



The SENTRY

Public Lands for the People Inc. Est. 1990

No dredge permits next year!

Rider language creating a moratorium on further dredge permits in CA. has been approved through the [Senate Budget Subcommittee](#), and the [Assembly Budget Subcommittee](#). Similar rider language will be attached to the CA budget bill which will be voted on by the legislature sometime within the next few weeks. We need you voice your opposition to this rider (trailer) to the budget bill. send a letter, fax or email to Governor Arnold (*Cont'd on Page 3*)

PLP appeals closing roads in Eldorado Forest

The beginning of June came in with a bang with PLP continuing to fight for your rights again. June found the PLP president, Jerry Hobbs, Attorney David Young, and Sentry editor Scott Coykendall attending the Eldorado National Forest (ENF) Travel Management Plan (TMP) appellant's hearing in Placerville. (*Cont'd on Page 8*)

PLP comments are posted

at plp2.org forums in categories of lawsuits, laws, state or federal. Any of those comments can be used as a guide or one could use the comments by making a few changes in the comment and use it in their local area.

We've been alerted to a poll where you vote in favor of S.2438 Please vote your support for the Fee Repeal bill (one vote per computer) and pass it on. There is a link to the Senate website where you can express support of S.2438 to your Senator. http://www.washingtonwatch.com/bills/show/110_SN_2438.html

Membership Supported – All Volunteer, No Salaries – A Non Profit Organization

Legal Fund Raffle December 18, 08 Valued over \$5306+

Use tickets on page 2 or Contact
JIM LEWIS
655 E La Loma Ave.
Somis, Ca. 93066 (805)-485-7513
Goldcado1@aol.com

1. **Keene 4 " Dredge Mod. 4400ph-**
Donated by Keene Engineering. \$ 2600
2. **Goldmaster GMT Detector-**
Donated by Whites Electronics. \$ 796
3. **\$ 250.00 Gift Certificate.**
Donated by Armadillo Mining. \$ 250
4. **Lucky Strike Gold Club (1 yr.)**
Donated by Al Liekam. \$ 230
5. **Golden Caribou Min'g Assn 1 yr**
Donated by Gordon K. Burton. \$ 225
6. **Deluxe Blue Bowl Kit-**
Donated by Pioneer Min'g Supplies. \$209
7. **3.1 dwt (4.8 g) Gold Nugget-**
Donated by Desert Gold Diggers Prospectors Club. \$ 200
8. **Mini Puffer Drywasher-**
Donated by Al Wilkins. \$ 150
9. **Dri-Wash-n-Guard Detail Kit-**
Donated by Barry & Ginna Wetherby \$130
10. **GPAA Buzzard Special + Tom & Perry Clean-Up Kit-**
Donated by GPAA. \$ 117

PLP files a Direct and Constructive Notice with the Tahoe National Forest RE: Violations of Due Process 5TH Amendment of the Constitution,

Violations of Mining Act of 1872 as Amended,

Violations of Title 18 sections 471 and 472 and

Violations of the Paperwork Reduction Act, Gathering Information Without Office of Management and Budget (OMB) Number on Directive,

Violation 36 CFR 261,

Violation of the Organic Act (16 U.S.C. 478),

Violation of the Mining Act (30 U.S.C 22, and

Violation of Executive Order 12630, 30 U.S.C. 612(b) and 615, 16 U.S.C 478 Organic Act

See full letter at PLP forums under *PLP2 Forums > Main Category > Mining Laws > Federal Notice To FS on Yuba river parking*

Or click on this link below.

<http://www.plp2.org/forum/showthread.php?t=142>

WWW.PLP2.ORG - NATIONAL EDITION – 3rd Qtr 2008

(No dredge permits from page 1)
Schwarzenegger, asking him to please veto this harmful Rider language.
[Here](#) is a sampling of letters you can send. For those of you who haven't sent me your email address for the newsletter, type this into your computer.

<http://www.plp2.org/forum/showthread.php?t=141> *(Cont'd from Page 1)*

To make certain your message actually makes it to the Governor's desk and the other lawmakers, we ask that you direct them to one of the following addresses:

Pete Conaty & Associates
1107 9th Street, Suite 530

Sacramento, CA 95814

Or Fax to: (916) 492-8957

Or email to: pconaty@sbcglobal.net

Lobbyists will make certain that your message is hand delivered to the Governor's office and other key locations!

Important: Even though you send your message to the lobbyists, the heading of the message should be addressed to Governor Arnold Schwarzenegger as shown in our sample message.

This is probably our last chance; please help us kill this harmful Rider now!

Very important: You must include your own return postal address on whatever letter, fax or email that you send to the Governor. That is the only way that he can recognize and weigh the importance of your opinion!
Thank you very much for your help in this very important matter!

