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6 *Kimble et al. and PLP et al.*

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11

12 SUPERIOR COURT OF THE STATE OF CALIFORNIA
13 FOR THE COUNTY OF SAN BERNARDINO
14

<p>15 Coordination Proceeding Special Title (Rule 1550(b))</p> <p>16 SUCTION DREDGE MINING CASES</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p>	<p>Judicial Council Proceeding No. JCPDS 4720</p> <p>REPLY DECLARATION OF ERIC MAKSYMUK IN SUPPORT OF MINERS' JOINT MOTION FOR INJUNCTION AGAINST DEFENDANTS</p> <p>Judge: Hon. Gilbert G. Ochoa Dept.: S36 Date: June 23, 2015 Time: 8:30 a.m.</p>
<p>24 Related Actions:</p> <p>25 <i>Karuk Tribe of California, et al. v. California</i> 26 <i>Department of Fish and Game</i></p> <p>27 <i>Hillman, et al. v. California Department of</i> 28 <i>Fish and Game</i></p>	<p>RG 05211597 – Alameda County</p> <p>RG 09434444 – Alameda County</p>

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Karuk Tribe of California, et al. v. California Department of Fish and Game

RG 1263796 – Alameda County

Kimble, et al. v. Kamala Harris, Attorney General of California, et al.

CIVDS 1012922 – San Bernardino County

Public Lands for the People, et al. v. California Department of Fish & Game, et al.

CIVDS 1203849 – San Bernardino County

The New 49'ers, et al. v. State of California; California Department of Fish and Game, et al.

SCCVCV 120048 – Siskiyou County

Foley, et al. v. State of California; California Department of Fish and Wildlife, et al.

SCSCCV 13-00804 – Siskiyou County

Walker v. Harris, et al.

34-2013-80001439 – Sacramento County

1 I, Eric Maksymyk declare:

2 1. I am a plaintiff and make this reply declaration in further support of the Miners'
3 Joint Motion for Injunction against Defendants.

4 2. Attached as Exhibit 1 is a true copy of the complaint the Western Mining Alliance
5 made to the Department of Interior Inspector General concerning the conduct of Dr. Charles
6 Alpers in the conduct of the study which supported the SEIR. I investigated the circumstances
7 giving rise to the complaint and have personal knowledge, or personal knowledge derived from
8 public records, about these matters.

9 3. In evaluating the testimony of Dr. Carrie Monahan offered in opposition to the
10 Miners' motion for an injunction, it is important to understand she is employed by the Sierra
11 Fund, an advocacy group dedicated to opposing gold mining in California, and maintains a
12 financial interest in these matters. The Sierra Fund has worked closely with Dr. Alpers,
13 according to the Sierra Fund's public records, in that effort. As acknowledged by the
14 Department of Interior Inspector General Report, Dr. Alpers was a donor to the Sierra Fund and
15 received funding from the California Regional Water Quality Board to conduct the mercury
16 study. Dr. Alpers acknowledges in the DOI report the Water Board communicated to him they
17 desired to ban suction dredging.

18 4. Dr. Monahan claims in carefully-worded testimony that Dr. Alpers is an "agency
19 advisor" and that the "role of an agency working group advisor is to ensure that their agencies'
20 roles, responsibilities and actions are appropriately characterized". However, public records
21 show his relationship with the Sierra Fund goes much further than a casual advisor. Dr. Alpers
22 has made repeated public appearances with Dr. Monahan and other representatives of the Sierra
23 Fund in support of the group's anti-mining agenda, a role that clearly goes well beyond making
24 sure that U.S. Geological Survey roles, responsibilities and actions are appropriately
25 characterized". Dr. Monahan's testimony does not contradict a finding that Dr. Alpers' activities
26 extend to issue advocacy and not mere agency representation.

