type="checkbox"/> Recreational Fishing <input type="checkbox"/> Trapping <input type="checkbox"/> Marine Pollution <input checked="" type="checkbox"/> Other | | |

Suspect Information

| | | | | |
|---|---|---|--|------------------------------|
| Name Suspect #1 (First, Middle, Last) Dyton William GILLILAND | | Sex <input checked="" type="checkbox"/> M <input type="checkbox"/> F | Date of Birth (MM/DD/YY) 10/31/1960 | Citation Number AD2079331 |
| Suspect Address (Street, Apt., City, State, Zip Code) P.O. Box 1004, Homer, AK 99603/P.O. Box 47, Happy Camp, CA 96039 | | | | Home Phone 520-262-8639 |
| Business Address (Street, Apt., City, State, Zip Code) | | | | Business Phone |
| Identification Type ("X" APPLICABLE) <input type="checkbox"/> CDL/CID <input checked="" type="checkbox"/> Other State DL/ID <input type="checkbox"/> Other ID: Number: AK 0587943 | Suspect Description ("X" APPLICABLE) GENERAL: HAIR: EYES: ETHNICITY: Height: <u>6-01</u> <input type="checkbox"/> Bln <input type="checkbox"/> Blk <input type="checkbox"/> Brn <input checked="" type="checkbox"/> Blu <input type="checkbox"/> Brn <input type="checkbox"/> Asian <input type="checkbox"/> Black <input type="checkbox"/> Hispanic Weight: <u>185</u> <input checked="" type="checkbox"/> Gry <input type="checkbox"/> Red <input type="checkbox"/> None <input type="checkbox"/> Grn <input type="checkbox"/> Hzl <input checked="" type="checkbox"/> White <input type="checkbox"/> Other: | | | |
| Vehicle Type ("X" APPLICABLE) <input type="checkbox"/> Auto <input type="checkbox"/> Vessel <input type="checkbox"/> Other | Description (Make, Model, Year, Color) | | License Plate Number/VIN | |

Offenses and Charges

| | |
|---|---|
| <input checked="" type="checkbox"/> F&G <input type="checkbox"/> T-14 <input type="checkbox"/> Other: <input type="checkbox"/> Section: 5653.1(b) Description: Operate a suction dredge without a permit | <input checked="" type="checkbox"/> F&G <input type="checkbox"/> T-14 <input type="checkbox"/> Other: <input type="checkbox"/> Section: 5653(d) Description: Possession of a suction dredge within 100 yards of closed water |
| <input type="checkbox"/> F&G <input checked="" type="checkbox"/> T-14 <input type="checkbox"/> Other: <input type="checkbox"/> Section: 228(k)(1) Description: Use of a 5 inch suction nozzle | <input type="checkbox"/> F&G <input checked="" type="checkbox"/> T-14 <input type="checkbox"/> Other: <input type="checkbox"/> Section: Description: |
| <input type="checkbox"/> F&G <input checked="" type="checkbox"/> T-14 <input type="checkbox"/> Other: <input type="checkbox"/> Section: 228(k)(4) Description: Inadequate fuel containment system | <input type="checkbox"/> F&G <input type="checkbox"/> T-14 <input type="checkbox"/> Other: <input type="checkbox"/> Section: Description: |

Evidence Seized

| | |
|--|---|
| Evidence Description (Amount, Type, Serial Number, etc.) "X" ONE <input checked="" type="checkbox"/> Held <input type="checkbox"/> Returned <input type="checkbox"/> Destroyed <input type="checkbox"/> Other Photographs and video of suction dredge in operation and suction nozzle | Evidence Photographed? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |
| Evidence Description (Amount, Type, Serial Number, etc.) "X" ONE <input type="checkbox"/> Held <input type="checkbox"/> Returned <input type="checkbox"/> Destroyed <input type="checkbox"/> Other | Evidence Photographed? <input type="checkbox"/> Yes <input type="checkbox"/> No |
| Evidence Description (Amount, Type, Serial Number, etc.) "X" ONE <input type="checkbox"/> Held <input type="checkbox"/> Returned <input type="checkbox"/> Destroyed <input type="checkbox"/> Other | Evidence Photographed? <input type="checkbox"/> Yes <input type="checkbox"/> No |

Case Synopsis

On April 17, 2015, at approximately 1330 hours, I, Warden Monty Cervelli, California Department of Fish & Wildlife (CDFW), saw Dyton GILLILAND and Stephen JONES operating a suction dredge on the Klamath River downstream from the Dragon's Tooth rapid. I contacted both men. GILLILAND admitted to owning the suction dredge and operating the nozzle in violation of 5653.1(b) of CA Fish & Game Code. JONES was assisting GILLILAND with the mining activity underwater. Both men were attached to the suction dredge by air hoses while working underwater. GILLILAND was using a 5 inch suction nozzle in violation of 228(k)(1) of Title 14 of CA Code of Regulations. There were four motors on the dredge with inadequate fuel containment systems in violation of 228(k)(4) of Title 14 of CA Code of Regulations. GILLILAND told me he would not sign a citation. JONES was attached to the dredge by an air hose and in violation of 5653(d) of CA Fish & Game Code possession of a suction dredge. We were unable to seize the suction dredge due to its large size and remote location. I explained to GILLILAND and JONES that I would be filing a formal complaint for the violations. GILLILAND told me he was going to continue to operate the suction dredge in violation of California Law.

See WPD 6b For Additional Suspect and Witness Information "X" ONE ☒ Yes ☐ No

| | | | |
|---|--------------------|--|----------------|
| Preparer's Name and Badge Number Monty Cervelli #827 | Date 04/25/2015 | Reviewer's Name Lt. Steve McDonald SM | Date 5/8/15 |
|---|--------------------|--|----------------|

STATE OF CALIFORNIA
DEPARTMENT OF FISH AND WILDLIFE
NARRATIVE/SUPPLEMENTAL

ENF 6b p.2 (1/2013)

Region #NED Page 2

| | | |
|--|---------------------------|---|
| DATE OF INCIDENT/OCCURRENCE 04/17/2015 | TIME (2400) 1330 Hours | CITY/COUNTY/JUDICIAL JURISDICTION Happy Camp/Siskiyou |
| "X" APPLICABLE <input checked="" type="checkbox"/> Narrative <input checked="" type="checkbox"/> Arrest Report <input type="checkbox"/> Supplemental <input type="checkbox"/> Formal Complaint | | TYPE OF REPORT ("X" APPLICABLE) <input type="checkbox"/> Commercial Fishing <input type="checkbox"/> Hunting <input type="checkbox"/> Inland Pollution <input type="checkbox"/> Incident Report <input type="checkbox"/> Recreational Fishing <input type="checkbox"/> Trapping <input type="checkbox"/> Marine Pollution <input checked="" type="checkbox"/> Other |
| Location/Subject/Incident Name Klamath River/GILLILAND/JONES | | Arresting/Case Officer M. Cervelli #827 Citation Number AD2079331 AD2079332 |

1 On Friday April 17, 2015, at approximately 0830 hours, I, Warden Monty Cervelli, California Department of Fish
2 & Wildlife (CDFW), along with Lt. Steve McDonald, Warden Dan Beck and Warden Chad Edwards, CDFW,
3 met at the Yreka CDFW office for a pre-operational briefing in preparation of a sweep of the Klamath River. A
4 CDFW aircraft was going to fly the river looking for suction dredge activity. We would be patrolling the river in
5 full uniform driving marked CDFW vehicles. We would be responding to any suction dredge activity located by
6 the aircraft.