Following is a sample letter. It is important you state your opposition and your full address but avoid lengthy letters. They just want to know if you are in favor or oppose the issue in your subject.

Governor Arnold Schwarzenegger
California State Governor
California State Capital Bldg.
Sacramento California 95814

RE: suction dredge permit moratorium attached to 2008-09 Budget Bill. **OPPOSED**

Dear Governor Schwarzenegger

I am **OPPOSED** to the trailer (rider) bill attached to the 2008/2009 Budget Bill placing a moratorium on Dept. of Fish & Game Suction Dredge Mining permits within California.

Your opposition statements in vetoing AB 1032 substantiate the elimination of the trailer bill language.

"To the Members of the California State Assembly:"

"I am returning Assembly Bill 1032 without my signature."

...this bill is unnecessary."

"Current law gives the DFG the authority to protect fish and wildlife Permits for suction dredging ensures that these operations are not deleterious to fish

the DFG may also designate specific waters or areas that are closed to dredging."

*"It is unclear why this bill specifically targets specific waterways for closure **The benefit or protection from such a minor closure is negligible and supports the notion that scientific environmental review should precede such decisions.**"*

*"Sincerely,
Arnold Schwarzenegger"*

Further, this action is illegal for the following reasons;

• When it is impossible to comply with both state and federal law, state law is preempted

• Congress declared in the 1872 mining law to foster and encourage mining and encourage development of domestic mineral resources to assure satisfaction of industrial, security and environmental needs,"

• A State moratorium on suction dredge mining, would be a prohibition hereby conflicting with federal law

• The moratorium is preempted if Congress's intent to occupy a given field, any state law within that field or state law stands as an obstacle to accomplishment of full purposes and objectives of Congress

• **The 2008/09 Budget bill with a suction dredge permit moratorium rider, completely frustrates the accomplishment of these federally encouraged activities.**

Signature

Address

City, state zip

(Be sure to include your full name and address.)

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."

Claims on Federal Lands

This brief article part 1 provides partial information on one facet of one of the multiple uses: activities under the General Mining Law of 1872, as amended.

Introduction

There are three basic types of minerals on Federal lands:

1. Locatable (subject to the General Mining Law of 1872, as amended)
 2. Leasable (subject to the various Mineral Leasing Acts)
 3. Salable (subject to mineral materials disposed of under the Materials Act of 1947, as amended)
- Federal laws, regulations, and legal decisions have defined these minerals. Only those minerals that are locatable are discussed in this article. The General Mining Law of May 10, 1872, as amended (30 U.S.C. §§ 22-54 and §§ 611-615) is the major Federal law governing locatable minerals. This law allows **citizens** of the United States the opportunity to explore for, discover, and purchase certain valuable mineral deposits on those Federal lands that are open for mining claim location and patent (open to mineral entry). These mineral deposits include most metallic mineral deposits and certain nonmetallic and industrial minerals. The law sets general standards and guidelines for claiming the possessory right to a valuable mineral deposit discovered during exploration. The General Mining Law allows for the enactment of State laws governing location and recording of mining claims and sites that are consistent with Federal law. The Federal regulations implementing the General Mining Law are found at Title 43 of the Code of Federal Regulations (CFR) in Groups 3700 and 3800. This pamphlet gives a brief introduction to the Mining Law Administration program on Federal

lands administered by the BLM. The last section provides additional sources for more information on the following topics:

- Geology and mineral resources of a particular area
- Mining and milling techniques
- Surface protection and reclamation requirements
- Other Federal and State legal requirements

The General Mining Law of 1872, as amended, has five elements: 1. Discovery of a valuable mineral deposit 2. Location of mining claims and sites 3. Recordation of mining claims and sites 4. Annual maintenance (annual assessment work or annual fees) for mining claims and sites 5. Mineral patents

The BLM's Mining Law Administration program involves mining claim recordation, annual maintenance (annual assessment work or annual fees), mineral patents, and surface management.

Explanation of "Discovery"

Locatable Minerals

The General Mining Law of 1872, as amended, opened the public lands of the United States to mineral acquisition by the location and maintenance of mining claims. Mineral deposits subject to acquisition in this manner are generally referred to as "locatable minerals." Locatable minerals include both metallic minerals (gold, silver, lead, copper, zinc, nickel, etc.) and nonmetallic minerals (fluorspar, mica, certain limestone and gypsum, tantalum, heavy minerals in placer form, and gemstones). It is very difficult to prepare a complete list of locatable minerals because the history of the law has resulted in a definition of minerals that includes economics. Starting in 1873, the United States Department of the Interior (DOI) began defining locatable minerals as those minerals that are recognized as a mineral by the standard experts, are not subject to disposal under some other law, and make the land more

