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PRIZES: 160 Acre Wet Mining Claim – Western Mining Claims † Keene 4" Dredge Model #4400ph– Keene Engineering † Goldmaster GMT Detector – Whites Electronics † \$250.00 Gift Certificate – Armadilla Mining Shop † Underwater Dredging (Yuba River) # Print – John Agrella † Deluxe Blue Bowl Kit – Pioneer Mining Supplies † Custom Gold Earrings – Natural Gold Jewelry † GPAA Buzzard Special + Tom & Perry Clean-Up Kit – GPAA † Dri-Wash-n-Guard Detailing Kit – Barry & Ginna Wetherby † HystWare Mines and Minerals V1.0 – Gary Hiestard (HyatWare) † Nugget Hunting Essentials, Vols 1 & 2 – Arizona Outback I		12 tickets=\$10 24 tickets=\$20 36 tickets=\$30 60 tickets=\$50 120tickets\$100
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So you call yourself “Recreational”? Big Mistake

Prez Sez For those individuals, and most particularly, some prospecting and metal detecting clubs, and or associations, that like to refer to themselves as recreational, PLP would like to let you know that it may not be in your best interest to classify any type of activity that you do on a mining claim, as anything other than mining or prospecting under the mining law (such as recreational mining) for the following reasons.

At the Bottom of Pg 31: of the U.S. Forest Service new and final Federal Register Notice, now in place for enforcement is the following entry regarding what the FS believes to be a description of small scale mining activities.

"One thing which often is unique insofar as functions, work, or activities are proposed by individuals, members of mining clubs, or mining clubs themselves whose interest in locatable mineral operations is primarily recreational, is that they far exceed the scope of the United States mining laws. **Such functions, work, or activities that are not authorized by the United States mining laws include educational seminars, treasure hunts, and use of mining claims as sites for hunting camps or summer homes.** Accordingly, a major impetus for this rulemaking culminating in the final rule being adopted is to prohibit operations conducted under the color of the mining laws that clearly are not within the scope of bona fide operations consistent with the United States mining laws. Thus, the final rule being adopted by this rulemaking applies to every person or entity conducting or proposing to conduct locatable mineral operations on Forest Service lands under the United States mining laws."

PLP has been attempting to prevent the use of the word recreational mining for 15 years, only to have it fall on the deaf ears of some. Recently we are assisting a man in Montana for getting cited under 36 CFR 261 (c) *Selling or offering for sale any merchandise or conducting any kind of work activity or service unless authorized by Federal law, regulation, or special-use authorization.*

In this case the Montana man was giving a seminar to a couple of people on how to pan, sluice and use a rocker box and was cited for it. We suggest that those who want to categorize anything other than mining, when on a mining claim that the FS is looking to cite criminally for activities that they determine are not mining related or incidental to mining. PLP would also like to mention that we feel the Mining Law of 1866 and 1872 is **not a special use authorization nor discretionary**, therefore we feel that 36 CFR 261 does not apply to mining. However until this has been brought before a court for adjudication, the Forest Service will most likely be looking for reasons to cite miners under 36 CFR 261 for activities that they deem not mining related or incidentally related to mining.

Be Careful **Jerry Hobbs**

•Special-use authorization not needed In a case involving the right of a miner to charge a fee to teach others how to prospect on mining claims on National Forest System land, a judge has ruled that the Forest Service erred when it cited the miner for not having a “special-use authorization.”

Steve Hicks was issued a citation by the Forest Service for violating 36 C.F.R. § 261.10(c), which prohibits the following activities:(c) Selling or offering for sale any merchandise or conducting any kind of work activity or service unless authorized by Federal law, regulation, or special-use authorization.

Magistrate Judge Jeremiah Lynch, of the Montana US District Court (Missoula Division), ruled that the Secretary of Agriculture has specifically excepted from the special use regulations those uses authorized by the regulations governing minerals.

Judge Lynch wrote, “...where an individual is conducting a mining operation, his or her activity is excepted by 36 C.F.R. § 251.50(a) from the Forest Service’s ‘special use’ regulations, and the regulations under § 261 are not applicable to the miner’s operations.”

The judge reaffirmed that special-use authorization is not needed for activities related to mining and prospecting. The case is United States of America vs. Steve A. Hicks, MCR 08-5050-M-JCL. The complete text of the ruling is available on our website. Click on the “Resources” tab, then on “Mining Law.”

