

Dear Senators, Assembly Members and Political Leaders in the State Of California,

I am writing you to shed light on an ongoing scheme that is making its way through the Capitol Building in Sacramento.

In January of 2015, The Honorable Gilbert Ochoa of the Superior Court in San Bernardino, stated that the state's permitting program for a Federally-protected form of mineral recovery is a scheme¹, unenforceable and stands as an obstacle to the accomplishment of the full purposes and objectives of Congress and constitutes a *de facto* ban on suction dredge mining.

The Honorable Ochoa went on to say, "Fish and Game Code provisions at issue here are unenforceable as preempted by federal mining law." This was the beginning of the end for California's SB670², which was signed into law as a "temporary" moratorium on suction dredge mining in the State of California. Six years on, the moratorium has seen a sunset date established³, only to see it removed again⁴. It is clear to the mining community and to the court system that there is no intention of ever issuing a timely, affordable, and reasonable suction dredge permit again in California. The mining community sees this as another attempt to over regulate small-scale mining until it chokes out the possibility of ever being feasible. Again, this stands as an obstacle to the accomplishment of the full purposes and objectives of Congress and constitutes a *de facto* ban on suction dredge mining.

With SB670 at risk, the Sierra Fund put forward a bill to circumvent the Superior Courts' ruling by attempting to change regulating authority from the California Department of Fish and Wildlife to the State Water Resources Control Board, and the California Regional Water Quality Control Board by introducing SB637⁵. This is nothing more than a shell game to mock the court and Congress, and to perpetuate the *de facto* ban on mining in violation of 1872 Mining Act⁶.

There is a much larger picture here in regards to SB637. On the surface, it is presented as a Water Quality Bill. This seems like a great idea. Who doesn't want clean water?

On April 22, 2015, it became clear that there is more at play here than just water quality when the bill was again modified. This time, the words "Water Quality" were removed⁷ from the subject line of the bill. The new version of the bill simply states, "Suction dredge mining: permits." SB637 is not about clean water. SB637 is clearly about regulating and controlling suction dredge mining. SB637 is another piece to the puzzle designed to preempt Federal Law and keep California miners and prospectors from working their Federal Mining Claims in such a way as was intended by the Congress of the United States.

The sponsor of the bill, Elizabeth "Izzy" Martin, CEO of The Sierra Fund, has made it clear that they are in the process of developing their own mining operation, all the while, sponsoring legislation that chases the mining community out of the water. The Sierra Fund states on their web site that they intend to sell the aggregate, sand, and gold⁸ that they recover from their Combie Reservoir project in conjunction with the Nevada Irrigation District. The Sierra Fund have also gone so far as to research a

program to sell the gold they recover, calling it the “E3 Gold Initiative”⁹, which stands for “Environmentally sound, Economically viable and Ethically produced”. It is difficult to understand how chasing the mining community off of their land through legislative means & power is considered to be “ethical”. The hypocrisy of sponsoring legislation which ultimately puts an end to or diminishes a miners right by frustrating the process with a complex and prohibitive permitting process in order to work his or her mining claim, all the while, The Sierra Fund develops their own mining operation and establishing a distribution channel, is beyond comprehension. This is clearly a blatant conflict of interest and needs to be corrected immediately. This move by The Sierra Fund is also a violation of the Sherman Antitrust Act¹⁰.

The Sierra Fund will tell you that the mining community agitates sediment in the river, increasing the likelihood of raised mercury levels in fish. They will also tell you that small-scale miners should be required to get a discharge permit under the Clean Water Act¹¹. A State Water Board study¹² will show you that our equipment captures and removes 98% of the mercury from the waterways. The United States Supreme Court¹³ will tell you that we do not discharge any pollutants; thus, there is no need for dredgers, miners and prospectors to have a discharge permit for a sluice box, gold pan or any other similar or related materials or equipment. The material coming out of our equipment, and being redeposited, is the same material that was already in the stream (minus the harmful heavy metals such as lead, gold and mercury that remain in the sluice box) and therefore cannot be considered a pollutant. Instead, that material is referred to as “Incidental fallback¹⁴” by the courts.