7
8 The use of an unpermitted suction dredge is currently prohibited under California Fish and Game Code Section
9 5653.1:

10
11 **5653.1. Vacuum or Suction Dredge Equipment Prohibited; Environmental Impact Review**

12
13 (a) The issuance of permits to operate vacuum or suction dredge equipment is a project pursuant to the California Environmental
14 Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) and permits may only be issued, and
15 vacuum or suction dredge mining may only occur as authorized by any existing permit, if the department has caused to be prepared,
16 and certified the completion of, an environmental impact report for the project pursuant to the court order and consent judgment
17 entered in the case of Karuk Tribe of California et al. v. California Department of Fish and Game et al., Alameda County Superior
18 Court Case No. RG 05211597.

19
20 (b) Notwithstanding Section 5653, the use of any vacuum or suction dredge equipment in any river, stream, or lake of this state is
21 prohibited until the director certifies to the Secretary of State that all of the following have occurred:

22 (1) The department has completed the environmental review of its existing suction dredge mining regulations, as ordered by the court
23 in the case of Karuk Tribe of California et al. v. California Department of Fish and Game et al., Alameda County Superior Court Case
24 No. RG 05211597.

25 (2) The department has transmitted for filing with the Secretary of State pursuant to Section 11343 of the Government Code, a
26 certified copy of new regulations adopted, as necessary, pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of
27 Division 3 of Title 2 of the Government Code.

28 (3) The new regulations described in paragraph (2) are operative

29 (4) The new regulations described in paragraph (2) fully mitigate all identified significant environmental impacts.

| | | | |
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| Preparer's Name and Badge Number Monty Cervelli #827 | Date 04/25/2015 | Reviewer's Name Lt. Steve McDonald | Date 5/8/15 |
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STATE OF CALIFORNIA
DEPARTMENT OF FISH AND WILDLIFE
NARRATIVE/SUPPLEMENTAL

ENF 6b p.2 (1/2013)

Region #NED Page 3

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|--|---------------------------|---|
| DATE OF INCIDENT/OCCURRENCE 04/17/2015 | TIME (2400) 1330 Hours | CITY/COUNTY/JUDICIAL JURISDICTION Happy Camp/Siskiyou |
| "X" APPLICABLE <input checked="" type="checkbox"/> Narrative <input checked="" type="checkbox"/> Arrest Report <input type="checkbox"/> Supplemental <input type="checkbox"/> Formal Complaint | | TYPE OF REPORT ("X" APPLICABLE) <input type="checkbox"/> Commercial Fishing <input type="checkbox"/> Hunting <input type="checkbox"/> Inland Pollution <input type="checkbox"/> Incident Report <input type="checkbox"/> Recreational Fishing <input type="checkbox"/> Trapping <input type="checkbox"/> Marine Pollution <input checked="" type="checkbox"/> Other |
| Location/Subject/Incident Name Klamath River/GILLILAND/JONES | | Arresting/Case Officer M. Cervelli #827 Citation Number AD2079331 AD2079332 |

(5) A fee structure is in place that will fully cover all costs to the department related to the administration of the program.

(c)(1) To facilitate its compliance with subdivision (b), the department shall consult with other agencies as it determines to be necessary, including, but not limited to, the State Water Resources Control Board, the State Department of Public Health, and the Native American Heritage Commission, and, on or before April 1, 2013, shall prepare and submit to the Legislature a report with recommendations on statutory changes or authorizations that, in the determination of the department, are necessary to develop the suction dredge regulations required by paragraph (2) of subdivision (b), including, but not limited to, recommendations relating to the mitigation of all identified significant environmental impacts and a fee structure that will fully cover all program costs.

(2) The requirement for submitting a report imposed under this subdivision is inoperative on January 1, 2017, pursuant to Section 10231.5 of the Government Code.

(3) The report submitted to the Legislature pursuant to this subdivision shall be submitted in accordance with Section 9795 of the Government Code.

(d) The Legislature finds and declares that this section, as added during the 2009-10 Regular Session, applies solely to vacuum and suction dredging activities conducted for instream mining purposes. This section does not expand or provide new authority for the department to close or regulate suction dredging conducted for regular maintenance of energy or water supply management infrastructure, flood control, or navigational purposes governed by other state or federal law.

(e) This section does not prohibit or restrict nonmotorized recreational mining activities, including panning for gold.

A suction dredge is defined in section 228 of Title 14 of the California Code of Regulations:

Title 14 § 228. Suction Dredging.

The Department has adopted this Section and Section 228.5 pursuant to Fish and Game Code Section 5653.9, and to make specific and otherwise implement Fish and Game Code Section 5653, specifically. Pursuant to that authority, the Department finds that suction dredging subject to and consistent with the requirements of Sections 228 and 228.5 will not be deleterious to fish.

(a) Suction dredging. For purposes of this Section and Section 228.5, the use of any vacuum or suction dredge equipment (i.e. suction dredging) is defined as the use of a suction system to vacuum material from a river, stream or lake for the extraction of minerals. These regulations do not apply to, prohibit or restrict nonmotorized recreational mining activities, including panning

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| Preparer's Name and Badge Number Monty Cervelli #827 | Date 04/25/2015 | Reviewer's Name Lt. Steve McDonald | Date 5/8/15 |
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STATE OF CALIFORNIA
DEPARTMENT OF FISH AND WILDLIFE
NARRATIVE/SUPPLEMENTAL

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|--|---------------------------|---|
| DATE OF INCIDENT/OCCURRENCE 04/17/2015 | TIME (2400) 1330 Hours | CITY/COUNTY/JUDICIAL JURISDICTION Happy Camp/Siskiyou |
| "X" APPLICABLE <input checked="" type="checkbox"/> Narrative <input checked="" type="checkbox"/> Arrest Report <input type="checkbox"/> Supplemental <input type="checkbox"/> Formal Complaint | | TYPE OF REPORT ("X" APPLICABLE) <input type="checkbox"/> Commercial Fishing <input type="checkbox"/> Hunting <input type="checkbox"/> Inland Pollution <input type="checkbox"/> Incident Report <input type="checkbox"/> Recreational Fishing <input type="checkbox"/> Trapping <input type="checkbox"/> Marine Pollution <input checked="" type="checkbox"/> Other |
| Location/Subject/Incident Name Klamath River/GILLILAND/JONES | | Arresting/Case Officer M. Cervelli #827 Citation Number AD2079331 AD2079332 |

61 for gold.

62

63 At approximately 1200 hours, while patrolling the river, the CDFW aircraft advised they had located a suction
64 dredge in operation on the Klamath River below the Dragon's Tooth Rapid. I was familiar with the area and have
65 investigated suction dredging activity there before. The area is popular for suction dredge activity due to its
66 remote location and difficult access.

67

68 We responded to the location and parked in a meadow above the access to the river. We located a dark colored
69 Toyota Tacoma with Alaska license plate number GPK108 parked in a parking area above the river. We worked
70 are way down to the river and began heading downstream. We could hear a pump running downstream from the
71 access in an area where I have found other suction dredge activity. As we proceeded downstream a large suction
72 dredge became visible floating in the river tied near the shore. The dredge was floating on large blue inflatable
73 pontoons. We approached the area and also saw a tent in some trees just north of the river. When we arrived at
74 the suction dredge the pumps were running and material was being actively processed through the sluice box.
75 There was a visible plume of muddy debris in the water below the sluice box. There were two orange colored
76 hookah air lines coming off the dredge and leading out into the middle of the river. Based on this observation it
77 appeared there were two individuals under the water.

