



Representative Clem  
Chair, House Agriculture and Natural Resources Committee  
900 Court St. NE, H-478  
Salem, Oregon 97301

Representative McClain  
Vice-Chair, House Agriculture and Natural Resources Committee  
900 Court St NE, H-477  
Salem, Oregon 97301

Representative Sprenger  
Vice-Chair, House Agriculture and Natural Resources Committee  
900 Court St NE, H-388  
Salem, Oregon 97301

February 17, 2017

**RE: Rogue Riverkeeper Testimony on the Suction Dredge Mining Provisions in HB 2106**

Dear Chair Clem, Vice-Chair McClain, Vice-Chair Sprenger, and members of the Committee:

My name is Stacey Detwiler and I am the Conservation Director of Rogue Riverkeeper based in Ashland, Oregon. On behalf of our more than 3,500 members and supporters, Rogue Riverkeeper works to protect and restore clean water and native fish in the Rogue watershed. We work to safeguard the health of the Rogue River to improve water quality across the 3.3 million acres of the Rogue Basin. Thank you for the opportunity to provide comment on HB 2106.

HB 2106 includes two provisions related to suction dredge mining, which is a form of recreational gold mining that involves vacuuming up riverbeds through a hose using a motorized floating dredge. Suction dredge mining has increased in Oregon over the past several years and is generally concentrated in the Rogue and Umpqua Basins of southwest Oregon.<sup>1</sup> Rogue Riverkeeper, on behalf of our members and supporters across the watershed, remains significantly concerned about the impacts of suction dredge mining to natural resources in the Rogue Basin and across the state.

Suction dredge mining can trap and kill aquatic insects, fish eggs, and juvenile fish, including lamprey and freshwater mollusks.<sup>2,3,4</sup> Additionally, suction dredge mining can smother critical spawning gravel for threatened salmon. Suction dredges discharge plumes of fine sediment that may extend hundreds of feet downstream, coating the riverbed and spawning gravel.<sup>5</sup> When salmon spawn in tailing piles from suction dredges, their eggs are more likely to be scoured out by winter floods.<sup>6</sup>

The Rogue watershed supports habitat for the Southern Oregon/Northern California Coast (SONCC) coho salmon, listed as threatened under the Endangered Species Act in 1997.<sup>7</sup> Under the SONCC 2014 recovery plan, NOAA Fisheries identifies mining as a threat to SONCC coho recovery and points to inadequate regulatory mechanisms and habitat destruction or curtailment from mining as factors in the listing that continue to stress the species.<sup>8</sup> Suction dredge miners may illegally excavate stream banks, damaging riparian vegetation, increasing erosion, and degrading aquatic habitat.<sup>9</sup> Suction dredge mining can also mobilize legacy mercury left by historic mining operations that can become re-suspended in the water column and introduced into the food web, exposing fish and humans to the toxic substance.<sup>10</sup> Scientific studies have found overall impacts of suction dredge mining to provide neutral or adverse impacts to aquatic species.<sup>11,12</sup>

On behalf of our members and supporters, we are concerned about the provisions in HB 2106 related to suction dredge mining. Specifically:

**1. HB 2106 does not go far enough to protect clean water and native fish.**

Unlike the suction dredge mining reform legislation under consideration in the Senate (SB 3), the suction dredge mining provisions in HB 2106 have not had the benefit of multiple years of discussion and review among representatives from the mining industry, state agencies, recreation, scientists, and others. The provisions in this omnibus mining bill related to suction dredge mining are much more narrow in scope and significantly less protective of clean water, native fish, and sensitive habitats than current suction dredge mining reform legislation under consideration in the Senate, SB 3.

In summary, HB 2106 does not include protections to address the impacts of suction dredge mining in critical sensitive habitats protected under SB 3, including but not limited to riparian areas, bull trout habitat, or biological resource habitat. Where HB 2106 repeals the current moratorium, SB 3 would essentially maintain the moratorium while the agencies refine permitting processes for mining both in the riparian areas and in streams.<sup>13</sup> Additionally, HB 2106 does not address the enforcement challenges raised by the agencies and addressed in SB 3. HB 2106 does not place use restrictions on when suction dredges can be operated, as SB 3 does in response to landowner concerns.