Considering that Mother Nature will agitate, disrupt and scour the riverbeds this coming Spring, isn't it wise to remove 98% of the mercury from our drinking water while we have that opportunity outside of spawning seasons and high water events, before it has the chance to move downstream, closer to us? The way we see it, losing 2% of the mercury, which only has a slight possibility of becoming “bio-available”, is better than leaving 100% of it in place to be dislodged and “bio-available” during high water events (please see comparison pictures below). If The Sierra Fund suggest they have a plan to remove that mercury, ask them how efficient their current operation is running and at what cost to the tax payers. The Sierra Fund is using millions of tax-payer dollars¹⁵ for their one single project, and their methods still are not capable of capturing mercury more efficiently than small-scale miner's current equipment. The small-scale mining community is also currently working on some ideas amongst ourselves which would make our equipment even more efficient at capturing mercury.

If the moratorium on suction dredge mining were lifted tomorrow, based on the number of dredging permits issued¹⁶ annually prior to the moratorium, the State of California could easily have 3000-4000 permitted volunteers across the state, removing the mercury from waterways, building & improving fish habitat¹⁷, and stimulating local economies, all at no cost to the taxpayer. In fact, these dredgers/volunteers will purchase a dredging permit from the state at a reasonable cost, such as was done prior to the moratorium, and the state would actually generate revenue from the program. That's right, there wouldn't be an absurd cost to the tax payer and several thousand units would begin to clean the state watersheds, cleaning up the toxic legacy mercury that was left behind from over a hundred years ago and the naturally occurring mercury as well. If the sole concern of The Sierra Fund is removing the mercury from the waterways, wouldn't it have been more prudent and economical to partner with the mining community instead of working against it with SB637?

Izzy knows how effective the mining community is. She has testified to personally collecting over 200lbs of mercury from the mining community and others during a mercury drop off program¹⁸ in Nevada County. The Sierra Fund's very own Dr. Carrie Monohan testified on April 29th, 2015 that the mercury recovery program was "stopped because it was so successful." It is highly suspicious when The Sierra Fund systematically removes miners from their mining claims through exhaustion from erroneous legislation & pending litigation, and then turns around and receives grant money (our very own tax dollars) to do the same thing small-scale miners were previously doing at no cost to the State or taxpayer.

SB637 is not about the environment, nor is it a water quality bill. It is another piece of the puzzle which will enable Izzy Martin and The Sierra Fund to hold a monopoly in the state of California (and possibly beyond) on dredging for gold, all the while, receiving grant money. Once The Sierra Fund has rendered our mining claims to be essentially useless to us due to over-regulation, the small-scale mining community believes they will then move on to take and process the minerals held within the mining claims. It appears to us that they plan to double-dip by taking and selling our minerals, and by taking our tax dollars in order to do so. These claims are considered to be our legal, real property, which we pay property taxes on and work to maintain specific standards in accordance with the Bureau of Land Management. Each of us currently views this intention of The Sierra Fund as mineral trespass and a takings, which is a Grand Theft Felony (see California Penal Code 487d below).

California Penal Codes:

484. (a) Every person who shall feloniously steal, take, carry, lead, or drive away the personal property of another, or who shall fraudulently appropriate property which has been entrusted to him or her, or who shall knowingly and designedly, by any false or fraudulent representation or pretense, defraud any other person of money, labor or real or personal property, or who causes or procures others to report falsely of his or her wealth or mercantile character and by thus imposing upon any person, obtains credit and thereby fraudulently gets or obtains possession of money, or property or obtains the labor or service of another, is guilty of theft.

487d.

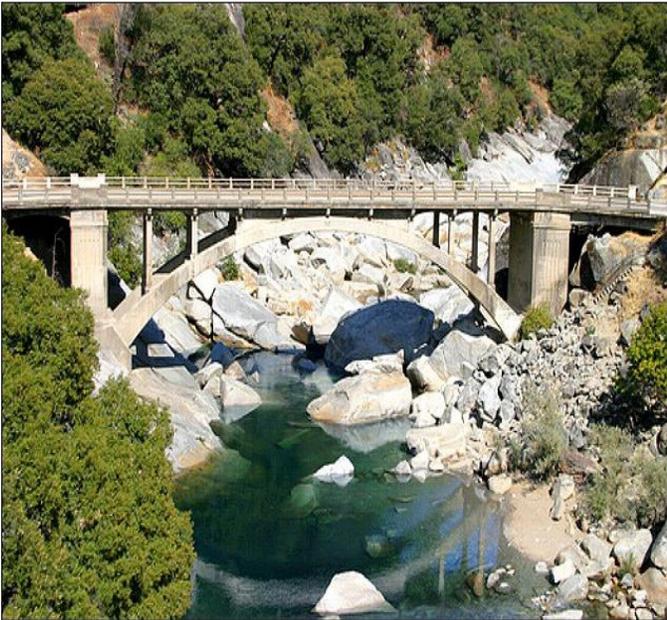
Every person who feloniously steals, takes, and carries away, or attempts to take, steal, and carry from any mining claim, tunnel, sluice, undercurrent, riffle box, or sulfurate machine, another's gold dust, amalgam, or quicksilver is guilty of grand theft and is punishable by imprisonment pursuant to subdivision (h) of Section 1170.

