Sierra County
Board of Supervisors'
Agenda Transmittal &
Record of Proceedings

**MEETING DATE:** March 6, 2018

**TYPE OF AGENDA ITEM:**
- ☒ Regular
- ☐ Timed
- ☐ Consent

**DEPARTMENT:** Board of Supervisors

**APPROVING PARTY:** Paul Roen, District No. 3

**PHONE NUMBER:** 530-289-3295

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**AGENDA ITEM:** Discussion and approval of a letter in support of SB 1222 (Stone) related to dredging.

**SUPPORTIVE DOCUMENTS ATTACHED:**
- ☐ Memo
- ☐ Resolution
- ☐ Agreement
- ☐ Other

See attached Fact Sheet and copy of SB 1222

**BACKGROUND INFORMATION:** The American Mining Rights Association has requested a letter in support of SB 1222

**FUNDING SOURCE:** N/A

**GENERAL FUND IMPACT:** No General Fund Impact

**OTHER FUND:**
- **AMOUNT:** $ N/A

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**ARE ADDITIONAL PERSONNEL REQUIRED?**
- ☐ Yes, -- --
- ☐ No

**IS THIS ITEM ALLOCATED IN THE BUDGET?**
- ☒ Yes
- ☐ No

**IS A BUDGET TRANSFER REQUIRED?**
- ☐ Yes
- ☒ No

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**BOARD ACTION:**
- ☐ Approved
- ☐ Approved as amended
- ☐ Adopted
- ☐ Adopted as amended
- ☐ Denied
- ☐ Other
- ☐ No Action Taken

- ☐ Set public hearing
  - For: ______________________
- ☐ Direction to: ______________
- ☐ Referred to: ______________
- ☐ Continued to: _____________
- ☐ Authorization given to:
  - ______________

Resolution 2018- ____________
Agreement 2018- ____________
Ordinance ________________

**Vote:**
- Ayes:____________________
- Noes:___________________
- Abstain:_______________
- Absent:_______________
- ☐ By Consensus

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**COMMENTS:**

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**CLERK TO THE BOARD** ________________________     **DATE** ________________________
What is the origin of the proposal?

This issue was introduced in response to miners groups and individuals of the gold mining community.

What is the background of this proposal?

Existing California law bans the use of suction dredge equipment in the pursuit of valuable minerals, without certain permits through the water board and the Department of Fish and Game. As currently written, this law inadvertently affects the low impact methods of mining through the abstract definition of “mechanized or motorized system of removing or assisting in the removal of minerals.”

What deficiency in current law does this bill seek to remedy?

While the law requires permits to suction dredge in California, the law’s vague language has inadvertently caused enforcement of the use of driving a vehicle to the river to gold pan and the use of a dry wash which does not include the use of water in its operation to remove minerals. These low impact methods are the means of survival for the everyday Californian gold miner, who lacks the funding for heavier methods of gold extraction and lacks the funds to press for permits or special licenses. This has led to the loss of income to those who depend on low impact mining for their livelihood, methods that are not damaging the environment.

What specifically will this bill do?

SB 1222 refines the definition of what a suction dredge is to an accurate description of that method of mining, while not changing the suction dredging permitting requirements as the law currently requires. Where the current definition could be interpreted to include vehicles both gas and electric driving to the river, SB 1222 will limit the law to not affect the low impact, environmental friendly methods of valuable mineral recovery.

Which code sections does this bill affect?

SB 1222 amends Section 5653 in the Fish and Game Code and amends Section 13172.5 of the Water Code.

Who are the proponents of this legislation?

American Mining Rights Association
Proline Mining Equipment Inc.
Keene Engineering Company Inc.
Pacific Crest Alliance
Gold Prospectors Association of America

Who is the main contact for this bill?

Nicolas Gauthier, Senate Fellow
Phone: (916) 651-4028
Fax: (916) 651-4928
Email: Nicolas.gauthier@sen.ca.gov
An act to amend Section 5653 of the Fish and Game Code, and to amend Section 13172.5 of the Water Code, relating to dredging.

LEGISLATIVE COUNSEL'S DIGEST

SB 1222, as introduced, Stone. Use of vacuum or suction dredge equipment.