27 5. Dr. Monahan's comment that the Investigative Report did not find any evidence
28 of scientific misconduct or conflict of interest is true and I acknowledged this in my previous

1 declaration. That the DOI IG made this finding doesn't surprise me, but it doesn't change the fact
2 that a US Geological Survey scientist was a donor and advisor of an anti-mining advocacy group
3 at the same time he was performing perhaps the most critical study in regards to the future of
4 suction dredging. Nor does it change the fact the Water Board, which financed the study
5 communicated to Dr. Alpers they desired to ban suction dredging. The ordinary, non-PhD
6 citizen, may perceive a conflict of interest there, but I will acknowledge again the Department of
7 Interior found no issue with this.

8 6. Whether this apparent conflict of interest had any bearing on the results is not as
9 important as why data which supported a different conclusion was omitted from the SEIR. It
10 would seem highly significant that the first year of the study used an actual suction dredge,
11 which was instrumented, and data was collected, but wasn't mentioned in the EIR. Instead the
12 EIR chose to selectively use highly speculative information which was achieved by conducting
13 an experiment which didn't simulate a suction dredging in the least.

14 7. Dr. Monohan's claim (Monahan Decl. at 15) that the previous sampling
15 acknowledged by Dr. Alpers was from different locations and under different circumstances is
16 misleading, but factually correct. The reported sampling locations shows overlap of some
17 sampling sites, and with so few years of data available the additional data set should have been
18 used.

19 8. For example, the sample site SY-47 used in 1999, 2000 and 2001 sampling was
20 located at the South Yuba River at Edwards crossing (lat/long 39.19.49; 120.59.3), while
21 sampling site SYR-7, 2007-2008, is also shown as the South Yuba River at Edwards crossing
22 (39.19.48; 120.59.7). In these measurements, the third number is "seconds" of latitude or
23 longitude. To give an idea of what it means to have two sites that are different by one second of
24 latitude or longitude, at 38 degrees north latitude, one second of latitude is 101 feet of distance;
25 one second of longitude is 80 feet.

26 9. All of the sampling sites were within reasonable distance of the South Yuba River
27 to be considered within the South Yuba River study area. The fact remains Dr. Alpers previously
28 collected data from sites which were reasonably the same, but either didn't disclose this

1 information to the Water Board, or the Water Board chose to ignore it, however, the data did
2 exist and when additional years of data are included the results show a natural variability in
3 methylmercury levels which appear to be correlated to annual flood levels, no causal effect
4 related to suction dredging could be established..

5 10. When a study, such as that conducted in the EIR, has so very little data on which
6 to base a conclusion, it is reasonable to include prior years sampling of the same insects, within
7 the same general area to evaluate the reasonableness of the conclusions. The failure to disclose
8 additional data existed had a profound impact on the outcome of the water quality section.

9 11. With respect to Dr. Monahan's claim that work was "peer-reviewed" there is no
10 evidence anyone, anywhere, reviewed the experiment design, the data or how the results were
11 achieved and whether the results accurately simulated a suction dredge. In a personal
12 communication on May 10th, 2010, with Mr. Rick Humphries, lead for the California Regional
13 Water Quality Board for preparing the water quality section, he acknowledged to me "peer-
14 reviewers" were paid by the Water Board under contract to review the DSEIR. There is no
15 evidence that any peer reviewer looked at Dr. Alper's underlying research. Instead, the Water
16 Board sent questionnaires to the reviewers asking them to endorse general conclusions, based on
17 documents provided by the Board, such as "Available evidence suggests that suction dredging
18 has the potential to contribute substantially to . . . watershed mercury loading."¹ Being a paid
19 "peer reviewer" makes them contract employees of the Water Board.

20 12. Ordinary citizens would also find it remarkable that after speculating suction
21 dredges are a substantial source of mercury loading and then banning their operation, the
22 scientists would then cease nearly all mercury testing that could provide evidence of this theory.
23 The anti-suction dredging witnesses do not explain why mercury sampling in primary dredging
24 rivers ceased the year after the dredging ban.