78

79 We stood by in the area waiting for the subjects that were underwater to surface. I took video and photographs of
80 the suction dredge in operation. At approximately 1400 hours a single diver (later identified as Dyton
81 GILLILAND) surfaced next to the suction dredge. I approached the GILLILAND and identified myself as a
82 Game Warden with the California Department of Fish & Wildlife. GILLILAND told me that there was another
83 diver underwater (later identified as Stephen JONES). I told GILLILAND per the California Fish & Game Code
84 he was required to allow me to inspect his dredge equipment. GILLILAND said he didn't think he would allow
85 me to inspect his equipment, that he would rather go to jail and that he would talk to me about it in a few minutes.
86 GILLILAND said he wanted to get JONES out of the water. I told GILLILAND to go ahead. GILLILAND said

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| Preparer's Name and Badge Number Monty Cervelli #827 | Date 04/25/2015 | Reviewer's Name Lt. Steve McDonald | Date 5/8/15 |
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STATE OF CALIFORNIA
DEPARTMENT OF FISH AND WILDLIFE
NARRATIVE/SUPPLEMENTAL

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|--|---------------------------|---|
| DATE OF INCIDENT/OCCURRENCE 04/17/2015 | TIME (2400) 1330 Hours | CITY/COUNTY/JUDICIAL JURISDICTION Happy Camp/Siskiyou |
| "X" APPLICABLE <input checked="" type="checkbox"/> Narrative <input checked="" type="checkbox"/> Arrest Report <input type="checkbox"/> Supplemental <input type="checkbox"/> Formal Complaint | | TYPE OF REPORT ("X" APPLICABLE) <input type="checkbox"/> Commercial Fishing <input type="checkbox"/> Hunting <input type="checkbox"/> Inland Pollution <input type="checkbox"/> Incident Report <input type="checkbox"/> Recreational Fishing <input type="checkbox"/> Trapping <input type="checkbox"/> Marine Pollution <input checked="" type="checkbox"/> Other |
| Location/Subject/Incident Name Klamath River/GILLILAND/JONES | | Arresting/Case Officer M. Cervelli #827 Citation Number AD2079331 AD2079332 |

87 JONES thinks they have a jet clog when he (GILLILAND) shuts the engines down JONES will clear the clog and
 88 come to the surface. GILLILAND shut down the motors and JONES surfaced. After JONES surfaced
 89 GILLILAND walked over to my location and introduced himself. GILLILAND said "we are dredging", I asked
 90 how long he had been here and he told me he would not say. GILLILAND said he was a member of the New
 91 49ers Prospecting Association. GILLILAND said it was just he and JONES at the location. GILLILAND said he
 92 was from Alaska and currently living in Happy Camp. There was a 6 inch suction nozzle and a 4 inch nozzle
 93 lying on the bank. GILLILAND said he would not get the suction nozzle that he was using. GILLILAND told
 94 me that we were breaking the law and that a judge had said the regulations were not lawful. I explained to
 95 GILLILAND that the use of a suction dredge was still illegal in California. GILLILAND said that he makes his
 96 living as a miner in Alaska. GILLILAND said he came to California because what California has done here is not
 97 legal and that's why he's here, he's not here because he needs to mine and some battles are worth fighting.
 98 GILLILAND said his temptation is to get back into the water and continue dredging if I don't arrest him.
 99 GILLILAND began discussing the current litigation regarding the suction dredge issue in California. I explained
 100 to GILLILAND that I am required to enforce the law by the California Constitution.

101

102 Warden Beck contacted JONES and asked if he had any identification. JONES said he did not have any
 103 identification with him. JONES said he was from Whales in the United Kingdom and that he has been in the
 104 United States for 2 years on a travel visa.

105

106 GILLILAND said he was starting to see a little bit of gold. GILLILAND said he was working in 25 feet of water
 107 with 20 feet of 6 inch hose, 40 feet of 5 inch hose and a 5 inch suction nozzle and it was very difficult to remove.
 108 GILLILAND said he used 100 pounds of weight to stay down in the current.

109

110 GILLILAND said he had built the dredge with these canyons in mind and had floated it down river through the
 111 Dragon's Tooth Rapid. GILLILAND said that he had mined in California with the New 49ers Prospecting
 112 Association 7 years ago. He came back to California because he felt the miners were gaining ground and getting

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| Preparer's Name and Badge Number Monty Cervelli #827 | Date 04/25/2015 | Reviewer's Name Lt. Steve McDonald | Date 5/8/15 |
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STATE OF CALIFORNIA
DEPARTMENT OF FISH AND WILDLIFE
NARRATIVE/SUPPLEMENTAL

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| DATE OF INCIDENT/OCCURRENCE 04/17/2015 | TIME (2400) 1330 Hours | CITY/COUNTY/JUDICIAL JURISDICTION Happy Camp/Siskiyou |
| "X" APPLICABLE <input checked="" type="checkbox"/> Narrative <input checked="" type="checkbox"/> Arrest Report <input type="checkbox"/> Supplemental <input type="checkbox"/> Formal Complaint | | TYPE OF REPORT ("X" APPLICABLE) <input type="checkbox"/> Commercial Fishing <input type="checkbox"/> Hunting <input type="checkbox"/> Inland Pollution <input type="checkbox"/> Incident Report <input type="checkbox"/> Recreational Fishing <input type="checkbox"/> Trapping <input type="checkbox"/> Marine Pollution <input checked="" type="checkbox"/> Other |
| Location/Subject/Incident Name Klamath River/GILLILAND/JONES | | Arresting/Case Officer M. Cervelli #827 Citation Number AD2079331 AD2079332 |

113 their rights back and he wanted to be part of that.

114

115 We explained to GILLILAND that we were going to file a formal complaint for the violation. Lt. McDonald
116 explained the process to GILLILAND.

117

118 JONES said that he just assisted GILLILAND underwater and does not work the nozzle.

119

120 I told GILLILAND that I needed to see his identification. GILLILAND's identification was in his truck
121 parked in the parking area.

122

123 Lt. McDonald and I discussed the inspection authority with GILLILAND and discussed his failure to show us
124 his equipment upon demand.

125

126 California Fish & Game Code section 5653.3 states the following.

127

128 **5653.3.** Any person required to possess a permit pursuant to Section 5653 shall present his or her dredging equipment for
129 inspection upon request of a state or county fish and game warden.

130

131 I told GILLILAND that if he would allow me to see his nozzle and photograph it I would not seize it.

132

133 Due to the size of GILLILAND's suction dredge and the remote location it would be physically impossible for us
134 to seize and remove the dredge given our current situation with the lack of sufficient manpower and equipment.

135 Based on GILLILAND's statement that he was going to continue to use the dredge seizing it in place did not
136 appear to be a viable option.

