

State of Idaho
Dept of Water Resources
322 East Front Street
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Boise, Idaho 83720-0098
Att. Kimi White

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DEPARTMENT OF
WATER RESOURCES

To whom it may concern, in the matter of the Re: Joint Application for Permit No. S82-20066 for Gay Richardson and Permit No. S82-20067 Denial of Permits. This being here on the Red River at Elk City, Idaho

On August 12, 2017, Tim Luke IDWR sent a letter stating my permit in the above referenced matter was denied and John Stickley got the same determination. On page 2, paragraph 2 of Tim Luke's letter he gives his opinion on why the permits were denied. "Most of the comments recieved by the Department reference cumulative impacts of dredging from your application and another pending application on the Red River along with 15 suction dredge permit limit on the main SFCR established by both IDWR and Federal agencies. Most of the comments recieved suggests that your application lacks any proposed mitigation or alternative measures to minimize the effects of dredging on the water resource and fish/wildlife habitat. The Dept. that finds your application does not include any specific alternative measures or mitigation plans. (Questions 17 and 18 of the Joint Application.) Beyond statements that mitigation or lalternative measures are not necessary because they are, "Already taken care of" or "spelled out," in the Dept.'s suction dredge regulations.

This is the same type of horse manure presented again in the denial of my permit by Tim Luke sent in a letter on November 4, 2013 on the same claim (Genesis) on Red River. First off when you look at the 2017 IDWR Southfork Clearwater River Special Supplements Instructions, you see a list of 25 items. 22 of which possibly could be called mitigating measures or regulations which already slows you down and you basically get you nowhere. This is so because the authors of these regulations know next to nothing about dredging or mining procedure and this has been commented on many times. Many of these regulations are designed to or effectively reduce the amount of ground you will work which is contrary and or contradictory to the very purpose of a mining claim. The commentors say we lack mitigation and alternative

measures. What mitigation and alternatives are they talking about? The dredgers and myself have no way of knowing what they are talking about (this is not in our field) and there would be no use trying to guess what this might be; they would have to tell us and we would have to decide if it would kill the operation. Have any of these commentators read the 2017 IDWR Southfork Clearwater River Special Supplement Instructions?

Again it is said in paragraph 2 , "Measures to minimize the effects of dredging," What effects are they talking about and how do they know what they feel are effects and indeed effects or just half truths? With such a vagueness it makes the statements more or less invalid.

It is said you want to know where the IDWR has malfunctioned, if it has. I guess in relation to the Mitigating Measures Block 18:

Proposed Mitigation Statement or Plan:

A Mitigation plan for your proposed project may be required if impacts to the aquatic resource are more than minimal (See Block 17 for further details.) If you believe your project does not require a compensatory mitigation plan, provide a statement of how measures are being taken to avoid and minimize activity impacts to the water way or water body, including wetlands. Also include your reasoning of why a mitigation plan is not required.

If your proposed project does require a mitigation plan, attach a copy of the plan labeled Block 18. The plan must be on white paper no larger than standard 8 and 1/2 x 11. White paper and of good reproducible quality. While a detailed mitigation plan may be required as part of the permit process, it is NOT required for a complete application.

First off we had to send three copies of the Joint Application; one to IDWR, one to the Dept. Of Lands, and one to the Corps of Engineers. In each one for my permit, I placed a note saying if you find any problems, give me a call, don't deny the permits. As usual Tim Luke cancelled the permits anyway. No call and no discussion. This is completely unfair and shows bad faith. Paul Shepard, out Idaho County State Legislator representative said he was going to call Tim Luke and discuss this with him. Paul stated that Luke is, "afraid of environmentalists." This could very well be where some of the continuous problems come from.

Second, Block 18 says its up to me to determine if I think a compensatory mitigation

plan is needed and my reasoning that's asked for was the 22 regulations/mitigating measures IDWR has just chokes the life out of you. Why ask someone what they think, then cancel the permit because of what they think? Total nonsense and it makes me feel as if something is going on here.

