

IDG-37-0000  
Response to Comments  
Idaho Small Suction Dredge  
General Permit (GP)

EPA, Region 10  
April 2013

Prepared by:  
Cindi Godsey, EPA

With the assistance of:  
Tracy DeGering, EPA

## Table of Contents

General Information .....	3
General Comments .....	3
Permit Requirements .....	5
Permit Administration .....	8
Mercury .....	13
Spacing .....	14
Closures .....	15
Allocations .....	21
Screen .....	21
Monitoring & Reporting .....	22
Spill Reporting & Refueling .....	23
Effluent Limitation Guidelines & the National Environmental Policy Act ...	25
Suggested Changes to the General Permit .....	26
Miscellaneous .....	27
Appendix A List of Commentors.....	38
Appendix B List of Comments by Commentors.....	40

## General Information

In August 2012, EPA provided a Biological Evaluation (BE) in addition to the Draft Permit and Fact Sheet to the U.S. Fish & Wildlife Service (USFWS) and the National Marine Fisheries Service (NMFS) to initiate the process of informal consultation under the ESA.

In a letter dated September 19, 2012, USFWS provided concurrence with EPA's determination of Not Likely to Adversely Affect (NLAA) the Banbury Springs lanx, Bliss Rapids snail, Bruneau hot spring snail, Snake River physa snail, bull trout, Kootenai River white sturgeon and grizzly bear. They also concurred with the NLAA determination for bull trout and Kootenai River white sturgeon designated critical habitat.

In a letter dated November 20, 2012, the NMFS concluded that the effects of the proposed action are NLAA the Snake River Basin steelhead, Snake River Spring/Summer Chinook Salmon, Snake River Fall Run Chinook Salmon, and the Snake River Sockeye Salmon nor would it destroy or modify any designated critical habitat. NMFS also determined that the proposed action would not have an adverse effect on EFH and provided no conservation recommendations.

EPA requested final certification under the Clean Water Act (CWA) § 401 from the State of Idaho and Tribal governments. EPA received the CWA § 401 final Certifications from the Idaho Department of Environmental Quality (IDEQ) on March 8, 2013. EPA received letters from the Coeur d'Alene Tribe on May 23, 2012, and from the Shoshone Bannock Tribe on March 20, 2013 denying certification. Further, as a result of Tribal government-to-government consultation and coordination, the GP does not cover any of the five Reservations with land within the boundaries of the State of Idaho. Conditions of the IDEQ Certification have been incorporated into the general permit as appropriate.

Appendix A contains a list of Commentors and Appendix B contains a cross-referenced list between the comments and the Commentors.

## General Comments

1. Comment: Several commentors requested that EPA hold a public hearing. One of the reasons stated for the request was to hear EPA explain what it is trying to achieve with this ban on dredging.

Response: Several commentors requested public hearings so EPA could explain the General Permit (GP). A public hearing, however, is a forum for EPA to hear comments from the public. EPA is not required to explain the basis for permit provisions at the public hearing. Instead, EPA provides the basis for the permit provisions in a fact sheet and responds to comment submitted in writing and at a public hearing in written format. In a letter dated July 19, 2012, EPA denied several hearing requests as well as requests to extend the comment period.

This GP does not ban dredging. The GP provides the legal mechanism to authorize discharges of effluent from small suction dredge operations subject to the conditions specified in the GP.

2. Comment: I think that it would be a wise move on the EPA's part to see the outcome of this case (note: filed in California on April 2, 2012, by the Karuk Tribe against the California Department of Fish & Game) before proceeding with this in Idaho. There are a couple of people that worked for the EPA that have some good studies out there that say that this is not necessary. Claudia Wise and Joseph Greene are the two that I am speaking of.

Response: EPA has taken a long time to issue this GP. It is not clear how long a court decision will take and there are numerous potential permittees who need to obtain coverage under this GP in order to discharge effluent from their small suction dredge operations. Waiting an indeterminate time for a decision is unfair to those permittees waiting for this GP. If warranted by a court decision, EPA could modify the GP. See 40 CFR 122.62. Any studies done by Wise and Greene do not negate the need for the GP (see Comment #6).

3. Comment: Your second draft nullifies the very intent of having a mining claim to begin with and will result in a "taking" of mining claims which means somebody who does the taking must pay for the taking.

Response: A taking occurs where the government action causes the affected property to become devoid of economic value. Where the government action decreases the value of the property such that there is very little economic value left, a taking occurs where the government action unjustly reduces the economic value of the property.

Clean Water Act (CWA) § 301 requires an NPDES permit for the discharge of pollutants from a point source to waters of the United States. EPA is unaware of any court decisions holding that the issuance of an NPDES permit for the discharge of pollutants to waters of the United States constitutes a taking. In fact, issuance of the permit does not result in a miner's property becoming devoid of economic value nor does it unjustly reduce the economic value of the miner's property. Mining can still occur subject to the conditions set forth in the permit.

4. Comment: The Clean Water Act was intended to enforce rules for the elimination of pollutants from municipal [*sic*] sewer treatment plants and large factories. The water used in these operations comes from other sources than the bodies of water that they are to be introduced into. Ground water, wells, and sometimes tributaries could be the sources. The chemicals used in such heavy industrial manufacturing were to be removed from the water before introduction into another stream. Any and all rules which the EPA wishes to implement should never be under the auspices of the Clean Water Act, for which they were clearly not intended

Response: The CWA does not contain any provision for smaller discharges or those with less impact to be treated as de minimis with no permit requirement. CWA § 301(a) states "*Except as in compliance with this section and sections 302, 306, 307, 318, 402, and 404 of this Act, the discharge of any pollutant by any person shall be unlawful*" (emphasis added). See Comment #6 for further discussion.

The draft general permit contains requirements corresponding to the nature of the operation and the discharge. The GP requires submittal of a Notice of Intent (NOI) rather than a more administratively burdensome application, it does not involve chemical sampling and contains only visual monitoring, and an annual report is required rather than a monthly report that is standard for larger facilities

5. Comment: A general permit is not appropriate because individual sites are unique with different substrates, fish populations, and existing water quality conditions. It is recommended that individual NPDES assessments and permits be given for each operation.

Response: EPA proposed a general permit to allow for the regulation of a vast number of similar discharges through one action rather than going through the administrative and financial burden of permitting each facility individually. See 40 CFR § 122.28. EPA has excluded some areas from coverage under the general permit because those areas require more specific requirements that are more appropriately set forth in an individual NPDES permit. EPA believes that the remaining areas in Idaho are appropriately covered under a general permit. The commentor did not specifically explain why this general permit is not appropriate to the areas covered by the GP.

## Permit Requirements

6. Comment: Many commenters stated that since there is little, if any, impact from small scale suction dredging, an NPDES permit should not be required. In addition, many commentors questioned the need for an NPDES permit since the Idaho Department of Water Resources (IDWR) already issues permits.

Response: There seems to be some general confusion between the need for a permit and the impacts of an activity. An NPDES permit is required because the small suction dredge activities discharge pollutants to waters of the United States. The CWA § 301(a) prohibits the discharge of pollutants from point sources to waters of the United States unless they are authorized by a NPDES permit issued under CWA § 402. The term “pollutant” is broadly defined to include, but is not limited to,

*“dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, **rock, sand**, cellar dirt and industrial, municipal, and agricultural waste discharged into water.”* See CWA § 502(6).

The CWA does not say that only discharges having an impact need a permit. It says that the discharge itself is unlawful without the permit. The CWA does not contain any provision for smaller discharges or those with less impact to be treated as de minimis with no permit requirement. CWA § 301(a) states *“Except as in compliance with this section and sections 302, 306, 307, 318, 402, and 404 of this Act, the discharge of any pollutant by any person shall be unlawful”* (emphasis added)

IDWR issues stream alteration permits. For information on IDWR permit see <http://www.idwr.idaho.gov/WaterManagement/StreamsDams/Streams/DredgingPermit/DredgingPermit.htm>.

7. Comment: Using the rationale of the EPA for classifying sluice box discharge as pollution, due to TSS, we could similarly call a highway cleanup activity polluting because of the cars people must drive to attend and use during a cleanup, or similarly the dust they kick up along the highway roadside. Is not the benefit greater than the negative impact such that it is a non issue?

Response: See Comment #6 on the necessity of the permit.

8. Comment: We urge you to issue no permits, general or individual, for suction dredging. It is an activity that has far too many negative impacts without any societal benefit.

Response: There are certain instances where EPA is prohibited from issuing permits and these are found in regulation at 40 CFR 122.4. None of these instances apply to the activity covered by this permit. Therefore, EPA is not prohibited from issuing this permit. See Comment #6 on the necessity of the permit.

9. Comment: We ask just what legal authority the EPA is operating under that gives it the authority to usurp the U.S. Congress, the 1872 mining law, Idaho State Law and install these proposed rules of operation without first seeking the appropriate legislative authority.

Response: Mineral extraction in the United States is governed by various federal and state mining, land use, and environmental laws. The General Mining Law of 1872, the organic acts of the various federal land management agencies, and federal and state environmental statutes control development of these minerals.

The CWA provides EPA with the authority to issue NPDES permits. As explained in Comment #6, an NPDES permit is required when there will be a discharge of pollutants from a point source into waters of the United States.

10. Comment: The permit must clearly state and require that authorization of the land management agency or landowner must be obtained before beginning any operation.

Section I.E: Suggest adding a statement that additional permits may be required by land management agencies. There is concern operators may assume the GP and IDWR permits are all they need to begin suction dredging.

Response: This GP only authorizes the discharge of wastewater from the activity and does not exempt anyone from following other federal, state or local laws. EPA has provided a diagram in Permit Part I.A. outlining the hierarchy of the process stressing that permission to be in a certain location is required. In addition, the GP

contains a standard provision that states that the permit does not preclude the permittee from complying with any other application state law or regulation

11. Comment: Section I.F.2.a: How would the land management agency know that EPA has received the NOI? Is there a comment period or does EPA notify the land management agency somehow? Will EPA notify land management agencies of activities occurring upstream?