valuable for mining purposes than for agriculture. Minerals normally locatable on lands acquired (purchased or received) under the Acquired Lands Act of 1947 by the United States or found on American Indian reservations are subject to lease only (43 CFR Group 3500). Therefore, it is easier for BLM to list the minerals that are not locatable because of the complexities listed previously. Since July 23, 1955, common varieties of sand, gravel, stone, pumice, pumicite, and cinders were removed from the General Mining Law and placed under the Materials Act of 1947, as amended. Use of salable minerals requires either a sales contract or a free-use permit. Disposals of salable minerals from BLM administered lands are regulated by 43 CFR Part 3600. Uncommon varieties of salable-type minerals may be locatable if the deposits meet certain tests created by various judicial and administrative decisions. See *McClarty v. Secretary of the Interior*, 408 F. 2d 907 (9th Cir., 1969). Federal certified mineral examiners determine uncommon variety on a case-by-case basis. (See 43 CFR Part 3830, Subpart C, for further information concerning the locatability of minerals.) Since 1920, the Federal Government has leased fuels and certain other minerals (43 CFR Parts 3000-3590). Today, minerals that are subject to lease include oil and gas, oil shale, geothermal resources, potash, sodium, native asphalt, solid and semisolid bitumen, bituminous rock, phosphate, and coal. In Louisiana and New Mexico, sulphur is also subject to lease.

Discovery of a Valuable Mineral Deposit

Federal statute does not describe what constitutes a valuable mineral deposit, therefore the government has adopted the "prudent man rule." This rule

Write a letter to the governor opposing the moratorium

determines value based on whether or not a person will consider investing time and money to develop a potentially viable mineral deposit. This rule was first stated by the DOI in 1894, in the adjudication of *Castle v. Womble*, 19 L.D. 455 (1894), the holding of which states: "...where minerals have been found and the evidence is of such a character that a person of ordinary prudence would be justified in the further expenditure of his labor and means, with a reasonable prospect of success in developing a valuable mine, the requirements of the statute have been met."

The U.S. Supreme Court approved this definition in *Chrisman v. Miller*, 197 U.S. 313 (1905). The DOI's Solicitor issued an opinion in 1933 on the issue of widespread nonmetallic minerals with questionable marketability. The Solicitor noted a need for a distinct showing that the mineral could be mined, removed, and marketed at a profit. In 1968, the U.S. Supreme Court approved the opinion in *U.S. v. Coleman*, 390 U.S. 602-603 (1968). The marketability test is supplemental to the prudent man rule and considers deposit economics and market entry. The claimant is required to show a reasonable prospect of making a profit from the sale of minerals from a claim or a group of contiguous claims. DOI decisions require a discovery on each claim based on an actual physical exposure of the mineral deposit within the claim boundaries. The DOI's holding in *Jefferson-Montana Copper Mines Co.*, 41 L.D. 321 (1912), established the full test for a lode claim: "To constitute a valid discovery upon a lode claim, three elements are necessary:

1. There must be a vein or lode of quartz or other rock-in-place

2. The quartz or other rock-in-place must carry gold or some other valuable mineral deposit

3. The two preceding elements, when taken together, must be such that as to warrant a prudent man in the expenditure of his time and money in the effort to develop a valuable mine."

For traditional placer claims, in addition to proof of a discovery of a pay streak, each 10 acres must be shown to be mineral-in-character (there is a reasonable expectation of further economic mineral under these lands). Mineral-in-character may be based on geologic inference from adjoining lands and a reasonable opportunity for profitable extraction. An actual exposure of the valuable mineral deposit is not necessary.

Mineral-in-character may be used to show the potential extent of the valuable mineral deposit on the claim(s), but cannot be used alone for such purposes. Under the holding in *Schlosser v. Pierce*, 93 I.D. 211 (1986), contiguous mining claims on the same mineral deposit may be grouped together into a logical mining unit and evaluated as an economic unit. Each claim must still contain a physical exposure of the ore-bearing mineral deposit whose value meets or exceeds the cutoff grade for the mining of the mineral deposit as a whole.