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(Full text is also available on PLP Forums (PLP2 Forums > Main Category > Court Cases > State Cases)

Regarding United States vs. Steve Hicks:

Do you have a story that others should know about??? – send it to editor@plp1.org

I would like to see some mention of this case in your magazine, (*ICMJ*) particularly comments about how helpful PLP (Public Lands for the People) was to me in writing a brief to explain why the case should be dismissed. If PLP stays strong, then there can be future help for other miners who become victims of Forest Service or BLM law enforcement. Becoming a member of PLP is like buying an insurance policy; sooner or later most miners will have an encounter with the out of control bureaucrats. Steve Hicks, Montana

Editor: We wholeheartedly agree with your assessment of PLP and the need to publicize your court victory. A short review of the case is included decision is at [PLP2 Forums](#) > [Main Category](#) > [Court Cases](#) > [State Cases](#)

A lawsuit has been filed in Alameda County Superior Court by LEEON HILLMAN; CRAIG TUCKER; DAVID BITTS, AKA the Karuk Tribe, Pacific Coast Federation of Fishermen's Associations, and the Environmental Law Foundation, against California Department of Fish and Game for using taxpayer dollars to fund an illegal recreational gold mining program. In 2005 the Karuk Tribe sued Fish and Game for allowing the practice of suction dredge mining to occur in areas known to be critical habitat for endangered and at-risk species such as Coho salmon, Pacific lamprey, and green sturgeon. At the time, Fish and Game officials submitted declarations to the Court admitting that suction dredge mining under its current regulations violates CEQA and Fish and Game Code §§5653 and 5653.9 (the statutes which authorize the Department to issue permits for suction dredging under certain conditions) because the activity causes deleterious harm to fish – including endangered fish, such as the Coho salmon. The suit ended in a court order directing Fish and Game to conduct a CEQA review and amend its regulations by June 20, 2008. Fish and Game has yet to initiate the process. Specifically, the suit charges that the suction dredge program violates: (1) the previous court Order; (2) CEQA, for failure to conduct a subsequent or supplemental EIR in order to provide protections for endangered and threatened fish listed since 1994; and (3) Fish and Game Code §§5653 and 5653.9, for failure to promulgate regulations in compliance with CEQA and for issuing permits when it has determined that the activity causes deleterious harm to fish. The suit comes two weeks after Fish and Game Director Don Koch rejected a petition from the Karuk Tribe, PCFFA, and others to use emergency rule making authority to enact modest restrictions on where and when suction dredging could take place. Fish and Game is quick to kick California's 2.4 million fishermen off the river, but they continually go to bat for 3,000 hobby miners, said plaintiff Craig Tucker. As a taxpayer I am sick and tired of government handouts to hobby miners that are destroying California's rivers. Arguments for a preliminary injunction will likely be heard in early spring.

Black's Law Dictionary States

that "Mineral Entry" is the right of entry on public land to mine valuable mineral deposits. "It is the policy of the United States, as expressed in Acts of Congress to make public lands available to the people for the purpose of mining valuable mineral deposits, and to encourage exploration for, and development of, mineral resources on public lands. Accordingly, the United States has reserved all land 'valuable for minerals' ... from disposition under the nonmineral statutes, and has made them open to entry for mining purposes, under regulations prescribed by law ... In other words ... where statute authorizes the Federal government to acquire lands, without indicating that lands are to be acquired for a particular purpose, lands so acquired are public lands subject to mineral entry."

Forest Service will now cite Criminally

The FS has adopted Clarification for the Appropriate Use of a Criminal or a Civil Citation To Enforce Mineral Regulations. This final rule amends certain Forest Service regulations to allow, for a criminal citation to be issued for unauthorized mineral operations on National Forest System (NFS) lands effective December 8, 2008.

The documents used to develop this final rule, along with comments, including names and addresses when provided, are placed in the record and are available for inspection and copying.

In *United States v. McClure*, 364 F. Supp.2d 1183, 1183-84 (E.D. Cal. 2005), the Forest Service cited the defendant for operating a gold mining suction dredge without obtaining prior Forest Service authorization. The citation charged the miner with violating 36 CFR 261.10(k) which prohibits use or occupancy of NFS lands without a special use authorization. *Id.* 1183. The judge determined that the miner's gold dredging operations were subject to 36 CFR part 228, subpart A (*id.* at 1185) and consequently, pursuant to 36 CFR 251.50(a), those operations were not special uses for which a special use authorization may be issued (*Id.* 1186). Accordingly, the court dismissed the charge that the miner violated 36 CFR 261.10(k) by occupying NFS lands without a special use authorization. *Id.* 1187.

Given the McClure decision, this Department believes it is again advisable to amend 36 CFR part 261, subpart A to clearly provide that conducting unauthorized locatable mineral operations subject to 36 CFR part 228, subpart A, or