137

138 GILLILAND got his dive equipment back and went back underwater to retrieve the suction nozzle.

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| Preparer's Name and Badge Number Monty Cervelli #827 | Date 04/25/2015 | Reviewer's Name Lt. Steve McDonald | Date 5/8/15 |
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STATE OF CALIFORNIA
DEPARTMENT OF FISH AND WILDLIFE
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|---|---------------------------|---|
| DATE OF INCIDENT/OCCURRENCE 04/17/2015 | TIME (2400) 1330 Hours | CITY/COUNTY/JUDICIAL JURISDICTION Happy Camp/Siskiyou |
| "X" APPLICABLE <input checked="" type="checkbox"/> Narrative <input type="checkbox"/> Arrest Report <input type="checkbox"/> Supplemental <input type="checkbox"/> Formal Complaint | | TYPE OF REPORT ("X" APPLICABLE) <input type="checkbox"/> Commercial Fishing <input type="checkbox"/> Hunting <input type="checkbox"/> Inland Pollution <input type="checkbox"/> Incident Report <input type="checkbox"/> Recreational Fishing <input type="checkbox"/> Trapping <input type="checkbox"/> Marine Pollution <input checked="" type="checkbox"/> Other |
| Location/Subject/Incident Name Klamath River/GILLILAND/JONES | | Arresting/Case Officer M. Cervelli #827 Citation Number AD2079331 AD2079332 |

139 GILLILAND retrieved the nozzle and I measured and photographed it. It was a 5 inch suction nozzle as
140 described by GILLILAND.

141

142 A 5 inch suction nozzle is an additional violation of section 228(k)(1) of Title 14 of the California Code of
143 Regulations.

144

145 § 228. Suction Dredging.

146

147 (k) Equipment Requirements.

148

149 (1) Nozzle Restriction. No suction dredge having an intake nozzle with an inside diameter larger than four inches may be used
150 unless:

151 (A) The Department has conducted an on-site inspection and approved a larger nozzle size in writing; the maximum inside
152 diameter of the intake nozzle is no larger than six inches, or eight inches where allowable under subdivision (k)(1)(E); and
153 (B) The permittee has a valid suction dredge permit; and

154 (C) The permittee has in their possession documentation of compliance with Fish and Game Code Section 1602, subdivision
155 (a), for the proposed suction dredging operation, including a copy of his/her notification to the Department; any response to the
156 notification by the Department pursuant to Fish and Game Code Section 1602, subdivision (a)(4)(A)(i); and specific
157 authorization from the Department for a vacuum nozzle greater than four inches in diameter if a Lake or Streambed Alteration
158 Agreement is required; or

159 (D) Except as provided by subdivision (k)(1)(A), a constricting ring with an inside diameter not larger than four inches has
160 been attached to the intake nozzle. This constricting ring must be of solid, one-piece construction with no openings other than
161 the intake and openings not greater than one inch between the constricting ring and nozzle. It must be welded or otherwise
162 permanently attached over the end of the intake nozzle. No quick-release devices are permitted.

163 (E) Suction dredge intake nozzles up to eight inches in diameter may be permitted at the Department's discretion in accordance
164 with subdivision (k)(1)(A) only on the following rivers:

- 165 1. American (Placer and El Dorado Counties);
- 166 2. Cosumnes (Sacramento, Amador and El Dorado Counties);
- 167 3. Feather (Butte, Plumas and Yuba Counties);
- 168 4. Klamath (Del Norte, Humboldt and Siskiyou Counties);

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| Preparer's Name and Badge Number Monty Cervelli #827 | Date 04/25/2015 | Reviewer's Name Lt. Steve McDonald | Date 5/8/15 |
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STATE OF CALIFORNIA
DEPARTMENT OF FISH AND WILDLIFE

NARRATIVE/SUPPLEMENTAL

ENF 6b p.2 (1/2013)

Region #NED

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|--|---------------------------|---|
| DATE OF INCIDENT/OCCURRENCE 04/17/2015 | TIME (2400) 1330 Hours | CITY/COUNTY/JUDICIAL JURISDICTION Happy Camp/Siskiyou |
| "X" APPLICABLE <input checked="" type="checkbox"/> Narrative <input checked="" type="checkbox"/> Arrest Report <input type="checkbox"/> Supplemental <input type="checkbox"/> Formal Complaint | | TYPE OF REPORT ("X" APPLICABLE) <input type="checkbox"/> Commercial Fishing <input type="checkbox"/> Hunting <input type="checkbox"/> Inland Pollution <input type="checkbox"/> Incident Report <input type="checkbox"/> Recreational Fishing <input type="checkbox"/> Trapping <input type="checkbox"/> Marine Pollution <input checked="" type="checkbox"/> Other |
| Location/Subject/Incident Name Klamath River/GILLILAND/JONES | | Arresting/Case Officer M. Cervelli #827 Citation Number AD2079331 AD2079332 |

5. Merced (Mariposa and Merced Counties);
6. Mokelumne (Amador, Calaveras and San Joaquin Counties);
7. Scott (Siskiyou County);
8. Trinity (Trinity and Humboldt Counties); and
9. Yuba (Sierra, Nevada and Yuba Counties).

(2) Hose Restriction. The inside diameter of the intake hose may not be more than two inches larger than the permitted intake nozzle size or constricting ring, whichever is smaller.

(3) Pump Intake Screening. The intake for the suction dredge pump shall be covered with screening mesh. Screen mesh openings shall not exceed 3/32 inch (2.38 mm) for woven wire or perforated plate screens, or 0.0689 inch (1.75 mm) for profile wire screens, with a minimum 27% open area.

(4) Suction dredges must include a containment system under the motor and fuel tanks. The containment system must be sufficient in size to completely accommodate the full volume of all fuel, lubricants and chemicals without overtopping or leaking.

After photographing the suction nozzle we prepared to walk back to GILLILAND's vehicle to obtain his identification. JONES' identification was back in Happy Camp at his residence. JONES stayed in camp and we walked with GILLILAND back to the location of the vehicles. While en route back to the vehicle GILLILAND discovered that he had lost his keys to his vehicle. GILLILAND walked back to his camp to attempt to locate his keys. Lt. McDonald and I stood by while Warden Beck and Warden Edwards continued walking to the vehicles. GILLILAND returned and said he could not find his keys. GILLILAND said he had his passport in his RV in Happy Camp.

We transported GILLILAND back to Happy Camp where he obtained his passport for identification.

This case will be forwarded to the Siskiyou County District Attorney's Office for prosecution.

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| Preparer's Name and Badge Number Monty Cervelli #827 | Date 04/25/2015 | Reviewer's Name Lt. Steve McDonald | Date 5/8/15 |
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DEPARTMENT OF FISH AND GAME

NOTICE TO APPEAR FG-900

☒ MISDEMEANOR
☐ Traffic ☒ Non-Traffic

AD2079333

 Date of Violation 5/7/15 Time 3:00 ☐ AM ☒ PM Day of Week THUR Case No.
Name (First, Middle, Last) DITON WILLIAM GILLILAND ☐ Owner's Responsibility (Veh. Code, § 40201)Address PO Box 47City HAPPY CAMP State CA ZIP Code 96039 Phone Number 520 262-8639Driver Lic. No. 0587943 State AK Class - Commercial ☒ Yes ☐ No Age 54 Birth Date 10/31/1960Sex M Hair GRY Eyes BLU Height 6-01 Weight 185 Race W Other Description Veh. Lic. No. or VIN State
 Yr. of Veh. Make Model Body Style Color
Evidence of Financial Responsibility Registered Owner or Lessee ☐ Same as DriverAddress ☐ Same as DriverCity State ZIP Code
 Correctable Violation (Veh. Code, § 40610) ☐ Booking Required ☐ Misdemeanor or Infraction (Circle)

Yes No Code and Section Description

☐ ☒ 565361) CA Fish + Game Code (M) 1
☐ ☐ POSSession of Stolen Property with 100 lbs or more (M) 1 H2O
☐ ☒ 228(KY4)T-14 CCP No Fuel (M) 1
☐ ☐ CONTAINMENT SYSTEM (M) 1
Speed Approx. P.F./Max. Veh. GPS Location of Violation(s) KLAMATH RIVER City/County of Occurrence SISKIYOU COUNTY California Yes/NoEvidence Seized 1 SUCTION DREDGE SYSTEM YELLOW FLAHS FRAME PUMP
☐ Violations not committed in my presence, declared on violation and belief. HOSE + NOZZLE

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct.

