Gary Keenan initiated phone conversation.....

1 message

Joel Farmer <goldrushpro@msn.com> Tue, Jun 27, 2017 at 10:48 PM
To: robert.johansson@osec.usda.gov <robert.johansson@osec.usda.gov>, Gary Keenan <riceandgold@gmail.com>

Dear Mr. Johansson,

The legal information below is the culmination of over 10 years of my life -

It is a requisite for me to send this information with a format to guide you and your attorneys, due to the complex nature of it.

I will list, in order, the truths that cover the legal summary below that are absolute - and are legal "conquered ground" in the sense that these are rights granted to the people of this country, so powerful, that congress literally gifted their own authority away to the people forever under these certain provisions!

As confusing as it may become while reading this information, if it is always referenced back to this opening list, it will remain coherent and understandable. (especially to professional lawyers/attorneys)

1) The legislation passed into law in 1872 is NOT *a law* - IT IS A GRANT!

A grant transfers RIGHTS and AUTHORITY to someone. The Mineral Estate Grant Act of 1872 did gift away certain rights directly to the citizens of the United States forever.

2) Rights granted away can never be taken back!

If the US granted an island to France, it could not later assume authority over it - for that would be stealing.

3) This Grant Act of 1872 is so absolute, that EVERY SINGLE PIECE of legislation passed into law (that gives agencies of government authority to regulate the environment and surface

resources) since the grant, has bold savings clauses (provisions) in them protecting the 1872 Grant!

4) A GRANTED RIGHT could never require permission "a permit" to obtain said rights.

By the very legal definition of a right, it is freedoms that are in the sole possession of the grantee and have protection from interference!

"The object of a license is to confer a right or power, which does not exist without it."

5) ALL land management laws cleverly "seem" to steal the rights under the 1872 Grant - but if read carefully, reveal that they are all speaking to "any mining claim filed" with the express intent to remove "common sands and gravels.... etc" NOT valuable mineral deposits under the 1872 grant! **#5 of this list is the most important to keep in mind while reading the summary.**

This is the method that all agencies of government use to keep from "technically" breaking the law, by requiring grantee's to be permitted to mine their claims. Even though, when pressed with the truth of the 1872 Grant, continue to unlawfully claim authority!

I have read all associated laws that pertain to any rights that claimants have on *locatable "valuable" minerals,* mining claims.

As a result I have found in succession from the Mineral Estate Grant of 1866 and the perfected Mineral Estate Grant of 1872 (and *given* possessory title before that) until present, the rights *granted* to the citizens of the United States (and those who intend to become citizens of the United States) have been preserved in every subsequent piece of legislation passed into law. (And *had* to be)

The National Forest Service claims authority to regulate the surface resources and activities on mining claims under the "Organic Administrative Act" (30 Stat., as amended; 16 U.S.C. 473-475, 477 – 482, 551" **AND** "The 1955 Multiple Use Mining Act" (30 USC 612)

The former shows clearly those mineral lands are exempt from inclusion in National Forests and the latter holds *locatable valuable mineral* mining claims in reservation from regulation.

The law is clear in that the *Organic Administrative Act* (as amended) specifically keeps mineral lands from inclusion into the National Forest System: **"but it is not the purpose or intent of these provisions, or of said section, to authorize the inclusion therein of lands more valuable for the mineral therein, or for agricultural purposes, than for forest purposes."**

The law is also clear in 30 USC 612 with its many savings provisions. Most notably, but not limited to:

"Rights under any mining claim hereafter located under the mining laws of the United States shall be subject, prior to issuance of patent therefor, to the right of the United States to manage and dispose of the vegetative surface resources thereof and to manage other surface resources thereof "(except mineral deposits subject to location under the mining laws of the United States)."!!!

(Clearly differentiating between ("any" common minerals claims), and ("Locatable" minerals claims)

Summary

Where both the Forest Service and the BLM are required to adhere to the congressional public land management mandate of the Federal Land Management Policy Act, FLPMA, which expressly states at 43 USC 1732 (b), that, " . . . ***no provision of this section or any other section of this Act shall in any way amend the Mining Law of 1872 or impair the rights of any locators or claims under that Act, including, but not limited to, rights of ingress and egress***" any assertion of federal authority by agency, such as the BLM or the Forest Service, impairing, obstructing or closing access against, or managing the surface of Locatable mineral deposit property on public domain in-holding the public land, or otherwise interfering in any way is committed contrary to the laws of the United States of America, a breach of fiduciary duty, and an intentional and negligent trust tort.

