

## CLEAN WATER ACT

### U.S. judge rules against Idaho suction-dredge gold miner

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Bull trout. Shannon Downey/USFWS

A suction-dredge gold miner who operated in an Idaho river containing federally protected salmon and steelhead without required permits is facing what could be substantial fines.

A U.S. District Court judge last week ruled Shannon Poe of Concord, Calif., violated the Clean Water Act on the South Fork of the Clearwater River when he suction dredge-mined 42 days in 2014 and 2015.

Suction dredge miners use an underwater hose to suck up gravel and sort it for gold in a sluice box mounted on a watercraft. The sediment is discharged downstream.

The waterway where Poe operated is designated critical habitat for federally protected steelhead, salmon and bull trout. Critics say dredging can destroy fish spawning beds, and that discharged sediment can smother fish eggs.

Another miner who also operated a suction dredge on the South Fork of the Clearwater River for one day was levied a penalty of \$6,600 in a separate case.

The penalty in Poe's case, if any, has yet to be determined and will be the subject of additional court hearings.

The Idaho Conservation League filed a citizen enforcement lawsuit in August 2018 against Poe, saying federal and state officials didn't act to make sure dozens of dredge miners followed the law.

"I think this [ruling] will have some repercussions for any miners who are thinking about mining without the required permit," said the league's Jonathan Oppenheimer.

Federal and state agencies repeatedly notified Poe of the violations, but Poe denied being subject to the Clean Water Act, according to the lawsuit. The Idaho Conservation League also said Poe was encouraging unpermitted mining by other gold seekers in Idaho rivers.

Poe's defense in the lawsuit was to argue that he didn't need any type of Clean Water Act permit because his suction dredge didn't add pollutants to the river. He said that even if his suction dredge did add pollutants, it would be considered dredged or fill material regulated under a different section of the Clean Water Act, also not requiring a specific type of permit.

But Chief U.S. Magistrate Judge Ronald Bush disagreed. He said the EPA and Army Corps of Engineers agreed that the operation of a suction dredge resulted in discharge of processed waste, requiring the permit.

Poe's attorney, Constance Brooks, didn't return a call from the Associated press yesterday. — *Keith Ridler*,  
*Associated Press*

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