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other unauthorized mineral operations subject to different subparts of 36 CFR part 228, is prohibited by 36 CFR part 261, subpart A and may lead to the operator's criminal prosecution. The Regions dealing with suction dredge operators are particularly concerned about the effects of the two adverse rulings on their use of prohibitions set forth in 36 CFR part 261. The amendments to 36 CFR part 261, subpart A rely on the Forest Service's clear statutory authority to adopt regulations providing for the issuance of a criminal citation to persons who commit prohibited acts on NFS lands. The amendments reflect the clear distinction between a special-use authorization and an operating plan as those terms are defined at 36 CFR 261.2. They also define the term "residence" to clarify a prohibition concerning shelters and structures on NFS lands used as living or sleeping quarters. The amendments apply to all persons conducting mineral operations subject to any subpart of 36 CFR part 228, including locatable mineral operations subject to subpart A. The Forest Service recognizes that it cannot preclude use and occupancy of NFS lands for locatable mineral operations, including camping or residential use, if those operations are conducted so as to minimize their adverse environmental impacts, the operations are limited to locatable mineral prospecting, exploration, development, mining, processing, reclamation, closure and those uses reasonably incidental thereto, and the operations are appropriate in terms of their type, duration, and stage. However, this does not preclude Forest Service adoption of rules requiring written authorization for some or all of these operations by means such as a notice of intent to conduct operations or an approved plan of operations when the Forest Service deems it appropriate. Nonetheless, this rulemaking has no effect whatsoever on a miner conducting operations specified by 36 CFR 228.4(a)(1) that do not require prior notice to the Forest Service. Nor does this rulemaking have any effect whatsoever on a miner's duty to submit a notice of intent to conduct locatable mineral operations, including reasonably incidental camping, which might cause significant disturbance of surface resources. Nor does this rulemaking have any effect whatsoever on a miner's need to obtain approval of a plan of operations, and if necessary, a reclamation bond, to conduct locatable mineral operations, including reasonably incidental camping, which will likely cause significant disturbance of surface resources. Those matters continue to be governed by 36 CFR 228, subpart A.

Orion Mine Board of Directors' Opinion of Citizen's and Miners' Rights as Clarified under the Grant of 1866 and the 1872 Mining Act

Mining provides an economic foundation for hundreds of rural communities in America and the country as a whole, usually paying well above average wages. State and local taxes paid by mining companies and miners support our schools, help build our roads, and contribute to numerous programs and services that make these communities and our country a better place to live. More directly, mining provides the base materials that keep our economy running and growing. Personal computers, hybrid cars, airframes, mountain bikes, light bulbs, body armor used by our troops and police officers, the very building you're sitting in right now - none would be possible without materials provided by mining. Mining is also vital to our national security through the provision of strategic materials used for national defense purposes. To paraphrase a bumper sticker popular with miners, if it isn't grown, it has to be mined. As our population and economy grow, the demand for mined materials will only increase, not decrease. It is the opinion of the board of the Orion Mine Board based on legal consultation that a citizen's mining rights begin BEFORE location, beginning with the right to prospect before location. The courts have reasoned that you cannot locate without a prior right to go look. And this acknowledges the "pedis possessio" right of the "claim." Thus merely by placing one's foot on the ground with the intention to exploit the mineral estate; you as prospector with "no claim" have congressionally recognized rights that may not be abridged. Filing a claim provides notice to governments and all others, prospectors/miners, of one's intent to develop the mineral resource under the Organic Act of 1866 and the Mining Act of 1872. It is well established in law that one need not apply for a patent to maintain those congressionally recognized rights. The right to the mineral estate and all appurtenant rights attach the moment one has an INTENTION to exploit the mineral estate of the property grant of 1866 and then verifies that intention by filing a mining claim under the 1872 Mining Law. One need not wait until location to assert right to the granted mineral property right. And that right attaches immediately and the time of its acceptance relates back to the time of the grant. This is so for any "present grant" identified by the words "do hereby grant" or something very similar in the Act. The granting date of this property right prevails against any subsequent Acts. It is the opinion of the Orion Mine Board that if any government agent requires a permit and/or fee for a "bond" or wants to impose any regulation (CFR) or policy upon the right to occupy a locatable mining claim, the miner should ask, in writing, for the USC statute and specific wording that conveys such authority from Congress to that agent to nullify the Mining Grant of 1866 or the Mining Law of 1872 to require the