The distinction between "public land" and "public domain".

The distinction between just "any mining claim" and those "mineral deposit" claims. And lastly, the distinction between the uncommon minerals disposed of by the grants *culminating* in the act of 1872, and the common mineral materials variety sold or leased under separate statutes. These distinctions must be made to properly apprehend mining law and to avoid confusion.

The distinction between "public land" and "public domain"

Any interpretation of mining law requires that it be read "para materia", interpreted all together. The definition given to distinguish the difference between "public land" and "public domain", citing the Congressional Record of October 2000, page 1885-1866, states, "2. The true nature of "public lands." "Public Lands" are "lands open to sale or other dispositions under general laws, lands to which no claim or rights of others have attached." "The United States Supreme Court has stated: It is well settled that all land to which any claim or rights of others has attached does not fall within the designation of public lands." In additional support we add from the same record, "The courts have repeatedly held that when a lawful possession of the public lands has been taken, these lands are no longer available to the public and are therefore no longer public lands. Possession of the mineral estate in public lands is lawfully taken under the mining acts. Where a valid mining claim exist, that land is no longer public land." The "public land" that is disposed by claims under the act of 1872 is public domain as stated in that Act, reference "USC 30 § 26. Locators' rights of possession and enjoyment: The locators of all mining locations made on any mineral vein, lode, or ledge, situated on the public domain. . ."

The "public land" has many potential uses, until disposed. The FLPMA, conveniently recognizes two general Uses, "Specific Use" and "Special Use". A valuable mineral deposit location is a specific use on public domain, not a special use of "public land" such as is regulated by 43 CFR 3809. Reference the Act of May 10, 1872, amending the Act of 1870 and the 1866 mining law clause 1, after "granting" or 30 USC 22, locatable minerals are not mining claims on "public land" but mineral deposits, 30 USC 22, on public domain, 30 USC 26.

30 USC § 22. Lands open to purchase by citizens

> *Except as otherwise provided*, **all valuable mineral deposits** in lands belonging to the United States, both surveyed and unsurveyed, **shall be free and open to exploration and purchase, and the lands in which they are found to occupation and purchase**, by citizens of the United States and those who have declared their intention to become such, *under regulations prescribed by law*, **and** *according to the local customs or rules of miners* in the several mining districts, so far as the same are applicable and not inconsistent with the laws of the United States.
>
> -R.S. Sec. 2319 **derived from act May 10, 1872,** ch. 152, Sec. 1, 17 Stat. 91.

USC 30 § 26. Locators' rights of possession and enjoyment

The courts declared possessory title in 1864 before the grant itself.

This grant is exclusive, conveying permanent title, *as good as patent*, such that the title shall not be affected by the paramount or trust title of the United Stated, referencing 30 USC 53, that *"No possessory action between persons, in any court of the United States, for the recovery of any mining title, or for damages to any such title, shall be affected by the fact that the paramount title to the land in which such mines lie is in the United States; but each case shall be adjudged by the law of possession"*. The existence of valid existing rights by relation back of the granting act of July 26, 1866 disposing the uncommon mineral estate held in trust are required to be "saved" in subsequent acts as a "specific use" of the public domain to the Locator. This mineral estate is treated like any other granted property, the contract of which a grantor in this case Congress, or by agency, treated as a mere proprietor may not breach.

It must be noted, referring to the italicized emphasis in both Section 22 and 26 above, that the former referencing *"regulations prescribed"* and the latter *"the laws of the United States..."""**and** local regulations"* are only those laws and regulations relevant and *"governing their possessory title"*. This was a miner's law for miners. The only "regulation authority" retained by the federal government, was that oversight authority in dutifully disposing the soil pursuant to the various grants, to avoid such things as fraudulent public land entry, not to regulate the uses thereby those disposal acts.