27
28 ¹ The Water Board's instructions appear on its website at:
[http://www.waterboards.ca.gov/water_issues/programs/peer_review/docs/dfg_suction_dredging/
pr_application_suctiondredging.pdf](http://www.waterboards.ca.gov/water_issues/programs/peer_review/docs/dfg_suction_dredging/pr_application_suctiondredging.pdf)

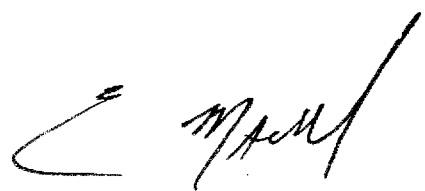
1 13. Finally, Dr. Monahan does not dispute the Water Board communicated to Dr.
2 Alpers they wanted to ban suction dredging, and suction dredges wouldn't be the solution to
3 mercury remediation. Both the Department and Dr. Alpers acknowledge the Water Board
4 contributed the majority of the funding for Dr. Alpers dredging study.

5 14. I do not hold a Ph.D in chemistry and do not represent myself as an expert in the
6 chemical processes involving mercury, or in the measurement of trace amounts of mercury, but I
7 am qualified to analyze data collected by those who are. Having previously been entrusted with
8 this nation's most sensitive and highly classified intelligence, where mistakes in analysis cost
9 lives, I find the conduct, analysis and conclusions of the mercury study deplorable. Until a few
10 years ago, I believed scientists only sought the truth. I know differently now. After 60
11 continuous years of suction dredging I would expect the opposition to be able to point to
12 concrete, not theoretical, examples of irreparable harm. If it hasn't happened in 60 years it is
13 unlikely to happen this year.

14 I certify under penalty of perjury under the laws of the State of California that the
15 foregoing is true and correct.

16 Executed on June 17, 2015.

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Eric Maksymyk



PO Box 33218 • Reno, NV • 89532

Department of the Interior
Inspector General
1849 C Street
Washington DC 20240

Department of the Interior
Western Region, Office of the Inspector General
2800 Cottage Way
Suite E-2712
Sacramento CA 95825

28 April 2014

SUBJECT: Alleged Scientific Misconduct of Dr. Charles Alpers of the US Geological Survey
REFERENCE: USGS FOIA Request 2013-00085 dated June 19, 2013 and follow up dated 5
December 2013

Dear DOI Inspector General;

We would like to start this letter out acknowledging we have the utmost respect for the US Geological Survey. They've done some excellent work over the years. However, the conduct of a USGS scientist has led us to question his impartiality and bias in regards to issues which are currently being litigated in California.

Background

There is ongoing controversy in California over the use of suction gold dredges. The State has placed a moratorium on the use of this equipment based on the results of a 2011 Environmental Impact Report, which among other things, focused on the potential of these devices to release mercury into the watershed.

EXHIBIT 1
PAGE 1 OF 11

The moratorium was emplaced in large part because of the findings of a USGS report which evaluated the effects of suction dredges in re-suspending mercury (USGS Open File Report 2010-1325A). The report found, based on the measurements of biota, which included measuring insect larvae in the stream, suction dredges had the potential to increase the levels of methylmercury in biota.

The 2011 EIR stated only two years of data were available for this testing: 2007- 2008. In 2007 suction dredges were operating on the South Yuba River where the test was conducted. In 2008 suction dredges were prohibited from running. Dr. Alpers sampled insects from 2007 and then from 2008. He concluded 2008 measurements were 20% higher than 2007 and these results could be attributed to suction dredges, however, he qualified the statement with more data would need to be examined to establish the link.

Based largely on this conclusion, that suction dredges could be contributing increases in methylmercury to biota, the State banned the use of these dredges and we are now in litigation which has cost California over \$2.5 million, and has cost us hundreds of thousands of dollars as well as prohibiting over 3,600 suction dredge miners from working their federal mining claims.

The statement there were only two years of data available is false. We submitted a Freedom of Information (FOIA) to the USGS in June 2013 and we received data for 1999, 2000, 2001, 2002 and 2012. The FOIA request was forwarded from USGS to Dr. Alpers. It appears Dr. Alpers had sufficient data to have led to a completely different conclusion. A visual representation of this data is provided in Attachment C.

Withholding this data has resulted in serious harm to suction dredge miners, and cost millions in litigation. He should have been forthcoming with all the data in support of the EIR.

