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COMMITTEES

ENERGY AND NATURAL RESOURCES
FOREIGN RELATIONS
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SMALL BUSINESS AND ENTREPRENEURSHIP

May 22, 2013

Mr. Alan Trees
316 Seven Devils Rd
Riggins, ID 83549-5001

Dear Mr. Trees:

Thank you for contacting me regarding dredge mining permits. I appreciate hearing from you.

Constituents have expressed concern regarding permit requirements for suction dredge mining and I have asked both the EPA and the Idaho State Board of Land Commissioners to respond to these concerns. I have never suggested permits be required for an activity I believe is legitimate, harmless and an entertaining production. Since making that request, EPA Region 10 and the state of Idaho have created a thorough map of Idaho giving clear parameters for recreational dredging. Please click here for more information: [EPA Idaho Small Suction Dredge Mining](#).

I have observed the operation of suction dredges and I cannot see any harm to the environment and, therefore, support small suction dredge mining. I do not support any federal regulation or the requirement of permitting under any other authority.

To require a permit for this harmless activity is just another example of the federal government sticking its nose where it does not belong.

I really value your effort to get in touch with me to share your thoughts, as many Idahoans do. Please do not hesitate to contact me in the future on this or other issues.

Very Truly Yours,


James E. Risch
United States Senator

JER/trp

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[LEGISLATIVE CAPTION TO BE
INSERTED BY LEGISLATIVE
SERVICES OFFICE]

[SHORT TITLE TO BE INSERTED BY LEGISLATIVE SERVICES OFFICE]

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. ADDITION OF IDAHO CODE SEC. 18-7043. That Chapter 70, Title 18, Idaho Code be, and the same is hereby amended, by the addition of a NEW SECTION, to be known and designated as Section 18-7043, Idaho Code, and to read as follows:

18-7043. INTERFERENCE WITH MINING ACTIVITIES. (1) A person commits the crime of interference with mining activities if the person intentionally:

- (a) interferes, or attempts to interfere, with access to areas where mining activities occur;
- (b) interferes, attempts to interfere, harasses, menaces, annoys, or otherwise disrupts mining activities, or a person engaged in mining activities;
- (c) enters an area where mining activities occur, without permission of the person entitled to engage in mining activities in that area, and disturbs or removes, or attempts to disturb or remove, any valuable mineral;
- (d) enters an area where mining activities occur, without permission of the person entitled to engage in mining activities in that area, and disturbs, removes, tampers with, or attempts to disturb, remove or tamper with, any tools, equipment, machinery, goods and other personal property located thereat for use in the mining activities;
- (e) enters an area where mining activities occur, without permission of the person entitled to engage in mining activities in that area, and disturbs, removes, tampers with, or attempts to disturb, remove or tamper with, any location stake, sign, sign post, side post, corner post, landmark, monument or other written notice or indicator of the mining activities.

(2) For purposes of this section, "mining activities" shall mean:

- (a) traditional prospecting, which is defined to mean (i) hand panning for the location and extraction of valuable minerals, (ii) hand shoveling for the location and extraction of valuable minerals, (iii) locating and extracting valuable minerals through the use of a nonmotorized sluice box; or (iv) locating and extracting valuable minerals through the use of a nonmotorized rocker box; and
- (b) small-scale dredge mining, which is defined to mean the location and extraction of valuable minerals through the use of a dredge unit that is – (i) equipped with a subsurface hose of eight (8) inches or less in diameter, (ii) powered by an engine, natural siphon, or natural gravity pressure; and (iii) used to draw up mineral material, in a quantity of no greater than five (5) cubic yards per hour, to a sluice portion of the dredge unit; and
- (c) "surface mining operations" as defined at Idaho Code section 47-1503; and
- (d) "placer or dredge mining" as defined at Idaho Code section 47-1313.

(3) A person found guilty of committing the crime of interference with mining activities shall be guilty of a misdemeanor and shall be punished by a term of imprisonment of not more than one (1) year or by a fine not in excess of five thousand dollars (\$5,000), or by both such fine and imprisonment.

(4) In addition to any other penalty imposed for a violation of this section, the court shall require any person convicted, found guilty or who pleads guilty to a violation of this section, including by

withheld judgment, to make restitution to the victim of the offense in accordance with the terms of Idaho Code section 19-5304, provided however that such award shall be in an amount equal to twice the value of the damage resulting from the violation of this section.

SECTION 2. EMERGENCY CLAUSE. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.