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permit and or fee (bond), or where there is other congressional authorization for such regulatory nullification of private property rights for locatable mining claims, before or after you exercise and enjoy your rights granted by the mineral estate grant of 1866. This jurisdictional challenge is a required first step. One should ask government agents just where they get their perceived jurisdiction for regulating any citizen's right of private property development, then properly quote the appropriate USC for the locatable mining law to the agency personnel, emphasizing that Congress restricts the agency from interference with a mining operation. We of the Orion Mine Board believe that agency interference with mining operations is why there has been such a steady decline of exploration and development of US mineral resources, both those of the private locatable mineral estates (locatable minerals) and those of the U.S. mineral estate (Leasable & Saleable Minerals). The Orion Mine Board believes it would be more appropriate for the Orion and other artisanal mines to address the illegality of the agency's interpretation of U.S. mining law rather than retry court cases in which the U.S. attorney general lawyer representing the agencies was not willing to acknowledge the congressionally recognized rights of the individual miner or even state them properly to the court. We of the Orion believe, based on statute, that citizens who engage in locating, "**prospecting**" the developing and extracting of mineral resources, "**exploration and processing**" and uses "**reasonably incident therefore**" in and on the public domain "**free and open to exploration and purchase**" "**shall have the exclusive right of possession and enjoyment of all the surface included within the lines of their locations**" (30 USC 21a, 22, 26) for locatable minerals under the grant authorized by the 1866 & 1872 Mining Acts. There are no subsequent statutes that counter this belief. Where there is a valid location of a mining claim the area becomes segregated from the public domain and the property of the locator. He is entitled to the most plenary and summary remedies for quieting his claim cognizable in equity. As was said by the Oregon Supreme Court the general government itself cannot abridge the right of the miner. "There are equitable circumstances binding upon the conscience of the governmental proprietor that must never be divested without the violation of all principles of justice and reason. The same fundamental rules of right and justice govern nations, municipalities, corporations, and individuals. The government may not destroy the locator's rights by withdrawing the land from entry or placing it in a state of reservation." "[t]he owner of a mining claim owns property, and is not a mere social guest of the Department of Interior to be shooed out the door when the Department chooses. Rather, pursuant to the Multiple Use Act, the Department must continue to coexist with a holder of a valid claim whose right to possession is vested." Shumway, 199 F.3d at 1103. One should ask the governmental agency just where they get their perceived jurisdiction for regulating rights to private property development, then properly quote the appropriate USC for the locatable mining law to the agency personnel, emphasizing that Congress explicitly restricts any government agency from interference with mining operations. 30 USC 612 the government itself cannot abridge the rights of the miner. So the question arises, did the Multiple Use Surface Resource Act reserve for the government surface land rights that interfere with miners' rights? And the answer is clear: the Multiple Use Surface Act includes an exception: (except mineral deposits subject to location under the mining laws of the United States) and this exception negates the MUSA as it pertains to the locatable Grant of 1866 thereby leaving intact the locatable minerals statute (30 USC 260). The locatable mineral estate still has the grant of "**exclusive right of possession and enjoyment of all the surface included within the lines of their locations**". This phrase has the merit of clearly conveying the meaning intended: that of exclusive dominion over the surface of the location, this includes the use of occupancy.

RELEVANT POINTS OF LAW Various case law covering the finer points of mining claim ownership rights.

In law, the word "claim" in connection with the phrase "mining claim" perfected with a valid mineral discovery represents a federally recognized right in real property. The Supreme Court has established that a mining "claim" is not a claim in the ordinary sense of the word a mere assertion of a right, but rather, is a property interest, which is itself real property in every sense, and not merely an assertion of a right to a property.

A (unpatented) mining claim has been "perfected" where, assuming the performance of the requisite acts of location and recordation, a discovery of a valuable mineral deposit has been made within the physical limits of the claim. See, e.g., United States v. Mavros, 122 IBLA 297, 301-302 (1992); United States v. Nickol, 9 IBLA 117, 122 (1973); Clear Gravel Enterprises, Inc., A-27967 (Dec. 29, 1959).

When the location of a mining claim is "perfected" under the law, it has the effect of a grant by the United States of the right of present and exclusive possession. The claim is property in the fullest sense of that term; and may be sold, transferred, mortgaged, and inherited without infringing any right or title of the United States. The right

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of the owner is taxable by the state; and is "real property", subject to the lien of a judgment recovered against the owner in a state or territorial court. The owner is not required to purchase the claim or secure patent from the United States; but so long as he complies with the provisions of the mining laws his possessory right, for all practical purposes of ownership, is as good as though secured by patent." *Wilbur v. U.S. ex rel. Krushnic*, 1930, 50 S.Ct. 103, 280 U.S. 306, 74 L.Ed. 445.

The claimant has the exclusive right to possession and enjoyment of all the surface included within the lines of the locations, but the United States retains title to the land. 30 U.S.C. § 26, 35; *Union Oil Co. of California v. Smith*, 249 U.S. 337, 349 (1919); *Wilbur v. U.S. ex rel. Krushnic*, 1930, 50 S.Ct. 103, 280 U.S. 306, 74 L.Ed. 445; *California Coastal Comm'n v. Granite Rock Co.*, 480 U.S. 572, 575, 107 S.Ct. 1419, 1422, 94 L.Ed. 2d 577 (1987); *Swanson v. Babbitt*, 3 F.3d 1348, 1350 (9th Cir. 1993).

"Under the mining laws a person has a statutory right, consistent with Departmental regulations, to go upon the open (unappropriated and unreserved) Federal lands for the purpose of mineral prospecting, exploration, development, extraction and other uses reasonably incident thereto." (See 30 U.S.C. § 21-54, 43 C.F.R. § 3809.3-3, 0-6).

There is no question that reasonable access to a valid mining claim cannot be denied. 36 C.F.R. § 228.12; see *United States v. James and Marjorie Collard*, 128 IBLA 266, 291 (1994). 16 U.S.C. § 481, Use of Waters: All waters within boundaries of national forests may be used for domestic, mining, milling, or irrigation purposes under the laws of the state wherein such national forests are situated or under the laws of the United States and the rules and regulations established thereunder.

The discovery of a valuable mineral deposit within its limits validates a mining claim located on public land in conformance with the statute and its locator acquires an exclusive possessory interest (valid existing private property rights) in the claim; a form of real property which can be sold, transferred, mortgaged, or inherited, without infringing the paramount title of the United States. 30 U.S.C. § 26; *Cole v. Ralph*, 252 U.S. 286, 295 (1920); *Forbes v. Gracey*, 94 U.S. 762, 767 (1877).

