



# AMRA



AMERICAN MINING RIGHTS ASSOCIATION

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American Mining Rights Association, Coulterville, Ca  
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## USFS Tasers and gold don't mix

By Shannon Poe



It was a beautiful January morning, sunny but a little chilly in the south mother lode of CA when two AMRA members decided to head to AMRA's Ratchilla's Ravine claim for a day of sluicing and small mining. They had found good gold here in the past and wanted to go in and see if they could finish the hole they started a few weeks prior. One man whom we'll call Jim brought along his wife and the other man came by himself. They met early that morning and carried all their gear down to the creek and proceeded to mine on this validly held, well-marked mining claim. They parked legally alongside the gravel road and had current tags on their vehicles.

After several hours of mining about 100 feet from each other, they were approached by two armed USFS Law Enforcement Officers (LEO's) walking up the creek towards them, one male and one female. Neither of the two USFS LEO's identified themselves, but immediately demanded all three produce ID. There was no casual greeting, no formalities, just a demand for ID. When Jim (a military veteran) asked "why do we need to produce ID", the male LEO stated "we need to know

who is in OUR forest and need to check to see if you have any outstanding warrants". The man and his wife attempted to produce their CA driver's licenses but the wife did not have hers handy, it was in the truck. She did however, have her AMRA membership card and produced that to the officers. The officer stated the card was expired and the ID was invalid. The officers stated "we need to make sure nobody is claim jumping". Our female member stated she had her new card in the truck and was escorted to her vehicle by this LEO who told her "keep your hands in plain view and make no sudden movements". Once at the vehicle, she produced her new card as they had just renewed their membership to AMRA. Satisfied that the man and his wife were now identified, they turned their attention to the other AMRA member running his small sluice about 100 feet downstream.

"Bring us your ID" the female LEO boomed. Bob, also a military veteran, declined and stated to the USFS LEO's "I haven't done anything wrong, I am on a valid mining claim and you are interfering with my mining operation. I do not need to produce any ID to you". As he was seated in the creek still mining with a small scoop and feeding his sluice box, the female LEO stormed down the creek right at him and demanded he produce his ID. The male LEO also proceeded down the creek to our member, obviously agitated that someone would not obey their commands. "Give me your ID or I'll call the Sheriff" the male LEO demanded. "Call the Sheriff" responded Bob. At this point, the female LEO pulled out her lethal weapon, a Taser, and pointed it directly at Bob and demanded he produce his ID.

As you read this we hope this touches a nerve as it should. This is a truthful and accurate accounting of an incident which happened in late

January of this year. Some very descriptive words come to mind, reprehensible, civil rights violations, dangerous and outrageous to name a few. We would also like to say we have friends and mining partners which work for the USFS who are great people who care about the forest, the public lands and the people who own and use them, the public. We've known several USFS LEO's over the years and have had a pretty good relationship with them but we see some stark differences in just the past few years, not just in CA, but all across America. Many of these new LEO's do not seem to know the Constitution, what the limits on their authority is, and operate outside of the scope and course of their employment.

So let's dissect this and talk about rights. First, the USFS does not have any authority to enforce or administer any "claim jumping" laws, period. They do not have any authority to enforce who mines on AMRA claims. Secondly, they do not have the ability to determine whose claim is who's, who has a right to mine there and check ID's to determine this. Mining claim issues are a civil matter, meaning if I own a claim called the Lucky Nugget, it is my responsibility to enforce who mines there and who doesn't. If I find someone who is mining on my claim illegally, I give them a warning and kick them off or I contact the local Sheriff, provide him/her with the documents (mining claim paperwork) establishing my ownership and let him make the determination if the person should be cited. Even the BLM, who administers mining claims, does not enforce who mines the claims.



Now let's talk about illegal and unlawful search and seizures, the 4<sup>th</sup> Amendment, probable cause and Terry v Ohio, a Supreme Court case. Can these USFS LEO's just walk up on anyone at any time, not identify themselves and demand to see your ID without cause and if you decline, pull a lethal weapon and force you to produce it?

Absolutely not.

In Terry v Ohio, this question came up before the Supreme Court back in 1968 and it is a case where the court ruled the person who was stopped and searched was not protected by the 4<sup>th</sup> Amendment. Sounds pretty alarming, but there is a condition to this case and it is with the word "if". The ruling states clearly "*if the police officer has a reasonable suspicion that the person has committed, is committing, or is about to commit a crime and has a reasonable belief that the person "may be armed and presently dangerous."*

In Terry v Ohio, the man was "casing" a store and was about to rob it and the officer performed a cursory pat down because he believed he was in danger and found a concealed weapon. Let's compare the two AMRA people in their 60's sitting in a creek with a mini-scoop putting dirt into a sluice box on a valid claim, parked legally, with current tags on their truck, minding their own business and another member his 50's doing the same thing 100 feet downstream. This does not justify, nor authorize, this outrageous behavior under any interpretation of the law. Were they committing a crime? No. Were they about to commit a crime? No. Was a crime already committed? No. Did they pose any kind of threat to the LEO's? No. You have to get to point A before you can get to point B, with point B demanding to see identification. Was there probable cause that a crime was being committed? No. If this answer is no, ID cannot be required.