Despite current Agency rhetoric to the contrary, and fraudulently so, the FLPMA contains many savings provision eliminating agency authority over uncommon mineral deposits and other rights, such as ingress and egress, and water, or obligations, such as livelihood. Those are as found referencing the:

> *Short Title Of 1988 Amendment "Federal Land Policy and Management Act of 1976'."* ***SAVINGS PROVISION*** *Section 701 of Pub. L. 94-579 provided that: "(a)* ***Nothing in this Act****, or in any amendment made by this Act [see Short Title note above],* ***shall be construed as terminating any*** *valid lease, permit, patent, right-of-way, or* ***other land use right or authorization existing*** *on the date of approval of this Act [Oct. 21, 1976" ""(f)* ***Nothing in this Act shall be deemed to repeal any existing law by implication.*** *"(g)* ***Nothing in this Act shall be construed as limiting or restricting the power and authority of the United States or*** *- "(1)* ***as affecting in any way any law governing appropriation or use of, or Federal right to, water*** *on public lands; "(2)* ***as expanding or diminishing Federal or State jurisdiction****, responsibility, interests, or rights in water resources development or control; " ""(h)* ***All actions by the Secretary concerned under this Act shall be subject to valid existing rights.*** *"*

The previous list of withheld authorities under the FLPMA, 43 USC 1732, as found in annotation, the "**Section Referred To In Other Sections**" following Section 22 printed above, constraining agency authority further, consistent with the previously mentioned Savings Provisions of which all enforcement provisions such as 43 USC 1733 are subject, we find:

The locators of all mining locations made on any mineral vein, lode, or ledge, **situated on the public domain,** their heirs and assigns, where no adverse claim existed on the 10th day of May 1872 so long as they *comply with the laws of the United States,* and with State, territorial, ***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**,

-R.S. § 2322 derived from act May 10, 1872, ch. 152, § 3, 17 Stat. 91.

The mechanics of what happens to the "public land" once found to be mineral in character is expressly evidenced in the Organic Act of 1897, that "*any public lands embraced within the limits of any forest reservation which. . . .*" "*...shall be found better adapted for mining or for agricultural purposes than for forest usage, may be restored to the public domain.*" By private settlement under various land disposal laws of the United States, such as the Mining Law of 1872, "public land" is restored to the public domain. The federal agencies have management authority only over "public land", not privately settled public domain. The act of location restores the land to public domain and the mining law provides the locator of such segregation "**shall have the exclusive right of possession and enjoyment of all the surface included within the lines of their locations**,

-R.S. § 2322 derived from act May 10, 1872, ch. 152, § 3, 17 Stat. 91."

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).

"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.**"

By clear and identical language, Congress has stated in the Organic Act of June 4, 1897, the Eastern Forests (Week's) Act of 1911, and the Taylor Grazing Act of 1934, that there was no intention to retain federal jurisdiction over private interests within national forests. The courts have consistently upheld the ruling in *Kansas* v. *Colorado* since 1907.

The rights the locator maintains exclusive possession even against the government, including all agencies, must be preserved, "saved", in every land disposal act subsequent to the original granting act of 1866, including the FLPMA. Those rights include that the locator of a valuable mineral deposit, "**shall have the exclusive right of possession and enjoyment of all the surface included within the lines of their locations**."

§ 1732. Management of use, occupancy, and development of public lands

(a) Multiple use and sustained yield requirements applicable; exception

". . . . except that where a tract of such public land has been dedicated to specific uses according to any other provisions of law it shall be managed in accordance with such law.

(b) Easements, permits, etc., for utilization through habitation, cultivation, and development of small trade or manufacturing concerns; applicable statutory requirements

"In managing the public lands, the Secretary shall, subject to this Act and other applicable law and under such terms and conditions as are consistent with such law . . ."

". . . . no provision of this section or any other section of this Act shall in any way amend the Mining Law of 1872 or impair the rights of any locators or claims under that Act, including, but not limited to, rights of ingress and egress."

(c) Revocation or suspension provision in instrument authorizing use, occupancy or development; violation of provision; procedure applicable

". . . . Provided further, That, where other applicable law contains specific provisions for suspension, revocation, or cancellation of a permit, license, or other authorization to use, occupy, or develop the public lands, the specific provisions of such law shall prevail."

This clearly evidences no section of the FLPMA can amend or impair the rights of locators under the 1872 Grant. This is so even for Forest Service authority where, for example, purportedly criminal, citations issue under 36 CFR 261, implement 16 USC 551 the authority of which was 16 USC 471, repealed by FLPMA, redirected by 43 USC 1740, now authorizing 16 USC 1609, "Multiple Use", subject to FLPMA mandate 43 USC 1732 (b) stating that no section of the FLPMA and, therefore, no Forest Service authority may impair or amend locator's rights under the act of 1872. There is no federal agency authority in this context regarding Locatable deposits. Imposing authority is a trust breach.