If a discovery of a "valuable mineral deposit" is made, the claim can be held indefinitely so long as the annual assessment work is performed, the necessary filings are made, fees are paid, and a valuable mineral deposit continues to exist. See *Best v. Humboldt Placer Mining Co.*, 371 U.S. 334, 336, 83 S.Ct. 379, 382, 9 L.Ed. 2d 350 (1963).

30 U.S.C. § 26 addresses the "locators' rights of possession and enjoyment" as follows: "The locators of all mining locations on the public domain so long as they comply with the laws of the United States, and with State and local regulations not in conflict with the laws of the United States governing their possessory title, shall have the exclusive right of possession and enjoyment of all the surface included within the lines of their locations." **This possessory interest entitles the claimant to "the right to extract all minerals from the claim** without paying royalties to the United States." *Swanson v. Babbitt*, 3 F.3d 1348, 1350 (9th Cir. 1993).

The holder of a claim supported by a discovery need not seek patent; his unpatented mining claim remains a fully recognized possessory right. 30 U.S.C. § 39; *United States v. Locke*, 471 U.S. 84, 86 (1985).

Federal mining claims are "private property" *Freese v. United States*, 639 F.2d 754, 757, 226 Ct.Cl. 252 cert. denied, 454 U.S. 827, 102 S.Ct. 119, 70 L.Ed.2d 103 (1981); *Oil Shale Corp. v. Morton*, 370 F.Supp. 108, 124 (D.Colo. 1973).

Even though title to the fee estate remains in the United States, these unpatented mining claims are themselves property protected by the Fifth Amendment against uncompensated takings. See *Best v. Humboldt Placer Mining Co.*, 371 U.S. 334 (1963); cf. *Forbes v. Gracey*, 94 U.S. 762, 766 (1876); U.S.C.A.Const. Amend. 5; *North American Transportation & Trading Co. v. U.S.*, 1918, 53 Ct.Cl. 424, affirmed 40 S.Ct. 518, 253 U.S. 330; *United States v. Locke*, 471 U.S. 84, 107, 105 S.Ct. 1785, 1799, 85 L.Ed. 2d 64 (1985); *Freese v. United States*, 639 F.2d 754, 757, 226 Ct.Cl. 252, cert. denied, 454 U.S. 827, 102 S.Ct. 119, 70 L.Ed. 2d 103 (1981); *Rybachek v. United States*, 23 Cl.Ct. 222 (1991).

Such an interest may be asserted against the United States as well as against third parties (see *Best v. Humboldt Placer Mining Co.*, 371 U.S. 334, 336 (1963); *Gwillim v. Donnellan*, 115 U.S. 45, 50 (1885)) and may not be taken from the claimant by the United States without due compensation. See *United States v. North American Transportation & Trading Co.*, 253 U.S. 330 (1920); cf. *Best v. Humboldt Placer Mining Co.*, supra.

"Uncompensated divestment" of a valid unpatented mining claim would violate the Constitution. *Freese v. United States*, 639 F.2d 754, 757, 226 Ct.Cl. 252, cert. denied, 454 U.S. 827, 102 S.Ct. 119, 70 L.Ed. 2d 103 (1981).

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A valid location, though unpatented, is a grant in the nature of an estate in fee and if such an estate is taken by the United States, just compensation must be made. See U.S.C.A. Const. Amend. 5, North American Transportation & Trading Co. v. U.S., 1918, 53 Ct.Cl. 424, affirmed 40 S.Ct. 518, 253 U.S. 330.

Oct. 1, 1994 Secretary of Interior Babbitt took it upon himself to impose a temporary spending moratorium inserted in the annual Interior Appropriations Budget Act he controls, that effectively prohibited the BLM from accepting any new mineral patent applications. Which reads as follows; SEC. 311. (a) LIMITATION OF FUNDS- None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended to accept or process applications for a patent for any mining or mill site claim located under the general mining laws.(b) EXCEPTIONS- The provisions of subsection (a) shall not apply if the Secretary of the Interior determines that, for the claim concerned: (1) a patent application was filed with the Secretary on or before September 30, 1994; and (2) all requirements established under § 2325 and 2326 of the Revised Statutes (30 U.S.C. 29 and 30) for vein or lode claims and § 2329, 2330, 2331, and 2333 of the Revised Statutes (30 U.S.C. 35, 36, and 37) for placer claims, and section 2337 of the Revised Statutes (30 U.S.C. 42) for mill site claims, as the case may be, were fully complied with by the applicant by that date. This same mining patent moratorium language as inserted in each annual Department of Interior Budget Appropriation Bill since 1994. In 1994 - Secretary Babbitt informed Congress he would impose the moratorium for a period of 5 years, to give Congress time to consider and act on the repeal of the existing mining law system. With political pressure off the patenting issue, via this now outdated moratorium, Congress has chosen not to repeal any existing mining or patenting law. But, if given mandatory Congressional law, since those 5 years have now long past and existing mining land patent law has NOT been repealed, this mining patent moratorium may soon be challenged in court.