Response: The land management agency would know that EPA has received a Notice of Intent (NOI) because it will also receive one. Permit Part I.G.4. requires that the applicant submit a copy to the land manager. The NOI now includes a line for information on the land manager. There is no comment period but the GP outlines a 30-day period in which the land manager could request that permit coverage under the GP be denied. EPA will maintain a database with location information that can be shared with the land management agencies.

12. Comment: The Penalties for Violations of Permit Conditions should be intended for industrial scale plants ONLY! To include the small scale miner in my opinion is out of line.

Also seems to me all you want is in our pockets since you raised all the fines 1000%.

Response: The penalties listed in Permit Part IV.B. are the statutory maximums that could be assessed for violations of the CWA. See CWA §§ 309(c), 309(d) and 309(g) [as amended by the Debt Collection Improvement Act of 1996].

The CWA does not limit penalties to larger dischargers but makes them applicable to anyone found in violation. In determining the amount of a penalty, the EPA takes into account the nature, circumstances, extent and gravity of the violation, or violations, and with respect to the violator, ability to pay, any prior history of such violations, the degree of culpability, economic benefit or savings (if any) resulting from the violation, and such other matters as justice may require. See CWA § 309(g). In addition, EPA has the discretion to determine what type of enforcement action it will take. Enforcement actions may vary from a notice of violation to an administrative penalty.

The Debt Collection Improvement Act of 1996 required an initial 10% adjustment to civil monetary penalties and an amendment of Section 4 of the Federal Civil Penalties Inflation Adjustment Act of 1990 (Public Law 101-410, 104 Stat. 890; 28 U.S.C. 2461 note) to read as follows: "SEC. 4. The head of each agency shall, not later than 180 days after the date of enactment of the Debt Collection Improvement Act of 1996, and at least once every 4 years thereafter— "(1) by regulation adjust each civil monetary penalty provided by law within the jurisdiction of the Federal agency. . ." As such, the penalties have been adjusted to the present levels, 42 to 60% above the initial amounts.

13. Comment: The water resource says 5" dredge and you say 4" is the biggest size we can use....

Response: The statement that the permit allows a maximum dredge of 4 inches is incorrect. The GP authorizes discharges from small suction dredges with an intake nozzle size of 5 inches in diameter or less. In addition, the GP authorizes discharges from small suction dredges with an intake nozzle size that is diametrically equivalent to a 5 inch nozzle (see GP at Permit Part I.C).

14. Comment: While mention is made regarding best management practices (BMPs) for ESA-listed fish, there are many other important organisms within an aquatic system that will be negatively impacted by suction dredge mining operations, including aquatic invertebrates, sculpin, suckers, freshwater mussels, and lamprey ammocoetes (a culturally significant species), which live in sand substrates for three to seven years. This potential disruption of the food web upon which fish depend could have deleterious effects upon fish populations as a whole.

Dredge mining should be prohibited in streams that harbor populations of Westslope, Bonneville, Yellowstone and/or other native populations of Cutthroat Trout.

Response: The goal of the CWA is to “restore and maintain the chemical, physical and biological integrity” of the waters of the U.S. See CWA § 101. The conditions in the GP were established to ensure that this goal was met. In addition, the GP protects the designated uses of the waterbodies covered by the permit, including aquatic life where applicable to the waterbody. Therefore, the GP is written to avoid deleterious effects on the applicable waterbodies. See Comments #34, #46 and #47.

## Permit Administration

15. Comment: Is it a “one stop permit” like the IDWR permit? Does it have to be submitted and reviewed by some board of examiners?

A commentor is concerned that EPA does not have adequate resources to deal with NOIs and should consider auto-approval and joint application.

How will EPA manage the annual reporting requirement upon issuance of a 5-year permit? Will there be a database available for reference for those people who seek a permit for an already permitted area that is not being used?

Response: The NOI needs to be submitted to EPA, Idaho Department of Environmental Quality (IDEQ) and the land manager. EPA will review the NOI to ensure that the facility meets the requirements for coverage under the GP. If the land manager has no cause to request that EPA deny coverage, permit coverage will be granted with certain exceptions.

EPA may consider auto-approval and/or joint application in future iterations of the GP.

16. Comment: Is there a time period required? If so, is it more than a couple of days?

Response: The GP requires that NOIs be submitted at least 60 days prior to discharging. This would facilitate the time necessary for EPA review and allows for the 30 days that a land manager has to request that EPA deny coverage under the GP. Very likely there are areas where coverage could be granted almost immediately and areas where coverage would take longer. EPA will strive to grant coverage in a timely manner.

17. Comment: I recommend that the permit only be required for recreational miners working longer than 3 week periods. This will eliminate the need for a tourist to apply if they are only going to be here a short time

Response: See Comment #6.

18. Comment: We object strongly to these new EPA regulations and we object strongly to the one month short comment period the EPA has imposed. We ask that the proposed regulations be immediately abandoned and not allowed to go into effect on the June 1st, 2012 date. We ask if anything that the comment period be extended for at least 6 months.

The new regulations and requirements proposed by the EPA are so mind boggling that it makes it virtually impossible to comply with them.

Response: EPA did not propose new regulations but a general permit to implement existing regulations promulgated under the CWA. The general permit did not go into effect on June 1, 2012. The comment period on the draft permit ended on that day. After the comment period, EPA is responsible for providing a preliminary final GP to the State of Idaho for final CWA § 401 Certification and to prepare a Response to Comments document to address comments received on the draft. It is only after the permitting process is complete that the final permit may be issued.

19. Comment: An NPDES permit allows third party people to abserve [*sic*] what you are doing and report you to the agency regulating suction dredging.

Response: 40 CFR § 122.28(b)(3) states "The Director may require any discharger authorized by a general permit to apply for and obtain an individual NPDES permit. Any interested person may petition the Director to take action under this paragraph." If EPA received such a petition, it would still be at the Director's discretion whether to require an individual permit.

It is unclear whether the commentor meant the NPDES permit or the provisions of CWA § 505 which allows third parties to file suit against someone for violations of the Clean Water Act but this action would be through the judicial system, not a report to EPA.

20. Comment: The Regional Administrator must be accountable to the citizens. Therefore, the discretion to possibly require an individual permit (Part F, page 6)

under those conditions should be removed. Instead, the permit should state the Regional Administrator “shall” require an individual permit.

Response: The requirement in the GP is a recitation of the regulations at 40 CFR 122.28(b)(3)(i) and will not be changed.

21. Comment: The permit should state the Regional Administrator shall deny coverage when the land management agency so requests. Furthermore, EPA must forward the NOI to the land management agency

Response: EPA will give the land management agency the utmost deference in this matter but will retain its permitting flexibility with the current language in the GP. The applicant is required to send a copy of the NOI to the land manager in Permit Part I.G.4.

22. Comment: Five years is too long for a permit to be active. This kind of activity should be renewed and reviewed every year.

Response: The regulation at 40 CFR 122.46(a) allows EPA to issue permits with a maximum five year term. The Annual Report requirement will be the mechanism to review facilities on a more frequent basis.

23. Comment: Is EPA prepared to enforce rules of a GP for dredging in Idaho?

Who will enforce the terms of the permit? Will it be EPA, IDEQ or the land management agency in the case of federal or state lands? Where will the funding come from for this enforcement? In an era of tight budgets, it makes no sense to permit polluting activities that offer little or no societal benefits, without funding for monitoring and compliance.

The implementation of this permit will be rendered useless without an effective strategy for enforcement. The final permit should include and describe provisions for effective implementation and enforcement of this permit. First, the EPA should work cooperatively with the IDEQ to conduct a subset of random inspections of operations covered by this permit on an annual basis to monitor for and enforce compliance; Secondly, coverage under this general permit should include a registration system or means of identifying individual operations in the field. Specifically, the operator should be issued two registration stickers with a number, which are to be applied and prominently displayed on both sides of the dredge or other equipment used by the individual operators.

There is a lack of specificity regarding inspection of operations to ensure compliance with the conditions set forth in this GP.

I urge EPA to ensure adequate enforcement of the Clean Water Act following final approval of this permit. For too long, violations of the Clean Water Act with regard to suction dredging have gone unenforced in Idaho. Based on the new General Permit, it is essential that EPA initiate enforcement in prohibited areas, i.e. in designated critical habitat and in 303(d) listed streams (for sediment).

Response: EPA's primary objective is compliance rather than enforcement. The goal in issuing a permit is for permittees to achieve compliance with the requirements of the permit to maintain the physical, chemical and biological integrity of the waters.

EPA attains the goal of compliance through outreach and compliance assistance but retains all rights to pursue enforcement to address any violations of the CWA and NPDES permit. Enforcement can result in civil penalties of up to \$37,500 per day, per violation. See CWA §309. Inspection planning is conducted annually and is based on EPA's October 17, 2007, CWA NPDES Compliance Monitoring Strategy for the Core Program and Wet Weather Sources (CMS). The CMS took effect in 2009 and outlines inspection and compliance goals for the entire NPDES program, including major and minor NPDES facilities. Compliance activities are determined on a regular basis and could be affected by staffing levels, budget and other priorities. In many cases, EPA works cooperatively with other government agencies on the best ways to ensure compliance with environmental laws and permits, including the planning of inspections. It is not EPA's policy to include an enforcement or even a compliance strategy within the confines of a permit. The GP contains the necessary requirements as well as the statutory maximum penalties that could be assessed in the event of non-compliance.

EPA has included a requirement in Permit Part II.A. to display an identification called a Miner Number either on the dredge and/or in a vehicle near where dredging is occurring. EPA will assign the Miner Number in the authorization letter and provide two sheets that a dredger can laminate, slip into a protective sleeve or wrap in plastic to protect the sheet from the elements.

24. Comment: The requirements to avoid redds, fry and alevins requires dredgers to be fish biologists. The Best Management Practices are unenforceable without monitoring by a third party or an agency that is accountable to the public. Again, what funds are expected so EPA, IDEQ and/or the land management agencies will be capable of doing this kind of monitoring to ensure compliance?