Because five comments were sent to me by Tim Luke, I assume my comment is wanted in relation to why the permit was canceled. So, I would like to comment on which is NOAA out of Portland, Oregon. I cannot read the gentleman's signature but it looks like, Kermmet Troy for Michael P. Tehan. Judging by the letter I would say that he has never been on the Red River where the proposed operation would be taking place. If that is the case then he knows nothing of the terrain. He also seems unaware of the 22 regulations in the 2017 IDWR South Fork Clearwater River Special Supplement Instructions at this point when he says on page 2, paragraph 1: "But does not include the measures to minimize effects on salmon and steelhead and their habitat in Red River." (I do see on page 3, paragraph 2, he alludes to the SFCR program so what is with his foregoing statement? He seems to be totally unaware on page 3, paragraph 2 when he talks about total maximum daily load that the EPA and the Idaho DEQ fellow who came up with this were in error. I know this because they were supposed to do something about it in 2017. One of the reasons EPA and Idaho DEQ made the mistake was when they said all dredges were assumed to move 2 cubic yards per hour. It's obvious EPA and DEQ never came out and spent time measuring dredges. It should be obvious a 2 inch dredge does not move the same amount of material as a 12 inch. So what happens? Kermmet makes the same false assumptions. This was all figured out for EPA, DEQ, FS and others because I had and still do a lot of R&D on gold suction dredges. Because of the limited time I have to complete this letter (October 30, 2017) I wish to reserve the right to discuss Kermmet's letter and the others sent at the hearing if need be because I feel my experience dredging with fish for year after year doesn't match with his and it's obvious he is riding the NOAA nag.

The odd thing about all these commentators is they don't like mining but sure like the proceeds and you can be sure they are not planning on giving up what mining has to offer them. They like to talk about fish eggs the dredgers may or may not kill but you never hear them talk about the large number of fish eggs that are killed by sport fishermen when the salmon and steelhead come up here with eggs to spawn that people catch. Bull trout are another example, in the July 28, 2017 issue of the Central

Idaho Post is an article from Idaho Fish and Game titled, "Casting for Bulls; Fishing for Idaho's Bull Trout." By Roger Philips. These fish were listed as threatened in 1998 but Roger says you can catch and release now. Can anybody believe a number of these fish will not die from this activity? Or be taken home anyway? I began to study Bull Trout on the Montana Fish and Game website and they know that people misidentify Bull Trout and take them home anyway. They show color pictures of trout that look close to a Bull Trout and it is hard to tell what is what. They also know people do take these fish home when they are caught occasionally.

In relation to the mining law I can only put a small amount in this letter with the time available and this is taken from attorney:

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Case No. 2:14-MJ-00059-KJN

In the part Multiple Use Act of 1955 on Page 3 and 4 Below:

"Rights under any mining claim hereafter located under the mining laws of the United States shall be subject prior to issuance of patent therefore, to the right of the United States to manage and dispose of the vegetive surface resources thereof and to manage other surface resources thereof (except mineral deposits subject to location under the mining laws of the United Sates). Any such mining claim shall also be subject prior to issuance of patent therefore, to the right of the United States, its permittees, and licensees to use so much of the surface thereof as masy be necessary for such purposes or for access to adjacent land: Provided, however that any use of the surface of any such mining claim by the United States, its permittees or licensees, shall be such as not to endanger or materially interfere with prospecting, mining, or processing operations or uses reasonably incident thereto...." 30 U.S.C @ 612(b)

This statute confirms the long-standing federal policy of facilitating mining of clamied mineral deposits and subordinates all other uses, including the protection of other resources such as fish and wildlife to mining. (1)

(1) See also H. Rep. No. 730 84th Cong. 1sty Sess. 10 reprinted in 2 U.S Code Cong & Admin New, at 2483 (1955) (Multiple Use Act does "not have the effect of modifying long-standing essential rights springing from location of a mining claim. Dominant and

primary use of the locations hereafter made, as in the part, would be vested first in the locator....)

Will send the rest of this case it needs to be studied

Also will send the Joseph Green reports/studies done on suction dredging but think IDWR already has this all.

It also needs to be understood that the Genesis Placer on the Red River was being worked by me and another fellow in 1996 with all the permits at that time and claimed then or 1997 and John Stickleys claims on the Red River were staked in the late 1970's by Jerry Kennetts of Lucile as I helped him and named the claims all these claims are grandfathered in relation to the 2004/2005 stream designations as these claims had no lapse. This is discussed in the IDWR regulations etc. I don't have time to present all this as time is running out on getting this letter in to IDWR.

Certificate of Service.

I hereby certify that this is true and correct to the best of my knowledge.

Gay Richardson

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