The distinction between "mining claims" generally, and "mineral deposits" specifically.

In contradistinction to the possessory rights under the 1872 act for uncommon, such as gold, mineral deposit grant disposal, Common Mineral Materials, such as sand and gravel, were only first disposed of in 1947, and today as amended in 1955, the oft and erroneously relied "Surface

Resources Act", are under the FLPMA and of continuing disposal or mineral management oversight and regulation by lease or sale contract. In other words, until 1947, unlike the granted uncommon minerals since 1864, common mineral materials were not available for disposal. Paying particular attention to the difference and distinction between "any mining claim" generally under agency managed surface rights, and "mineral deposits" with exclusively or privately possessed surface rights, specifically reference:

30 § 612. Unpatented **mining claims**

(a) Prospecting, mining or processing operations
Any mining claim hereafter located under the mining laws of the United States shall not be used, prior to issuance of patent therefor, for any purposes other than prospecting, mining or processing operations and uses reasonably incident thereto.
(b) Reservations in the United States to use of the surface and surface resources
Rights under **any mining claim** hereafter located under the mining laws of the United States shall be subject, prior to issuance of patent therefor, to the right of the United States to manage and dispose of the vegetative surface resources thereof and to manage other surface resources thereof **(except mineral deposits subject to location under the mining laws of the United States).**

Please note above, **any mining claim** (not a valuable **mineral deposit)** is a US owned mineral subject to surface servitude, treated as a split or severed estate, unlike the Locator of a valuable deposit who shall have exclusive or private possesssion and enjoyment, including the entire surface within the limits of the claim. Unlike Common entries, a locator by the act of 1872 enjoys a complete land estate.

Federal agencies are required to recognize the private "*as good as though secured by patent*" property rights and non-discretionary nature of locatable mining as being distinct from United States, U.S., owned mineral operations of leasable or saleable contract of agency discretion.

The distinction between uncommon minerals disposed by grant and common mineral materials.

It must be remembered here that under the laws of the United States regarding mineral deposits, 30 USC 26, the locator of any valuable mineral deposit "**shall have the exclusive right of possession and enjoyment of all the surface included within the lines of their locations**", and why the FLPMA or the 1947 Common Materials Act or its amending act of 1955, 30 USC 612, can not impair or interfere at all with such locator's right or property or obligations, such as livelihood. In other words, as long a mineral deposit locator holds pursuant to the act of 1872, any surface

management authority delegated to the agencies shall not interfere nor impair a locator's rights under the 1872 act.

This exception for the UNCOMMON mineral deposits disposed of by the Acts culminating in the Act of May 10, 1872 represents that Congress keenly understood the need by cause of it's grantor obligation and Trustee relationship, that paramount title, to "save" or protect, in relation back honoring Congress' reciprocal obligation in the granting enactment, rights of the future locators of valid unpatented mineral deposit locations. Congress does this by placing a preservation clause in every subsequent property disposal legislation such as found at 30 USC Section 612 (b) "Any mining claim" "*(except mineral deposits subject to location under the mining laws of the United States)*". Another preserving exception is stated in Section 612 (c): "*Except to the extent required for the mining claimant's prospecting, mining or processing operations and uses reasonably incident thereto, or for the construction of building or structures in connection therewith, or to provide clearance for such operations or uses, or to the extent authorized by the United States, . . .*" Certainly this shows too, placing buildings on exclusively possessed in-holdings is a lawful use contrary to what the agencies currently, **unlawfully,** enforce. Any act by any federal agency causing any interference to the granted uncommon mineral deposits or rights appurtenant the locator is to come in to conflict with the laws of the United States.

42 U.S. CODE § 1983 - CIVIL ACTION FOR DEPRIVATION OF RIGHTS "**Every person** who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress, except that in any action brought against a judicial officer for an act or omission taken in such officer's judicial capacity, injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable. For the purposes of this section, any Act of Congress applicable exclusively to the District of Columbia shall be considered to be a statute of the District of Columbia." –

And since hundreds of NFS USDA personnel have declared our need to comply with regulations that don't apply to a "valuable mineral deposit Mining Claim", remedy through **18 USC §241** applies.

"**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.