Explanation of "Location" **Mining Claims and Sites**

A person who is a citizen of the United States or has declared an intention to become a citizen with the Immigration and Naturalization Service may locate and hold a mining claim or site. A corporation organized under State law is considered a citizen and may locate and hold a mining claim or site. A corporation is held to the same standards as a citizen. Non-citizens are not permitted to own or have an interest in mining claims or

sites. There is no limit to the number of claims and sites that you may hold as a qualified claimant, as long as the requirements of the General Mining Law have been met. A mining claim is a selected parcel of Federal land, valuable for a specific mineral deposit or deposits, for which you have asserted a right of possession under the General Mining Law. Your right is restricted to the development and extraction of a mineral deposit. The rights granted by a mining claim protect against a challenge by the United States and other claimants only after the discovery of a valuable mineral deposit. The two types of mining claims are lode and placer. In addition, mill sites and tunnel sites may be located to provide support facilities for lode and placer mining claims (43 CFR Part 3832). **Lode Claims** cover classic veins or lodes having well-defined boundaries and also include other rock in-place bearing valuable mineral deposits. Examples include quartz or other veins bearing gold or other metallic mineral deposits and large volume, but low-grade disseminated metallic deposits, such as Carlin-type gold deposits and copper-bearing granites.

Lode claims are usually located as parallelograms with the side lines parallel to the vein or lode (see Figure 1). Descriptions are by metes and bounds surveys (giving the length and compass bearing of each boundary line from a central point or monument to each corner post, and then sequentially around the perimeter of the claim). Federal statute limits a lode claim to a maximum of 1,500' in length along the vein or lode. The width is a maximum of 600', 300' on either side of the centerline of the vein or lode. The end lines of the lode claim must be parallel to qualify for underground extralateral rights. Extralateral rights involve the rights

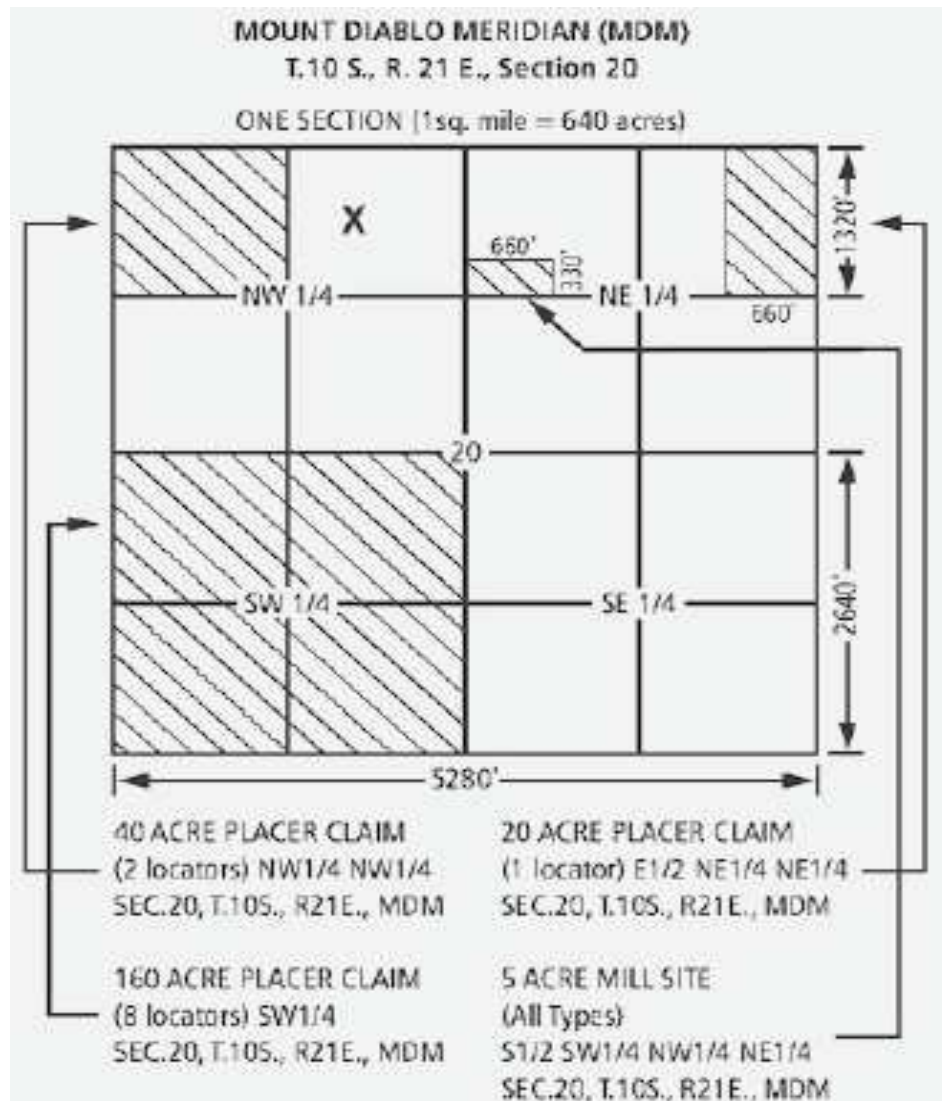
to minerals in vein or lode form that extend at depth outside the vertical boundaries of the claim. (43 CFR Part 3832, Subpart B).