We alleged bias. In 2007 a Charles Alpers is listed as a member/donor of the environmental group The Sierra Fund, which has acknowledged authoring the legislation which banned suction dredges (See Exhibit B). In 2007 Dr. Alpers was conducting the mercury testing to determine if suction dredges would be allowed to operate.

Further, Dr. Alpers has spent a considerable amount of time supporting The Sierra Funds efforts to ban various types of mining, and receive state and federal funds in grants. As a matter of public record Dr. Alpers most recently supported a 24 March 2014 briefing by the Sierra Fund to the California State legislature. (See Exhibit A)

In fact, there are few Sierra Fund events where Dr. Alpers is not present in a professional capacity.

Our concern isn't who Dr. Alpers associates with, but when he is the author of a study on suction dredging, and allegedly belongs to an environmental group whose express purpose is to ban dredging it appears to be a conflict of interest.

We believe the withholding of data to support the conclusions is a serious matter. We've spent thousands of hours preparing for litigation and one fact keeps returning to us. The mercury study was biased.

We request you review Dr. Alpers work in the cited report and determine whether he intentionally held this data back. We respectfully request you examine his professional relationship with the Sierra Fund which presents a conflict of interest. We would appreciate it if you would provide the report, USGS Open File Report 2010-1325A, to independent USGS scientists, who have no association with Dr. Alpers, to review the experiment design and the analysis which led to the conclusions. We believe scientific scrutiny of this work would be warranted. If you set out to prove mercury is a problem, you certainly can, but we believe he is so deeply immersed in the environmental issues he has lost his objectivity as a scientist.

We have a great deal of respect for the work of USGS, and we've never had cause to question their motives or science. Dr. Alpers repeated support of the objectives of the Sierra Fund leads us to conclude he is using his professional capacity to support a private organization.

Thank you for your attention to this.

Respectfully,

Craig Lindsay
President, Western Mining Alliance

Copies Furnished

Congressman Doug LaMalfa
506 Cannon HOB
Washington, DC 20515

Congressman Tom McClintock
333 Cannon HOB
Washington, DC 20515

Congressman John Campbell
2331 Rayburn Building
Washington, DC 20515

MS Kathleen Benedetto
House Subcommittee on Energy and Mineral Resources
1333 Longworth HOB
Washington, DC 20515

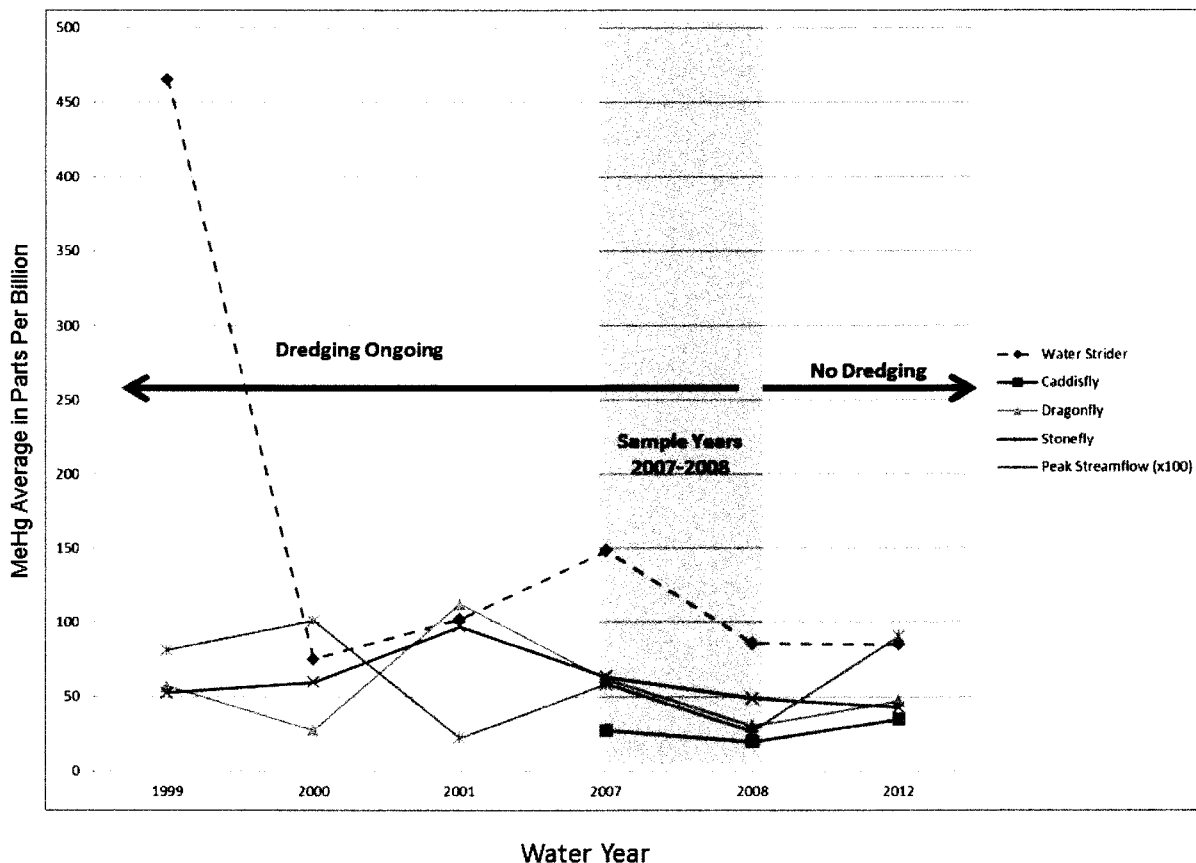
Senator Ted Gaines
State Capitol, Room 3070
Sacramento, CA 95814

