

## Nugget/ September 2009

### The Rocker Box

**Bob Baldwin– President**

Hey Prospectors!!

Time to mothball your dredge (I guess Sixes is still open). With this funky gas they have now, it's best to run them dry, so you don't have problems next year.

There seems to be a lot of concern about our California dredgers all coming up here.

Gosh, I have no problem with that. I would hope if Oregon had done it first, that we would be welcome in California. We all need to stick together or sink separately. This should be good for the local economy. More people up here buying beer, chips and gas, at all the Mom and Pop stores out in the pucker-brush, it's all part of a bigger picture. We can't find fault with our neighbors just because of the unfair decisions made by those in charge in California. They are clueless to what's really going on. We need to help them change the policy.

We need to keep on doing what we like to do. We don't seem to have a problem supporting ourselves and helping numerous other worthwhile organizations at the same time, while also helping to support the groups that fight our battles for us. All it takes is more involvement on everybody's part. We can accomplish all this while we have a good time, by just doing what we are good at and keeping our heads out of the sand, backing those that fight our battles and getting our message out.

It's September, hope you did your paperwork on your claims (NBP did). We did a wonderful cleanup at the Squawfish. It's the most trash free 120 acres in Jackson County. Thank you to those that helped get that done.

We need people to help us do the Cranberry Festival in Bandon Sept 12 & 13. Please help with this. The club needs to do well at this event, so we can keep doing what I was talking about earlier. It's either going to take our money or someone else's money, to make the wheels go round. This is a great chance to gather other peoples money, have a good time and promote our club, all at once. Please contact me or Theo and we'll put you on the list.

The Foster Bar outing is Sept 25, 26 & 27th. Bring your hand operated devices. The club will be cooking Saturday night. Bring your favorite dish and we'll bunch everyone up so there's enough room for all of us.

See ya at the meeting,

Bob Baldwin #####

### **We will have a a special “Guest Speaker” at the September meeting. He is a geologist with a special interest in geochemistry of precious metal deposits.**

Our guest speaker will be Mr. Frank Hladky. His Interests include the structural controls and geochemistry of precious metal deposits, volcanology of the Cascade Range, and depositional environments of the Coos Bay basin.

Professional background:

1982-1985, Geologist, U.S. Geological Survey, Branch of Central Mineral Resources

1985-1987, Research Associate, Idaho State University

1987-1989, Exploration Geologist, Newmont Exploration Ltd, a subsidiary of Newmont Mining Company (a Fortune 500 company)

1989-2004, Geologist, Oregon Department of Geology and Mineral Industries

2004-current, Teacher of dual-enrollment (college (SWOCC)-high school) classes in Geology and Computer Literacy at Coquille High School.

Please make the meeting as this will be a very interesting talk. We may not have a microphone, so

please sit near the front and close together.

**Keeper of Records**

**Cecila Lattin– Secretary**

North Bend Prospectors, Inc  
Minutes for meeting of August 14, 2009

The meeting was called to order by President Bob Baldwin at 7:15 p m.

Attendance was recorded at 45, including 7 new members and guests. June minutes were accepted as published in our newsletter.

The Treasurer's report was given by Renee' Baldwin.

County Fair (July 28 - Aug 1)

President Bob reported a very successful show at the fair, especially with the spinning wheels: A show of hands was called which indicated that our presence at the fair did contribute to the additions in new members and guests. Full report on fair at next months meeting.

Squawfish Clean Up

There has been a misunderstanding on the regulations of claim maintenance, and President Bob called for volunteers to work on the upcoming weekend to put in the required hours, at \$10 per hour, before the expiration of this period. There was suggestion of raising the rate, which was not entertained, but Theo stressed maintaining the assessment log routinely. It was attested that we had more than enough hours but it unfortunately was not recorded at the time of input.

Sixes Outing (Aug 22<sup>nd</sup> & 23<sup>rd</sup>)

We will get to use our new grill! With questions on regulations, Desi suggested putting an oil catch pan under the dredge motor. Federal rules state it is okay to metal detector on federal land, State rules say no. Rules are confusing. State and Federal agencies need to consult with each other.

Cranberry Festival (Sept 12 & 13, Setup 11<sup>th</sup>)

Parade at 10 AM Saturday. Our booth will be in parking lot next to the Minute Cafe in Old Town Bandon. Need help both days, please contact Theo or Bob to sign up.

Nugget Photo Shop

Nugget's appeal for picture taking prompts Theo into finding some way that we can make some money as a photo prop. Although he suggested it could be on donation basis to avoid liability. Marian pointed out incident on the Elks/Emblem club cart service at the fair, on donation basis. Motion made by Theo to consult with an attorney on liability issue. Motion was seconded and passed. President Bob is to contact an attorney for advice.

New claims

Possibility for a new claim was scouted out but turned out a "no go".

Foster Bar (Sept 25-27)

We are reminded: NO motors, NO mining, prospecting okay, Metal detecting okay. There are 8

camp sites that can be shared but requires fee from each user. Last year, we used a total of 4 sites.

