



January 14, 2020

RE: Support for HB 1261 and SB 6149 – Compliance with Clean Water Act & Motorized Mining

Dear Members of the Washington Legislature:

The undersigned 142 conservation, recreation, and wildlife organizations, faith leaders and local businesses, from all parts of Washington State, support HB 1261 and SB 6149. We are joined by Indian tribes, state agencies, the Office of the Attorney General, local governments, and academic leaders. The legislation would

protect water quality and fish habitat from motorized suction dredge mining. We ask for your support in passing this legislation in the 2020 Legislative Session.

Suction Dredge Mining Presents a Significant Threat to Washington's Rivers, Fish and Wildlife

Motorized suction dredge mining is a form of mining that uses gas-powered dredges to vacuum-up rocks, gravel, and sediment from the bottom of creeks and rivers to search for gold. The impacts to our rivers and waterways and endangered fish populations are significant and directly contradict significant investment in salmon habitat and river restoration by the federal, tribal, state and municipal governments here in Washington.

Scientific studies show suction dredging degrades water quality through erosion and sedimentation, and mobilization of mercury and other heavy metals; impacts fish and the aquatic food web by destroying aquatic habitat, physically "processing" fish and aquatic life, creating fish stranding risks, and denuding riparian vegetation.

In filing a brief with the federal 9th Circuit in support of Oregon and California laws regulating motorized mining, Washington State's Attorney General Bob Ferguson highlighted the impacts of this unregulated activity on our fish and wildlife resources:

"In fact, Oregon's statute reflects a scientific consensus about the serious environmental risks posed by suction dredge mining and need for adequate regulation . . . Suction dredge mining can harm fish, including endangered salmonids, by disrupting spawning, creating unstable tailings, and killing eggs and larvae . . ."

Motorized suction dredge mining is harming water quality and fish habitat in Washington's rivers and creeks across the state, including areas like the Yakima Basin, Upper Columbia, Lewis River, Spokane River, and Puget Sound rivers such as the Skykomish, Skagit, and Nooksack. In some areas, suction dredge mining is allowed in rivers and streams closed to all other recreational activities, such as Nason Creek.

Impacted areas include ESA-designated Critical Habitat for Chinook salmon, which are the primary food source for our endangered population of Southern Resident Killer Whales (orcas). Protecting the water quality and habitat from motorized mining benefits salmon and helps increase the prey base for our orca population, as well as supporting economically vital sport, commercial, and tribal fisheries.

Additionally, several tribes, including the Snoqualmie Tribe, Yakama Nation, Quinault Indian Nation, Tulalip Tribes and Sauk-Suiattle Indian Tribe, support this legislation because of the unacceptable impacts it would have on their reserved treaty rights to fish and wildlife resources and the impact to their tribal lifeways which depend on quality fish habitat and healthy rivers and streams.

A legislative Solution Is Needed Now

Washington's current regulations allow suction dredge mining in virtually all waterways, including areas designated as Critical Habitat under the Endangered Species Act (ESA), without requiring permits or monitoring. This activity is occurring largely unchecked in Critical Habitat for Chinook salmon, the primary food source for our struggling Southern Resident Killer Whale population.

Suction dredge miners in Washington State enjoy what essentially amounts to a blank check: there are no fees; no permits required; and no tracking and accountability. While the Washington Department of Fish and

Wildlife is currently engaged in a rulemaking process that will likely result in the requirement that miners apply for individual permits, this does not address impacts to ESA Critical Habitat and other concerns. A legislative solution is necessary.

Other States Have Taken Action – Washington State Has Not

Washington is the only state with populations of Endangered Species Act (ESA)-listed Pacific salmon and steelhead that still allows suction dredge mining and other forms of motorized mineral prospecting without requiring permits or regulatory oversight. Federal courts have recently ruled that discharges from motorized mining must comply with the federal Clean Water Act. Oregon, California, and Idaho have all enacted programs to comply with the Clean Water Act and protect Endangered Species Act (ESA)-listed fish species, but Washington State has not.

Effective and commonsense rules limiting suction dredging in our neighboring states of Oregon, California, and Idaho have displaced miners that have now moved into Washington State, creating much greater pressure on our streams and a dangerous situation for our water quality and native fish. Federal courts have ruled that even older federal mining claims are still subject to state and federal environmental regulation – including Clean Water Act requirements.

Non-Motorized Mining, and Motorized Mining in Non-ESA Critical Habitat Is Still Allowed

The bills also allow for recreational mining to continue in Washington State. HB 1261 and SB 6149 will protect areas most important to ESA-listed salmon, steelhead, and other native fish by ensuring compliance with the Clean Water Act and prohibiting motorized mining in Critical Habitat. But the bills still allow less harmful non-mechanized forms of recreational mineral prospecting, such as gold panning and manual sluice boxes, even in ESA critical habitat. Outside of ESA critical habitat areas, motorized mining is also allowed, but must comply with state water quality laws and the Clean Water Act – ensuring that Washington State is consistent with recent federal court decisions.

These bills are supported by a diverse coalition including recreation, conservation, academic, environmental, business, and tribal interests from all parts of Washington State. Please join us in supporting HB 1261 and SB 6149 and passing these bills in 2020.

Sincerely,

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