Assembly Member Dan Logue
PO Box 942849, Room 4158
Sacramento, CA 94249

Pacific Legal Foundation
930 G Street
Sacramento, CA 95814

Mountain States Legal Foundation
2596 South Lewis Way
Lakewood, CO 80227

Mercury Measurements of Insects in S. Yuba River Over Time



The above data shows three things. First, the pink highlighted area provides the two years of data which Dr. Alpers provided as “the only existing data” which led to the conclusion the drop in methylmercury levels between 2007 – 2008 was attributed to the dredging prohibition.

However, at the same time Dr. Alpers possessed data from multiple years prior which clearly show there is significant variability in methylmercury levels within the South Yuba River. Additionally the recently released data shows this variability continues in the measurements recorded in 2012. In fact the measured levels of MeHg have increased from the point where dredging was prohibited.

The suction dredge miners have spent hundreds of thousands of dollars litigating this matter. It is not insignificant to be responsible for a moratorium on the methods which over 3,600 people use to derive money. It is especially troubling when the complete data was available, but the selective use of data served to distort the facts. It is deceptive to use only two years of data when he clearly knew there was wide variability in readings from year to year. This failure to disclose has led to a five year moratorium, legal costs by the state of California of over \$2.5 million and legal costs by the miners in the hundreds of thousands.

The Sierra Fund 2007 Organizational Report

The Sierra Fund's mission is to save the Sierra Nevada by increasing public and private investment in the natural resources and communities of the range. We pursue this mission through philanthropy, advocacy and strategic campaigns.

Board of Directors

Patty Brissenden, Chair
John Regan, Secretary
Greg Francis, Treasurer
Esther Feldman

John Hellwig
Jerry Meral, PhD
Rob Moser, CFP

Staff

Elizabeth "Izzy" Martin, CEO
Emily Rivenes, Operations Manager and
Financial Controller
Kerry Morse, Communications and
Administrative Assistant

Our activities in 2007 have positioned us with increased capacity and a clear vision of our goals and objectives for years to come.

STRATEGIC CAMPAIGNS

Throughout 2007, The Sierra Fund worked closely with the Sierra Nevada Conservancy (SNC) and Velocity7 marketing firm to develop the Conservancy's SPECIALTY LICENSE PLATE PROGRAM. In the spring, The Sierra Fund sponsored the SNC Logo Design Competition, attracting more than 234 entries from school age kids throughout the Sierra region. We awarded \$10,500 in grants to the winning designers and their schools. Over the rest of the year, we developed a Memorandum of Understanding between The Sierra Fund and the SNC outlining leadership roles in the campaign to sell 7,500 specialty SNC license plates, and hired Velocity7 again to formulate a marketing strategy. These activities left us in an excellent position to launch the license plate campaign with the goal of securing ongoing, sustainable funding for the Conservancy's grant programs.

