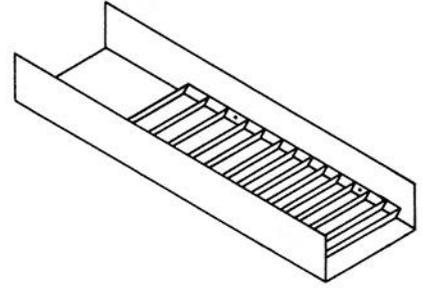




444 Winchester PMB 12-D,
Roseburg, OR 97470



THE SLUICE BOX

May 2017

DCPA meets on the 2nd Monday of each month at the Pine Grove Community Church, 1729 Buckhorn Road, Roseburg, OR 97470 at 7:00 pm. There is an optional potluck starting at 6:30 pm. The Board of Directors meeting is at 6:00 and open to all members.

Dues are \$12 per year for single or family. All members need to attend at least 4 functions (meeting, outing, gold show, picnic, etc.) to qualify to mine on our claims unless it's an official outing.

Sunshine: If you know of anyone who is ill or has had a death in the family, etc., let me know so I can send them a card. Nick: 541-993-2372 or houseofgall@gmail.com

From the Meeting:

- Called to order by President Gary Sturgill at 7:06 PM.
- Old business read
- Treasures report given; balance is \$5081.67.
- Announced this month's outing to Cow Creek on May 13th. Watch out for rattlesnakes!
- June meeting is actually at the BBQ; no meeting at the church hall in June. BBQ is on June 17th. Meet at the fairgrounds park at about 10 AM. Please bring a side dish and a metal detector.
- Gold Show Committee meetings start Wednesday June 14th at Abby's Pizza on Diamond Lake Blvd. at 6 PM. They will be held each Wednesday following our general meeting. Contact Gary Sturgill if you would like to volunteer on this committee.
- Ed Julian gave a shout out to Scotty for doing an excellent job during our last outing to Island Creek. Sounds like 11 folks showed up when it was all said and done. Thanks Scotty!
- Gary gave a recap on the trip to Roaring Camp that a few of our members attended.

- There's a new mining supply shop in the area! Kicking Donkey Mining Supplies. Visit them at 132 1st Street, in Myrtle Creek.
- The fine folks over at North Bend Prospectors invited us to their Memorial Day weekend outing. They gave a recap of the events, and we handed out a paper with directions.
- Raffle items drawn
- Meeting Adjourned

Claims:

No new news.

Outings:

This month's outing was our annual cleanup outing to the Cow Creek claims; DCPA #1 and Bottom's Up. Seven miners made the 30 minute trek from Riddle to these remote claims. We worked from the top down, starting at Bottoms Up.

Upon arrival, everyone deployed with shovels, rakes, trash bags, weed whackers and clippers, knocking back the fresh spring growth and improving the steps along the trail leading down to Bottoms Up. Scotty Rintoul, Mike Eshelman, Ed Julian and VP Robert Krewson took to the trail improvement and vegetation pruning while Craig Moser used his gas-powered weed trimmer to make quick work of the growth above and on the trailhead. Meanwhile, Sandi Gall and I took to trash cleanup; immediately scouring the readily accessible portions of the top claim. I was pleasantly surprised to find little to no garbage or residual flood debris; but we still managed to fill a black garbage bag when it was all said and done. It seemed to be mostly chunks of iron and aluminum.

Repressing my desire to stick a test pan in the creek, we elected to make way down to the DCPA #1 trailhead for maintenance. Craig Mosier again made quick work of eliminating the vegetation on the trail, while Scotty, Mike, Ed and Robert got the big branches and briars dealt with. There was virtually no trash on DCPA #1 either. Soon after, we were disappointed that the incoming rain hindered our plans to do any serious prospecting. I still managed to find some color about a foot down in the bank near a tree.



Treasure Hunt:

Keep your ear to the railroad track as summer time picks up!

Legislation:

SB-3 passed the House of Representatives today, and is on its way to the governor's desk. We know she'll sign it.

From Samantha at Armadillo Mining Shop:

We have a problem in Josephine County that needs everyone's support. And Quickly.

Public Commissioners Meeting
Time: Friday June 2nd @ 9am
Where: Anne Basker Auditorium
604 N.W. Sixth Street, Grants Pass, OR 97526

Back Story...

Josephine Planning Department decided to put a 25' buffer on each side of all water ways shutting down the water. AND require a permit for mining above the locked out area.

Amount for permit is still unknown.

This is NOT approved by the commissioners, or JOCO lawyer Wally Hicks. Or even advised or KNOWN about by the JOCO Mining Advisory Committee. When explained to the Planning Department the unlawfulness of this plan, they didn't care. Last week there was a meeting that was supposed to be closed doors of just commissioners and lawyer, and planning department. Somehow it got opened to public and our environmental groups got word and came in force. It was shelved and rescheduled for the date above.