Existing law prohibits the use of any vacuum or suction dredge equipment by any person in any river, stream, or lake of this state without a permit issued by the Department of Fish and Wildlife. Existing law requires the department to issue a permit if the department determines that the use does not cause any significant effects to fish and wildlife and would authorize the department to adjust the specified fee to an amount sufficient to cover all reasonable costs of the department in regulating suction dredging activities. Existing law prohibits the use of any vacuum or suction dredge equipment in any river, stream, or lake of this state until the Director of Fish and Wildlife makes a prescribed certification to the Secretary of State. Existing law authorizes the State Water Resources Control Board or a California regional water quality control board to adopt waste discharge requirements or a waiver of waste discharge requirements that address certain water quality impacts, specify conditions or areas where the discharge of waste or other adverse impacts on beneficial uses of the waters of the state from the use of vacuum or suction dredge equipment is prohibited, or prohibit particular use of, or methods of using, vacuum or suction dredge equipment, or any portion thereof, for the extraction of minerals, that the state board or a regional board determines generally cause or contribute to an exceedance of applicable water quality
objectives or unreasonably impact beneficial uses. Existing law provides that for the purpose of these provisions that the use of vacuum or suction dredge equipment, also known as suction dredging, is the use of a mechanized or motorized system for removing or assisting in the removal of, or the processing of, material from the bed, bank, or channel of a river, stream or lake in order to recover minerals.

This bill would instead provide for the purpose of these provisions that the use of vacuum or suction dredge equipment means the use of any equipment that removes minerals and water in conjunction to process and recover minerals.

Existing law provides that the prohibitions and requirements relating to suction dredging do not apply to, prohibit, or otherwise restrict nonmotorized recreational mining activities, including panning for gold.

This bill would instead provide that the above-described prohibitions and requirements do not apply to, prohibit, or otherwise restrict any equipment that does not transport mineral bearing material through a suction or nozzle.


The people of the State of California do enact as follows:

SECTION 1. Section 5653 of the Fish and Game Code is amended to read:

(a) The use of vacuum or suction dredge equipment by a person in a river, stream, or lake of this state is prohibited, except as authorized under a permit issued to that person by the department in compliance with the regulations adopted pursuant to Section 5653.9. Before a person uses vacuum or suction dredge equipment in a river, stream, or lake of this state, that person shall submit an application to the department for a permit to use the vacuum or suction dredge equipment, specifying the type and size of equipment to be used and other information as the department may require pursuant to regulations adopted by the department to implement this section.

(b) (1) The department shall not issue a permit for the use of vacuum or suction dredge equipment until the permit application is deemed complete. A complete permit application shall include any other permit required by the department and one of the following, as applicable:
(A) A copy of waste discharge requirements or a waiver of waste discharge requirements issued by the State Water Resources Control Board or a regional water quality control board in accordance with Division 7 (commencing with Section 13000) of the Water Code.

(B) A copy of a certification issued by the State Water Resources Control Board or a regional water quality control board and a permit issued by the United States Army Corps of Engineers in accordance with Sections 401 and 404 of the Federal Water Pollution Control Act (33 U.S.C. Secs. 1341 and 1344, respectively) to use vacuum or suction dredge equipment.

(C) If the State Water Resources Control Board or the appropriate regional water quality control board determines that waste discharge requirements, a waiver of waste discharge requirements, or a certification in accordance with Section 1341 of Title 33 of the United States Code is not necessary for the applicant to use vacuum or suction dredge equipment, a letter stating this determination signed by the Executive Director of the State Water Resources Control Board, the executive officer of the appropriate regional water quality control board, or their designee.

(c) Under the regulations adopted pursuant to Section 5653.9, the department shall designate waters or areas wherein vacuum or suction dredge equipment may be used pursuant to a permit, waters or areas closed to the use of that equipment, the maximum size of the vacuum or suction dredge equipment that may be used, and the time of year when the equipment may be used. If the department determines, pursuant to the regulations adopted pursuant to Section 5653.9, that the use of vacuum or suction dredge equipment does not cause any significant effects to fish and wildlife, it shall issue a permit to the applicant. If a person uses vacuum or suction dredge equipment other than as authorized by a permit issued by the department consistent with regulations implementing this section, that person is guilty of a misdemeanor.