Our GOLD MINING'S TOXIC LEGACY INITIATIVE, now in its second year, has developed the first-ever comprehensive report describing the impacts of toxins from the Gold Rush on the human and environmental health of the Sierra, and presenting recommendations for action to address this enormous, neglected issue. This report outlines a plan of action for decades to come, and calls on state and federal governments and philanthropic partners to join the effort. Scientists, native tribes, conservation organizations, health professionals, legislators and government agencies have all participated in the success of this crucial new environmental justice initiative.

ADVOCACY

The Sierra Fund maintained a voice in the Capital for Sierra investment throughout the year. While statewide budgets suffered cuts, the Governor approved full funding for the 2007/08 SNC budget, and in early 2008 proposed an increase in funding for the 2008/09 year. Participants in our 2007 Sierra Day in the Capitol, co-sponsored by the Sierra Nevada Alliance, thanked legislators for supporting the SNC budget, and distributed a portfolio of "Sierra Conservation Projects" demonstrating Sierra funding needs. We also brought government attention to the issue of historic mining toxins, including the impact of suction dredging for gold in riverbeds contaminated by mercury.

PHILANTHROPY

Our philanthropic services program has invested funds and technical support in organizations tackling climate change, land use, development, and public access. We distributed \$274,498 in grants and loans to organizations committed to the future of the Sierra, and other interests as directed by our donors.

We are grateful for the participation and support of our many partners, allies and donors. They have made 2007 a successful year, and we look forward to pursuing these activities for years to come.

For the Sierra,



Elizabeth "Izzy" Martin, Chief Executive Officer

**432 Broad Street, Nevada City, CA 95959
530.265.8454 ~ www.sierrafund.org**

DONORS ~ 20

\$50,000+

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\$1,000-\$4,999

\$250-\$999

Many thanks to
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leverage further
in the Sierra w
make \$274,4
grants and loans
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and
Stirling
Stirling and Brian G.
Stifter
Anton J. Stifter
Evelyn Stivers
Richard S. Taylor and Tracy
Grubbs
Nancy and John Wagner
Wallace
John C. Weaver, Jr.
Weaver
Weaver

ATTACHMENT A: Sampling of Sierra Fund/Alpers Collaboration

MARCH 2014

Monday, March 24, 2014, 1:30 p.m. State Capitol, Room 447

I. Impact on Public Health and the Environment

- The Sierra Fund – Carrie Monohan, Science Director
- California Indian Environmental Alliance – Sherri Norris, Executive Director
- Habematolel Pomo of Upper Lake – Paula Britton, Environmental Director
- Elem Indian Colony – Thomas Brown

II. Defining the Problem and Effective Solutions

- U.S. Geological Survey – Charles Alpers, Research Chemist, California Water Science Center
- U.C. Davis – Dr. Fraser Shilling, Department of Environmental Science and Policy
- June 21, 2012
- Tags: brownfields, conference, Deer Creek, media coverage, Nevada City
- Kathleen Masterson, environmental reporter for Capital Public Radio, attended The Sierra Fund's tour of Deer Creek as part of our Reclaiming the Sierra conference. She put together an excellent story on mining impacts in this watershed, which aired on May 21 and features our conference speakers including Shelly Covert of Nevada City Rancheria, Jason Muir of Holdrege and Kull, Kyle Leach of Sierra Streams Institute, and Dr. Charlie Alpers and Jacob Fleck of USGS.

NOVEMBER 2011

NEVADA CITY, 7 November 2011 – The Sierra Fund made a big splash at the recent National Association of Abandoned Mine Lands Programs Conference held in Squaw Valley, CA. The Conference was cosponsored by the states of California and Nevada, and brought together participants in 35 federally funded state and tribal government remediation programs from around the country to talk about challenges and opportunities in abandoned mine remediation activities.

