

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 51

BY RESOURCES AND CONSERVATION COMMITTEE

AN ACT

1 RELATING TO SMALL-SCALE DREDGE MINING; PROVIDING LEGISLATIVE INTENT; AMEND-  
2 ING CHAPTER 13, TITLE 47, IDAHO CODE, BY THE ADDITION OF A NEW SECTION  
3 47-1317A, IDAHO CODE, TO PROVIDE FOR ADOPTION OF RULES FOR SMALL-SCALE  
4 DREDGE MINING, TO PROVIDE CONTENTS OF THE RULES, TO PROVIDE WHERE SUC-  
5 TION DREDGING MAY OCCUR AND TO DEFINE TERMS; AND DECLARING AN EMERGENCY.  
6

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

8 SECTION 1. LEGISLATIVE INTENT. The Legislature finds that prospecting  
9 and small-scale mining: are important parts of the heritage of the State of  
10 Idaho; provide economic benefits to federal and state government, local com-  
11 munities and suction dredge miners; and can be conducted in a manner that is  
12 not harmful or de minimis at most, and may be beneficial to fish habitat and  
13 fish propagation. Additionally, the Legislature of the State of Idaho finds  
14 that in-stream suction dredge mining does not discharge or add pollutants  
15 into the receiving waters and therefore cannot be regulated under Section  
16 402 of the National Pollutant Discharge Elimination System permit program of  
17 the Clean Water Act and that in-stream suction dredge mining removes lead and  
18 other contaminants present in the streambed, which has long-lasting benefi-  
19 cial effects on the environment. Additionally, the Legislature takes notice  
20 of the case *Karuck Tribe of California v. United States Forest Service, et*  
21 *al.*, Case No. 04-4275 (SBA) before the United States District Court for the  
22 Northern Division of California Oakland Division decided June 21, 2005.

23 SECTION 2. That Chapter 13, Title 47, Idaho Code, be, and the same is  
24 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
25 ignated as Section 47-1317A, Idaho Code, and to read as follows:

26 47-1317A. RULES FOR SMALL-SCALE DREDGE MINING. (1) Any rules, orders  
27 or permits pertaining to small-scale dredge mining adopted after July 1,  
28 2015, shall be conducted pursuant to negotiated rulemaking to allow con-  
29 sultation with affected parties. All rules, orders and permits pertaining  
30 to small-scale dredge mining adopted after July 1, 2015, shall be based on  
31 peer-reviewed science and a showing of actual harm greater than de minimis.

32 (2) Any rules, permits or orders are not to interfere to the point that  
33 they perform a taking of the placer or claim. Additionally, such rules shall  
34 provide that no permit or special permit need be obtained from the department  
35 of lands or state board of land commissioners, such as joint applications for  
36 operations that move fewer than four (4) cubic yards per hour.

37 (3) The rules adopted pursuant to this section shall allow for neces-  
38 sary considerations in mining different variations of placer grounds, to  
39 stop the taking of placer grounds and to allow the use of placer sampling in a  
40 forensic-like manner to find hidden hardrock deposits of valuable minerals.  
41 The rules shall comply with the following precepts:

1 (a) The value in placer grounds determines what area of ground must be  
2 worked, what equipment must be used and how long per year the placer  
3 grounds must be worked to make mining profitable.

4 (b) No low arbitrary horsepower ratings on suction dredges, as those  
5 ratings: make it dysfunctional to the point of disabling the intended  
6 application; fail to address the functions beyond suction power that  
7 are necessary to recover gold under the many conditions that exist in  
8 placers; and that stop progress and impede innovation to suction dredge  
9 design. When practical, avoid stacking rocks if they can be fanned out  
10 in a single low-profile layer. When practical, fan out dredge tailings  
11 across a stream to keep a low profile, but leave a three (3) foot wide  
12 area for fish to travel.

13 (c) Suction dredging is to be allowed in the wetted perimeter below the  
14 high water mark on a stream or river open to prospecting and mining.

