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Ban on dredging for gold upheld by California Supreme Court

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By Bob Egelko

California's ban on suction dredge mining for gold, a technique that extracts minerals from riverbeds while dumping residue that can include toxic mercury, was unanimously upheld Monday by the state Supreme Court.

The use of the high-pressure underwater vacuums, mainly in mountain and foothill waterways, has been regulated by the state since 1961 and prohibited since 2009. Brandon Rinehart, who holds a federal mining claim in the Plumas National Forest, challenged the ban. He argued that the state's rules effectively prohibit gold mining in the area and that federal law forbids state interference with mining on federal land.

A state appeals court ruled in Rinehart's favor and said a state may not impose restrictions that make federally approved mining commercially impractical. But the state's high court said federal law for at least 130 years has left environmental regulation of mining largely up to the states.

"States can place limits on effective but environmentally destructive methods" without violating congressional laws that allow min-

ing on federal lands, Justice Kathryn Mickle Werdegarr said in the 7-0 decision.

She said federal courts in the late 19th century had upheld California laws against hydraulic mining, which used high-pressure blasts of water to dislodge gold from hillsides while depositing gravel and debris into riverbeds, and triggering downstream floods.

The ruling was cheered by environmental groups and the Karuk Indian tribe, whose members live in northwestern California lands affected by the practice.

"Suction dredging is a continuation of the genocidal legacy of gold miners that started over 150 years ago," said Leaf Hillman, the tribe's director of natural resources.

James Buchal, the miner's lawyer, said he plans further appeals. He said the ruling reflected "a deep-rooted animus against natural resource use in mining" and was like saying that "when logging in a national forest, you have to use axes" instead of machinery.

The suit also drew support from commercial mining associations.

Suction dredging vacuums earth and gravel from river bottoms, runs it through a sluice

box that separates the heaviest substances, including gold, and discharges the rest back into the waterway. State regulators say the practice has contaminated fish with mercury and damaged the habitat of endangered coho salmon.

California started requiring permits for suction dredging in 1961, made some waterways off-limits in 1975 and halted the permits in 2009 with a moratorium that has since been extended indefinitely.

Mining groups say the rules amount to a total ban because manual removal of minerals would be prohibitively expensive.

“States are free to regulate the environmental impacts of mining, but the Supreme Court of the United States has made it clear (a state) can’t just ban mining. ...That’s what California has done here,” said attorney Jonathan Wood of the Pacific Legal Foundation, which filed arguments on behalf of the Western Mining Alliance and Siskiyou County.

But attorney Jonathan Evans of the Center for Biological Diversity said the ruling was a victory for the state and its natural resources.

Saying only a small number of suction dredge miners do it for a living, Evans called the practice “a very destructive recreational hobby ... that pollutes our waters.”