**2. SB 3 is the appropriate legislative vehicle to reform suction dredge mining.**

Although we appreciate the committee addressing the issue of suction dredge mining reform, we believe that the substantive policy questions around this issue are best addressed and debated under SB 3. The Senate bill represents a multi-year effort, bringing together multiple stakeholders, to still allow suction dredge mining while protecting the most vulnerable and sensitive habitats for salmonid species, bull trout, and lamprey. SB 3 has been considered in previous legislative sessions and represents the recommendations of diverse stakeholders, from the mining industry to state agencies, through a collaborative process championed by the late Senator Alan Bates. Additionally, SB 3 works to find a balance between the unique cultural heritage of Oregon mining, as recognized by the Legislature in passing SB 838, and the significant risks it poses to the health of streams and native fish. Based on the long legislative history of SB 3, the collaborative processes used to refine it over multiple legislative sessions, and the commitment of Senator Bates to developing a long-term regulatory approach to reform suction dredge mining, we believe that SB 3 is the appropriate legislative vehicle to reform suction dredge mining.

In conclusion, the suction dredge mining provisions in HB 2106 are not adequate to address concerns related to water quality or sensitive fish habitat. We ask the Committee to strike these provisions from the current bill and address suction dredge mining reform using SB 3 as the legislative vehicle. Thanks for your consideration of this critical issue.

Sincerely,

Stacey Detwiler  
Conservation Director  
Rogue Riverkeeper  
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Ashland, Oregon

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<sup>1</sup> Whitman, Richard. Oregon Governor's Office. Testimony. 15 April 2013. Available online < <https://olis.leg.state.or.us/liz/2013R1/Downloads/CommitteeMeetingDocument/17865> >.

<sup>2</sup> Harvey and Lisle. 1998. Effects of Suction Dredging on Streams: A review and an evaluation strategy. Fisheries Vol. 23 (8): 9.

<sup>3</sup> Horizon Water and Environment [HWE]. 2009. Suction Dredge Permitting Program. Literature review on the impacts of suction dredge mining in California. <http://www.dfg.ca.gov/suctiondredge/Luzier>

<sup>4</sup> United States Fish and Wildlife Service [USFWS]. 2012. Pacific Lamprey Fact Sheet.

<sup>5</sup> Harvey and Lisle. 1998. Effects of Suction Dredging on Streams: A review and an evaluation strategy. Fisheries Vol. 23 (8): 9.

<sup>6</sup> Harvey and Lisle. 1999. Scour of Chinook salmon redds on suction dredge tailings. North American Journal of Fisheries Management 19: 613-617.

<sup>7</sup> National Marine Fisheries Service. 2014. Final Recovery Plan for the Southern Oregon/Northern California Coast Evolutionarily Significant Unit of Coho Salmon (*Oncorhynchus kisutch*). National Marine Fisheries Service. Arcata, CA, p. 3-1.

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<sup>8</sup> National Marine Fisheries Service. 2014. p. 3-2.

<sup>9</sup> Harvey and Lisle. 1998. Effects of Suction Dredging on Streams: A review and an evaluation strategy. Fisheries Vol. 23 (8): 9.

<sup>10</sup> Marvin-DiPasquale, M., J. Agee, E. Kakouros, L.H. Kieu, J.A. Fleck, and C.N. Alpers. 2011. The Effects of Sediment and Mercury Mobilization in the South Yuba River and Humbug Creek Confluence Area, Nevada County, California: Concentrations, Speciation and Environmental Fate. Part 2: Laboratory Experiments. U.S. Geological Survey Open File Report 2010-1325B

<sup>11</sup> Harvey and Lisle. 1998.

<sup>12</sup> Draft Subsequent Environmental Impact Report (DSEIR), Suction Dredge Permitting Program, California Department Fish & Game. 2011 Chapter 4 Environmental Impacts and Chapter 8 References.

<sup>13</sup> SB 3 limits suction dredge mining so that it is restricted up to the line of Ordinary High Water Mark (OHWM) and 100-yards upland perpendicular to the line of OHWM above the lowest extent of spawning habitat in rivers that contain essential indigenous anadromous salmonid habitat, bull trout, and lamprey habitat – and to any tributary if the confluence of the tributary with a river of the state is above the lowest extent of the spawning habitat listed above (Sections 1 and 2). This moratorium extends through January 1, 2019. After 2019, the moratorium remains the same, but the 100-yards upland are now regulated under a DOGAMI permitting process (Sections 4-7). SB 3 also establishes a regulatory framework to put in place more permanent protections for rivers and fish, that still allows suction dredge mining. During the moratorium, the state agencies are tasked with developing a consolidated permitting process between DEQ and DSL, implemented by DEQ. Sections 9-13 of the bill essentially establish the permitting process for suction dredge mining. Specific restrictions where suction dredge mining is not permitted are listed in Section 12 and include, but are not limited to, biological resource habitat, waters listed as water quality impaired for sediment, turbidity, toxics, or heavy metals associated with sediment, and designated state scenic waterways.