Moreover, it must be noted, at the time of the grant enactment for compliance with laws and regulations, i.e., 30 USC 22, "*under regulations prescribed by law*" and customs of the mining districts there were, other than the land General Land Office, no agencies existing such that might today represent that the phrases "*under regulations prescribed by law*" "***and** local regulations*" provided for current agency management authority. Even so, any interference *would still be*

contrary to the Federal Land Management Policy Act of 1976, FLPMA, prohibiting agency interference, impairment, or amendment to the rights of a mineral deposit Locator. The phrase in 30 USC 26 "so long as they *comply with the laws of the United States,* and with State, territorial, ***and*** *local regulations* not in conflict with the laws of the United States *governing their possessory title",* shows any regulation could only be in regards of how a locator acquired or maintained possessory title or as recognized by the courts since 1864. Any suggestion that the FLPMA did amend the 1872 Grant would be a fraudulent representation. To suggest it would constitute an intentional tort in breach of the trust expressly established by the Act of 1866. The FLPMA, as a matter of law, shall save, preserve, this granted or "Locateable" mineral estate, appurtenant or contemporaneous rights, or obligations when appropriated.

Federal Authority Under Law In Contrast of Current Agency Practice.

Given that the Federal Land Management Policy Act of 1976 is **the sole congressional act** delegating and dictating to any federal agency how and to what extent federal trustees manage the public land held in Government trust, it can not be conceived and there is no other Act of Congress found describing any agency possession of "public land" or "public domain". The federal agencies have no actual title.

As a matter of law, even Congress is merely trustee of the public land trust. Therefore, subject to delegated authorization, any and all authority, or the lack thereof, will be found in this act. Because of Congress' trust obligations there are certain authorities which, and because of Agency, must be withheld from all agencies to avoid a breach of trust of disposed lands. Federal agency has *not* power to interfere with disposed public domain. Savings provisions mandate the FLPMA can not be used or extended in such a way as to encroach in any way upon any disposed properties or rights. The only remaining authority is managing what of the "public land" is yet to be disposed, **as the Constitution requires**.

In trying to remove any and all continuing confusion the mining law seems to create, what about the phrase in the grant expressing that the locator "**shall have the exclusive right of possession and enjoyment of all the surface included within the lines of their locations**" is so confounding as to render anyone reading that part dumb-struck? And coupled with the knowledge that the singular delegation of authority to the federal agencies states that "*no provision of this section or any other section of this Act [FLPMA] shall in any way amend the Mining Law of 1872 or impair the rights of any locators or claims under that Act, including, but not limited to, rights of ingress and egress",* What is left to be understood causing confusion regarding whether a federal agency or State may interfere with a granted property? What about "exclusive possession" "of all the surface" is confusing?

Where, by Act of Congress, federal agency authority is withheld, by what authority does a "public land" management agent lawfully act to interfere or impair rights of a locators exclusively

possessing public domain under the Act of 1872? The answer is, as previously shown, there is no lawful authority.

Federal jurisdiction in the States

The one remaining topic is to discuss current agency activity as it relates to legitimate agency authority. As contrasted from what the authority management agencies purport is omnipotent and omnipresent, it will be found that federal agents acting outside of their lawful authority are not immune from state prosecution for abuses against property holders in-holding public land. From the **Jurisdiction Over Federal Areas Within The States**, Report of the Interdepartmental Committee For The Study Of Jurisdiction Over Federal Areas Within The States, Part II, June 1957, Page 252, "We mean by this statement to say that Federal officers who are discharging their duties in a State and who are engaged as this appellee was engaged in superintending the internal government and management of a Federal institution, under the direction of its board of managers and with the approval of Congress, are not subject to the jurisdiction of the State in regard to those very matters of administration which are thus approved by Federal authority." Page 253, "The government is but claiming that its own officers, when discharging duties under Federal authority pursuant to and by virtue of valid Federal laws, are not subject to arrest or other liability under the laws of the State in which their duties are performed." [7] "In addition to these sources of constitutional power of the Federal Government, which have consequent limitations on State authority, article IV, section 3, clause 2 [8], of the Constitution, vests in Congress certain authority with respect to any federally owned land which it alone may exercise without interference from any source."

[7] In the case In re Turner, 119 Fed. 231 (C.C.S.D. Iowa, 1902), it was held that an injunction could not issue to prevent a Federal officer from carrying out his official duties.