(d) (1) Except as provided in paragraph (2), the department shall issue a permit upon the payment, in the case of a resident, of a base fee of twenty-five dollars ($25), as adjusted under Section 713, when an onsite investigation of the project size is not deemed necessary by the department, and a base fee of one hundred thirty dollars ($130), as adjusted under Section 713, when the department deems that an onsite investigation is necessary. Except as provided
in paragraph (2), in the case of a nonresident, the base fee shall be
one hundred dollars ($100), as adjusted under Section 713, when
an onsite investigation is not deemed necessary, and a base fee of
two hundred twenty dollars ($220), as adjusted under Section 713,
when an onsite investigation is deemed necessary.
(2) The department may adjust the base fees for a permit
described in this subdivision to an amount sufficient to cover all
reasonable costs of the department in regulating suction dredging
activities.
(e) It is unlawful to possess a vacuum or suction dredge in areas,
or in or within 100 yards of waters, that are closed to the use of
vacuum or suction dredges.
(f) A permit issued by the department under this section shall
not authorize an activity in violation of other applicable
requirements, conditions, or prohibitions governing the use of
vacuum or suction dredge equipment, including those adopted by
the State Water Resources Control Board or a regional water
quality control board. The department, the State Water Resources
Control Board, and the regional water quality control boards shall
make reasonable efforts to share information among the agencies
regarding potential violations of requirements, conditions, or
prohibitions governing the use of vacuum or suction dredge
equipment.
(g) For purposes of this section and Section 5653.1, the use of
vacuum or suction dredge equipment, also known as suction
dredging, is the use of a mechanized or motorized system for
removing or assisting in the removal of, or the processing of,
material from the bed, bank, or channel of a river, stream, or lake
in order to equipment means the use of any equipment that removes
minerals and water in conjunction to process and recover minerals.
This section and Section 5653.1 do not apply to, prohibit, or
otherwise restrict nonmotorized recreational mining activities,
including panning for gold. any equipment that does not transport
mineral bearing material through a suction or nozzle.
SEC. 2. Section 13172.5 of the Water Code is amended to read:
13172.5. (a) For purposes of this section, the use of any
vacuum or suction dredge equipment, also known as suction
dredging, is the use of a mechanized or motorized system for
removing or assisting in the removal of, or the processing of,
material from the bed, bank, or channel of a river, stream, or lake
in order to equipment means the use of any equipment that removes minerals and water in conjunction to process and recover minerals. This section does not apply to, prohibit, or otherwise restrict nonmotorized recreational mining activities, including panning for gold, any equipment that does not transport mineral bearing material through a suction or nozzle.

(b) In order to protect water quality, the state board or a regional board may take one or more of the following actions:

(1) Adopt waste discharge requirements or a waiver of waste discharge requirements that, at a minimum, address the water quality impacts of each of the following:

(A) Mercury loading to downstream reaches of surface water bodies affected by the use of vacuum or suction dredge equipment.

(B) Methylmercury formation in water bodies.

(C) Bioaccumulation of mercury in aquatic organisms.

(D) Resuspension of metals.

(2) Specify certain conditions or areas where the discharge of waste or other adverse impacts on beneficial uses of the waters of the state from the use of vacuum or suction dredge equipment is prohibited, consistent with Section 13243.

(3) Prohibit any particular use of, or methods of using, vacuum or suction dredge equipment, or any portion thereof, for the extraction of minerals that the state board or a regional board determines generally cause or contribute to an exceedance of applicable water quality objectives or unreasonably impact beneficial uses.

(c) (1) Before determining what action to take pursuant to subdivision (b), the state board shall solicit stakeholder input by conducting public workshops in the vicinity of the cities of San Bernardino, Fresno, Sacramento, and Redding. A regional board considering independent action pursuant to subdivision (b) shall solicit stakeholder input by conducting at least one public workshop in that board’s region. To promote participation in the public workshops, the state board or regional board shall proactively reach out to mining groups, environmental organizations, and California Native American tribes, as defined in Section 21073 of the Public Resources Code.

(2) Before taking a proposed action pursuant to subdivision (b), the state board or regional board shall conduct at least one public hearing regarding that proposed action pursuant to the
Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code).

(3) To avoid duplication of efforts between the state board and a regional board of a public workshop or public hearing that covers the same regional area, the state board and a regional board may work in collaboration to share information obtained through the public workshops or public hearing.