Response: There are two facets of suction dredge permitting that will protect these sensitive life stages of fish. EPA has chosen not to provide coverage under this GP to areas designated as critical habitat under the ESA. In addition, the timing restrictions of the IDWR permits are meant to protect these sensitive life stages for those streams covered by the GP. EPA receives no additional funds for issuing specific permits but manages its existing compliance and enforcement funds to prioritize its workload. EPA has no authority over how IDEQ or the land management agencies prioritize their work and allocate their resources.

25. Comment: We also have a question regarding the intersection of the state and federal permits. Since they have the same NPDES number, are they the same permit? If so, how will the discrepancies in the state and federal permits be resolved? If they are not the same permit, the confusion that could be created by having two required permits with the same number should be obvious

Response: There is not a separate State and EPA NPDES permit. The EPA has the authority to issue the NPDES permits in Idaho (See Comment #6) but must acquire a Certification under CWA § 401 from the State before the permit can be finalized. The requirements contained in the Certification will be made part of the GP pursuant to CWA § 401(d) if they meet all the regulatory requirements of 40 CFR 124.53(e). If the certification contains less stringent conditions than the permit, EPA will not include the less stringent conditions. See 40 CFR 124.55(c).

26. Comment: Subpart (G)(1) requires operators of suction dredge mining facilities to file a notice of intent (NOI) on an annual basis. This section should be amended to include any waterways for which a future TMDL is prepared that includes a waste load allocation for dredge mining that also limits the total number of facilities that may be permitted in any given year.

Response: The GP would have to be modified or reissued to include the requirements of a new Total Maximum Daily Load (TMDL) and either of these would require public comment and a new CWA § 401 Certification. Therefore, no change will be made to the GP based on this comment.

27. Comment: The deadlines given in Subparts (G)(1) and (2) for submitting a NOI do not fulfill the requirements of 40 CFR § 122.21(c), which requires that, “[a]ny person proposing a new discharge, shall submit an application at least 180 days before the date on which the discharge is to commence, unless permission for a later date has been granted by the Director.”

Response: The Director is granting permission for a later date through this permitting action.

28. Comment: **Section I.F.2.d:** The last paragraph of this section refers to “another applicable watershed-specific GP.” Are there existing watershed GPs in Idaho or is this something the EPA anticipates doing in the future?

Response: Currently EPA has issued no watershed-specific general permits but will explore all means available to facilitate future permitting actions.

29. Comment: What reason is given for the Permittee notifying EPA when coverage is no longer needed at a site.

Response: EPA is requiring permittees to submit a notice of termination to EPA so that EPA will know when to officially terminate permit coverage. If a facility remains covered under the GP when coverage is no longer needed, the facility could be subject to an enforcement action.

30. Comment: What will submitting a NOI change? It won't. Wouldn't it be just as beneficial to submit an end-of-season report? A notice of intent (NOI) for recreational prospecting with a small dredge (<5”) is extreme. The activity is just that, recreational. Requiring permits to recreate, even when the impacts are so small is and to plan ahead more days than the season is long is unnecessary. The EPA should collaborate with the IDWR because the letter permit establishes the intent on the part of recreational prospectors already.

Response: By submitting an NOI, the permittee is seeking authorization to discharge pollutants to waters of the U.S. which is required under the CWA. If the facility fails to obtain permit coverage through submittal of the NOI, the facility may be subject to an enforcement action for discharging without a permit. Please see Comments #4 and #6 about the need for permit coverage and Comment #72 about timing to submit an NOI. This GP requires an annual (end-of-season) report.

31. Comment: We have the water resource board and you have copied their rules almost word for word, so why do we need to be told twice or three times to follow the same rules, just so you can charge us a second to third permit cost to tell us to follow the same rules.

Response: EPA does not charge a fee for its permits.

## Mercury

32. Comment: One commentor says that there was no need to mention mercury in the permit since no dredger would return it to the water once it was removed. Other commentors stated that EPA should allow dredging in most streams since the removal of mercury is beneficial to the streams. Other commentors believe that EPA should pay dredgers to remove mercury.

Response: As explained in the Fact Sheet, mercury is a pollutant of concern due to its use in historical mining operations. A release of mercury could violate the water quality standards that are protective of aquatic life. Therefore, EPA felt it necessary to address this issue through a prohibition on the release of mercury captured by the dredge.

While EPA cannot and will not argue that the removal of elemental mercury from waterbodies is beneficial, it cannot ignore other facets of the law just to facilitate dredging up material that may contain mercury.

EPA is meeting with miners and others to receive their input on a pilot collection event. EPA's overall goal in this effort is to provide IDEQ and IDHW with enough information for them to establish a permanent means of collecting elemental mercury in a way that works best for the miners.

33. Comment: Although Mercury (Hg) collection and disposal is addressed in the GP, not all mercury that is mobilized during dredging operations is removed from the sediment. A study conducted by the California State Water Resources Control Board indicate that 2% of elemental Hg mobilized by dredge mining activities was released in discharge sediment at levels that would constitute hazardous waste (> 20 ppm) (Humphreys 2005). They also found that suction dredging contributed to the breaking up of liquid drops of Hg into many very small particles, which increases surface area and can enhance oxidation of Hg<sub>0</sub> to Hg (II), an important step in the methylation of Hg (Alpers 2007). Methylmercury can bioaccumulate up the food chain and pose substantial risk to biota and human health through the consumption of fish.

Response: The primary goal of suction dredging is to recover gold, not specifically to encounter mercury although this does occur. So the question becomes what to do if mercury is encountered. The draft permit requires that mercury be collected and not be discharged. The alternative would be to stop dredging and move to another location. However, after disturbing the pocket of mercury, more may escape downstream even if the operation moves making more mercury potentially available for methylation (since mercury methylation is controlled by sulfate-reducing bacteria and other microbes that tend to thrive in conditions of low dissolved oxygen, not all mercury that is release will be methylated). EPA has chosen to retain the provision to collect mercury if it is encountered so that mercury that is disturbed will be removed from the environment.

## Spacing

34. Comment: IDWR already has minimum spacing distance (and the IDEQ cert agrees) so why does EPA have to make it more?

Why must facilities be 800 feet apart if a non-compliant discharge is defined as a plume with extent greater than 500 feet?

The 800 feet between dredging operations rule needs to be clarified. How about “where possible operate at outside the dispersing plume of another dredge operation” as a best management practice. Why does it matter if 2 miners are working side by side?

Response: Under CWA § 101, EPA is required to restore and maintain the chemical, physical and biological integrity of waters of the United States. Protection of the physical integrity of waterbodies includes protection of habitat. Some separation between the end of one mixing zone and the beginning of the next is necessary to protect habitat in the receiving waters and ensure that there are areas in the receiving water where water quality standards are being met and where sediments are not impacted. Permittees who believe that they can operate with a mixing zone less than 500 feet may request an individual permit which would allow them to operate with a smaller separation distance. See Comment 25 regarding acceptance of conditions in a state certification.

35. Comment: Clarify what is meant by a dredge operation and the minimum spacing between dredges that make up an operation.

Response: Dredges that make up a dredging operation can operate as closely together as other required permits allow. The turbidity plume from all the dredges combined should be visually monitored for compliance with the GP.

## Closures

36. Comment: The 2 maps that were in the draft NPDES permit are very confusing.

Concerns were raised about closures on certain rivers mainly the Boise (MF) and the Payette.

The maps show the St. Joe as withdrawn, but it is not included on the list on the side. St. Joe listed as withdrawn due to "wild and scenic" designation. However, that designation only extends from Avery to headwaters. The rest was withdrawn by the State of Idaho.

Response: EPA has included one map with the final permit that shows the areas not covered by the GP. Timing restrictions set by the IDWR will have to be checked on their most current list.

37. Comment: Waters of the Boise and Payette National Forest are currently "closed" to suction dredging, in lieu of some of those waters being, and potentially being "open" under the IDWR "letter permit." It is therefore encouraged that an effort between EPA and IDWR is made to have both agencies recognize the same activity on the same stretches of water, under their respective permitting processes

Response: See Comments #36 and #48.

38. Comment: I propose that all the prohibitions on dredging Idaho rivers and streams be removed from the draft permit until due consideration has been given to these similar impacts of other activities (fishing, dust from logging roads) which occur year round, 24 hours a day. All notion of river sections open/closed for dredging should be at the discretion of the individual land management authority to which that stream or waterway pertains.

Response: EPA is considering suction dredge activity in this GP. Many of the prohibitions that are included in the GP are based on State laws barring the activity in the listed waterbodies. Other laws, like the Clean Water Act and the Endangered Species Act, are the basis for not covering discharges from suction dredge activities in other waterbodies on the list. Land management agencies do not have the authority to administer all laws, such as the Clean Water Act, applicable to the activity but EPA has reconsidered its total ban on federal lands listed in Permit Part I.D.1. and requires that approval from the land manager be included with the NOI.

39. Comment: All streams that are within research natural areas [RNA] and areas of critical environmental concern [ACEC] should be off-limits to suction dredging.

Response: According to the Forest Service (USFS, personal communication Brad Campbell, August 15, 2012), all areas within RNA's and areas of critical environmental concern would be evaluated and addressed under regulations found at 36 CFR Part 228 for proposed locatable minerals activity. If an area has not been withdrawn from mineral entry, an incoming proposal would be evaluated to

determine if a plan of operations would be required prior to beginning the activity. All plans of operations include environmental evaluation through the NEPA process. In short, these lands are managed and evaluated as are other areas with heightened concern, and are evaluated through the National Environmental Policy Act (NEPA).

The Bureau of Land Management (BLM, personal communication Valerie Lenhartzen, September 7, 2012) does not automatically withdraw RNAs and ACECs from mineral entry. BLM surface management regulations for locatable minerals (43 CFR 3809) and the NEPA process are generally deemed adequate analysis for locatable minerals mining activity in areas that are not withdrawn. If a proposal for mining activity is received, it is evaluated to determine its classification as casual use, mining notice-level activity, or mining plan of operations-level activity. If it is determined that a mining plan of operations is required, an environmental assessment, or an environmental impact statement per the Council on Environmental Quality's NEPA regulations will need to be prepared. Like the USFS, BLM would also evaluate through NEPA plan of operation-level mining proposals in RNAs and ACECs with a heightened awareness of resource impacts specific to those areas. Proposals received that are classified as notice-level mining activities (mainly exploration activities) may not require NEPA analysis, but will still be reviewed for potential impacts before being accepted.

