

ERX-103 copy

Opening Remarks for
Hearing EPA Docket # CWA-10-2016-2019

1. Foremost I would like to thank the Court for its time and coming to the beautiful state of Idaho!

2. I understand that at this hearing I have the opportunity to present testimony as a witness on my own behalf. That I may call a witness to testify in my defense.

2. Today, I'm not ready to defend myself and will not testify on my behalf nor call any witness for the defense in this matter before the Court!

3. I respect the Courts decision that this hearing ~~decide~~ is to deal solely with the penalty phase as I was found guilty of violating 33 USC § 1311(a) approximately 8 months ago on Sept 27, 2018 by Order

of this very Court!

4. For the record, I maintain that on July 22, 2015 I was lawfully engaged in an activity using a suction dredge which ~~was~~ ^{had} a 5" nozzle capacity and considered "recreational" because of the nozzle size. This activity was located on one of my Federal Mining Claims located in Idaho County, Idaho on the the South Fork Clearwater River. The claims are named ~~July~~ ^{PAIDAY} 2 and 3!

At this time, I was in possession of an Idaho Dept. of Water Resource 2015 Idaho Recreational Mining Authorization (Letter Permit) which legally allows me to operate a 5" nozzle size dredge or smaller within the allotted perimeter of the South Fork Clearwater River.

Furthermore, because of the excessive wait period and prohibitive cost, 180 days and between \$30.00 to several thousand respectively. No other permit, namely an Individual Permit was available to me on July 22, 2015 as I had recieved notice on August 14, 2015 that I, in fact, could apply for an Individual NPDES permit. As my application for a General Permit was denied on that date.

The lawful dredging season on the South Fork Clearwater River for the 2015 season was from July 15 to August 15 therefore I was notified one day before the close of the season!

5. Lastly, Counsel for the EPA
Date Sept 27, 2018
has suggested in an Accelerated Motion a penalty in the amount of \$6600.⁽²⁾ I believe this to be an excessive amount and feel it is only fairness under equal justice that this Court entertain an amount similar to other penalties assessed to anyone of the 2 doz or dredgers not in possession of an NPDES permit for the SFCR in 2015 (also years 2014, 2013.) Of note (MA/ECIOUS PROSECUTION) is the fact that the NPDES permit process of 2013 allowed for 15 suction dredge permits on the SFCR!

Respectfully Submitted I now
Conclude my opening statement!
God Bless This Court
This Country and the principles
of liberty and
justice for
ALL!
JANK