\_\_Metal Detecting Outing - October

Joe wants to know level of prizes we are looking for. He has high level equipment

See "Metal" page 3

"Metal" from page 2

that would require a big planning and group. Motion was made and carried to do for fun. In the past, Steve and Rita Houston ran the event.

\_\_DOGAMI update by Gaylen Black reported that the scanning was deferred until Grants Pass' records have been examined and sorted, completing the whole state Oregon. Work will resume on October 1<sup>st</sup>.

\_\_ Joe Holman gave his rough agenda for the rest of the year which includes Winnemucca October 10th through December, copper hunt in Michigan and quartz in Arizona. He will otherwise be available for metal detecting training.

\_\_ Update on CA HB670, suspending all dredging indefinitely. Desi reported the bad news that the bill passed. PLP has filed a lawsuit against the state and ICMJ (*Prospecting and Mining Journal* published by California Mining Journal) is matching donated funds by 25% during Aug 6-Sept 15, up to \$4000. A motion was made and carried for NBP to donate \$200 to this cause.

\_\_ President Bob is looking for help to teach panning to 20 kids in Florence, scheduled for 6:30 pm upcoming Wednesday, August 19th.

\_\_ Larry Broman left early and returned due to a harrowing experience suffered by daughter Elizabeth riding with family friend Jill. To much relief, Elizabeth was found with no visible damage and Jill was stable in the hospital.

\_\_ Renee' stated that we would have a geologist at next meeting to give a presentation on "gold".

\_\_ Discussion followed reminder to participate for credits to the Christmas drawing.

Meeting was adjourned at 8:55 p m.

Winners of the drawings were:

Door Prize- pieces	Jim Harris
Door Prize- nugget	Frank Kaiser
50/50 (\$32.00)	John Peerson
Park Bench	Bob Baldwin
Nugget	Frank Brown

Respectfully submitted,  
Jan Dilley  
In lieu of  
Ceclia Lattin, Secretary

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### **The Copper Hunt**

On the Winnemucca, NV outing some of the group found out that there are copper nuggets for the taking in Michigan. So off they went!!

Rick Lattin (above) and Desi Rains (below) dig for copper nuggets in Michigan. I'm not to sure what Desi has found, but at least Joe (right) has found a few copper nuggets. With a detector coil that big, how could anyone miss anything in the ground?

This is serious work, I have never seen Rick or Desi dig that big of a hole for a "gold nugget".

Check this out, a come along, a steel chain and two straps, these guys went go prepared!!

Okay Rick, I think we are ready, crank on that winch. Now that we got it out of the ground what are we going to do? Do you think we can left it?

### **No Suction Dredging in California – What We (New 49er's)are Doing About it!**

By Dave McCracken, New 49'ers General Manager

As we are not very good at sitting around complaining, here is what we are doing:

Participation in the Administrative Process: The EIR on suction dredging in California must be completed through a CEQA Process (California Environmental Quality Act) which, based upon best available science, requires the authorities to identify any important concerns. Then, those concerns must be addressed through implementation of regulations which are least-restrictive on people and economic activity. This is not new to us, since we actively participated in the earlier EIR which was completed during 1994.

We have already lined up specialist-biologists on our team who are ready to participate as the process moves forward. Our lobbyists are already busy soliciting assistance from the friends we have in the California legislature. Hopefully, some of their aids will also participate in the process, helping us to keep things on a "fair and balanced" approach and moving along towards completion as soon as possible. Our attorneys are continuing to pursue remedies in the Alameda Superior Court to help move the process along.

We will be actively involved with the Administrative process, pushing it towards completion while fighting to prevent unreasonable solutions (regulations) from being imposed upon our industry. Ultimately, if we do not overcome the new law (outlined in solution number 2 just below), completing the Administrative process is going to get dredgers back in the California waterways. We are right on top of this.

2) Challenging the New Law in Federal Court: In anticipation of the possibility that SB 670 might be signed into law, several months ago, we asked our attorneys to perform legal research, to prepare ourselves for a challenge in federal court to overturn the new law. This new law is clearly flawed, and there is a reasonable chance that we can overcome it. As always with legal matters, I have to try and

give our supporters enough to keep you informed, but not so much that we tip off our adversaries (who read every word published on every Internet forum having to do with mining).

My sources are telling me that even the U. S. Forest Service (USFS) is likely to take the position that the Mining Law, Organic Act and their own Section 228 regulations pre-empt the new California law. I am hearing that USFS is expected to decline to enforce the new law and will continue to allow suction dredging on USFS lands. California may try to enforce it, but the USFS will not and will not accompany California officials in the field. My understanding is that USFS is taking the position that the U.S. Supreme Court case known as “Granite Rock” directs only reasonable state environmental laws “of general applicability” can apply to operations authorized by the Mining Law. It says that state or local regulations or laws “cannot say no” to mining activities on federal public or National Forest land that comply with the Section 3809 or Section 228 regulations, respectively. The Granite Rock case originated in California.