EPA made no change to the permit as a result of this comment.

40. Comment: The final general permit must also prohibit suction dredge and placer mining operations in the Sawtooth and Hells Canyon National Recreation Areas, where National Forest System Lands have been withdrawn from mineral location and entry.

Response: As explained in Fact Sheet Section II.C.1., both areas are administered by the U.S. Forest Service (USFS) and the regulations covering them prohibits mining activity, including suction dredging, in the Hells Canyon National Recreation Area [36 CFR 292.47(a)(1)] but allows potential facilities to submit a plan of operations or operations plan in the Sawtooth National Recreation Area [36 CFR 292.16(h) and 292.18(c)] to the USFS for review. EPA is not restricting what is considered by many to be a recreational activity in a recreation area if the land management agency allows the activity and the streams are not closed for other reasons listed in the GP.

41. Comment: The prohibitions in Subpart (3) should also be extended to critical habitats designated for all other species of listed fish, such as Chinook salmon, steelhead, and lamprey.

Response: In order to receive concurrence from the Services on a "Not likely to adversely affect" endangered species decision and to avoid formal consultation with the Services on the GP, the Services requested that EPA exclude from coverage all designated critical habitat for the endangered species mentioned in the comment and all others within the State of Idaho. The Services also requested that EPA refrain from covering additional waterbodies to provide additional

protection for endangered species. These are listed here and can now be found in Permit Part I.D.4. but an exception is provided in Permit Part I.D.4. to allow for coverage if an ESA consultation has been conducted with another federal agency. EPA will acknowledge any conservation measures or Terms and Conditions identified through an alternative Section 7 Consultation process (ESA compliance documentation) in the coverage letter for a facility applying for the general permit.

- Columbia River Basin
  - Kootenai River
  - Moyie River
- Lemhi River Basin
  - Agency Creek
  - Hawley Creek drainage (Hawley Creek, Big Bear Creek, Reservoir Creek, Meadow Creek)
  - Canyon Creek drainage (Canyon Creek, Cruikshank Creek)
  - Clear Creek
  - Kirtley Creek
  - Texas Creek drainage (Texas Creek, Deer Creek)
  - Big Springs Creek
  - Middle Fork Little Timber Creek
  - Pattee Creek
  - Eighteenmile Creek
- Pahsimeroi River Basin
  - Goldberg Creek
  - Ditch Creek
  - Big Gulch Creek
- Panther Creek Basin
  - Boulder Creek
  - Spring Creek
  - Blackbird Creek and its tributaries
  - Carmen Creek and its tributaries
  - Jesse Creek and its tributaries
  - Williams Creek and its tributaries
  - Twelvemile Creek
  - Iron Creek and its tributaries
  - McKim Creek and its tributaries
  - Hat Creek and its tributaries
  - Allison Creek
  - Cow Creek and its tributaries
- Pend Oreille Basin
  - Caribou Creek
  - Twin Creek
- Little Lost River Basin
  - Little Lost River (from Badger Creek up to Sawmill Canyon)
  - Wet Creek
  - Williams Creek
  - Badger Creek
- North Fork Payette River Basin
  - North Fork Lake Creek
- Clearwater River Basin

42. Comment: The [Nez Perce] Tribe requests that the EPA exclude from coverage all waters within the Nez Perce Reservation and those off-reservation waters important to the exercise of Nez Perce Tribal treaty rights.

The Tribe requests that EPA exclude from coverage under the GP all waters within the 1863 Reservation boundaries, as well as specified off-Reservation waters that the Tribe will discuss further with EPA through formal consultation.

Response: EPA held government to government consultation meetings with the Nez Perce on October 23, 2012, and agreed to exclude from the GP all waters within the 1863 Reservation boundaries. In a letter dated, November 7, 2012, EPA requested a list of any off-Reservation waters that the Tribe wanted to exclude. The Tribe did not provide any additional waters.

43. Comment: The permit must clearly state that any critical fish habitat for ESA-listed species is off-limits to all suction dredging, either by a general permit or individual permit.

Response: While the GP does not cover designated critical habitat areas except under limited circumstances, an analysis for an individual permit could determine that operation during certain times of the year would not impact the habitat. The language of Permit Part I.D.4. has been changed to clarify that it not only applies to designated critical habitat areas but to the additional waters listed in Comment #41.

44. Comment: The State generally does not support the USFWS's 2010 revised designation of bull trout critical habitat in Idaho. The State provided comments to the USFWS in 2010 regarding the USFWS's proposed revised bull trout designation. The State maintains its position on bull trout designation as outlined in the attached copy of comments submitted to the USFWS on April 5, 2010. The State wishes to note that many stream segments in Idaho that are designated critical habitat under the ESA are also closed to recreational mining based on the decision of the IDWR Director. These closures are identified in IDWR's 2012 Program Instructions for Recreational Mining Activities, Attachment F. There are a relatively small number of stream segments in Idaho that are designated bull trout critical habitat but are currently open to recreational mining. IDWR has coordinated with IDFG fishery biologists in developing the list of streams that are open and closed to recreational mining in the Idaho, as well as the seasons of use on open streams. The closed designations were made in those areas where the State agreed that habitat was critical. The closed designations obviously were intended to eliminate impacts to endangered species in those stream segments.

Response: Comment noted. See also Comment #41.

45. Comment: Under Subpart (2)(d), the Regional Administrator may deny coverage to an individual operator under the general permit when the U.S. Fish and Wildlife Service believes that consultation is required under Section 7 of the Endangered Species Act. This Subpart should be amended by adding "or NOAA Fisheries" after the word "US Fish & Wildlife Service."

Response: As a part of the ESA consultation with the Services, EPA has excluded many areas for coverage under this GP. As such, this Permit Part is no longer necessary and will be deleted from the final permit.

46. Comment: Additional prohibitions are needed to protect lamprey. Lamprey build redds in stream gravels, similar to salmonids. However, the ammocoetes hatch after two-three weeks of incubations and subsequently burrow into fine and medium substrates where they spend the four to seven years rearing. Redds used by lamprey ammocoetes are less distinct than those of salmonids, and occur in lower velocity pools behind boulders and along stream margins. The life history and development of lamprey should be taken into account in order to prescribe prohibitions to protect lamprey from the adverse effects of suction dredge mining. Lamprey habitats are located in the Clearwater and Salmon River Basins.

Response: The GP does not provide coverage for discharges into the Clearwater basin and most of the waterbodies in the Salmon River basin due to a combination of factors related to the waterbodies including: (1) designation as Wild and Scenic; (2) state protected or withdrawn; and (3) designation as critical habitat for a species under the Endangered Species Act. For this reason, EPA sees no need to include special requirements to protect lamprey habitat.

47. Comment: The draft permit is unnecessarily ESA-centric, failing to recognize that other aquatic biota can and will be negatively affected by suction dredging.

Response: See Comment #14.

48. Comment: The EPA needs to give equal consideration to those waters open to suction dredging per Idaho Department of Water Resources "letter permit" as it has to those waters closed by the State Board of Land Commissioners.

Response: EPA can and does give deference to the closures under the IDWR "letter permit" but cannot, under its regulations, give the same deference to the open waters.

49. Comment: The TMDL #'s came from an advisory group with only 1 miner on the committee. That seems biased [*sic*] and not a true representation of all concerns from those of us "in the field". Why should no discharges be allowed at anytime below Harpster Bridge on the South Fork of the Clearwater? (That need [*sic*] some explanation).

Response: The TMDL process outlined on IDEQ's website shows that the advisory group is not the only input that miners could have on the development of a TMDL. There is a public comment period during which anyone can submit information. Once a water body is listed as impaired in the Integrated Report, it is placed on the TMDL schedule. Each TMDL must be submitted to the EPA by December 31 the year it is due. It takes approximately two years to write a TMDL; however, this process can take longer if the subbasin is highly complex.

As for the prohibition on discharges below Harpster Bridge on the South Fork of the Clearwater, this is a condition of the IDEQ-issued, EPA-approved TMDL for this basin. 40 CFR 122.44(d)(1)(vii)(B) requires that “Effluent limits developed to protect a narrative water quality criterion, a numeric water quality criterion, or both, are consistent with the assumptions and requirements of any available wasteload allocation for the discharge prepared by the State and approved by EPA pursuant to 40 CFR 130.7” (Total maximum daily loads (TMDL) and individual water quality-based effluent limitations). Also, see Comment #41 for a list of waterbodies not covered for ESA purposes.

50. Comment: Under the Clean Water Act, a new point source discharge affecting a parameter associated with the 303(d) listing is prohibited.

Response: The EPA agrees with this comment. An impaired waterbody is a waterbody (i.e., stream reach, lake, waterbody segment) with chronic or recurring monitored violations of the applicable numeric and/or narrative water quality criteria.

40 CFR 122.44(d)(1)(iii) requires that “When the permitting authority determines, using the procedures in paragraph (d)(1)(ii) of this section, that a discharge causes, has the reasonable potential to cause, or contributes to an in-stream excursion above the allowable ambient concentration of a State numeric criteria within a State water quality standard for an individual pollutant, the permit must contain effluent limits for that pollutant.”

As described above, 40 CFR 122.44(d)(1)(vii)(B) requires that “Effluent limits developed to protect a narrative water quality criterion, a numeric water quality criterion, or both, are consistent with the assumptions and requirements of any available wasteload allocation for the discharge prepared by the State and approved by EPA pursuant to 40 CFR 130.7” (Total maximum daily loads (TMDL) and individual water quality-based effluent limitations).

In cases where the receiving water already exceeds the criteria, a mixing zone cannot be authorized. Establishing the criterion as the wasteload allocation ensures that the Permittee will not contribute to an exceedance of the criteria. As explained in the FS, suction dredging is unique and a mixing zone is required to meet WQS (a measure where the discharge enters the receiving water would exceed the WQS).

In the absence of TMDLs without wasteload allocations for suction dredges (there are two and these were incorporated into the GP) and without the ability to meet WQS, EPA had no choice but to omit coverage for waterbodies impaired for sediment, siltation, or turbidity.