Remember This:

36 CFR 228.4 (a)(1) A notice of intent to operate is not required for;

(vi) Operations which will **not** involve the use of mechanized earthmoving equipment, such as bulldozers or backhoes, or the cutting of trees

And

36 CFR 228.4 (a)(3)The requirement to submit a plan of operations also shall not apply to operations which will not involve the use of mechanized earthmoving equipment, such as bulldozers or backhoes, or the cutting of trees, unless those operations otherwise will likely cause a significant disturbance of surface resources. **Or in plain English: anything less then heavy equipment or the cutting of trees will “probably” not require a “Notice of Intent” or a “Plan of Operation”.**

This is how YOUR Government handles comments that don't fit into their “do what we want” gameplan

This was taken from the Forest Service's final rule on the 36 CFR Part 261 about the comments they received.

If you're not sure what “261” is, you need to get informed. Because you will get you're butt kicked with it if you don't know you're rights. (*previous page. Section 261 – Prohibitions*)

Several respondents' comments were obvious copies from comments sent in responding to the Federal Register Notice of July 9, 2004, (69 FR 41428) "Clarification as to When a Notice of Intent to operate and/or Plan of Operations is needed for Locatable Mineral Operations on National Forest System lands." These comments will **not** be listed since they do not apply to this rulemaking. Many comments to the proposed rule were very similar in content.

Consequently, similar comments were combined and responded to only once.

Change the words around when you copy comments or another letter

Phoenix	AZ	Feb 14 & 15	<u>Arizona Exhibition & State Fairgrounds</u>	602-252-6771	PLP present
Fresno	CA	Feb 21 & 22	<u>Fresno Fair Grounds</u>	559-650-3247	PLP present
Roseburg	OR	Mar 14 & 15	<u>Douglas County Fairgrounds</u>	541-440-4394	PLP present
Puyallup	WA	Mar 21 & 22	<u>Western Washington Fairgrounds - Expo Hall</u>	253-845-1771	
Salem	OR	Mar 28 & 29	<u>Oregon State Fair - Expo Center</u>	503-947-3247	PLP present
Primm	NV	Apr 25 & 26	<u>Primm Valley Resorts and Casino</u>	800-386-7867	PLP present
Denver	CO	May 2 & 3	<u>National Western Complex</u>	303-297-1166	
Butte	MT	May 16 & 17	<u>Butte Civic Center</u>	406-497-6401	

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[USDA Forest Service](#)

[USFS Geology Manual](#) (the rules)

[USFS personnel manual](#)

[United States Codes](#)

[BLM National website](#)

[The Code Of Federal Regulations](#)

[FERC](#)

[USGS](#)

[CEQ1500-1508](#)

[FOIA Request Link](#)

[Freedom Of Information Act](#)

[Dianne Feinstein](#)

[Barbara Boxer](#)

[Code of Federal Regulations](#)
[State and Federal elected officials](#)
and issues too.

[PLP comments to the California](#)
[Water Board hearing](#)

All (198) Comments on dredging to CA Water Quality Board

CALIFORNIA STATE

[California Laws](#)

[Dept Of Fish & Game](#)

[BLM California website](#)

[Findlaw](#)

Legal Foundations

[PLF Pacific Legal Foundation](#)

[MSLF \(Mtn States Legal](#)
[Foundation\)](#)
[Liberty Matters](#)

Everyone PLEASE write experiences and comments about dredging at these websites.

1. forum.goldgrubbin.com
2. goldprospectors.org
3. www.goldgold.com
4. www.shacksgold.com
5. www.golddredger.com
6. www.plp2.org/
7. www.plp1.org/
8. www.49ermike.com

I NEED YOUR STATE LINKS

editor@plp1.org

What are all these CFR numbers? Do

you wonder what those numbers are when someone refers to the law or codes like – 36CFR 228.4??

Here is a short rundown of some of them. (If you are not sure what it means send us an email editor@plp1.org and we will get you an answer.)

TITLE 36--Parks, Forests, and Public Property

§ 100 to 199 Nat'l Park Serv., Dept of the Interior
§. 200 to 299 pertains to the Forest Service, USDA
Sec. 228 locatable minerals (which most of us are concerned).

Sec. 212--Travel Management (closing your road)

Sec. 219--Planning (conspiring to stop you)

Sec. 261 – Prohibitions (stopping your activity)

TITLE 43-Public Lands: Interior 1000-9999 BLM

NFMA National Forest Management Act of 1976
(16 U.S.C. 1600 et seq.)

