

PUBLIC LANDS FOR THE PEOPLE

EST. 1990



A 501(c)(3) Non-Profit Corporation

PLP exists to "Represent and assist outdoor user groups and individuals interested in keeping public and private lands open to prospecting, mining and outdoor recreation through education, scientific data and legal means."

April 2023

Oregon Suction Dredge Research

Hello Friends!

Public Lands for the People (PLP) has been hearing from you on the success of the field use of the PLP issued CA suction dredge card for reclamation purposes. PLP would love to have this feedback in the form of written stories and videos submitted to our info line so we can share them with the PLP's membership. If you do not wish to attract attention to yourselves – we get that, and your names and locations can be protected, and privacy given. Some of you have taken advantage of the dredge reclamation path on your unpatented and patented claims and have found that it can be quite lucrative even without seeking grant monies from the government by targeting metal and trash hot spots. Thank you for following the guide card so well and engaging in responsible dredging practices!

As many of you are aware, PLP is starting research on the viability of replicating the success in California on suction dredge reclamation and applying it within Oregon. While the state laws are different than California, the core obstacles in Oregon are federal in origin. The Federal Clean Water Act implemented by the Oregon Department of Environmental Quality (DEQ) is at the heart of the problem and the path for a solution. Unlike California who has two state agencies charged with regulating suction dredges, Oregon appears to have one. The DEQ carries out the Federal Clean Water Act 402 program by delegation from the Environmental Protection Agency. Both the CA Water Quality Control Board and the OR DEQ are to carry out the Federal Clean Water Act 402

program consistent with the terms and definitions of the federal law and its regulations. PLP research has noted that more stringent State pollution level thresholds have been upheld by the courts over the lower federal threshold EPA counterpart, but at the same time still require introduction (as a prerequisite for regulatory authority) into the waterway environment.

The Clean Water Act at its core purpose was to regulate activities that "...place material into the waterway." The prerequisite in the word "into" cannot be stressed more. For without the introduction of a foreign substance, the regulatory trigger has not been met. Skipping over this question and arguing that the Army Corps has regulatory jurisdiction over all dredging presupposes that all dredging activity adds a foreign substance – which is factually incorrect and can be readily demonstrated. PLP has obtained a law review that compares the regulatory approach of CA, OR, WA, and ID upon suction dredging in these western states, but amazingly, no law review to date has been found to compare or address the question of whether turbidity can always be construed as a foreign substance or whether it makes more sense to use it only as a means to measure water clarity – not an addition of material that was not already in the waterway. This distinction has been looked at on a case-by-case matter going back to the Silberman standard in the Tulloch line of cases and most recently in U.S. v. Godfrey and CA People v. Osterbrink. Some case law discuss turbidity in terms of negative aesthetics and a change in the waterway chemistry that amounts to an "addition". But the facts cannot support this conclusion when the waterway is taken as a whole, including those native constituents as stated in U.S. v. Godfrey. PLP is presently looking for Oregon case law on par with the factual & legal conclusions in Godfrey. Whereby an Oregon placer miner and defendant had successfully shifted the burden of proving discharge to the opposing party.

PLP's research is presently ongoing, and we thank the Oregon miners for their input. If other people wish to contribute their research, they are invited to send it to PLP's info line on our website.

PLP will be attending the upcoming Downieville Gold Rush Days August 10th – 13th. See the ICMJ Prospecting & Mining Journal for more information and updates.

Supporting PLP's Grand Raffle also helps us continue to fight for your rights.

A book of 12 tickets is only \$10. We have a lot of great high value prizes, and a list of those prizes is in the latest ICMJ Prospecting & Mining Journal. You can't win if you don't enter! Tickets are available NOW to purchase by phone for the **August 13th, 2023**, Grand Raffle Drawing. (Moved forward from July 13th) You can call our toll-free number (844)-PLP-1990 which is (844) 757-1990 by August 9th deadline or Mail a Check by the August

1st deadline (to the address below) and specify the number of ticket books you wish to have mailed to you.

If you like this information, **USE IT WISELY**

Your PLP Board of Directors

The original. No compromise. Standing 33 years strong for Multiple Use on Public Land "RIGHTS"!

Updating Our Mailing List:

Thanks for being a member and supporter of Public Lands for the People. We are working on updating our mailing list so if you would no longer like to receive emails from us, please click the unsubscribe link at the bottom.



[Facebook](#)



[YouTube](#)



[Website](#)