See Comment #105.

## Allocations

51. Comment: Those who have claims and have maintained them should with a copy of their location notice, IMC number and paper work with BLM and county for the current year (location notice could be kept on file at EPA), should be first in line for permit. Next in line should be any help on dredges put in by claimholder or could include a person to help during the current year.

Claim owners should have automatic bids. This will be a large controversial issue if claim owners (there are more than 15) are left to chance from year to year whether or not they can work their placer claims. Actual discharge is far less than the assumed amounts here for the SF.

Other comments support the permit methodology of first come, first serve or suggest a lottery system.

Response: EPA struggled to determine a method where the allocations would be done fairly especially after learning that BLM does not require claims for small suction dredge activity although if a claim is filed, the claimant has the exclusive rights to the minerals. The permit will contain the following method on a creek-by-creek basis for Mores, Grimes and Elk creeks:

- 1) if hours requested are less than or equal to the allocation then all requests will be filled, or
- 2) if requests are 25% or less over the allocated hours then each permittee will receive a proportion of their request, or
- 3) if more than 25% over the allocated hours are requested then EPA will choose by lottery and each will get a portion of the requested hours until the allocated hours are exhausted.

Permit coverage will be for one year and new allowances will be calculated on an annual basis. For 2013, EPA will accept NOIs until May 15 for Mores, Grimes and Elk creeks. Permittees will be notified in early June of their permit status. After 2013, EPA will begin accepting NOIs for Mores, Grimes and Elk creeks after January 1<sup>st</sup> each year until February 14<sup>th</sup>. Permittees will be notified in early March of their permit status.

## Screen

52. Comment: A commentor requests clarification on the requirement to have a screen over the nozzle.

Small size mesh screen requirements are counter-productive to small suction dredge operations. The proposed small mesh opening sizes would cause nozzles to plug or clog and severely restrict processing of material. There may potentially be more damage and mortality to small fish from being impinged or grated on nozzle intake screens.

Response: The suction nozzle is not required to be screened but it is necessary to screen any ancillary water intakes to meet the requirements of the permit.

## Monitoring & Reporting

53. Comment: Please note page 14, #3 General Monitoring, where it says: "If discharge occurs that may reasonably be expected to cause or contribute to a violation..." This needs further clarification because it looks like this monitoring is only required if a dredger notices a violation and feels he should stop.

Response: The monitoring discussed in Permit Part III.A. is monitoring in addition to the required monitoring. An example would be if the visual monitoring for turbidity had already been done for the day but the dredge hit a pocket of fine silt that could possible cause a violation, then the additional monitoring would be required.

54. Comment: Daily monitoring would be difficult, if not impossible, unless the dredger was equipped with the knowledge and expertise to conduct said monitoring. This should only be required in commercial dredging operations. I recommend omitting this requirement

Response: EPA understands the concern of the commentors, but believes that monitoring of some type is required to assure the effectiveness of the BMPs. The only alternative suggested was to have no monitoring at all and EPA does not consider this an appropriate alternative.

55. Comment: Many commentors stated that there was no need for reporting when the water is turbid especially since storms ("Mother Nature") stir up far more sediment than dredges ever would. "Murk" reports are unnecessary. One commentor stated that suction dredge operations were too small to keep a log.

Response: Reporting is required at least annually pursuant to 40 CFR 122.44(j)(5). This GP requires that all permittees report a minimal amount of information on an annual basis rather than reporting only non-compliance.

While it is true that erosion and flooding are natural processes, suction dredging by placer miners is not. The timing and degree of naturally occurring conditions are different from that which would occur due to placer mining and therefore such activity must be regulated to ensure the protection of the chemical, physical and biological integrity of the waters of the United States.

The log required by the GP need be nothing more elaborate than a pocket calendar on which the permittee tracks the information necessary to fill out the Annual Report (AR) and comply with Permit Part III.E. The AR requires the beginning and end dates for dredging, the number of actual dredging days, if and when there was an exceedence and the action taken to return to compliance. A mark on the calendar could indicate the beginning and end dates as well as the number of dredge days in between. Short notes could indicate an exceedence or a spill and any action taken to remedy it. Permit Part III.E. requires the date, exact place (i.e.,

geographic coordinates), time of sampling or measurements; and the name(s) of the individual(s) who performed the sampling.

56. Comment: Speaking NTU requirements to small-scale miners who cannot measure nor have a sense, for example, what 5 NTU above background even looks like is an ineffective requirement.

Section II.A.3: Suggest providing a visual measurement guideline such as that described in II.A.1 rather than NTUs. Most operators are unlikely to be familiar with this term or have access to a measuring instrument.

Response: EPA has clarified that the requirements now in Permit Part II.B.3. shall be determined by the visual monitoring method described in Permit Part II.B.1. subject to the limitations of Permit Part II.B.2.

57. Comment: Section 3.E (Permit Part III.E) Mark my words, if this is the method used it will be completely ineffective.

Response: The requirements from this Permit Part are as follows:

the date, exact place (i.e., geographic coordinates), and time of sampling or measurements;

the name(s) of the individual(s) who performed the sampling or measurements;

Since visual monitoring is the type of sampling required and sample analysis is not required, the above information should be easily recorded in the log as described in Comment #55.

58. Comment: Section II.B.1: Suggest clarifying monitoring should occur when dredging generates maximum plume length.

Response: Because of the potential difficulties in conducting the monitoring discussed in Comment #54, EPA does not wish to add another level of complexity to this situation. Please note, however, that additional monitoring, as discussed in Comment #53, is required if a situation is encountered that could cause an exceedence.

## Spill Reporting & Refueling

59. Comment: I however disagree with the provision for the dredge to be securely tied to the bank of the stream. I would presume that the writers of the rules would have a basic understanding of dredging operations. Once a dredge is working in a stream, it stays in the stream until removed. Any other way of working is impractical and to remove it for fueling would benefit nothing.

Any refueling over or on the bank should not occur, even if it is only one gallon. For example, the Clearwater River itself is a municipal water source for residents of the Clearwater Valley and spills of fuel could harm municipal water sources.

Response: EPA has changed the BMP in Permit Part II.D.10.e. to clarify that the dredge be secure to the bank during refueling operations. There are many precautions included in this GP related to refueling so EPA does not consider an outright ban on refueling necessary.

60. Comment: Spill 3 drops of fuel and have to hike out from the backwoods within 24 hours to report it to the IDEQ? What will that change? What is in a spill kit?

Section II.C.10.e: Please define what quantity constitutes a spill. Suggest adding "In the event of a spill" to the first sentence of last paragraph.

Response: EPA has clarified in Permit Part II.D.10.e. what spills are required to be reported to IDEQ according to IDAPA 58.01.02.851.04:

Owners and operators shall contain and immediately clean up an above ground spill or overflow of petroleum only after identifying and mitigating any fire, explosion and vapor hazards.

a. An above ground spill or overflow of petroleum that results in a release that exceeds twenty-five (25) gallons or that causes a sheen on nearby surface water shall be reported to the Department within twenty-four (24) hours and owners and operators shall begin corrective action.

b. An above ground spill or overflow of petroleum that results in a release that is less than twenty-five (25) gallons and does not cause a sheen on nearby surface water shall be reported to the Department only if cleanup cannot be accomplished within twenty-four (24) hours.

Any other spills shall be noted in the log and reported on the Annual Report.

EPA has added the suggested language to the GP.

61. Comment: With regards to (C-10-d) fuel storage must be 100 feet from the waterway seems excessive. In my professional judgment I feel that fifty feet is within the safety range.

Response: Permit Part II.D.10.d. allows fuel storage within 100 feet if it is stored and dispensed in an American National Standards Institute (ANSI) or Underwriters Laboratory (UL) approved container.

62. Comment: Can I carry a gallon of gas across the river to refill it or do I have to bring the dredge back to the road side to refill it?

Response: While bringing the dredge back to the roadside eliminates some of the risk of fuel spillage, EPA sees no reason why a closed container could not be transported across a waterbody and stored properly (See Comment #61) until utilized to refill the dredge which is required to be anchored to the streambank during refueling (See Comment #59 and Permit Part II.D.10.e).

## Effluent Limitation Guidelines & the National Environmental Policy Act

63. Comment: Effluent limitations for gold placer mining operations are set forth in 40 CFR § 440 Subpart M, but are only applicable to mines or beneficiation processes which process 1,500 cubic yards of ore or more per year, or to dredges which process 50,000 cubic yards of ore per year or more. 40 CFR §440.140(a) and (b). In order to ensure that 40 CFR § 440 Subpart M does not apply to the general permit, the EPA must include provisions in the final permit that limits how much ore (or substrate) may be dredged each year. Limitations on the total number of dredges that may be permitted in any given season should be prescribed, as well as the total amount of ore or substrate that may be processed by each individual operator in any given year.

Response: Although the GP does not limit the amount of material processed in a given year, in Permit Part I.C, EPA recognizes that each facility must also comply with the limitations for processing that the IDWR identifies in their requirements:

Permit holder will only work with equipment that complies with the following physical limits:

- a. Capable of processing no more than two (2) cubic yards per hour.
- b. Motor/engine rated at no greater than 15 HP.
- c. Intake diameter no greater than five (5) inches

For a dredge to be subject to the Effluent Limitation Guideline (ELG) at 40 CFR 440 Subpart M, the commentor is correct that a dredge would have to process 50,000 yd<sup>3</sup>/year. In order to accomplish this, a small suction dredge would operate 24 hours a day, every day of the year at 5.7 yd<sup>3</sup>/hr. Since this is a physical impossibility due to the conditions of other permits, logistics, and the seasonal and recreational nature of the activity, EPA sees no need to include the limit of 50,000 yd<sup>3</sup>/year in the GP.

64. Comment: The EPA has not prepared an environmental assessment or an environmental impact statement to disclose the potential environmental effects of the proposed general permit for recreational suction dredge mining operations as required by NEPA. Won't NEPA requirements need to be met on proposed suction dredge mining on federal public lands? If not, why not?