Placer Claims cover all those deposits not subject to lode claims. Originally, placer claims included only deposits of mineral-bearing sand and gravel containing free gold or other detrital minerals. By congressional acts and judicial interpretations, many nonmetallic bedded or layered deposits, such as gypsum and high- calcium limestone, are located as placer claims. Where possible, placer claims are to be located by legal subdivision, such as the E1/2NE1/4NE1/4, Section 2, Township 10 South, Range 21 East, Mount Diablo Meridian (30 U.S.C. § 35 and 43 CFR 3832, Subparts A and B). The maximum size of a placer claim you may locate is 20 acres (see Figure 2). An association of two locators may locate 40 acres, and three may locate 60 acres, etc. The maximum area of an association placer claim permitted by law is 160 acres for eight or more persons. The maximum size of a placer claim for a corporation is 20 acres per claim.

Corporations may not locate association placer claims unless they are in association with other private individuals or other corporations as co-locators. (43 CFR Part 3832, Subpart B).

NOTE: Many states have other requirements for monuments. Other forms of monuments can be used in California as long as they are conspicuous and substantial. Due to wildlife fatalities, BLM does not allow the use of perforated or uncapped pipe as monuments, corner posts, or side line posts.

Drawing of a section of land showing types of placer mining claims and a mill site. The legal description method is based on the U.S. Public Land Survey.



Most State laws require conspicuous and substantial monuments for all types of claims and sites.

What do all the #s mean?

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

Well here is a short rundown of some of them.

If you are not sure what it means send me an email editor@plp1.org and I will get you an answer.

TITLE 36--Parks, Forests, and Public Property

Sections 100 to 199 Nat'l Park Serv.,
Dept of the Interior

Section 200 to 299 pertains to the Forest Service,
Dept. of Agriculture
Section 228 locatable minerals (which most of us are concerned).
Section 212 – Travel Management
Section 219--Planning
Section 261 - Prohibitions
Title 43 Public Lands: Interior
1000-9999 BLM
Department of the Interior
NFMA Nat'l Forest Management Act of 1976 (16 U.S.C. 1600 et seq.)
30 U.S.C 22 Lands open to purchase by citizens
16 U.S.C 478 Egress or ingress of actual settlers; prospecting

Write a letter to the governor opposing the moratorium

Why Join The PLP?

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. You could do all of those things or none of them; it is your choice because it is your 35 bucks. 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.

Public Lands for the People has been working tirelessly for 18 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. Had there been no one out there fighting for your rights, where do you think you would be today? If you and I don't care enough to make the case for our rights, who will? I 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 the public lands. This is your fight whether you like it or not. Doesn't it make sense to join with others who are taking their time to protect your opportunities? 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.

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>

What does PLP do for you?

1. PLP works on many issues that concern the small-scale miners.
2. PLP works with other states and those who represent those states.
3. PLP makes formal comments on the Federal Register (FR) notice for the FS Road closures and on the FS trying to criminally cite miners.
4. PLP is still fighting in Court the DFG wanting to circumvent the Court ordered. EIR and dredging moratorium.
5. PLP assisted miners in the FS trying to force dredgers into a Plan of Operation.. The miners prevailed
6. PLP was a party to 2 lawsuits by the Center for Biological Diversity, one against the FS and one against the BLM. The miners prevailed
7. PLP and Dee Stapp in a lawsuit with the BLM on separating bond issues between Casual use and mining operations
8. PLP is participating in the Ca, WRB on turbidity and mercury.
9. PLP has worked Washington State Resources Coalition and others in the rule making process on dredging.
10. PLP made Legal and Scientific comments fighting the CA. Bill AB 1032.

PLP strives to be involved with issues that effect the small scale mining community. PLP would not be this far without the past support of its membership. **PLP's hope is that your support will continue to grow.** ??????????????????????

Publications

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

Resolutions

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

(Eldorado Appeal from Page 1)

The first day was held in a hotel meeting room and there were 23 of the 28 appellants in attendance. Four of the missing 5 appellants attended by telephone conference call. Some of the groups in attendance were Public Lands for the People Inc., CORVA, Center for Biological Diversity, Back Country Horseman's Association, District 37 Motorcycle Association, Blue Ribbon Coalition, and several others.

An outside facilitator was hired by the ENF as a neutral party in overseeing the meeting. Rules of conduct were established before each appellant gave a brief statement (2-4 minutes) on their position of the TMP. When PLP's was next the ENF's Program Manager objected to PLP's attorney speaking for PLP and stated that Mr. Hobbs was the appellate. The attorney promptly asked "Since when does the Forest Service decide who can speak for Mr. Hobbs and who cannot?" The question was then asked of the entire group if anyone had a problem with Mr. Young speaking and no one had any objection. Mr. Young spoke for 10 minutes and made it very clear that the TMP had not addressed mining, taken rights from the miners, the TMP violated several laws, and is without authority to change any pre-existing rights of a miner. The ENF failed to notify most of the persons with property rights, the effects of the TMP in the ENF.