We all know why they have no right to do this. But they do not seem to care. We need to come to the public meeting and testify before the commissioners that we will hold any that approve this personally responsible for takings on our mineral estates!

Please spread the word quickly.

Call or Email with any questions,

Sam

Samantha Everett

Armadillo Mining Shop

2041 NW Vine Street

Grants Pass OR 97526

541-476-6316

541-476-9112 Fax

The Galice Mining District meetings are the place to find out information on the latest legislation and lawsuits regarding mining, and someone from DCPA should step up and attend these meetings.

Galice covers Jackson, Josephine and Douglas Counties.

The potluck starts at 5:30. The next business meeting is Friday, June 2nd, 2017 @ 6 PM
The location is the Redwood Grange at 1830 Redwood Avenue Grants Pass OR 97527. If you are interested in going, contact Nick Gall. More information about this mining district can be found at <http://galicemining.x10.mx/>

Kerby's Corner:

Someone did a bang up job explaining "savings clauses" in relation to the Mining Law to the state legislators. This is certainly something to insert into your "Bag of Law" that you should always have when you go mining. (No joke to the non-miners. Most miners feel that they have to carry a 2 inch stack of law around on their person just to dig a hole in the ground).

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FOR THE RECORD, Note the following.

SAVINGS CLAUSES ARE THE NOT WITHSTANDING

PROVISIONS FOUND IN MINING LAWS HAVE NOT BEEN INCLUDED IN THE WRITING OF EACH CFR RELATED TO THE CONGRESSIONAL ACTS; AND WHAT THEY MEAN

1866, 1870, and the 1872 mining laws title 30 USC 22 to 53.

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.

16 USC 472 and 16 USC 482 The courts have consistently upheld the ruling in *Kansas v. Colorado* since 1907.

16 USC 482 Saving clauses (notwithstanding any provisions contained in sections 473 to 478, 479 to 482 and 551 of this title)

1955 surface resource removed salable minerals but maintained locatable rights with saving clause in 30 612 (b)

"Rights under any mining claim hereafter located under the mining laws of the [US] shall be subject, prior to issuance of patent therefore, to the right of the [US] 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 [US])." [Emphasis added]

In 1976 FLPMA title 43 sec 1701 was enacted where USC 471 and 471(b) were repealed, and replaced with 43 USC 1740 as the statutory enabling authority for the Secretary of Agriculture; requires the Secretary, "with respect to lands within the National Forest System, shall promulgate rules and regulations to carry out the purposes of this Act...";

And where 43 USC 1732 states the exclusionary saving clause for locatable mineral grantee

43 § 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) Except as provided in section 1744, section 1782, and subsection (f) of section 1781 of this title and in the last sentence of this paragraph, 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.

ORGANIC ACT OF 1897 [PUBLIC--No.2.]

And any mineral lands in any forest reservation which have been or which may be shown to be such, and subject to entry under the existing mining laws of the United States and the rules and regulations applying thereto, shall continue to be subject to such location and entry, notwithstanding any provisions herein contained.

1897. CIRCULAR P.

DEPARTMENT OF THE INTERIOR. GENERAL LAND OFFICE.

Washington, D. C., June 30, 1897.

LOCATION AND ENTRY OF MINERAL LANDS.

19. The law provides that "any mineral lands in any forest reservation which have been or which may be shown to be such, and subject to entry under the existing mining laws of the United States and the rules and regulations applying thereto, shall continue to be subject to such location and entry", notwithstanding the reservation. This makes mineral lands in the forest reserves subject to location and entry under the general mining laws in the usual manner.

Notwithstanding:

Thus the statements "notwithstanding any provisions herein contained"; "notwithstanding the reservation"; and or "notwithstanding any provisions contained in sections 473 to 478, 479 to 482 and 551 of this title"

The Supreme Court has indicated as a general proposition that statutory "notwithstanding" clauses broadly sweep aside potentially conflicting laws. See *Cisneros v. Alpine Ridge Group*, 508 U.S. 10, 18, 113 S.Ct. 1898, 123 L.Ed.2d 572 (1993) ("As we have noted

previously in construing statutes, the use of such a 'notwithstanding' clause clearly signals the drafter's intention that the provisions of the 'notwithstanding' section override conflicting provisions of any other section. Likewise, the Courts of Appeals generally have interpreted similar 'notwithstanding' language . . . to supersede all other laws, stating that '[a] clearer statement is difficult to imagine.'" (omission and alteration in original) (citation and internal quotation marks omitted)); see also *Student Loan Fund of Idaho, Inc. v. U.S. Dep't of Educ.*, 272 F.3d 1155, 1166 (9th Cir.2001) ("[T]he 'notwithstanding any other provision of law' clause demonstrates that Congress intended to supersede any previously enacted conflicting provisions." (second alteration in original)).