 Arresting or Citing Officer 827 Badge No.
Date Name of Arresting Officer, if different from Citing Officer Badge No.

WITHOUT ADMITTING GUILT, I PROMISE TO APPEAR AT THE TIME AND PLACE INDICATED BELOW.

☒ Signature REFUSED TO SIGN

 WHEN: ON OR BEFORE THIS DATE Time ☐ AM ☐ PM

WHAT TO DO: FOLLOW THE INSTRUCTIONS ON THE REVERSE.

 WHERE: Name of Court SISKIYOU SUPERIOR COURT

 Section or Division, Room No. YREKA

 Street Address 311 FOURTH ST. YREKA CA 96097

 Phone Number (530) 847-9157 Ext. Court 47690
☐ Juvenile ☐ To be notified ☐ You may arrange with the clerk to appear at a night session of the court.


AD2079333

COURT COPY

SEE REVERSE TR-130

Judicial Council of California Form

Rev. 09-20-05 (Veh. Code §§ 40500(b), 40513(b), 40522, 40600; Pen. Code § 853.01)

STATE OF CALIFORNIA
DEPARTMENT OF FISH AND WILDLIFE

ARREST/INVESTIGATION REPORT

ENF 6a (1/2013)

Region # NED Page 1 Of 9

| | | |
|---|---|--|
| DATE OF INCIDENT/OCCURRENCE 05/07/2015 | TIME (2400) 1500 Hours | CITY/COUNTY/JUDICIAL JURISDICTION Happy Camp/Siskiyou County |
| "X" ONE <input checked="" type="checkbox"/> Arrest Report <input type="checkbox"/> Formal Complaint | "X" ONE <input checked="" type="checkbox"/> Self Initiated <input type="checkbox"/> Complaint | TYPE OF REPORT ("X" APPLICABLE) <input type="checkbox"/> Commercial Fishing <input type="checkbox"/> Hunting <input type="checkbox"/> Inland Pollution <input type="checkbox"/> CalTIP <input type="checkbox"/> Recreational Fishing <input type="checkbox"/> Trapping <input type="checkbox"/> Marine Pollution <input checked="" type="checkbox"/> Other |

Suspect Information

| | | | |
|--|--|--|------------------------------|
| Name Suspect #1 (First, Middle, Last) Dyton William GILLILAND | Sex <input checked="" type="checkbox"/> M <input type="checkbox"/> F | Date of Birth (MM/DD/YY) 10/31/1960 | Citation Number AD2079333 |
| Suspect Address (Street, Apt., City, State, Zip Code) P.O. Box 1004, Homer, AK, 99603 / P.O. Box 47, Happy Camp, CA 96039 | | | Home Phone 520-262-8639 |
| Business Address (Street, Apt., City, State, Zip Code) | | | Business Phone |
| Identification Type ("X" APPLICABLE) <input type="checkbox"/> CDL/CID <input checked="" type="checkbox"/> Other State DL/ID <input type="checkbox"/> Other ID: Number: AK 0587943 | Suspect Description ("X" APPLICABLE) GENERAL: HAIR: EYES: ETHNICITY: Height: 6-01 <input type="checkbox"/> Bln <input type="checkbox"/> Blk <input type="checkbox"/> Brn <input checked="" type="checkbox"/> Blu <input type="checkbox"/> Brn <input type="checkbox"/> Asian <input type="checkbox"/> Black <input type="checkbox"/> Hispanic Weight: 185 <input checked="" type="checkbox"/> Gry <input type="checkbox"/> Red <input type="checkbox"/> None <input type="checkbox"/> Grn <input type="checkbox"/> Hzl <input checked="" type="checkbox"/> White <input type="checkbox"/> Other: | | |
| Vehicle Type ("X" APPLICABLE) <input type="checkbox"/> Auto <input type="checkbox"/> Vessel <input type="checkbox"/> Other | Description (Make, Model, Year, Color) | License Plate Number/VIN | |

Offenses and Charges

| | |
|---|---|
| <input checked="" type="checkbox"/> F&G <input type="checkbox"/> T-14 <input type="checkbox"/> Other: <input type="checkbox"/> Section: 5653.1(b) Description: Operate a suction dredge without a permit | <input checked="" type="checkbox"/> F&G <input type="checkbox"/> T-14 <input type="checkbox"/> Other: <input type="checkbox"/> Section: 5653(d) Description: Possession of a suction dredge within 100 yards of closed water |
| <input type="checkbox"/> F&G <input checked="" type="checkbox"/> T-14 <input type="checkbox"/> Other: <input type="checkbox"/> Section: 228(k)(3) Description: Oversized intake screen openings | <input type="checkbox"/> F&G <input type="checkbox"/> T-14 <input type="checkbox"/> Other: <input type="checkbox"/> Section: Description: |
| <input type="checkbox"/> F&G <input checked="" type="checkbox"/> T-14 <input type="checkbox"/> Other: <input type="checkbox"/> Section: 228(k)(4) Description: Inadequate fuel containment system | <input type="checkbox"/> F&G <input type="checkbox"/> T-14 <input type="checkbox"/> Other: <input type="checkbox"/> Section: Description: |

Evidence Seized

| | |
|---|---|
| Evidence Description (Amount, Type, Serial Number, etc.) "X" ONE <input checked="" type="checkbox"/> Held <input type="checkbox"/> Returned <input type="checkbox"/> Destroyed <input type="checkbox"/> Other Refer to attached property receipt | Evidence Photographed? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |
| Evidence Description (Amount, Type, Serial Number, etc.) "X" ONE <input type="checkbox"/> Held <input type="checkbox"/> Returned <input type="checkbox"/> Destroyed <input type="checkbox"/> Other | Evidence Photographed? <input type="checkbox"/> Yes <input type="checkbox"/> No |
| Evidence Description (Amount, Type, Serial Number, etc.) "X" ONE <input type="checkbox"/> Held <input type="checkbox"/> Returned <input type="checkbox"/> Destroyed <input type="checkbox"/> Other | Evidence Photographed? <input type="checkbox"/> Yes <input type="checkbox"/> No |

Case Synopsis

On May 5, 2015 I, Warden Monty Cervelli, California Department of Fish & Wildlife (CDFW), received information that Dyton GILLILAND had placed a suction dredge in the Klamath River near Highway 96 milepost marker 36.84. On May 6, 2015, Lt. Steve McDonald, CDFW located the suction dredge and saw GILLILAND near the dredge on the far side of the river. On May 7, 2015, I responded to the location along with other CDFW personnel. The suction dredge was seized as evidence. GILLILAND arrived at the location at approx. 1500 hours. GILLILAND admitted to owning the suction dredge and operating the nozzle in violation of 5653.1(b) of CA Fish & Game Code. GILLILAND told me he would not sign a citation and requested he be arrested and brought before a judge. GILLILAND was taken into custody for possession of a suction dredge within 100 yards of closed water, a violation of 5653(d) of CA Fish & Game Code and for section 228(k)(4) of Title 14, CA Code of Regulations-suction dredge with no fuel containment system. GILLILAND was transported to Siskiyou County Jail. The additional charges of 5653.1(b) of CA Fish & Game Code and section 228(k)(3) of Title 14 of the CA Fish & Game Code-oversized intake screen openings will be filed with the Siskiyou County District Attorney's Office.