Simply put, SB637 is an illegal scheme which is viewed as unenforceable by the courts, and stands as an obstacle to the accomplishment of the full purposes and objectives of Congress. SB637 also constitutes a *de facto ban* on suction dredge mining. SB637 creates a monopoly that is in direct conflict with the Sherman Antitrust Act. SB637 attempts to burden the small-scale mining community with an unreasonably expensive series of permits, while at the same time, allowing The Sierra Fund and the Nevada Irrigation District to develop their own dredging program. Furthermore, this type of scheme is a Felony on the scale of Grand Theft, punishable by imprisonment.

On behalf of all the suction dredge miners in the State of California (and beyond), and on behalf of all of the prospectors, miners, artisan jewelers, small business owners, veterans, clubs, groups, organizations and every pursuer of Life, Liberty & Freedom, I implore you to kindly refuse the passage of this most corrupt and illegal bill, SB637.

Thank you.

South Fork of the Yuba River



Summer Mining Season



Mother Nature

To learn more about SB637, please see <http://www.stopsb637.org>

1 Ochoa

See bottom of page 19:

<http://www.goldgold.com/wp-content/uploads/2015/01/113806-1-Ruling.pdf>

2 SB670

http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=200920100SB670

3 Sunset date of SB670

Please see top of page 12:

http://www.leginfo.ca.gov/pub/15-16/bill/sen/sb_0601-0650/sb_637_cfa_20150807_145250_asm_comm.html

AB 120 (Budget Committee), Chapter 133, Statutes of 2011, a resources budget trailer bill, extended the prohibition on suction dredge mining until 2016 and required DFW to create a fee structure to cover all administrative costs of the permit program.

4 Removal of sunset date on SB670

Please see top of page 12:

http://www.leginfo.ca.gov/pub/15-16/bill/sen/sb_0601-0650/sb_637_cfa_20150807_145250_asm_comm.html

SB 1018 (Committee on Budget and Fiscal Review), Chapter 39, Statutes of 2012, also a budget trailer bill, eliminated the 2016 sunset on the moratorium on issuance of suction dredge permits.

5 SB637

http://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201520160SB637

6 1872 Mining Act

https://en.wikipedia.org/wiki/General_Mining_Act_of_1872

7 “Water Quality” removed from subject of bill

https://drive.google.com/file/d/0B63UoFj_e33HZkw0cFZadkdSaHc/view

8 TSF selling aggregate, sand and gold

<http://www.auburnjournal.com/article/4/27/15/gold-rush-mercury-removal-tap-bear-river>

9 E3 Gold Initiative

<http://www.sierrafund.org/projects/e3-gold-initiative/>

10 Sherman Antitrust Act

https://en.wikipedia.org/wiki/Sherman_Antitrust_Act

11 Clean Water Act

<http://www2.epa.gov/laws-regulations/summary-clean-water-act>

12 State Water Board study

http://www.swrcb.ca.gov/water_issues/programs/cwa401/docs/suctiondredge/2007merc_drdg_rpt.pdf

13 US Supreme Court

Please see page 22 regarding introducing a pollutant:

http://www.supremecourt.gov/opinions/12pdf/11-460_3ea4.pdf

14 Incidental Fallback

http://water.epa.gov/lawsregs/lawsguidance/cwa/dredging/upload/Tulloch_Conforming_Q-As.pdf

15 TSF cost of Combie program

Please see page 27: (TOTAL PROJECT COST = \$6,881,080)

https://drive.google.com/file/d/0B63UoFj_e33HOGt3d1dPZFpobXc/view

16 Dredge permits issued prior moratorium

Please see page 14 for historical figures on dredging permits in California:

<http://www.oregon.gov/dsl/PERMITS/docs/CA%20Fish%20%20Wildlife%20Literature%20Review%202009.pdf>

17 Improving Fish Habitat

Please see Volume 1, Section III:

<http://www.dfg.ca.gov/fish/resources/habitatmanual.asp>

18 Milk Run

Please see page 5 at:

https://drive.google.com/file/d/0B63UoFj_e33HbHZzaTJ1U0JDNFE/view