

# The New 49'ers

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Mark Stopher  
California Department of Fish & Game  
601 Locust Street  
Redding, CA 96001

**SUBJECT:** Retaining biological conclusions from the 1994 suction dredging EIR

Dear Mr. Stopher,

I am president of The New 49'er Prospecting Association, and have actively managed the program in Siskiyou County since 1986. We have 2,000 active members. The results from a survey we performed last year shows that our active members comprise around half the number of suction dredge permits which you sold during 2008. This letter is a close representation of many conversations I personally have had with members of our Association. I believe it represents a full consensus of all our members.

As you may know, our organization was directly involved with the earlier EIR process which was finished in 1994. In case you didn't know, that EIR was actually attempted three times. The first two attempts failed because the Department staff members who initially worked on the process refused to be objective as required by the CEQA Process. Rather, they attempted to use the CEQA process to reach a desired outcome – which was elimination or reduction of suction dredging regardless of the real impacts.

I personally felt that the third attempt, however, was done quite well. By “quite well,” I mean that the Department staff who were involved made every effort to include stakeholders, used integrity to get the bottom of all the issues, and worked out regulatory solutions which mitigated real problems while imposing regulations upon our industry that we were able to work with. The process cut through the rhetoric and worked out solutions based upon the best available science of the time.

The reason for this letter is that we see in your Initial Study Suction Dredge Permitting Program document that it appears as though you are going to completely ignore the biological discussions and conclusions which made up most of the science that supported the 1994 EIR document. Unless we are misunderstanding the nature of your Initial Study Suction Dredge Permitting Program document, it appears as though the Department intends to ignore all or most of the work that was invested in the biology during 1994. It appears as though you intend to begin the biological discussions all over again from the beginning.

There are several reasons why we are voicing strong concern over this:

- 1) First and foremost, an exhaustive amount of work has already been invested in all those biological issues by the Department and by all the stakeholders. Many of the persons involved with that process have since either passed away or retired. Although, last time I visited the Resources Department, Stephanie Coupe was still there. She personally participated in all or most of the process which resulted in the Final EIR during 1994. I strongly encourage you to call her (916 654-3830 is the number I have on file for her) on the subject of how much work it was to finally achieve some balance on the biological issues based upon best available science, and weigh those with all of the other concerns to ultimately reach a balance. Perhaps she can advise you where you might save a lot of work and trouble in this new process.

The reason we are voicing concern is that your Study Suction Dredge Permitting Program document appears to identify every known potential impact concerning suction dredging; but to a very large extent, completely ignores other information, often within the very same studies, which placed those impacts in perspective (localized and not significant to the larger waterway). This gives us a perception that we are going to have to start all over again from the beginning as if all the earlier work from the 1994 EIR is being deleted. That would be very unfortunate!

As we have asked our attorney to comment on our behalf concerning the legal and political history which has brought us to this point, especially concerning the baseline you have chosen, we won't repeat his material here. But we do want to express a strong concern that we believe it would be disrespectful (to all of the earlier Department staff and countless others who have already worked on this) for the Department to discard all or most of the biological discussions and conclusions included within the earlier EIR which have supported our industry since 1994. We would prefer to see these discussions and conclusions acknowledged, with only those being taken up again where new information or circumstances make it necessary. This will save the Department and the various stakeholders countless hours re-debating issues which have already been resolved.

- 2) Since 1994, we have built up a \$60 million annual business in California, all upon the foundation of the 1994 EIR, the pillars which are mainly founded within the biological discussions and conclusions therein.

This is probably not necessary; but as input to this process, we are hereby incorporating all of the biological discussions and conclusions which are contained within the Final EIR from 1994. We are also requesting that in any place where the Department believes the biological conclusions should come out differently in your Draft EIR, that you please take the time to explain the exact reasons why, based upon best available science and factual data (rather than speculation).

Thank you very much for your attention to this mater!

Sincerely,

Dave McCracken