See WPD 6b For Additional Suspect and Witness Information "X" ONE ☒ Yes ☐ No

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| Preparer's Name and Badge Number Monty Cervelli #827 | Date 05/08/2015 | Reviewer's Name Lt. Steve McDonald SM | Date 05/08/2015 |
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DA DISCOVERY
PG NO. 28

STATE OF CALIFORNIA
DEPARTMENT OF FISH AND WILDLIFE
NARRATIVE/SUPPLEMENTAL

ENF 6b p.2 (1/2013)

Region #NED Page

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| DATE OF INCIDENT/OCCURRENCE 05/07/2015 | TIME (2400) 1500 Hours | CITY/COUNTY/JUDICIAL JURISDICTION Happy Camp/Siskiyou |
| "X" APPLICABLE <input checked="" type="checkbox"/> Narrative <input checked="" type="checkbox"/> Arrest Report <input type="checkbox"/> Supplemental <input type="checkbox"/> Formal Complaint | | TYPE OF REPORT ("X" APPLICABLE) <input type="checkbox"/> Commercial Fishing <input type="checkbox"/> Hunting <input type="checkbox"/> Inland Pollution <input type="checkbox"/> Incident Report <input type="checkbox"/> Recreational Fishing <input type="checkbox"/> Trapping <input type="checkbox"/> Marine Pollution <input checked="" type="checkbox"/> Other |
| Location/Subject/Incident Name Klamath River/GILLILAND | | Arresting/Case Officer M. Cervelli #827 Citation Number AD2079333 |

1 On May 5, 2015, I, Warden Monty Cervelli, California Department of Fish & Wildlife (CDFW), received
2 information that Dyton GILLILAND had placed a suction dredge in the Klamath River near Highway 96
3 milepost marker 36.84.

4
5 The use of an unpermitted suction dredge is currently prohibited under California Fish and Game Code Section
6 5653.1:

7
8 **5653.1. Vacuum or Suction Dredge Equipment Prohibited; Environmental Impact Review**

9
10 (a) The issuance of permits to operate vacuum or suction dredge equipment is a project pursuant to the California Environmental
11 Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) and permits may only be issued, and
12 vacuum or suction dredge mining may only occur as authorized by any existing permit, if the department has caused to be prepared,
13 and certified the completion of, an environmental impact report for the project pursuant to the court order and consent judgment
14 entered in the case of Karuk Tribe of California et al. v. California Department of Fish and Game et al., Alameda County Superior
15 Court Case No. RG 05211597.

16
17 (b) Notwithstanding Section 5653, the use of any vacuum or suction dredge equipment in any river, stream, or lake of this state is
18 prohibited until the director certifies to the Secretary of State that all of the following have occurred:

19 (1) The department has completed the environmental review of its existing suction dredge mining regulations, as ordered by the court
20 in the case of Karuk Tribe of California et al. v. California Department of Fish and Game et al., Alameda County Superior Court Case
21 No. RG 05211597.

22 (2) The department has transmitted for filing with the Secretary of State pursuant to Section 11343 of the Government Code, a
23 certified copy of new regulations adopted, as necessary, pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of
24 Division 3 of Title 2 of the Government Code.

25 (3) The new regulations described in paragraph (2) are operative

26 (4) The new regulations described in paragraph (2) fully mitigate all identified significant environmental impacts.

27 (5) A fee structure is in place that will fully cover all costs to the department related to the administration of the program.

28
29 (c)(1) To facilitate its compliance with subdivision (b), the department shall consult with other agencies as it determines to be
30 necessary, including, but not limited to, the State Water Resources Control Board, the State Department of Public Health, and the

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| Preparer's Name and Badge Number Monty Cervelli #827 | Date 05/02/2015 | Reviewer's Name Lt. Steve McDonald | Date 5/8/15 |
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STATE OF CALIFORNIA
DEPARTMENT OF FISH AND WILDLIFE
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| DATE OF INCIDENT/OCCURRENCE 05/07/2015 | TIME (2400) 1500 Hours | CITY/COUNTY/JUDICIAL JURISDICTION Happy Camp/Siskiyou |
| "X" APPLICABLE <input checked="" type="checkbox"/> Narrative <input checked="" type="checkbox"/> Arrest Report <input type="checkbox"/> Supplemental <input type="checkbox"/> Formal Complaint | | TYPE OF REPORT ("X" APPLICABLE) <input type="checkbox"/> Commercial Fishing <input type="checkbox"/> Hunting <input type="checkbox"/> Inland Pollution <input type="checkbox"/> Incident Report <input type="checkbox"/> Recreational Fishing <input type="checkbox"/> Trapping <input type="checkbox"/> Marine Pollution <input checked="" type="checkbox"/> Other |
| Location/Subject/Incident Name Klamath River/GILLILAND | | Arresting/Case Officer M. Cervelli #827 Citation Number AD2079333 |

Native American Heritage Commission, and, on or before April 1, 2013, shall prepare and submit to the Legislature a report with recommendations on statutory changes or authorizations that, in the determination of the department, are necessary to develop the suction dredge regulations required by paragraph (2) of subdivision (b), including, but not limited to, recommendations relating to the mitigation of all identified significant environmental impacts and a fee structure that will fully cover all program costs.

(2) The requirement for submitting a report imposed under this subdivision is inoperative on January 1, 2017, pursuant to Section 10231.5 of the Government Code.

(3) The report submitted to the Legislature pursuant to this subdivision shall be submitted in accordance with Section 9795 of the Government Code.

(d) The Legislature finds and declares that this section, as added during the 2009-10 Regular Session, applies solely to vacuum and suction dredging activities conducted for instream mining purposes. This section does not expand or provide new authority for the department to close or regulate suction dredging conducted for regular maintenance of energy or water supply management infrastructure, flood control, or navigational purposes governed by other state or federal law.

(e) This section does not prohibit or restrict nonmotorized recreational mining activities, including panning for gold.

A suction dredge is defined in section 228 of Title 14 of the California Code of Regulations:

Title 14 § 228. Suction Dredging.

The Department has adopted this Section and Section 228.5 pursuant to Fish and Game Code Section 5653.9, and to make specific and otherwise implement Fish and Game Code Section 5653, specifically. Pursuant to that authority, the Department finds that suction dredging subject to and consistent with the requirements of Sections 228 and 228.5 will not be deleterious to fish.

(a) Suction dredging. For purposes of this Section and Section 228.5, the use of any vacuum or suction dredge equipment (i.e. suction dredging) is defined as the use of a suction system to vacuum material from a river, stream or lake for the extraction of minerals. These regulations do not apply to, prohibit or restrict nonmotorized recreational mining activities, including panning for gold.