Under existing federal law, mining is the priority-use of the public lands. Regulations can only be imposed to lessen unnecessary impacts. Regulation cannot be used to prohibit mining. There is a lot of existing, controlling case law on this. Yet, without any proof that a single fish was ever harmed by suction dredging in California under our existing suction dredge regulations, the State just passed a new law which declared the activity as “harmful,” and prohibits suction dredge mining until such time as the activity can be further studied with new regulations imposed upon our industry.

Our federal challenge will be to try and prove that a state does not have the authority to prohibit or impose unreasonable regulations upon mining on the public lands. The outcome of this challenge will most likely have an important impact upon mining in all of the states. So we must be very careful about what we do. If we win such a challenge, it is reasonable to expect the states to back off on all the unreasonable regulation of mining activity within their borders. Winning would solve a lot of problems for miners!

If we lose such a challenge, we can expect the states to step in with even more unreasonable regulations upon mining.

This leads me to the subject of how we will pay for a challenge of this new law in federal court. Since I must provide a personal guarantee of payment to the specialists that we hire, I need to have some certainty that there are enough supporters on our team who will help New 49'ers cover the costs. This, so I don't make the fatal mistake of picking a fight that we cannot finish!

Just to give you an idea of how fast the legal costs add up, our legal bills in the month of April (not counting what we pay to our lobbyists) added up to \$27,000. We are still making payments on those. April was a very busy month for our attorneys, when they were trying to overcome an attempt by our adversaries to impose a preliminary injunction on the issuance of new suction dredging permits in California. The passage of SB 670 ultimately made that a moot point, but we still had to fight it at the time – and we still must pay our attorneys.

The bottom line is that we must receive a substantial showing of support from the industry before I will commit our attorneys to launch a challenge in federal court to try and overcome the new anti-dredging law in California. As most of the industry manufacturers (and others) are supportive of a federal challenge, we have pulled together a very substantial list of prizes for this new fund-raiser:

### **Recommendations from New 49er's Legal Corner**

What follows are my recommendations for responding to the recent adverse developments affecting suction dredge mining in California: (1) the preliminary injunction issued in the Tribe's “taxpayer suit” forbidding General Fund spending to issue permits; and (2) SB 670.

It is my impression that the passage of SB 670 has rendered the Tribe's lawsuit moot in the sense that no further relief from the Court could be given to the Tribe that actually did anything for the Tribe beyond what the statute accomplishes. For this reason, I would propose to move to dismiss the Tribe's suit on mootness grounds.

There is a “public interest” exception to mootness which the Judge may invoke, and then we would have to continue to litigate the case, a considerably more expensive proposition. It is possible to appeal the Judge’s grant of a preliminary injunction, and we understand that certain other mining interests will do so, but by the time that appeal is resolved, the Judge is likely to have entertained a request for a permanent injunction, mooting all issues relating to the preliminary injunction.

With respect to the passage of SB 670, the obvious and recommended response is a lawsuit in federal court to strike down the statute. There is a well-developed body of law under which the federal courts have struck down prior outright bans on mining as preempted by federal law.

I would propose to file the suit in the United States District Court for the Eastern District of California. My plan would be to file the suit, and then file a motion for summary judgment as soon as possible. Because we are unlikely to be able to obtain any effective relief before the end of the summer season, attempting to get a preliminary injunction against enforcement of the statute seems unnecessary.

In order to prevail on a motion for summary judgment, we will have to present a solid factual case as to how and why, in detail, the statute impairs the purposes of the federal mining laws. In particular, we will need to develop written testimony explaining in detail why the ban on suction dredges is the functional equivalent of an outright ban on mining, and why a so-called “temporary ban” is likely to be both (1) of indefinite duration; and (2) last many years beyond the Department’s current 2011 projection. Finally, we need to demonstrate that even a temporary ban frustrates the purposes of the federal mining laws through a climate of regulatory uncertainty that chills capital investment, the loss of expertise, etc. To the extent these items are disputed, the case might have to go to trial.

## **Chocolate Layered Pudding Dessert**

Courtesy of Dorothy Rains

### ***Crust:***

½ C margarine or butter (melted)

1 C flour

1 ½ chopped walnuts

Mix together and spread evenly in a 9X13 un-greased pan

Bake at 350 degrees for 15 min. or till golden brown

Cool before adding the first layer

**Note: Layers 2 and 3 must also cool so prepare them earlier**

### ***1st Layer***

8 ozs Cream Cheese

1 C powdered sugar

1 C Cool Whip

Blend cream cheese and powdered sugar, fold in the cool whip

Spread on the cooled crust

### ***2nd Layer***

Prepare one large and one small packages of Jello cook and serve choc. Pudding or one large and one small package instant choc. Pudding. (I like the cook and serve best) Spread on layer one.

### ***3rd Layer***

Prepare one large package of Jello cook and serve vanilla, Pudding or one large package instant vanilla Pudding. (I like the cook and serve best) spread on layer two.

**Top** with Cool Whip and nuts or shaved choc.

**This recipe was requested by many of you attending the Sixes outing last month.**