15 (4) On lands open to prospecting and mining, no permits are needed  
16 pursuant to this chapter or rules of the department of lands: for sampling  
17 with a suction dredge to locate placer deposits; for sampling with a suction  
18 dredge to determine the mineral content of streams and rivers for locating  
19 unfound hardrock deposits of valuable mineral; or for working with a dredge  
20 on open bedrock crevicing areas with no or little gravel cover. If any agency  
21 believes a form of notice of intent is needed, it should be no more than name,  
22 address, phone number and location where the foregoing activity is to occur  
23 and that the activity is valid upon receipt by that agency of the notice by  
24 e-mail, by e-mail and phone call or by letter.

25 (5) The rules adopted pursuant to this section shall take notice that  
26 the amount of anadromous fish eggs and fish taken by fishermen is large while  
27 there are no documented cases of harm from suction dredge miners; therefore,  
28 a waiver should be granted outside the time there are no anadromous fish eggs  
29 to a part-time dredger, if the dredger can show there are no anadromous fish  
30 eggs in the area of operation. A notary public document can be e-mailed to  
31 the appropriate agency stating that no anadromous fish eggs were found in  
32 the area of operation, if necessary. A full-time dredger should have a tak-  
33 ing right of anadromous fish eggs similar to the fishermen and wind turbine  
34 farms. This is necessary to prevent a taking of placers and claims by extend-  
35 ing the time to operate in a profitable manner and because some placer areas  
36 cannot be safely or profitably worked at certain times of the year. No bond-  
37 ing of small-scale suction dredge miners moving five (5) cubic yards or less  
38 per hour shall be required.

39 (6) The rules shall provide that streams in established mining dis-  
40 tricts that were taken out by giving them a designation, natural or recre-  
41 ational, shall be put back in these established mining districts under full  
42 multiple use as originally intended because it is necessary to work in small  
43 streams during dangerous unworkable high water in large streams, thus having  
44 a place to work. And, the small streams by sampling provide valuable infor-  
45 mation for location of unfound hardrock deposits.

46 (7) The rules shall provide that restricting access to open mining ar-  
47 eas or mining claims is prohibited. A person may not attempt to restrict ac-  
48 cess to any open mining area or valid mining claim or to harass or interfere  
49 in any way with a person engaged in lawful mining activities.

50 (8) As used in this section:

1 (a) "Bedrock sluice" means a wood or metal flume or trough that is  
2 permanently attached to the bedrock of the creek and is equipped with  
3 transverse riffles across the bottom of the unit and is used to recover  
4 heavy minerals.

5 (b) "Deface" includes, but is not limited to, altering, pulling down,  
6 damaging or destroying.

7 (c) "Dredge" means a subsurface hose that can measure from two inches  
8 (2") to ten inches (10") in diameter that is powered by an engine, natu-  
9 ral siphon or natural gravity pressure and is used to draw up gold-bear-  
10 ing or other mineral material that is then separated in the sluice por-  
11 tion of the unit.

12 (d) "Flume" means a trough used to convey water.

13 (e) "Quartz mill" means a facility for processing ores or gravel.

14 (f) "Rocker box" means a unit constructed of a short trough attached to  
15 curved supports that allow the unit to be rocked side to side.

16 (g) "Sluice box" means a portable unit constructed of a wood or metal  
17 flume or trough equipped with transverse riffles across the bottom of  
18 the unit and that is used to recover heavy minerals.

19 (9) A person commits the crime of mineral trespass if the person inten-  
20 tionally and without the permission of the claim holder enters a mining claim  
21 posted as required and: disturbs, removes or attempts to remove any mineral  
22 from the claim site; tampers with or disturbs a flume, rocker box, bedrock  
23 sluice, sluice box, dredge, quartz mill or other mining equipment at a posted  
24 mining claim; or defaces a location stake, side post, corner post, landmark,  
25 monument or posted written notice within a posted mining claim.

26 (10) A person commits the crime of interfering with a mining operation  
27 if the person intentionally interferes with a lawful mining operation or  
28 stops or causes to be stopped a lawful mining operation.

29 (11) Use of motorized winching for safety and economic moving of boul-  
30 ders shall be allowed.

31 SECTION 3. An emergency existing therefor, which emergency is hereby  
32 declared to exist, this act shall be in full force and effect on and after its  
33 passage and approval.