Response: The EPA has regulations outlining when NEPA is required for the issuance of a permit. 40 CFR 122.29. Since the facilities covered by this permit are not new sources for which there is an applicable new source performance standard, this permit action is not subject to the requirements of NEPA. Federal land management agencies, however, have regulations as to when NEPA applies to their actions so these NEPA regulations would come into play for those actions but not for this GP.

## Suggested Changes to the General Permit

65. Comment: I propose that through the current Idaho Department of Water Resources Letter Permit recreational miners be required (much like harvest reporting for the Idaho Department of Fish and Game) to submit a year end survey regarding various potential impacts that could include the estimates of mercury found, metal garbage collected, and other trash or environmental contaminants removed while engaged in activities of prospecting. The EPA could use this as an in situ study done across the State of the environmental cleanup efforts currently taking place.

Response: EPA does not have the authority to require IDWR to include this in their letter permit.

66. Comment: Dredging also has other impacts. This include but are not limited to impacts on riparian areas form human activity associated with dredging, impacts from long-term camping at dredge sites, displacement of terrestrial wildlife and displacement of other recreationists.

Response: This GP only authorizes the discharge to waters of the United States. With respect to the question about why EPA does not regulate other activities, the CWA does not give EPA authority to regulate all related activities under the NPDES program. It is up to the State or local entities to regulate such activities in a way that is protective.

67. Comment: Include reopener so State can develop and implement a monitoring plan for Mores Creek.

Response: The GP contains a Reopener clause in Permit Part V.K. If the State were to develop a monitoring plan that affected the conditions of the GP, it would be considered new information and the GP could be reopened.

68. Comment: In addition to the requirements outlined in Subpart (C)(11), the final permit should require and clarify that all dredge mining equipment should be thoroughly drained, cleaned, and dried out to prevent the spread of invasive species.

Response: Permit Part II.D.11. includes a link to a website with the requirements that IDEQ believes are appropriate for dredges and has included in the CWA § 401 Certification. Those requirements, in part, read:

Before moving to the next site, wash the boat and trailer at a self-serve (coin-operated) car wash facility until it is thoroughly clean (hot water, high pressure rinse, no soap). Give extra care to laces, anchor lines, and other small spaces where organisms could hide. Allow boats and gear to air-dry overnight.

Since washing and air-drying are already required, EPA sees no reason to add anything else.

69. Comment: The Draft permit fails to spell out any requirements or to even provide basic information about bonding, particularly with respect to bonding requirements for operations on federal lands. Each mining operation covered by this permit must be adequately bonded to cover any reclamation costs associated with the operations. The final permit should spell out the bonding requirements and procedures.

Response: The NPDES Program does not contain any requirements for bonding and, as such, the GP does not contain any requirements. Federal land management agencies are responsible for bonding on federal land.

## Miscellaneous

70. Comment: The permit needs to keep in mind that on March 23, 2004 the Supreme Court issued its 8-1 decision that defines Justice O'Connor's opinion that movement of pollution within the same body of water does not fall under the Clean Water Act because there is no "addition" of pollutants. There is no movement of water or pollutants or anything else from one place or water body to another.

Response: If all that occurred during the suction dredging activity was water being picked up and placed back within the same waterbody, the commentor would be correct that no permit would be necessary. See *South Florida Water Management Dist. v. Miccosukee Tribe of Indians*, 541 U.S. 95 (2004). However, that is not all that happens. In suction dredging, the water is picked up with the bed material and is utilized to process the gold. The process is an *intervening use* that causes the addition of pollutants [rock and sand, see CWA § 502(6) and Comment #6] to be discharged to waters of the U.S. Therefore, since there is an addition of pollutants to waters of the U.S., a NPDES permit is required for this

71. Comment: A commentor noted that the closure dates in Appendix C of the Fact Sheet do not match the current closure dates listed by IDWR.

Response: The Fact Sheet notes that the list included is from 2011 and its inclusion is advisory. The GP contains a requirement to access the most current list from IDWR. Since this list changes from year to year, EPA did not include a specific list but Permit Part I.E. requires potential permittees to check with IDWR for additional restrictions.

72. Comment: Why require a 60-day notice prior to discharge if a permit to discharge has already been issued?

Response: Permit Part I.A. requires written notification that a discharge is authorized under the GP. The NOI is the method which dredgers will use to apply for authorization. See Comment #16.

73. Comment: It concerns me that it took your EPA office 44 pages to write and to attempt to clarify a document that the IDWR had previously accomplished in 4 pages. I feel that your office has over-written and over-attornied this document to further confuse and destroy our recreational activity. After further study of the

municipal water systems and storm drain permitting programs, it appears that you are attempting to wedge our activity into a non-related regulated program. Are you trying to fit a square peg into a round hole? In other words, your draft NPDES permit does not fit our activity.

Response: As explained in Comment #6, the EPA permit and the IDWR permit are issued under two different authorities. The EPA NPDES permit is an authorization to discharge wastewater to waters of the U.S. and the IDWR permit is a stream alteration permit. Since suction dredging has a wastewater discharge to waters of the United States, the NPDES permit is the mechanism by which to regulate such a discharge.

74. Comment: Suggest changing title of the permit to “Authorization to Discharge Under the National Pollutant Discharge Elimination System for Small-Scale Suction Dredging in Idaho.” Calling it the “...for Small Placer Miners Idaho” makes it sound like it is for all types of placer mining (which there are several in addition to suction dredging) and that it is only for individuals of small-stature.

Response: EPA has changed the title to “Authorization to Discharge Under the National Pollutant Discharge Elimination System for Small Suction Dredge Placer Miners in Idaho.” This title reflects the type of operation (small suction dredge) as well as the type of material being extracted (placer gold).

75. Comment: The term "facilities" or “owner/operator” does not apply to small-scale suction dredging. Suggest changing to "equipment" or "operator" or as appropriate throughout document.

Response: The terms used by EPA are defined in regulations at 40 CFR 122.2:

*Facility or activity* means any NPDES “point source” or any other facility or activity that is subject to regulation under the NPDES program.

*Owner/Operator* means the owner or operator of any “facility or activity” that is subject to regulation under the NPDES program.

EPA retains the regulatory terms in the GP.

76. Comment: Suction dredging is just one type of placer mining. Suggest replacing “placer mining” with “small-scale suction dredging” throughout document.

Response: See Comment #74.

77. Comment: Please define acronyms at their first use (e.g., “USFS” at Draft Permit Part I.D.3. now in I.D.4.)

Response: Correction made.

78. Comment: The terms "the Act," "the Clean Water Act," and "CWA" are used interchangeably throughout document. Suggest using one ("CWA" is preferred), defining first use, and staying consistent.

Response: EPA has made the suggested changes.

79. Comment: **Section I.C**: The permit authorizes the discharge from small suction dredges and not necessarily the placer mining operation itself. Suggest changing heading to "Authorized Discharges from Small-Scale Suction Dredging Operations" and first sentence to "This permit authorizes the discharge of small suction dredges, defined..."

Response: This Permit Part has been clarified.

80. Comment: **Section I.D.6**: Suggest adding "or that have TMDLs for sediment" at the end of the first sentence.

Dredge mining should also be prohibited in streams with high levels of sediment.

Response: Suggested language added to Permit Part I.D.7.

81. Comment: **Section I.D.6**: What if the impairment is listed as "cause unknown?" One suggestion would be to include a statement such as "If the impairment is listed as 'cause unknown,' clarification must be obtained from IDEQ."

Response: EPA sees no reason to burden IDEQ with these requests because even if the suspected cause is siltation or sediment, there is no regulatory hook until the cause is determined. If the State were to confirm that siltation/sediment or mercury were causing the impairment and the stream were added to the Impaired Waterbodies List then discharge would be prohibited under Permit Part I.D.7.

82. Comment: **Section I.E**: Don't all (rather than "many") streams in Idaho require an IDWR permit?

Response: EPA has clarified this Permit Part.

83. Comment: **Section I.F.2.d**: What is a "listed Idaho quadrangle"? Suggest deleting.

Response: Quadrangle maps are equivalent to US Geological Survey (USGS) topography maps (American Falls, Caribou Mountain, etc.) but since none have been listed in the GP, this provision has been removed.

84. Comment: **Section I.G.4**: Suggest replacing the word "mine" with "operation."

Response: EPA has used the word "facility" consistently throughout the GP.

85. Comment: **Section II.A.1**: Please clarify the effluent limitation is 500 feet of stream length downstream of the suction dredge.

Response: EPA concurs that “500 feet downstream” means “500 feet of stream length downstream” since this part of the permit (now Permit Part II.B.1.) discusses the visual instream measure of turbidity, no change to the language of the GP has been made.

86. Comment: **Section II.C.3.a:** What about the diametrical equivalents as described under I.C?

Response: EPA has clarified this Permit Part (now II.D.3.a.) by adding the word “operation” which can include more than one dredge if it meets the diametric equivalent provision.

87. Comment: **Section II.C.3.b:** What is the purpose of requiring an operator to avoid a location that has been previously dredged within the past month? As long as other conditions of the GP are met, it should not matter.

Response: EPA is removing this portion of the BMP from the general permit because the commentor is correct that the rationale given for this part of the BMP does not support this requirement. EPA recommends that suction dredgers take note of the disturbances of past operations to better assess the capabilities of the natural recovery of the stream system.

88. Comment: **Section II.C.8:** Suggest replacing the wording “are prohibited” with “are not authorized.” It is possible a land management agency could authorize certain activities in a plan of operations that are outside the scope of the GP.

Response: EPA has clarified in Permit Part II.D.8. that these activities are prohibited if occurring during suction dredging. This should provide the flexibility for a land manager to authorize certain activities for other reasons.

89. Comment: **Section II.C.8:** If the intent of this statement is to prohibit moving natural obstructions in a waterbody under the GP, non-motorized winches (e.g., come-along) should be included.

Response: The prohibition, now in Permit Part II.D.8., is not intended to keep dredgers from moving any material but ensures that important habitat which includes large organic debris and large boulders in these areas will not be destroyed.

90. Comment: **Section II.C.9:** What is the intent of the first sentence? Does it matter what gets used in stream (i.e., wheeled or tracked equipment) as long as the turbidity requirement is not exceeded?