[8] This clause reads:

"The Congress shall have Power to dispose of and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States; and nothing in this Constitution shall be so construed as to Prejudice any Claims of the United States, or any particular State."

> **The clause does not give the United States jurisdiction over its property** within the United States, **such as public lands, in the legislative jurisdiction sense** of art. I, sec. 8, cl. 17. *Op. Sol., Dept. of Agriculture*, No. 10906-10910 (May 6, 1924); *Pollard v. Hagan*, 3 How. 212 (1845).

Page 274, *Gibson* v. *Chouteau,* 13 Wall. 92 (1872) "The same principle which forbids any State legislation interfering with the power of Congress to dispose of the public property of the United States, also forbids legislation depriving the grantees of the United States of the possession and enjoyment of the property granted by reason of any delay in transfer of the title after the initiation for its acquisition."

USC 30 § 26. Locators' rights of possession and enjoyment

The locators of all mining locations made on any mineral vein, lode, or ledge, situated on the public domain, their heirs and assigns, where no adverse claim existed on the 10th day of May 1872 **so long as they *comply with the laws of the United States***, and with State, territorial, ***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**,

-R.S. § 2322 derived from act May 10, 1872, ch. 152, § 3, 17 Stat. 91.

To summarize: Federal officers acting without the approval of Congress and outside the internal management of government are subject to the jurisdiction of the County or State. There is no question here that federal agents acting pursuant to invalid laws or contrary to the laws of the United States are subject to arrest or other liability. Injunction will issue. The Report identifies Congress the Principle trustee and further indicating its principle authority can not be interfered with, including its delegated agent. This appears to be acknowledgment of the Trustee status of the Federal government in holding as proprietor of the public lands for disposal to the people accepting a land disposal offer. To dispose land is to divest the federal government of authority and jurisdiction in it. As a matter of law, agencies of Government and its employees are without authority to interfere with lawful disposed uses, or livelihood on "public domain" and may be subject to the penal or other liability for acts contrary to law or the mineral grant.

Even in the Forest Services' own regulations, 36CFR 228.2 states that any part of the National Forest System that is found to have a locatable mineral deposit and a claim filed on it must recognize 16 U.S. CODE § 482 - MINERAL LANDS; RESTORATION TO PUBLIC DOMAIN; LOCATION AND ENTRY: AND REMOVE SAID LAND FROM THE NATIONAL FOREST AND REINSTATE IT TO PUBLIC DOMAIN – *AND THERFOR ATHORITY FOR SURFACE REGULATION UNDER 36CFR WOULD BE WITHDRAWN AND THE MINERAL ESTATE GRANT (WHICH GRANTED THE RIGHT TO "FULL ENJOYMENT OF THE SURFACE") WOULD SUPERCEED!*

The court cases referenced in this letter to show precedent are merely a sample of the many more that I have found that confirm that the 1866 and 1872 mining Grants are granted and/or "gifted away" rights.

Not even an act of congress can take away a granted right or the institution would render itself illegitimate! In the Mineral Estate Grant of 1866 the United States divested itself of these mineral lands. Even N.E.P.A. carefully states that federal agencies are to incorporate said values into "new law" and "existing regulations" knowing that it can't take away granted rights.

- We do not voluntarily surrender our rights. -

If any person or agency of the government suggests that existing mineral rights and/or land "*as good as though secured by patent*" property has been taken through regulation (which would be illegal) - claim holders who have been paying assessment fees on *granted real property and rights* would have had there property taken from them without being paid fair market value which would include the surface **and** mineral values. This would be unlawful under the 5th amendment.

That liberty includes the right to pursue a livelihood and provide for a family is a most profound proviso of constitutional adjudication. Liberty "means not only the right of the citizen to be free from the mere physical restraint of his person, as by incarceration, but the term is deemed to embrace the right of the citizen to be free in the enjoyment of all his facilities; to be free to use them in all lawful ways; to live and work where he will; to earn his livelihood by any lawful calling; to pursue any livelihood or avocation, and for that purpose to enter into all contracts which may be proper, necessary and essential to his carrying out to a successful conclusion the purposes above mentioned." Allgeyer v Louisiana, 165 US 578, 589. And again: "It requires no argument to show that the right to work for a living in the common occupations of the community is of the very essence of the personal freedom and opportunity that it was the purpose of the amendment to secure." Truax v Raich, 239 US 33, 41. Greene v McElroy, 300 US 474; Meyer v Nebraska, 262 US 390; Butchers Union v Crescent City, 111 US 746; Grosjean v American Press, 297 US 233: Regents v Roth, 408 US 564; Hall v Geiger-Jones, 242 US 539; Chicago B & Q R. Co v McGuire, 219 US 549.