TSF staff was invited to make four separate presentations at the conference, and we had a booth to distribute our materials and Summit announcements all three days of the event. We were astonished to learn that we were the first non-profit organization to ever attend the conference, much less speak at the event or have a table.

Our presentations were enthusiastically received, especially the tour of the Humbug Creek watershed project that our Science Director, Dr. Carrie Monohan, led alongside US Geological Survey scientist Dr. Charles Alpers.

SEPTEMBER 2010

Reclaiming the Sierra: Summit on Nov. 8 & 9

Gold Country Community Summit on Historic Mining Impacts November 8 & 9, 2010 - Miners Foundry - Nevada City California

Published on Sep 27, 2010 - 11:56:27 AM

By: Sierra Fund

Nevada City CA, September 27, 2010 - The Sierra Fund (www.sierrafund.org) announced today that it will be hosting the first annual public conference on how to address the ongoing human health, environmental and cultural impacts of over a century of mining in the Sierra Nevada.

For detailed information and to register for the Summit, visit www.sierrafund.org/MiningSummit.

"The Sierra Fund has been working for five years now on our Mining's Toxic Legacy Initiative," says CEO Elizabeth "Izzy" Martin, "bringing together scientists, regulators, healthcare providers, elected officials and decision makers at the local State and Federal level to address these issues. With Reclaiming the Sierra we will bring the public and experts from a broad array of disciplines together to discuss the past, the present, and more importantly what we can do moving forward in dealing with California's oldest and longest neglected environmental disaster."

The Conference program covers a spectrum of topics including:

- Stimulating Gold Country Economies
- Tribal Peoples Leading Cultural & Environmental Healing
- Remediation Case Studies & Technologies
- Green Mining
- Smart Growth & Building a Remediation Workforce
- Identifying Human Exposure
- Encouraging Voluntary Cleanups
- Financing Remediation
- Federal 1872 Law Mining Reform to Clean up the West's Oldest "Brownfields"

Confirmed Keynote Speakers for Reclaiming the Sierra are:

Jane Hightower, M.D.

Dr. Hightower is widely acknowledged as the first U.S. physician to recognize low-level mercury poisoning in patients who regularly consume certain types of fish. Dr. Hightower's book, *Diagnosis: Mercury: Money, Politics, and Poison*, has been widely acclaimed and has brought the issue of mercury

in fish to national attention.

Gray Brechin, Ph.D.

Dr. Brechin is a historical geographer, frequent radio and television guest, and a popular public speaker. He is currently a visiting scholar in the U.C. Berkeley Department of Geography. His book, *Imperial San Francisco: Urban Power, Earthly Ruin*, is a celebrated history of those who gained power through Sierra resources including mining, ranching, water and energy.

Other Speakers Include: Steve Wilensky, Calaveras County Supervisor; Don Ryberg, Tsi-Akim Maidu Tribe; John Lane, Teichert Aggregates; Randy Adams, Department of Toxic Substances Control; Elizabeth Russell, Trout Unlimited; Tim Vendlinski, Sustainable Conservation; Reinetta Senum, City Council Nevada City; Jason Rainey, SYRCL; Fran Spivy-Weber, State Water Resources Control Board; Dr. Charles Alpers, US Geological Survey; Lauren Pagel, EARTHWORKS; William Finley, Private Industry Council, Elizabeth Martin, The Sierra Fund

The Sierra Fund's Mining Project Organizer, Mike Thornton states: "We have an impressive array of speakers coming to Nevada City for this conference, and we're excited to offer the public an important role in this process as we work to craft solutions and move forward on these important issues. In addition, holding Reclaiming the Sierra at the historic Miners Foundry (www.minersfoundry.org) is a fitting symbol of where we've come from and where we are today."

Founded in 2001, The Sierra Fund is the only nonprofit community foundation dedicated to the Sierra Nevada. Our mission is to increase public and private investment in the natural and human resources of the region.