Response: The intent of the prohibition, now in Permit Part II.D.9., on wheeled or tracked equipment during dredging is to minimize turbidity from sources other than the suction dredge and to protect the chemical integrity of the water from the oil and grease, dirt, and other materials that tend to adhere to equipment surfaces and would otherwise not occur during a dredging operation.

91. Comment: **Section II.C.9**: As defined by IDAPA 37-03-07, Mean High Water Mark is the... "water level corresponding to the natural or ordinary mark... and is the line which the water impresses on the soil by covering it for sufficient periods of time to deprive the soil of its terrestrial vegetation and destroy its value for commonly accepted agricultural purposes." Suggest using the term "ordinary" rather than "mean" for better understanding. Consider defining the term here or in the definitions section of the GP.

Response: IDAPA 37.03-07 states that "Mean High Water Mark is a water level corresponding to the natural or ordinary *high* water mark. . ." (emphasis added). EPA has clarified this in Permit Part II.D.9. and any other instance where this term is used.

92. Comment: **Section II.C.10.b**: Suggest replacing first sentence of (b) with the first sentence from (e): "Suction dredges must be checked for leaks, and all leaks repaired, prior to the start of operations each day." **Section II.C.10.e**: Delete first sentence as it is already in part (b).

Response: EPA replaced (b) (now Permit Part II.D.10.b.) with the first sentence of (e) and deleted it from (e).

93. Comment: **Section II.C.10.e**: Suggest modifying the second sentence to "Suction dredges must be anchored to the streambank during refueling, so that fuel does not need to be carried out into the stream."

Response: EPA has clarified in Permit Part II.D.10.e., that the dredge must only be anchored to the bank during refueling operations. See also response to comment #59.

94. Comment: **Section III.A**: Suggest deleting entire section, or renaming it "Representative Monitoring" and deleting third paragraph. Sampling is unlikely to be necessary or to occur as part of small-scale suction dredging.

Response: Federal regulations require that certain conditions be included in all NPDES permits. In addition to 40 CFR 122.41, EPA has also included the conditions of 40 CFR 122.42(a) and 122.43 establishing permit conditions:

(a) In addition to conditions required in all permits (§§ 122.41 and 122.42), the Director shall establish conditions, as required on a case-by-case basis, to provide for and assure compliance with all applicable requirements of CWA and regulations. These shall include conditions under §§ 122.46 (duration of permits), 122.47(a) (schedules of compliance), 122.48 (monitoring), and for EPA permits only 122.47(b) (alternates schedule of compliance) and 122.49 (considerations under Federal law).

95. Comment: **Section III.E**: Sampling does not seem relevant to this permit. Suggest deleting references to sampling and analyses throughout document.

Response: See Response to Comment #94.

96. Comment: **Section III.G:** Parts (b), (c), and (d) do not seem applicable to small-scale suction dredging. Petroleum spills are already covered under II.C.10.c.
- Response: See Response to Comment #94.
97. Comment: **Section III.H:** This section should be deleted if Section G is deleted.
- Response: See Response to Comment #94.
98. Comment: **Section III.I:** This section does not apply to small-scale suction dredging operations and should be deleted.
- Response: See Response to Comment #94.
99. Comment: **Section IV.F:** This section does not apply to small-scale suction dredging operations and should be deleted.
- Response: See Response to Comment #94.
100. Comment: **Section IV.G:** It is not clear if this section applies to small-scale suction dredging operations... Suggest writing this section in “plain language” so the regulated public (and fellow regulators) understands what it means.
- Response: See Response to Comment #94. The language included in the GP is from 40 CFR 122.41(n).
101. Comment: **Section IV.H:** This section does not apply to small-scale suction dredging operations and should be deleted. (Mercury and petroleum products already discussed.)
- Response: See Response to Comment #94.
102. Comment: **Section IV.H:** Please re-evaluate what should be included (e.g., TMDL, 303(d) waters, Clean Water Act). Alternatively, define in text if term is only used once.
- Response: EPA believes that this comment was meant to focus on the Definitions found in Permit Part VI. EPA has reviewed the definitions and has tailored the list as appropriate to this GP.
103. Comment: **Appendix A & Appendix B:** Correct spelling of the word “completer” in the second sentence under “Certification.”
- Response: Correction has been made.
104. Comment: **Appendix B:** Several lines (e.g., the line under “E-mail”) do not show up on printed copies. Suggest replacing column heading “Remedy to come back into compliance” with “Type of non-compliance and remedy for coming back into

compliance." Suggested data to have operators log: Estimate of the # of yards processed.

Response: EPA changed the type of lines utilized in the table. Also, EPA clarified that the type of non-compliance should be included as well as the remedy. EPA added the estimated number of yards processed over the season to the log.

105. Comment: **Appendix D:** Correct spelling of the word "Receiving" in the heading. **Part 3:** The North Fork Clearwater River Drainage is listed in (7) and (8). **Part 4:** Suggest adding direction to TMDLs (Section 4a of the Integrated Report).

Response: The correction has been made. EPA added Section 4a and 4b to the already referenced Section 5 since some TMDLs or TMDL alternative actions may cover waterbodies impaired for sediment but not include waste load allocations for suction dredging.

106. Comment: Would be helpful to include a map of drainages that are both open to dredging, and have no TMDL. This would give greater clarity to which drainages are actually available for a permit, and would clean up the maps.

Response: One map has been provided with the final permit. That map indicates the areas not covered by the GP and in the inverse, which areas are covered. An allowance is found for designated critical habitat areas in Permit Part I.D.4. for facilities that may have an ESA consultation completed through another process.

107. Comment: Fact sheet lists W. Fork Eagle Creek above Bobtail as closed. However, due to critical habitat, all of W. Fork Eagle Creek is closed.

Response: The Fact Sheet contains this information in Appendix C which was a reprint of the 2011 IDWR list of seasonal timing restrictions. It is expected that some waterbodies on the IDWR list will not be covered by this GP.

108. Comment: It is highly recommended, should this GP be completed, that cohesion; consolidation; communication, and collaboration between EPA and Idaho Department of Water Resources (IDWR) is what has driven selection of open/closed waters under respective permits.

Response: While EPA intends to work with IDWR, please see Comment #48 regarding the differing missions of the two entities.

109. Comment: How does EPA expect that a dredge operator measure and record TMDL?

Response: It is expected that a permittee following the timing restrictions and processing the allowable amount of material will meet the requirements of the TMDL and the monitoring requirements in Permit Part II.B.1. will suffice.

110. Comment: I.D.3. suggests that this GP may recognize activity in critical habitat so long as USDA-FS plan of operations authorization is received by the proponent:

the USDA-FS may not authorize a plan of operations without having first received requisite permitting by applicable agencies including EPA. Does EPA intend to use this GP as a permitting tool in waters designated as critical habitat for purposes of USDA-FS plan of operations authorization?

Response: The GP, now at Permit Part I.D.4., does not say that the USFS has to authorize the plan of operations to receive permit coverage but that the NOI must include the determination from either NMFS or USFWS. EPA expects that a Service concurrence would precede the plan approval. In this manner, coverage could be granted by EPA then the Forest Service could approve the plan.

111. Comment: I'm also aware of a retired Idaho EPA person that questions your proposals. Do you ignore the science?

Response: Please refer to response to comment #6 concerning the need for EPA to issue an NPDES permit.

112. Comment: He seems to think it is NOVA that is trying to destroy a way of life, with no good reason, rather than EPA.

Response: Comment noted.

113. Comment: The Tribe has implemented a significant amount of aquatic resource restoration actions in Nez Perce Country - including the South Fork Clearwater. For example, one of the Tribe's acclimation sites for fall Chinook is located at Luke's Gulch - which is an area of the South Fork Clearwater that would be open to seasonal suction dredging under the draft GP. Other Tribal restoration actions include habitat improvement activities on Meadow Cr., Mill Cr., Newsome Cr., American River, Crooked River and Red River - all tributaries of the South Fork Clearwater River. It makes no sense to undertake an aggressive aquatic restoration program that is then compromised by continuing disruption of the aquatic environment.

Response: The Clearwater basin is not covered by the general permit (see Comment #41)

114. Comment: Cumulative effects on water quality, aquatic habitat and threatened and endangered species are not adequately addressed in this GP, especially as these dredging activities contribute to existing pollutant loads coming from nonpoint sources. To adequately address cumulative effects, a realistic baseline dataset must be developed and a detailed accounting of existing sources of pollutants should be given.

Response: While a baseline dataset and detailed knowledge of existing sources would be invaluable, EPA has taken into account threatened and endangered species by not covering designated critical habitat areas by this GP. Also, the GP does not cover activities in waterbodies that have been listed impaired for sediment/siltation or mercury. To address impacts to water quality and aquatic habitat, the 800 foot separation zone is intended to prevent the creation of

extended overlapping discharge plumes to ensure that there are areas of the receiving water where water quality standards are being met and where sediments are unimpacted. EPA believes that the 800 foot zone adequately ensures that cumulative impacts will not be detrimental to the receiving waters.

115. Comment: Other metals that may be discharged during suction dredging include arsenic, copper, silver, zinc, lead, chromium, nickel, antimony, cadmium, and selenium. Concentrations of these metals will vary from stream to stream and between reaches of a single stream. Adequate studies have not been conducted to evaluate the distribution of metals transport after release, nor the risk of potential uptake by stream biota.

Response: While concentrations of metals do vary from stream to stream, these metals are associated with the solids that are discharged by the dredge while mercury is generally a historic elemental addition and not bound into the streambed material. A USGS study (Open Report 99-328) found that: "Chemical and turbidity data show that any variations in water quality due to the suction dredging technique fall within the natural variations in water quality of the river." An EPA study (Impact of suction dredging on water quality, benthic habitat, and biota in the Fortymile River, Resurrection Creek, and Chatanika River, Alaska) found that "the primary effects of suction dredging on water chemistry of the Fortymile River were increased turbidity, total filterable solids, and copper and zinc concentrations downstream of the dredge. These variables returned to upstream levels within 80 - 160 meters of the dredge." If these metals were being mobilized in other than solid form, it would be expected that the levels would remain elevated instead of decreasing with the solids content in the sample.