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| Preparer's Name and Badge Number Monty Cervelli #827 | Date 05/02/2015 | Reviewer's Name Lt. Steve McDonald | Date 5/8/15 |
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| Location/Subject/Incident Name Klamath River/GILLILAND | | Arresting/Case Officer M. Cervelli #827 Citation Number AD2079333 |

61 On May 6, 2015, Lt. Steve McDonald, CDFW, located the suction dredge and saw Dyton GILLILAND
62 standing near the suction dredge. The suction dredge was located on the far side of the Klamath River at a
63 location below Highway 96 at milepost marker 36.84.

64
65 On May 7, 2015, at approximately 1000 hours, I, Warden Monty Cervelli, CDFW, along with Lt. Steve
66 McDonald, Warden Dan Beck, Warden Matt Renner and Warden Paul Cardoza, CDFW, met at a location
67 near Happy Camp.

68
69 At approximately 1200 hours we responded to the location. GILLILAND's truck, a dark colored Toyota
70 Tacoma with Alaska license plate GPK108 was parked at a turnout above the location of the suction dredge.
71 There was a Jeep Cherokee with Oregon license plate 121BDK also parked in the same area. Two individuals
72 in wetsuits were standing on the river bank below the highway, across the river from the suction dredge. We
73 decided to leave the area for approximately 1 hour and return to see if they would begin operating the suction
74 dredge.

75
76 We returned to the location at approximately 1330 hours, and GILLILAND's vehicle was gone. The Jeep
77 Cherokee was still at the location as well as another vehicle. We walked down the trail to the river and met
78 with Dickey and Cherie Melton. The Melton's were legally mining in the area and were friends with
79 GILLILAND. Dickey told me that GILLILAND had left and probably went into Happy Camp. I asked
80 Dickey about the suction dredge across the river and he told me the dredge belonged to GILLILAND and that
81 he had helped GILLILAND lower the dredge down the steep embankment to the river. After a brief
82 conversation both Dickey and Cherie left and went back to their vehicles.

83
84 We retrieved the suction dredge from the far side of the river and seized it as evidence.

85
86 I inspected the components per 5653.3 of the California Fish & Game Code:

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| Preparer's Name and Badge Number Monty Cervelli #827 | Date 05/02/2015 | Reviewer's Name Lt. Steve McDonald | Date 5/8/15 |
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| Location/Subject/Incident Name Klamath River/GILLILAND | | Arresting/Case Officer M. Cervelli #827 | Citation Number AD2079333 |

5653.3. Any person required to possess a permit pursuant to Section 5653 shall present his or her dredging equipment for inspection upon request of a state or county fish and game warden.

During my inspection of GILLILAND's suction dredge I found additional violations of section 228(k) of Title 14 Of the California Code of Regulations:

§ 228. Suction Dredging.

(k) Equipment Requirements.

(1) Nozzle Restriction. No suction dredge having an intake nozzle with an inside diameter larger than four inches may be used unless:

(A) The Department has conducted an on-site inspection and approved a larger nozzle size in writing; the maximum inside diameter of the intake nozzle is no larger than six inches, or eight inches where allowable under subdivision (k)(1)(E); and

(B) The permittee has a valid suction dredge permit; and

(C) The permittee has in their possession documentation of compliance with Fish and Game Code Section 1602, subdivision (a), for the proposed suction dredging operation, including a copy of his/her notification to the Department; any response to the notification by the Department pursuant to Fish and Game Code Section 1602, subdivision (a)(4)(A)(i); and specific authorization from the Department for a vacuum nozzle greater than four inches in diameter if a Lake or Streambed Alteration Agreement is required; or

(D) Except as provided by subdivision (k)(1)(A), a constricting ring with an inside diameter not larger than four inches has been attached to the intake nozzle. This constricting ring must be of solid, one-piece construction with no openings other than the intake and openings not greater than one inch between the constricting ring and nozzle. It must be welded or otherwise permanently attached over the end of the intake nozzle. No quick-release devices are permitted.

(E) Suction dredge intake nozzles up to eight inches in diameter may be permitted at the Department's discretion in accordance with subdivision (k)(1)(A) only on the following rivers:

1. American (Placer and El Dorado Counties);
2. Cosumnes (Sacramento, Amador and El Dorado Counties);
3. Feather (Butte, Plumas and Yuba Counties);

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| Preparer's Name and Badge Number Monty Cervelli #827 | Date 05/02/2015 | Reviewer's Name Lt. Steve McDonald | Date |
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STATE OF CALIFORNIA
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| Location/Subject/Incident Name Klamath River/GILLILAND | | Arresting/Case Officer M. Cervelli #827 Citation Number AD2079333 |

4. Klamath (Del Norte, Humboldt and Siskiyou Counties);
 5. Merced (Mariposa and Merced Counties);
 6. Mokelumne (Amador, Calaveras and San Joaquin Counties);
 7. Scott (Siskiyou County);
 8. Trinity (Trinity and Humboldt Counties); and
 9. Yuba (Sierra, Nevada and Yuba Counties).

(2) Hose Restriction. The inside diameter of the intake hose may not be more than two inches larger than the permitted intake nozzle size or constricting ring, whichever is smaller.

(3) Pump Intake Screening. The intake for the suction dredge pump shall be covered with screening mesh. Screen mesh openings shall not exceed 3/32 inch (2.38 mm) for woven wire or perforated plate screens, or 0.0689 inch (1.75 mm) for profile wire screens, with a minimum 27% open area.

(4) Suction dredges must include a containment system under the motor and fuel tanks. The containment system must be sufficient in size to completely accommodate the full volume of all fuel, lubricants and chemicals without overtopping or leaking.

During my inspection of GILLILAND's suction dredge; I found a violation of section 228(k)(4) requiring that suction dredges have a containment system under the motor and fuel tanks. GILLILAND's suction dredge had one motor with no containment system. I also so that the intake screen on the water intake hose appeared to have oversized openings in violation of section 228(k)(3).

While we were working on getting the suction dredge up the embankment GILLILAND arrived at the location. At approximately 1500 hours I met with GILLILAND and Dickey Melton at the vehicle parking area. GILLILAND told me that the suction dredge belonged to him and that he had been actively using the suction dredge in violation of 5653.1(b) of CA Fish & Game Code for the last 3 days. GILLILAND said he had been waiting for us to arrive and take him to jail. I explained to GILLILAND that he was currently in violation of 5653(d) of the California Fish & Game Code:

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| Preparer's Name and Badge Number Monty Cervelli #827 | Date 05/02/2015 | Reviewer's Name Lt. Steve McDonald | Date 5/8/15 |
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STATE OF CALIFORNIA
DEPARTMENT OF FISH AND WILDLIFE

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| DATE OF INCIDENT/OCCURRENCE 05/07/2015 | TIME (2400) 1500 Hours | CITY/COUNTY/JUDICIAL JURISDICTION Happy Camp/Siskiyou |
| "X" APPLICABLE <input checked="" type="checkbox"/> Narrative <input checked="" type="checkbox"/> Arrest Report <input type="checkbox"/> Supplemental <input type="checkbox"/> Formal Complaint | | TYPE OF REPORT ("X" APPLICABLE) <input type="checkbox"/> Commercial Fishing <input type="checkbox"/> Hunting <input type="checkbox"/> Inland Pollution <input type="checkbox"/> Incident Report <input type="checkbox"/> Recreational Fishing <input type="checkbox"/> Trapping <input type="checkbox"/> Marine Pollution <input checked="" type="checkbox"/> Other |
| Location/Subject/Incident Name Klamath River/GILLILAND | | Arresting/Case Officer M. Cervelli #827 Citation Number AD2079333 |

5653.