Staff spoke after and stated they had addressed mining but the Forest Supervisor Ramiro Villalvazo stated he was ignorant of the mining law. After the meeting a few of the attendees commented on the excellent description of PLP's position. The Second day PLP was scheduled for a 3 PM meeting. The three of us arrived about 2:30 and found the previous group (BCHC) in the

parking lot. Jerry and Scott exited the car and the previous group asked if Mr. Young was going to be there. Jerry said he was in the car. When Mr. Young stood up the BCHC group gave him a standing ovation for his previous day's oratory.

The ENF staff met with the three of us and several points were reiterated by Mr. Hobbs in a very deliberate manner. Among the points brought out at both meetings is that there will be no middle ground. The United States Congress GRANTED rights in the prospecting, exploration, and mining of natural resources. ANY compromise will only weaken and subvert those rights and lead to the United States becoming more and more dependant on foreign sources which will undermine our Sovereignty. Mr. V asked the question if a person, being granted the right to prospect in the NF desired to go beyond one of the newly restricted gates, and they came in and asked for a key to that gate, would the FS have to provide that person with a key to gain access for prospecting? Mr. Hobbs stated ABSOLUTELY! That right was granted and must be maintained. Another question was if the 28 gates went to 128 gates was that a problem? We are already in constant battle with the FS over the roads that are already closed; quadrupling the closures is no solution. We need to open the ones that are closed. The FS is already violating those that are in possession of mineral estate and private property.

Pedis Possessio - Pedis Possessio has been described as the actual possession of land within bounds set forth by the need of a mine claimant and operator to improve and work a claim for its mineral value

1963 recreational act – Emotional and physical health will be

compromised by restricting the public reasonable access to OUR public lands. Reasonable access was mentioned by ENF staff as being provided. But we ask "What is reasonable access?" In the 19th century with limited technology and unrestricted ability to live off the land a person could take sack of flour, some salt, and other basic supplies on a horse or mule into the unpopulated portions of our great country and do well at surviving. But with the current restrictions placed on us, we must take all our food and water requirements (hunting our food is no longer legal year round), survival gear(as time allowed to conduct our activities are limited to small windows of time during the year), living accommodations (using indigenous materials to build shelter is illegal), and with the technology of today a prospector/miner must move thousands of pounds of provisions, supplies, and equipment so a horse is no longer reasonable and requires vehicles that need road access. PLP has filed a Direct and Constructive Notice, and a 60 day notice-of-intent to sue the ENF/USFS over these and other issues. The ENF is the first of the NFs to begin implementing the court-ordered mandatory TMP. Unfortunately for the American public's access to public lands, the TMP is not a good thing. The ENF has proposed closing access to most of its roads, unreasonable parking restrictions, and worst of all failed to address mining rights in the TMP documents.

The study to close roads was done with \$12,800,000 furnished by the State of California Green Sticker money. Why is this fund being used to CLOSE roads to OHV? Where is the outcry from the bulk of the off-road community? PLP will need additional funding if we are to follow these issues through to fruition.

Write a letter to the governor opposing the moratorium

WWW.PLP2.ORG - NATIONAL EDITION – 3rd Qtr 2008

LINKS – these links are active if you receive the Sentry by email

FEDERAL

[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](#)

STATE LEVEL

[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



Dedicated to providing you with the finest Mining and Prospecting equipment for over 50 years!

[Click here for the 2007 Catalog Update](#)

How to Contact Us

Telephone Orders:

Outside of California - (800) 841-7833

Inside California - (800) 392-4653

E-mail:

Sales@KeeneEng.com

ProductSupport@KeeneEng.com

Fax: (818) 993-0447

<http://www.keeneeng.com>

Legal Representation For The

Mining Community

Litigation

Mining disputes

Corporations

Regulatory Agencies

Patents - Leases - Contracts

Mining claims

Partnerships

Joint Ventures

Law Offices of

DAVID YOUNG

11150 Olympic Blvd, Ste 1050

Los Angeles, CA 90064-1840

(310) 575-0308

*Harvard, AB; Cornell Law School, JD.
Former Assistant Attorney General of Alaska
Member of the State Bars of California
Alaska, New York, & Rhode Island.*



If you're not willing to stand BEHIND our troops, Please, please feel free to stand in front of them
[We in America do not have government by the majority. We have government by the majority who participate.](#) Thomas Jefferson

Legal Fund raffle Dec 20- tickets>655 E La Loma Ave. Somis, Ca. 93066 805-485-7513 Goldcado1@aol.com

Please patronize our sponsors. They are helping save your access to your Public Lands

DWG ULTRA-ION™ TECHNOLOGY

Cleans, Seals, Polishes, and Protects in One Easy Step Without Using Any Water!