AUGUST 2010

Delta Tributaries Mercury Council, Minutes August 24th, 2010

BLM mine site clean ups (Carrie Monohan, The Sierra Fund; Jacob Fleck, USGS)—BLM has selected a site on Deer Creek called Stocking Flat to assess for mercury contamination from hydraulic mining debris deposits. BLM has partnered with USGS scientists Charlie Alpers, Jacob Fleck, and Rodger Hothum. BLM received ARRA funds to assess their lands in the Deer Creek watershed. They have completed an RSI with Westin Solutions. And contracted the EE/CA to URS, Holdrich and Kull and The Sierra Fund. The Sierra Fund will be assisting with community relations.

MARCH 2008

Mining's Toxic Legacy Report from the Sierra Fund

March 9, 2008

The Hearing

At the hearing, Martin presented a summary of the report to members of the three Assembly Committees, highlighting top priorities for the state legislature to address this year, calling for the state to do a thorough assessment of state owned lands for mining toxins, and to prepare and fund a plan for remediation in collaboration with area residents and tribes. She also called for development of a new Mining Toxin Working Group with university and agency scientists, tribes and other community leaders to learn more about human health impacts, distribution and behavior of toxins, and how to remediate mining toxins. Other top recommendations for action this year include directing the Sierra Nevada Conservancy to coordinate these efforts among local, state and federal agencies, and calling for reform of suction dredging for gold mining regulations.

Speakers at the hearing included Don Ryberg of the Tsi-Akim Maidu Tribe, Dr. Charles Alpers of USGS, Rick Humphreys from the State Water Resources Control Board, Cy Oggins from California Department of Conservation Abandoned Mine Lands Unit, scientists from CALFED, Kathryn Tobias from California State Parks, and Dr. Carrie Monohan from the Sierra Nevada Science Institute. All speakers presented information about the health, environmental or cultural impacts of the Gold Rush. In addition, more than a dozen members of the public spoke at the conclusion of the hearing, urging the Assembly to take action to address mining's toxic legacy.

MARCH 2008

Minings Toxic Legacy, published by the Sierra Fund in March 2008

Agency Science and Policy Advisors:

Several local, state and federal agencies participated as resources to the project, working with The Sierra Fund to ensure that this report accurately characterizes their agencies' roles, responsibilities and actions.

Dr. Charles Alpers

US Geological Survey

Diane Colborn

CA State Assembly Water, Parks & Wildlife Committee

Rick Humphreys

State Water Resources Control Board

David Lawler

US Bureau of Land Management

Caroll Mortensen

CA State Assembly Environmental Safety & Toxic Substances Committee

Cy Oggins

CA Department of Conservation

1 PROOF OF SERVICE

2 I, Carole Caldwell, hereby declare under penalty of perjury under the laws of the State of
3 California that the following facts are true and correct:

4 I am a citizen of the United States, over the age of 18 years, and not a party to or
5 interested in the within entitled cause. I am an employee of Murphy & Buchal, LLP and my
6 business address is 3425 SE Yamhill Street, Suite 100, Portland, Oregon 97214.

7 On June 17, 2015, I caused the following document to be served:

8 **REPLY DECLARATION OF ERIC MAKSYMUK IN SUPPORT OF MINERS' JOINT
9 MOTION FOR INJUNCTION AGAINST DEFENDANTS**

10 by transmitting a true copy in the following manner on the parties listed below:

11 Honorable Gilbert Ochoa
12 Superior Court of California
13 County of San Bernardino
14 San Bernardino Justice Center
247 West 3rd Street
San Bernardino, CA 92415-0210
Via U.S. Mail

Chair, Judicial Council of California
Administrative Office of the Courts
Attn: Court Programs and Services Division
(Civil Case Coordination)
455 Golden Gate Avenue
San Francisco, CA 94102
Via U.S. Mail

15 Bradley Solomon
16 Deputy Attorney General
17 455 Golden Gate Avenue, Suite 11000
18 San Francisco, CA 94102-7004
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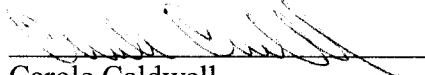
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