30 U.S.C 22 Land open to purchase by citizens

16 U.S.C 478 Egress or ingress of actual settlers: prospecting

Forest Service Fee Watch

<http://westernslopenofee.org/index2.php?display=yes&pageid=3>

BLM Fee Watch

<http://westernslopenofee.org/index2.php?display=yes&pageid=6>

Laws & Court Cases

<http://westernslopenofee.org/index2.php?display=yes&pageid=10>

Publications

<http://westernslopenofee.org/index2.php?display=yes&pageid=11>

Resolutions

<http://westernslopenofee.org/index2.php?display=yes&pageid=12>

Check out these clips

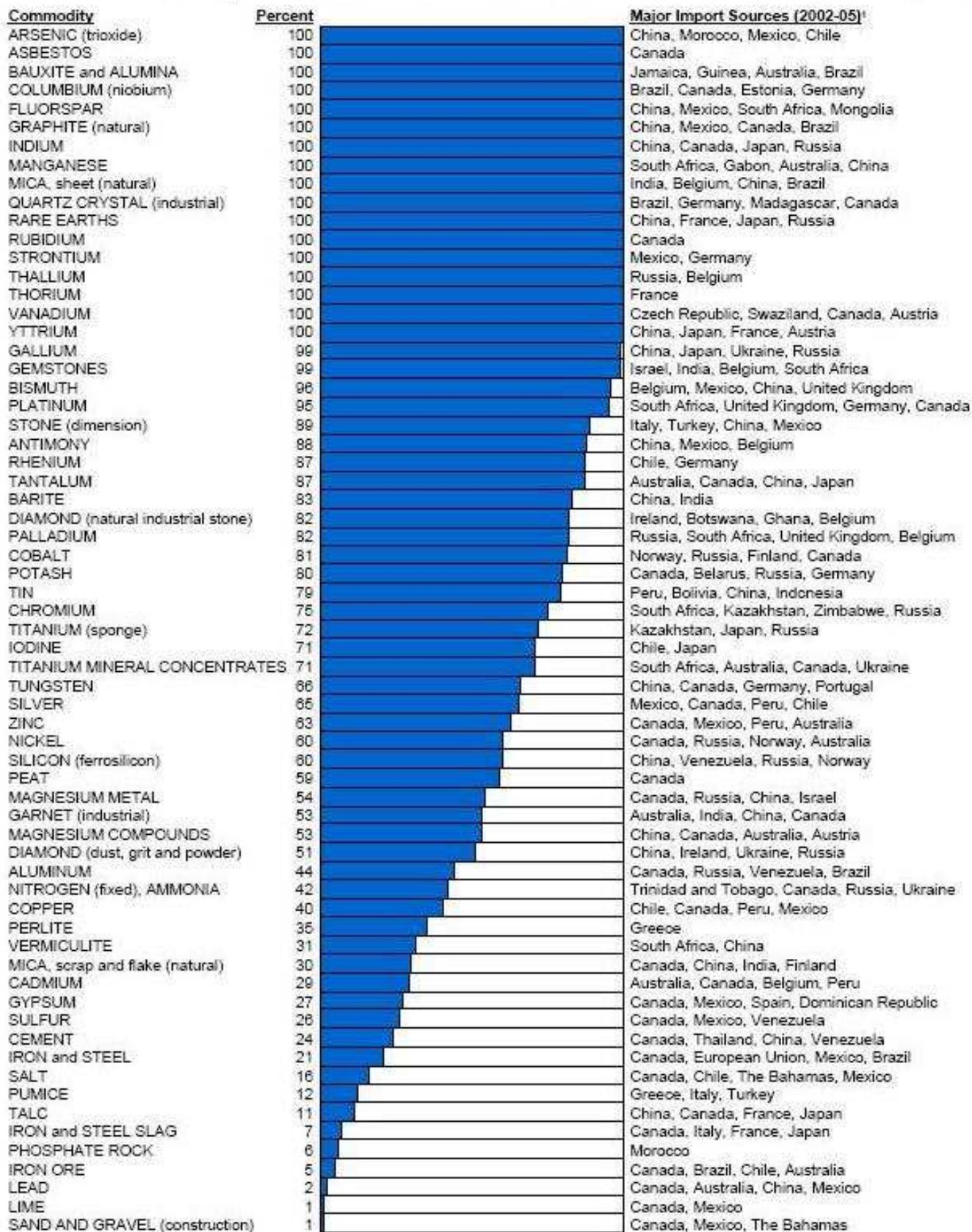
www.youtube.com/watch?v=Kb4GZYiqz2k

Mercury perception and truth:

<http://www.youtube.com/watch?v=4bvObUSzbKk&feature=channel>

http://www.youtube.com/watch?v=Qnil6ubrryw&feature=channel_page

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Location Detail _____

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A 501 (C) (3) Non-Profit Corporation

7194 Conejo Dr.

San Bernardino, CA 92404 (909) 889-3039

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Suggested Challenge Procedure

While pursuing your outdoor endeavor of work, play, recreation or sport and you are challenged by a representative of a governmental Agency or Public Servant, regarding the legality of your activity in their area, you should

DO THE FOLLOWING:

1. It is wise to politely ask if you are breaking any laws. If you are informed that you are breaking, then ask for an explanation of the law and any municipal code that pertain to the law.
2. You should do as you are asked by the government representative, then ask for their name, badge number, position and the agency and district the represent. Record this information along with the date, time and the location of the area you are in.
3. If you have a pleasant response from any of the agents, such as being informative, cooperative or helpful, we would like to hear about them.
4. Give this information to your local PLP office or representative and he or she will advise you of the appropriate procedure to follow.