DRAFTING CONTACTS

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v.1 – dated Oct. 15, 2015

[LEGISLATIVE CAPTION TO BE
INSERTED BY LEGISLATIVE
SERVICES OFFICE]

[SHORT TITLE TO BE INSERTED BY LEGISLATIVE SERVICES OFFICE]

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. LEGISLATIVE INTENT. The Legislature finds that traditional prospecting and small-scale dredge mining: are important parts of the heritage of the State of Idaho; provide economic benefits to federal and state government, local communities and prospectors and miners; and can be conducted in a manner that is not harmful, and may be beneficial to, fish habitat and fish propagation. Additionally, the Legislature of the State of Idaho finds that traditional prospecting and small-scale dredge mining does not discharge or add pollutants into the involved waters and therefore is not in need of regulation under the *Idaho Dredge and Placer Mining Protection Act*, Chapter 13, Title 47, Idaho Code, and is not in need of regulation under the *Idaho Stream Channel Alteration Act*, Chapter 38, Title 42, Idaho Code, and does not need to be subject to state comprehensive water plans. The Legislature further finds that traditional prospecting and small-scale dredge mining removes lead and other contaminants present in waters, which has long-lasting beneficial effects on the environment.

SECTION 2. AMENDMENT OF IDAHO CODE SEC. 47-1313. Idaho Code section 47-1313 be, and the same is hereby AMENDED, to read as follows:

47-1313. Definitions. As used in this chapter:

- (a) "Board" means the state board of land commissioners or such representative as may be designated by the board.
- (b) "Director" means the director of the department of lands or such representative as may be designated by the director.
- (c) "Disturbed land" means land, natural watercourses, or existing stockpiles and waste piles affected by placer or dredge mining, remining, exploration, stockpiling of ore or wastes from placer or dredge mining, or construction of roads, tailings ponds, structures, or facilities appurtenant to placer or dredge mining operations.
- (d) "Mean high watermark" has the same meaning as defined at Idaho Code section 42-3802.
- (~~e~~) "Mineral" means any ore, rock, or substance extracted from a placer deposit or from an existing placer stockpile or waste pile, but does not include coal, clay, stone, sand, gravel, phosphate, uranium, oil, or gas.

(fe) "Motorized earth-moving equipment" means backhoes, bulldozers, front loaders, trenchers, core drills, suction dredges with an intake diameter exceeding eight (8) inches, and other similar equipment.

(gf) "Natural watercourse" means any stream in the state of Idaho having definite bed and banks, and which confines and conducts continuously flowing water.

(hg) "Permit area" means that area designated under section 47-1317, Idaho Code, as the site of a proposed placer or dredge mining operation, including all lands to be disturbed by the operation.

(ih) "Person" means any person, corporation, partnership, association, or public or governmental agency engaged in placer or dredge mining, whether individually, jointly, or through subsidiaries, agents, employees, or contractors.

(ji) "Placer deposit" means naturally occurring unconsolidated surficial detritus containing valuable minerals, whether located inside or outside the confines of a natural watercourse.

(kj) "Placer or dredge exploration operation" means activities including, but not limited to, the construction of roads, trenches, and test holes, performed on a placer deposit for the purpose of locating and determining the economic feasibility of extracting minerals by placer or dredge mining.

(lk) "Placer or dredge mining" or "dredge or other placer mining" means the extraction of minerals from a placer deposit, including reining for sale, processing, or other disposition of earth material excavated from previous placer or dredge mining. The term "dredge or other placer mining," wherever used in this chapter, is subject to this definition and all provisions regarding it.

(m†) "Placer or dredge mining operation" means placer or dredge mining which disturbs in excess of one-half (1/2) acre of land.

(nm) "Road" means a way, including bed, slopes, and shoulders, (1) constructed within the circular tract circumscribed by a placer or dredge mining operation, or (2) constructed solely for access to a placer or dredge mining operation or placer or dredge exploration operation, provided, that a way dedicated to public multiple use or being used by a governmental land manager or private landowner at the time of cessation of operations, and not constructed solely for access to a placer or dredge mining operation or placer or dredge exploration operation, shall not be considered a road for purposes of this act.

(o) "Small-scale dredge mining" means the location and extraction of valuable minerals through the use of a dredge unit at or below the mean high watermark of a stream channel, provided that the dredge unit is – (i) equipped with a subsurface hose of eight (8) inches or less in diameter, (ii) powered by an engine, natural siphon, or natural gravity pressure; and (iii) used to draw up mineral material, in a quantity of no greater than five (5) cubic yards per hour, to a sluice portion of the dredge unit.

(p) "Stream channel" has the same meaning as defined at Idaho Code section 42-3802.

(q) "Traditional prospecting" means the following when conducted or occurring at or below the mean high watermark of a stream channel – (i) hand panning for the location and extraction of valuable minerals, (ii) hand shoveling for the location and extraction of valuable minerals, (iii) locating and extracting valuable minerals through the use of a nonmotorized sluice box; or (iv) locating and extracting valuable minerals through the use of a nonmotorized rocker box.