1) *A statement in law that declares (something) to be free and open IS A GRANT!*

2) *And in said grant anything that is declared to be a RIGHT is absolute and could never require a license or a permit!(permission)*

Escobedo v. State 35 C2d 870 in 8 Cal Jur 3d p.27 "RIGHT — A legal RIGHT, a constitutional RIGHT means a RIGHT protected by the law, by the constitution, but government does not create the idea of RIGHT or original RIGHTS; it acknowledges them. . . "

Blatz Brewing Co. v. Collins, 160 P.2d 37, 39; 69 Cal. A. 2d 639. "The object of a license is to confer a right or power, which does not exist without it."

Bouvier's Law Dictionary, 1914, p. 2961. "Those who have the right to do something cannot be licensed for what they already have right to do as such license would be meaningless."

If a man demand his property, which is withheld from him, the right that supports his demand is a perfect one; because the thing demanded is, or may be fixed and determinate.

Rights are legal, social, or ethical principles of freedom or entitlement; that is, **rights** are the fundamental normative rules about what is allowed of people or owed to people, according to some legal system, social convention, or ethical theory.

right

1) n. an entitlement to something, whether to concepts like justice and due process or to ownership of property or some interest in property, real or personal. These rights include: various freedoms; protection against interference...

GRANT

3Washb. Real Prop. 181. As distinguished from a mere license, a grant passes some estate or interest, corporeal or incorporeal, in the lands which it embraces; can only be made by an instrument in writing, under seal; and is irrevocable, when made, unless an express power of revocation is reserved. A license is a mere authority; passes no estate or interest whatever;

Grant

To give, sell, or otherwise *transfer* something to someone.

In legal conveyancing, the grant is the means by which a party conveys title or encumbrance.

Thanks very much,

Joel k. Farmer

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Boise, ID

83702

208-912-3248 (call me day or night)

The Mineral Estate Grant of 1872

That all valuable mineral deposits in lands belonging to the United States, Both surveyed and unsurveyed, are hereby declared to be free and open to exploration and purchase, and the lands which they are found to occupation and purchase, by citizens of the United States…

The locators of all mining locations made on any mineral vein, lode, or ledge, situated on the public domain, their heirs and assigns, where no adverse claim existed on the 10th day of May 1872 so long as they comply with the laws of the United States, and with State, territorial, 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.***

1) *A statement in law that declares (something) to be free and open IS A GRANT!*
2) *And in said grant anything that is declared to be a RIGHT is absolute and could never require a license or a permit!*

Escobedo v. State 35 C2d 870 in 8 Cal Jur 3d p.27 "RIGHT — A legal RIGHT, a constitutional RIGHT means a RIGHT protected by the law, by the constitution, but government does not create the idea of RIGHT or original RIGHTS; it acknowledges them. . . "

Blatz Brewing Co. v. Collins, 160 P.2d 37, 39; 69 Cal. A. 2d 639. "The object of a license is to confer a right or power, which does not exist without it."

Bouvier's Law Dictionary, 1914, p. 2961. "Those who have the right to do something cannot be licensed for what they already have right to do as such license would be meaningless."

If a man demand his property, which is withheld from him, the right that supports his demand is a perfect one; because the thing demanded is, or may be fixed and determinate.

Rights are legal, social, or ethical principles of freedom or entitlement; that is, rights are the fundamental normative rules about what is allowed of people or owed to people, according to some legal system, social convention, or ethical theory.

right

1) n. an entitlement to something, whether to concepts like justice and due process or to ownership of property or some interest in property, real or personal. These rights include: various freedoms; protection against interference…

GRANT

3Washb. Real Prop. 181.As distinguished from a mere license, a grant passes some estate or interest, corporeal or incorporeal, in the lands which it embraces; can only be made by an instrument in writing, under seal; and is irrevocable, when made, unless an express power of revocation is reserved. A license is a mere authority: passes no estate or interest whatever;

Grant

To give, sell, or otherwise transfer something to someone.

In legal conveyancing, the grant is the means by which a party conveys title or encumbrance.