(a) The use of any vacuum or suction dredge equipment by any person in any river, stream, or lake of this state is prohibited, except as authorized under a permit issued to that person by the department in compliance with the regulations adopted pursuant to Section 5653.9. Before any person uses any vacuum or suction dredge equipment in any river, stream, or lake of this state, that person shall submit an application for a permit for a vacuum or suction dredge to the department, specifying the type and size of equipment to be used and other information as the department may require.

(b) Under the regulations adopted pursuant to Section 5653.9, the department shall designate waters or areas wherein vacuum or suction dredges may be used pursuant to a permit, waters or areas closed to those dredges, the maximum size of those dredges that may be used, and the time of year when those dredges may be used. If the department determines, pursuant to the regulations adopted pursuant to Section 5653.9, that the operation will not be deleterious to fish, it shall issue a permit to the applicant. If any person operates any equipment other than that authorized by the permit or conducts the operation in any waters or area or at any time that is not authorized by the permit, or if any person conducts the operation without securing the permit, that person is guilty of a misdemeanor.

(c) The department shall issue a permit upon the payment, in the case of a resident, of a base fee of twenty-five dollars (\$25), as adjusted under Section 713, when an onsite investigation of the project size is not deemed necessary by the department, and a base fee of one hundred thirty dollars (\$130), as adjusted under Section 713, when the department deems that an onsite investigation is necessary. In the case of a nonresident, the base fee shall be one hundred dollars (\$100), as adjusted under Section 713, when an onsite investigation is not deemed necessary, and a base fee of two hundred twenty dollars (\$220), as adjusted under Section 713, when an onsite investigation is deemed necessary.

(d) It is unlawful to possess a vacuum or suction dredge in areas, or in or within 100 yards of waters, that are closed to the use of vacuum or suction dredges.

I also explained the violations of 228(k) of Title 14 of California Code of Regulations, that I had found when I inspected the suction dredge.

GILLILAND told me he would not sign a citation and requested to be taken to jail so he could see a judge. I told GILLILAND that he was under arrest and took him into custody.

At approximately 1515 hours I read GILLILAND his rights under Miranda from my departmentally issued

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| Preparer's Name and Badge Number Monty Cervelli #827 | Date 05/02/2015 | Reviewer's Name Lt. Steve McDonald | Date 5/8/15 |
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STATE OF CALIFORNIA
DEPARTMENT OF FISH AND WILDLIFE

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| DATE OF INCIDENT/OCCURRENCE 05/07/2015 | TIME (2400) 1500 Hours | CITY/COUNTY/JUDICIAL JURISDICTION Happy Camp/Siskiyou | |
| "X" APPLICABLE <input checked="" type="checkbox"/> Narrative <input checked="" type="checkbox"/> Arrest Report <input type="checkbox"/> Supplemental <input type="checkbox"/> Formal Complaint | | TYPE OF REPORT ("X" APPLICABLE) <input type="checkbox"/> Commercial Fishing <input type="checkbox"/> Hunting <input type="checkbox"/> Inland Pollution <input type="checkbox"/> Incident Report <input type="checkbox"/> Recreational Fishing <input type="checkbox"/> Trapping <input type="checkbox"/> Marine Pollution <input checked="" type="checkbox"/> Other | |
| Location/Subject/Incident Name Klamath River/GILLILAND | | Arresting/Case Officer M. Cervelli #827 | Citation Number AD2079333 |

176 Miranda advisement card. GILLILAND told me understood his rights. GILLILAND then told me that the
 177 suction dredge belonged to him and that he had been using it. GILLILAND then invoked his right to silence.
 178
 179 I transported GILLILAND to Siskiyou County Jail where he was booked for 5653(d) of the California Fish and
 180 Game Code and 228(k)(4) of Title 14 of the California Code of Regulations.
 181
 182 GILLILAND's suction dredge system was transported to the Yreka CDFW office where it was secured as
 183 evidence. Refer to attached copy of the property receipt.
 184
 185 This case will be forwarded to the Siskiyou County District Attorney's Office for prosecution.
 186

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| Preparer's Name and Badge Number Monty Cervelli #827 | Date 05/02/2015 | Reviewer's Name Lt. Steve McDonald | Date 5/8/15 |
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STATE OF CALIFORNIA
DEPARTMENT OF FISH AND GAME**NARRATIVE/SUPPLEMENTAL**

WPD 6a (10-98)

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| DATE OF INCIDENT / OCCURRENCE 05/06/15 | TIME (2400) 1100 | CITY/COUNTY/JUDICIAL DISTRICT Unincorporated/Siskiyou/Yreka Superior Court District | |
| X* APPLICABLE <input type="checkbox"/> Narrative <input checked="" type="checkbox"/> Supplemental | | TYPE OF REPORT ("X" APPLICABLE) <input type="checkbox"/> Commercial Fishing <input type="checkbox"/> Recreational Fishing <input type="checkbox"/> Hunting <input type="checkbox"/> Trapping <input type="checkbox"/> Inland Pollution <input type="checkbox"/> Marine Pollution <input type="checkbox"/> Incident Report <input type="checkbox"/> Other | |
| Location/Subject/Incident Name Gilliland, Dyton William | | Arresting/Case Officer Warden M. Cervelli | Citation Number |

SUPPLEMENTAL:

On 05/05/15, I received a call from Dispatch regarding a dredge in the Klamath River below Happy Camp. The reporting party called CalTip (Californians Turn in Poachers and Polluters), DFW's confidential secret witness program that encourages the public to provide DFW with factual information leading to the arrest of poachers and polluters. The caller reported seeing a suction dredge in the Klamath River near Highway 96 mile marker 36.9. The caller told me he saw two males near the dredge, and described the dredge as having yellow pontoons.

On 05/06/15, I responded to the area to look for the dredge and plan for its removal. At that location, I saw a suction dredge with yellow pontoons on the south side of the river. Rich Krimm and John Rose, employees of the New 49'ers, were stopped in a turnout above the dredge location. I spoke with them for a few minutes, and they told me that the dredge belonged to Dyton Gilliland. I knew Gilliland from previous dredging contacts in April and May, 2015. A grey Toyota pickup truck, Alaska license plate GPK108, was parked in the turnout. I recognized that truck as belonging to Gilliland. I looked at the dredge location with binoculars, and saw two men near it. One was Dyton Gilliland, who was dressed in a black wetsuit. I did not recognize the other man, and Krimm and Rose said they did not know him. That man was wearing shorts and a T-shirt. Gilliland was carrying a sluice box, and it appeared he was helping the other man set up to mine on the river bank. I left the area after a few minutes.

At about 1300 hours that afternoon, I returned to the area. I saw that the dredge was being operated, but the operator did not surface, so I could not identify him. Gilliland's truck was still parked in the turnout. There were two men on the north side of the river, but I could not identify them. I videotaped the dredge in operation and left the area, with plans to return with sufficient personnel and equipment to remove the dredge.

When I returned to my office that afternoon, I received an e-mail message from a representative of the Karuk Tribe, reporting the same dredging activity.

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| Preparer's Name and Badge Number Wdn. Steven M. McDonald #476 | Date 05/08/15 | Reviewer's Name | Date |
|--|------------------|-----------------|------|

PROSECUTING AGENCY - (WHITE) REGION - (GOLDEN ROD) ADMINISTRATIVE USE - (GREEN) OFFICER - (BLUE)