As the originator of Waterless Technology, DRI WASH 'n GUARD® continues to DOMINATE the waterless cleaning market, while also taking a prominent place in all aspects of the auto finish maintenance and polishing arena. So, when something is changing in our industry, we at DWG International™ are the first to know about it.

So, what is changing...?

The auto industry is changing ...and DWG International™ is the only company to adapt to these changes and supply you with the technology you need to take full advantage of a new phenomenon in auto paint cleaning, polishing and maintenance.

Since the beginning of the year 2000, major auto manufacturers have begun changing the paint formula they use on their cars. After suspecting that something was different in the paint on newer model vehicles, we contacted the major auto manufacturers and asked about these changes. After much investigation and cooperation with the auto industry, we learned that the changes being made were to accommodate new body panel materials being used in the manufacturing process, as well as new environmental protection laws that had gone into effect. These changes have resulted in clear coats that are stronger and more durable, yet more flexible, than before. In essence, the paint will actually flex and yield more, instead of remaining solid and polishing like marble or glass, however, these new high-tech paints are more sensitive to soaps, waxes and polishes. They have a tendency to streak, and because they are more flexible, they feather-scratch very easily.

Two-and-a-Half Years of Research and Development

Upon learning of these changes in auto paint formulations, the DWG International™ research and development team went into action. Nearly three years of R&D has resulted



in one of the most scientifically significant advancements in Waterless Technology since the introduction of original DRI WASH 'n GUARD®:

DRI WASH 'n GUARD ULTRA-ION

New Technology for a New Era in the Auto Industry

Specifically designed for the 21st century paints used on cars manufactured since the year 2000, DWG ULTRA-ION™ will create a deeper, richer shine on these new, more flexible clear coat finishes. Combine this superior performance on new paints with the buffing action of the new DWG Buffing Towel and you have a winning combination for even the most demanding conditions. DWG ULTRA-ION™ can be applied to dark colors in ANY naturally occurring heat from the sun. This new formulation emulsifies dirt (and especially bugs, bird droppings and tar) better than any other product, and, like DRI WASH 'n GUARD® Classic, it works great on glass and chrome. But there's more! Personal consumers and your detailing customers will fall in love with the dust-repelling qualities of DWG ULTRA-ION™.

DWG ULTRA-ION™

Technology Enhances Performance: Outshines and Outlasts Everything Else!

You've probably seen the ionic air cleaners being advertised on TV by a major retail/catalog company. As one of the world's leading air purification systems, it uses ionic technology to attract dust and organic matter and trap it inside the air cleaner.

DWG ULTRA-ION™ uses this same type of technology to repel (rather than attract) dust. This exciting new ingredient formulation puts a positive charge on your vehicle's painted surface, which causes it to actually repel dust and dirt. The dust just has a much tougher time adhering to the positive charge on your vehicle's paint!

Two Exclusive Technologies Merge to Create One Outstanding Product!

The infusion of ionic technology with our award-winning Polymer technology has created a product that far exceeds all other car care products on the market today. When applied to the technologically advanced paints being used by auto manufacturers today, nothing can outperform DWG ULTRA-ION™.

For best results, you should always use the new DWG Buffing Towel with DWG ULTRA-ION™. The new DWG ULTRA-ION™ formulation is odorless and comes in a distinctive new color.

The addition of DWG ULTRA-ION™ to the DWG line gives you another attractive price option you can offer to your customers who want the superior benefits of this premium product

GINNA & BARRY WETHERBY
DWG International Distributors #112569
DRI-WASH-'N-GUARD PRODUCTS
1-888-368-7685 OR 818-957-1455

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

Please patronize our sponsors. They are helping save your access to your Public Lands



Donald L. Fife



Consulting Geologist



California Professional Geologist number **PG-0245**

Engineering Geologist number **EG-0132**

American Institute of Professional Geologists **CPG-4735**

Specializing in gold and precious metals, & in aggregate and industrial minerals

Consulting in economic, engineering, and environmental geology.