116. Comment: Legacy pesticides can reside in stream sediments and the fate, transport, and the effect of suction dredging operations mobilizing these chemicals has not been addressed in this GP.

Response: Much of the suction dredging takes place in steep river canyons on river sections that have significant gradient so very little dredging takes place in agricultural areas or downstream from agricultural areas. Therefore, there should be minimal pesticide applications made upstream of the suction dredging operations and minimal pesticide residues in the sediment. EPA is aware that there could be pesticide residues within the sediment and the resuspension of buried sediments can make these residues bioavailable but believes the likelihood is low and any risk caused by resuspension to be low.

117. Comment: Many of the waters where these activities are to be authorized currently enjoy Tier 2 Protection under the State of Idaho's Antidegradation Implementation Policy, the [Nez Perce] Tribe does not believe that the GP adequately addresses antidegradation and requests that individual certification be given in Tier 2 waters to assure compliance with Idaho's antidegradation policy. Literature indicates that activities and discharges associated with suction dredge mining do have an impact on water quality and the Tribe requests that a Tier II Analysis be conducted on operations occurring in Tier II waters, to determine if the action is necessary to

accommodate "important economic or social development in the area in which the waters are located."

Response: While suction dredges have the capacity to cause degradation of waterbodies, a dredge operating within the requirements of the GP should not. IDEQ did a Tier II antidegradation analysis as part of their CWA § 401 Certification. EPA finds that IDEQ's determination in the CWA §401 Certification is adequate to meet the requirements of the CWA.

118. Comment: Research indicated that suction dredging increases availability of spawning gravel by loosening up compacted gravels, but the loose substrates found in dredge tailings is too unstable, and embryos may experience reduced survival under these conditions due to increased scouring (Thomas 1985; Harvey and Lisle 199). Chinook salmon spawn after the seasonal dredging period and could be enticed to construct redds on unstable, fresh dredge tailings, which could be subject to higher scour than redds in unaltered substrates, resulting in compromised reproductive success.

Response: While studies do indicate that construction of redds in dredged gravel can compromise reproductive success, Harvey and Lisle also indicate that "If natural spawning sites were relatively abundant and tailings were not strongly selected, a small fraction of redds would be located on tailings." Their report included information on the lower portion of the Scott River that in 1995, only 12 of 372 redds were located on tailings because "much more natural substrate than dredge tailings provided spawning habitat (an estimated 3,890 m<sup>2</sup> versus 121 m<sup>2</sup>)." This GP attempts to assure that natural spawning substrate is not in short supply by not providing coverage under this GP to areas designated as critical habitat under the ESA (see Comment #24).

119. Comment: Section 2.B.3 This is data already taken under the IDWR Letter permit

Response: From other comments received from the same commentor, EPA believes that the section intends to reference Draft Permit Part II.B.3. except that there is no such section in the GP. Regardless, EPA does not have access to information provided to IDWR and has limited NOI requirements to those thought to be necessary.

120. Comment: I fear that there is a strong likelihood of dredge operators to continue operating in these sensitive areas which will be closed to dredging pursuant to this General Permit. To that end, the EPA should notify all holders of the State Recreational Dredge Permit promptly after approval of the General Permit to ensure that they are properly notified of the stream closures.

Response: It is EPA's intent to notify as many potential permittees as possible when the final GP is issued. EPA will utilize the list of commentors on this GP, lists provided by IDWR and the Idaho Department of Lands (IDL) as well as working with IDWR and the USFS, amongst other agencies, to supply information on their websites.

121. Comment: I cannot imagine that recreational dredging would be enough of a money-maker to risk the environmental damage that would almost certainly occur.

Response: When an activity is deemed “recreational,” the monetary rewards are not necessarily why someone participates in the activity. Some do it for the experience, some for an adventure, some find it an acceptable outdoor family activity but, no matter the reason, compliance with the GP will minimize the risk for the environmental damage that concerns the commentor.

122. Comment: Many commentors expressed support for the NPDES general permit for suction dredging.

Response: Comment noted.

Appendix A  
List of Commentors

Table A-1			
1	Kurt Blumberg	28	Ed Easley
2	Curt Chipp	29	William Fralick
3	Tyler Crossley	30	Jay Goodson
4	Scott Cureton	31	Rockland Japhet
5	Dennis and Virginia Dearborn	32	Keith Knotts
6	Mark Doig	33	Robert Lavoie
7	Norm Donaldson	34	Nez Perce Tribe
8	Gary & Kristy Evans	35	Janice Nystrom
9	Loren Prescott	36	Gay Richardson
10	John Hammer	37	Monte Sams
11	Sam Howell	38	Victor Schneider
12	Adam Koch	39	David Seyer
13	Bill Kureta	40	Donald Smith
14	Bill Kurta	41	Idaho Conservation League
15	Alan Meyer	42	Alan Trees
16	Ron Miller	43	Robert Weaver
17	Ken Miller	44	Bryce Winterbottom
18	Wade Stolworthy	45	Glinda Zollman
19	Jim Stroud	46	Jason
20	Charlie Swearingen	47	Larry Domingo
21	Don Vietz	48	Ed Kelly
22	Peter Gattuso	49	USFS
23	Terry Belcoe	50	Friends of the Clearwater
24	Thomas Bradley	51	Troy Jones
25	Myron Calkins	52	IDWR
26	Carl Dahlberg	53	Jonathan Oppenheimer
27	Brad Dey	54	Mary Carroll

Table A-2

The following commentators all submitted similar comments so for numbering purposes, they have been assigned the number 55.

George & Frances Alderson	Jeremy Fryberger	Ronnee McGee
Hillary Anderson	Victoria Fuller	Allison Melton
Mary Bachman	Ron Garnys	David Monsees
Bruce Ballenger	Archie George	Ryan Moore
Alan Bean	Rhoda Gerrard	Vince Murray
Janet Beckley	Kathleen Gibson	Ron Myers
Nancy Benson	Deanie Gilbert	Irene Nautch
Chris Bessler	Karen Glaeser	Corliss Neuber
William Blair	Celeste Grace	Sheryl Nims
Russell Blalack	Cindy Gross	Edward Northen
Sue Bowser	Jonah Haddad	Greg Obay
Greg Boylston	Kathryn Haley	Molly O'Reilly
Leslie Bradshaw	Annette Hanson	John Otter
Perry Brown, Jr.	Claudia Hartley	Tim Patton
Margie Browning	Dave Hayes	Fred Rabe
Ingrid Brudenell	Borg Hendrickson	Roger Rasmussen
Rob Burke	Matt Hitchcock	Patricia Rathmann
Mary Carroll	Martin Huebner	Thomas Reese
Janet Carter	Joseph Humphrey	Muriel Roberts
Claire Casey	Nancy Humphrey	John Robison
Jerry Causi	Ian Jameson	Jeanette Ross
Edward Cisek	Stacy Jenkins	Fran Rutter
Leslie Conner-Maiyo	Ryan Jensen	Randy Sailer
Paul Cunningham	Ross Johnston	William Schneider
Brian D'Aoust,	Steve Kaiser	Erik Schultz
Todd Davis	Joshua Keeley	Nancy Smith
Robin Davis	Micki Keiser	Heather Susemihl
Sally Davis	Belinda Knochel	John Tanner
Lawrence Dawson	Tom Kovalicky	Andrew Taylor
Henry DeAngelis	Barb Lane	Jean Terra
Susan Deemer	Josh Laughtland	Kate Thorpe
Matt Deryan	Kevin Lewis	Earth Thunder
Monique Diaz	Betty Longon	Jim Van Dinter
Jordan Edwards	Vincent Lowe	Bob Wagenknecht
Olivia Edwards	Brian Lundquist	Max Walker
Robert Ellis	Linda Lynch	Courtney Washburn
Lorna Emdy	Sheelagh Lynn	Barbara Wells
John Ennis	Mark & Tamara Masarik	Julie Weston
Amber Fisher	Mark Masselli	Stephanie Wicks
Marc Fleisher	Al Mayer	Kenneth Winer
Jacqueline Frank	Brandi Mayes	Kendall Woodcock
Mary Franzel	Teri McColly	Dustin Wunderlich
Elaine French	Jim McCue	Mark York
Clarence Bolin	Marie Kellner	

Appendix B  
List of Comments by Commentor

Comment	Commentor	Comment	Commentor	Comment	Commentor
1	24,25,27,28,29,31,33,39,42,45,51	42	34	83	49
2	30,32,36,45	43	50	84	49
3	36	44	52	85	49
4	40,48	45	41	86	49
5	34	46	34,41	87	49
6	1,3,4,7,8,9,10,13/14,15,17,18,20,21,23,25,26,27,31,36,37,38,40,42,43,47,48,51	47	34	88	49
7	44	48	49	89	34,49
8	50	49	37	90	49
9	8	50	50	91	49
10	49,50	51	16,41,44,52	92	49
11	49	52	43,46	93	49
12	38,40,48	53	25,42,31	94	49
13	23	54	25,42,31,37,40,44,4,8,15,17,22,26,27,	95	49
14	34,53,55	55	35,38	96	49
15	25,31,42,49,52	56	44,49	97	49
16	25,42,31	57	44,52	98	49
17	25,42,31	58	49	99	49
18	8	59	40,50	100	49
19	48	60	37,44,49	101	49
20	50	61	43	102	49
21	50	62	5,36	103	49
22	50	63	41	104	44,49
23	34,41,49,50,54	64	41,50	105	49
24	34,50	65	44	106	49
25	50	66	50	107	49
26	41	67	52	108	49
27	41	68	41	109	49
28	49	69	41	110	49
29	37	70	38	111	45
30	37,44	71	46,52	112	24
31	23	72	49	113	34
32	4,10,12,14,21	73	25,27,42,31	114	34
33	34	74	49	115	34
34	4,5,11,19,22,37,43,44,49,51	75	49	116	34
35	5	76	49	117	34
36	1,2,5,11,12,19,21,25,42,31,49,50,52	77	49	118	34
37	49	78	49	119	44
38	44	79	49	120	53
39	50	80	49,55	121	54
40	41	81	49	122	55
41	34,41,55	82	49		