As we have noted previously in construing statutes, the use of such a "notwithstanding" clause clearly signals the drafter's intention that the provisions of the "notwithstanding" section override conflicting provisions of any other section. See *Shomberg v. United States*, 348 U.S. 540, 547-548, 75 S.Ct. 509, 512-513, 99 L.Ed. 624 (1955). Likewise, the Courts of Appeals generally have "interpreted similar 'notwithstanding' language . . . to supersede all other laws, stating that '[a] clearer statement is difficult to imagine.'" " *Liberty Maritime Corp. v. United States*, 289 U.S.App.D.C. 1, 4, 928 F.2d 413, 416 (1991) (quoting *Crowley Caribbean Transport, Inc. v. United States*, 275 U.S.App.D.C. 182, 184, 865 F.2d 1281, 1283 (1989) (in turn quoting *Illinois National Guard v. FLRA*, 272 U.S.App.D.C. 187, 194, 854 F.2d 1396, 1403 (1988))); see also *Bank of New England Old Colony, N.A. v. Clark*, 986 F.2d 600, 604 (CA1 1993), *Dean v. Veterans Admin. Regional Office*, 943 F.2d 667, 670 (CA6 1991), vacated and remanded on other grounds, 503 U.S. ---, 112 S.Ct. 1255, 117 L.Ed.2d 486 (1992); *In re FCX, Inc.*, 853 F.2d 1149, 1154 (CA4 1988), cert. denied sub nom. *Universal Cooperatives, Inc. v. FCX, Inc.*, 489 U.S. 1011, 109 S.Ct. 1118, 103 L.Ed.2d 181 (1989); *Multi-State Communications, Inc. v. FCC*, 234 U.S.App.D.C. 285, 291, 728 F.2d 1519, 1525, cert. denied, 469 U.S. 1017, 105 S.Ct. 431, 83 L.Ed.2d 358 (1984); *New Jersey Air National Guard v. FLRA*, 677 F.2d 276, 283 (CA3), cert. denied sub nom. *Government Employees v. New Jersey Air National Guard*, 459 U.S. 988, 103 S.Ct. 343, 74 L.Ed.2d 384 (1982)

Thus the congressional drafter's intention that the provisions before the 'notwithstanding' section override potential conflicting provisions of the Forest Service laws as they pertain to locatable mining law of 1872 that 30 USC 26 "exclusive possession of the surface" would override any Forest Service Land management laws as stated in 43USC1732(b).

This makes mineral lands in the forest reserves subject to location and entry under the general mining laws in the usual manner as if there was no Forest reserves or Forest Service managed lands.

(My note: See also the Rizzinelli case in relation to the last line, which in part, ruled that where the Mining Law was concerned, rights obtained in National Forests are the same as those attained on the Public Domain).

Miner's Mall:

This will be a monthly classified advertising area for members who want to buy or sell prospecting and mining equipment. This is for members only. No retailers please. However, if you're a vendor and the item is used, I don't see why I can't post the ad. If you have an ad in here and the item has sold, or you know the person and know it has sold, please let me know.

E-mail them to me: houseofgall@gmail.com Send photos if you like. I'll try to get them in. If you don't have e-mail then call me at 541-993-2372.

Used Equipment: Slightly used Whites VX3 Metal Detector with coil cover: \$959; New Minelab X-Terra 505 Metal Detector with Koss UR30 headphones, Pro-Pointer pin pointer, 9 inch 18.75 kHz mono coil plus finds pouch & baseball cap: \$800. Walt @ 541-315-2030



DCPA 2017 OUTINGS SCHEDULE

ALL OUTINGS ARE RAIN OR SHINE

OUTING MEETING TIMES ARE 8 AM

February 18th: Red Mine #9 (meet at old Myrtle Creek 7-11 / 24 Hour Mini Mart next to Saw Shop)

March 18th: Nesika Beach (meet at the Winston Dairy Queen)

April 15th: Island Creek (meet at McDonalds off exit 103, Riddle)

May 13th: Cow Creek Claims – Cleanup (meet at McDonalds off exit 103, Riddle)

June 17th: BBQ Fun Day, 10 AM (Douglas County Fairgrounds)

July 15th: Middle Creek Claim – Cleanup (meet at McDonalds off exit 103, Riddle)

August 19th: Red Mine #9 – Cleanup (meet at old Myrtle Creek 7-11 / 24 Hour Mini Mart next to Saw Shop)

September 16th: Island Creek (meet at McDonalds off exit 103, Riddle)

October 14th: Whiskey Run (meet at the Winston Dairy Queen)

November 18th: Red Mine #9 (meet at old Myrtle Creek 7-11 / 24 Hour Mini Mart next to Saw Shop)

December 16th: 7 Devils Wayside (meet at the Winston Dairy Queen)