Consulting on and preparation for validity examinations

Contact Don Fife:

BOX 1054
TUSTIN, CA.
92781-1054

(714) 544-8406 – Office

(714) 356-7200 - Cell

DonFife@DonaldFife.com

www.donaldfife.com/consulting_geologist.htm

Freedom is never more than one generation away from extinction. We didn't pass it to our children in the bloodstream. It must be fought for, protected, and handed on for them to do the same, or one day we will

Legal Fund raffle Dec 20- tickets>655 E La Loma Ave. Somis, Ca. 93066 805-485-7513 Goldcado1@aol.com

Help us save \$\$ for the Legal Fund - Get "The SENTRY" by email editor@plp1.org spend our sunset years telling our children and our children's children what it was once like in the United States where men were free. Ronald Reagan

Entertainment discount books

Offering one-half deals on everything from airplanes to great restaurants. Areas covered in separate books are in the Los Angeles areas @ \$21.50! San Fernando Valley, @ \$21.50! San Gabriel Valley, @ \$21.50! Inland Empire, @ \$21.50! & West Los Angeles @ \$31.50! Other area books available. New low price! The rest of the U.S. is available at around \$30 shipping included! Contact Barry Wetherby 3700 Santa Carlotta St, La Crescenta, CA. 91214 818-957-1455 **OR** Use the top 1/2 of the membership form at the end of the newsletter to order merchandise.

(I have one of these discount books and I got my money back in only two times and a hero for taking my wife out. Ed.)

THESE ARE GREAT GIFTS!!

We now have for the above purchases...

Available on www.plp2.org/ Use PayPal to buy raffle tickets, merchandise, renew your membership, and donate to help fight for your rights. Don't forget to send in the order form at the end of the newsletter

PLP now offering



No membership or account required by PLP or PayPal

Available on www.plp2.org for your buying pleasure of raffle tickets, merchandise, renew your membership, or donate to help fight for your rights. Just enter the item and amount, click on "continue"

Cut this out and keep it in case you are challenged by a government agent

Name _____
Badge # _____ Position _____
Agency & District _____
Date _____ Time _____ : _____ AM / PM
Location Detail _____

Compliments of:

P.L.P.

Public Lands For The People
A 501 (C) (3) Non-Profit Corporation
7194 Conejo Dr.
San Bernardino, CA 92404 (909) 889-3039
www.plp2.org

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.

...Preserving Public Land Use for the People...



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

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 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."

Legal Fund raffle Dec 20- tickets>655 E La Loma Ave. Somis, Ca. 93066 805-485-7513 Goldcado1@aol.com

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).

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.

October 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 sections 2325 and 2326 of the Revised Statutes (30 U.S.C. 29 and 30) for vein or lode claims and sections 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 been 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.

Respect and Protect our Public Lands...

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

Mail to 3700 Santa Carlotta St, La Crescenta, CA. 91214-1048
PUBLIC LANDS FOR THE PEOPLE, INC.
MEMBERSHIP APPLICATION

SINGLE \$35.00 FAMILY \$50.00 CLUBS / ORG \$100.00 BUSINESSES \$100.00

NAME (Please Print) _____

ADDRESS _____

CITY/STATE/ZIP _____

PHONE-Home (____) _____ Work (____) _____ FAX(____) _____

E Mail _____

Club Affiliation _____

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

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

Would you be willing to help with:

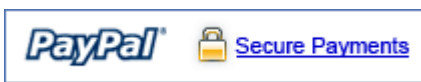
Circle several

Help in clean up Projects.... Write letter to Officials & Govt. Agencies.... Serve on the Board of Directors
Assist in Membership Drives and Fund-raisers... .Serve on a Committee.... .make Phone Calls.... Type....
Attend USFS, BLM and DFG Meetings & Hearings.... Participate in research Activities....
Please tell us any ways you can help us keep your Public Lands Open;

ORDER FORM

- RAFFLE TICKETS (12 tickets) \$10.00
- T-Shirt NEW low price \$12.00 Traditional Orange or Light Blue or Oatmeal Grey
- Orange Baseball Cap \$12.50
- Entertainment Discount Books \$21.50 - West LA \$31.50

Shipping is Paid by PLP !!



Signature _____ Date _____

AMOUNT PAID CASH CHECK _____

Help us save \$\$ for the Legal Fund - Get "The SENTRY" by email editor@plp1.org

PUBLIC LANDS FOR THE PEOPLE
3700 SANTA CARLOTTA ST.
LACRESENTA, CA 91214-1048

NON-PROFIT ORG.
US POSTAGE PAID
GLEN DORA, CA 91741
PERMIT # 158

Your support by membership expired on the date printed on the mailing label

IF YOU RECEIVED THIS IN THE US MAIL YOU ARE MISSING
THE ABILITY TO CLICK ON THE LINKS IN THE EMAIL VERSION.
SEND US YOUR EMAIL ADDRESS AT editor@plp1.org



PRINTING DONATED BY



MASTER LITHO COLORS
626-448-7614
design~printing~packaging
since 1990

WWW.PLP2.ORG - NATIONAL EDITION – 3rd Qtr 2008