SECTION 3. ADDITION OF IDAHO CODE SEC. 47-1325. That Chapter 13, Title 47, Idaho Code be, and the same is hereby amended, by the addition of a NEW SECTION, to be known and designated as Section 47-1325, Idaho Code, and to read as follows:

47-1325. INAPPLICABILITY TO TRADITIONAL PROSPECTING AND SMALL-SCALE DREDGE MINING. The provisions of Idaho Code sections 47-1314 through 47-1320 are not applicable to, and may not be enforced with respect to, traditional prospecting and small-scale dredge mining, provided that small-scale dredge mining may be prohibited on national and wild scenic rivers as designated at Idaho Code section 47-1323. The board, director, any agency of the State of Idaho and any political subdivision of the State of Idaho shall not adopt, enact or promulgate any rule, regulation, ordinance, order, standard or other policy with the force and effect of law that would in any way regulate, restrict, limit or prohibit traditional prospecting or small-scale dredge mining with the exceptions of prohibition of small-scale dredge mining on national and wild scenic rivers as designated at Idaho Code section 47-1323. Notwithstanding the foregoing, nothing herein shall be construed or interpreted to prohibit or restrict the board, director, any agency of the State of Idaho and any political subdivision of the State of Idaho from enforcing or implementing any provisions of law or regulation of the United States relating to traditional prospecting or small-scale dredge mining.

SECTION 4. AMENDMENT OF IDAHO CODE SEC. 42-3802. Idaho Code section 42-3802 be, and the same is hereby AMENDED, to read as follows:

42-3802. Definitions. Whenever used in this act, the term:

- (~~a~~b) "Alter" means to obstruct, diminish, destroy, alter, modify, relocate, or change the natural existing shape or direction of water flow of any stream channel within or below the mean high watermark thereof.
- (~~b~~e) "Board" means the Idaho water resource board.
- (~~c~~e) "Department" means the Idaho department of water resources.
- (~~d~~f) "Director" means the director of the Idaho department of water resources.
- (~~e~~h) "Mean high watermark" means a water level corresponding to the natural or ordinary high watermark and is the line which the water impresses on the soil by covering it for sufficient periods of time to deprive the soil of its terrestrial vegetation and destroy its value for commonly accepted agricultural purposes.
- (~~f~~a) "Person" means any individual, partnership, company, corporation, municipality, county, state or federal agency, or other entity proposing to alter a stream channel.
- (g) "Plans" means maps, sketches, engineering drawings, word descriptions and specifications sufficient to describe the extent, nature and location of the proposed stream channel alteration and the proposed method of accomplishing same.
- (h) "Small-scale dredge mining" has the same meaning as defined at Idaho Code section 47-1313.
- (~~i~~d) "Stream channel" means a natural watercourse of perceptible extent, with definite bed and banks, which confines and conducts continuously flowing water. Ditches, canals, laterals and drains that are constructed and used for irrigation or drainage purposes are not stream channels.

(j) “Traditional prospecting” has the same meaning as defined at Idaho Code section 47-1313.

SECTION 5. ADDITION OF IDAHO CODE SEC. 42-3813. That Chapter 38, Title 42, Idaho Code be, and the same is hereby amended, by the addition of a NEW SECTION, to be known and designated as Section 42-3813, Idaho Code, and to read as follows:

42-3813. INAPPLICABILITY TO TRADITIONAL PROSPECTING AND SMALL-SCALE DREDGE MINING. The provisions of Idaho Code sections 42-3802 through 42-3812 are not applicable to, and may not be enforced with respect to, traditional prospecting and small-scale dredge mining. The board, department, director, any agency of the State of Idaho and any political subdivision of the State of Idaho shall not adopt, enact or promulgate any rule, regulation, ordinance, order, standard or other policy with the force and effect of law that would in any way regulate, restrict, limit or prohibit traditional prospecting or small-scale dredge mining. Notwithstanding the foregoing, nothing herein shall be construed or interpreted to prohibit or restrict the board, director, any agency of the State of Idaho and any political subdivision of the State of Idaho from enforcing or implementing any provisions of law or regulation of the United States relating to traditional prospecting or small-scale dredge mining.

SECTION 6. ADDITION OF IDAHO CODE SEC. 42-1734J. That Chapter 17, Title 42, Idaho Code be, and the same is hereby amended, by the addition of a NEW SECTION, to be known and designated as Section 42-1734J, and to read as follows:

42-1734J. INAPPLICABILITY TO TRADITIONAL PROSPECTING AND SMALL-SCALE DREDGE MINING. All state comprehensive water plans, and related rules, regulations, ordinances, orders, standards or other policies adopted pursuant to Idaho Code sections 42-1734A through 42-1734I shall allow for “traditional prospecting” and “small-scale dredge mining” without regulation, restriction, limitation or prohibition. Any regulations, restrictions, limitations or prohibitions currently in effect through any action pursuant to Idaho Code sections 42-1734A through 42-1734I with respect to “traditional prospecting” and “small-scale dredge mining” is hereby declared invalid, void and unenforceable. For purposes of this section, “traditional prospecting” and “small-scale dredge mining” has the meaning set forth in Idaho Code section 42-3802. Notwithstanding the foregoing, nothing herein shall be construed or interpreted to prohibit or restrict a state comprehensive water plans, or related rules, regulations, ordinances, orders, standards or other policies adopted pursuant to Idaho Code sections 42-1734A through 42-1734I, from enforcing or implementing any provisions of law or regulation of the United States relating to traditional prospecting or small-scale dredge mining.

SECTION 7. EMERGENCY CLAUSE. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.

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