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Why Join The PLP?

Where do you think you would be dredging and mining today had there been no one out there fighting for your rights? If you and I don't care enough to make the case for our rights, who will? Public Lands for the People has been working tirelessly for 19 years with land managers, politicians and other user groups to ensure that you get to public lands where and when you want. We have had many successes and you have benefited. We can promise you the other side is always making the case that mining and prospecting is noisy, polluting, and the source of conflicts. They want us in smaller and smaller areas with fewer opportunities to access the public lands and backcountry. Ultimately, they want us off public lands altogether. This is your fight whether you like it or not. Doesn't it make sense to join and support others who are taking their time to protect your rights and opportunities? There is plenty you could do with \$35.00 than join another organization. You could buy a couple gallons of gas, buy a drink and a bag of popcorn at a movie or simply save it for that proverbial rainy day that Mom said would eventually come. However, if you value the preservation of the rights of the public to access, use, and enjoy our public lands, and you want to protect that right for yourself, family, friends, and future generations, you want to reconsider where that \$35.00 would be best put to use. You could do all of those things or none; it is your choice because it is your 35 bucks. Doesn't it make sense to equip those who are fighting for you with the resources needed for them to have a chance at success? Doesn't it make sense for you to invest \$35 in the Public Lands for the People?

Yes, it really does



WHO IS PLP?

The Public Lands For The People was constructed for the purpose of representing all outdoor user groups and individuals that are interested in keeping Public and Private lands open to use and enjoy outdoor recreation on a non-discriminatory basis! PLP assists groups to join forces to maintain the laws and rights of all citizens on Public and Private lands. (Federal, State and City). PLP will insure representation at public hearings of government agencies that are proposing limitations and restrictions on the lands that belong to the people. **WE DO LITAGATE!** We will file injunctions, when necessary, to prevent governmental agencies from discussing public issues behind closed doors and calling them "personnel meetings". We will come to the aid of, and give individual attention to, persons or groups who are being harassed, intimidated or misled by people in authority (in or out of uniform) who are attempting to enforce their own ideas or opinions of laws, rules or regulations, rather than the actual laws, rules or regulations, and what it actually means. Remember....

**PUBLIC LANDS
FOR THE PEOPLE**
means.... our **right** to Use Public Lands, not to Abuse Public Lands.

What does PLP do for you?

1. PLP works on many individual issues that concern the small-scale miners.
 2. PLP works with other states, miners, and those who represent those states.
 3. PLP makes formal comments on the Federal Register (FR) notice for the Forest Service (FS) Road closures, the FS trying to criminally cite miners and rule making changes.
 4. PLP is in court fighting the California Department of Fish and Game who has violated a Court order by failing to do an Environmental Impact Report (EIR) on suction dredging in California.
 5. PLP assisted miners when the FS attempted to force dredgers into a Plan of Operation.. The miners prevailed in Siskiyou Regional Education Project (SREP) vs. U.S. Forest Service.
 6. PLP was a party to 2 lawsuits by the Center for Biological Diversity, vs USFS and CBD vs. the BLM. The miners prevailed
 7. PLP and Dee Stapp prevailed in a lawsuit against the BLM on separating bond issues of occupancy and casual use mining operations.
 8. PLP is participating in the Oregon, Washington, and California Water Resources Board study on turbidity and mercury as a method to stop suction dredging and similar issues there.
 9. PLP worked with Washington State Resources Coalition and others in the rule making process on suction dredging.
 10. PLP filed a lawsuit against Eldorado National Forest for their illegal closures of roads in their Travel Management Plan (TMP). PLP is also making comments in several other forests on their TMP.
 11. PLP made Legal and Scientific comments fighting the California Bill AB 1032. PLP strives to be involved with issues that affect the small-scale mining community. We would not be able to continue these battles without the past support of its membership.
- PLP's hope is that your support will continue to grow.????????????????????**

WWW.PLP2.ORG Jerry Hobbs - President (909) 889-3039

Mail to: 3700 Santa Carlotta St, La Crescenta, CA. 91214-1048



PUBLIC LANDS FOR THE PEOPLE, INC.

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Please accept my enrollment as a member of **PLP**. Enclosed is my annual dues donation of _____. I will receive a membership card, the Sentry Post Newsletter, and access to our legal assistance network

NEW RENEWING I've enclosed an additional donation of _____ to help keep our Public Lands open.

Would you be willing to help with: (An excellent way to learn too!)

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Clean up Projects....Write a letter to Officials & Govt. Agencies.... Serve as a Board member ...Representative for your club
Assist in Membership Drives and Fund-raisers....Serve on a Committee.... Place Phone Calls.... Type....
Attend USFS, BLM and DFG Meetings & Hearings.... Research Activities....Legal research or composition

Please tell us any other ways you can think of to help keep your Public Lands Open;

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