Since this incident just a week ago, our investigation into the behavior of these LEO's in the Stanislaus National Forest has turned up multiple, multiple instances of this type of behavior which we have obtained statements on. One example is where 4 trucks were following one another with

hound dogs in it, they were going out to public lands to run their dogs. One of the USFS LEO's which was present in the above incident was driving down the public gravel road towards these men and turned his truck sideways in the road blocking it. He got out, demanded to know where they were going and what they were doing, demanded ID, then searched the vehicle to see if he could find anything illegal. Another incident involves a man driving out to his private property with his very young child with a rifle in his gun rack and was stopped and cited for hunting in a closed area. This case was dismissed and we are learning a lot about these LEO's from this case.

Again, we want to clearly state that not all USFS LEO's behave this way and we are confident most don't. They are good people and have to deal with a litany of serious issues such as illegal pot grow operations, people dumping trash on public lands, poachers and just bad people in general. Our concern is how these particular people are trained since they obviously believe they can operate outside the law and have complete disregard for the public's civil rights.

So what do you do if confronted with a situation like this? First, be polite. Ask them what the reason for the ID request is. Ask them, "Am I being detained"? If they answer yes, ask for what crime. Document their name and badge number. Ask for a Sheriff to be present if the situation escalates. Don't break any laws. Pretty simple really.

This is an extreme incident and we are confident 99% of those reading this will not have an incident like this, will not be harassed and won't even be asked for ID for running a small sluice box or just mining their claims. AMRA is actively pursuing this case and will seek legal remedies if necessary for these AMRA members. We have been in constant contact with the local Sheriff's department and are providing them with all the documentation we have and are obtaining.

## **Opinion – California has bankrupted itself.**

By Tom Cullen

These past few months have been very exciting with all of the developments in the legal cases. The Brandon Rinehart decision in September, and everyone's effort to get the decision published. Judge Ochoa's ruling on Federal Preemption in the San Bernardino consolidated cases, which strongly referenced the Rinehart case.

Then we were thrown a curveball when the California State Supreme Court decided to review the Appeals Court decision on the Rinehart case. In my opinion this is both good and bad, but probably a combination of the two... As a community, we will need to come together as a united force to fight the threats on the horizon.

### ***The Bad:***

- With the Supreme Court decision to review the Rinehart case, this will cause additional delays.
- The opposition may use this delay period to seek partners in the legislature to further their cause – at both the state and federal level. They *\*want\** to repeal the Federal Mining Laws.
- Potential activist judges with an agenda.
- The possibility that the CA Supreme Court will drop back and 'punt' this case to the U.S. District or Supreme Court, having decided that this is a Federal issue.

### ***The Good:***

- The Constitution, Supreme Court decisions, and Congressional Intent is on our side.
- There is a very large body of law out there that is in our favor.
- Science and the numerous studies conducted over the past 40 years on turbidity and mercury re-suspension, have proven time and again that suction dredgings' effect on the environment is less than significant.
- Potential for judges who will decide the case on established law.

- The State is ignoring the law regarding admission into the Union by disregarding Federal intent.

There is another very large wrinkle that needs to be discussed, and of course it deals with money. If the CA Supreme Court decides in favor of Rinehart, the State may have to pay a great deal of money to claim owners in the form of takings. California is worried enough about this situation that they have included the following language in nearly every bond that the State has issued since 2010 – *emphasis* added:

*The state is a party to numerous legal proceedings. The following describes litigation matters that are pending with service of process on the state accomplished and have been identified by the state as having a **potentially significant fiscal impact** upon the state’s revenues or expenditures. The state makes no representation regarding the likely outcome of these litigation matters.*

Later in the documentation:

*In Consolidated Suction Dredge Mining Cases (Karuk Tribe v. DFG) (Alameda, Siskiyou, and San Bernardino County Superior Courts), environmental and mining interests challenge the state’s regulation of suction dredge gold mining. After initially prohibiting such mining in the state except pursuant to a permit issued by the Department of Fish and Wildlife (formerly Fish and Game) under specified circumstances, the Legislature subsequently placed a moratorium on all suction dredging until certain conditions are met by the Department of Fish and Wildlife. The cases are coordinated for hearing in San Bernardino County Superior Court (Case No. JCPDS4720). One of these matters, *The New 49’ERS, Inc. et al. v. California Department of Fish and Game*, claims that federal law preempts and prohibits state regulation of suction dredge mining on federal land. **Plaintiffs, who have pled a class action but have yet to seek certification, claim that as many as 11,000 claims, at a value of \$500,000 per claim, have been taken.***

<https://www.calvet.ca.gov/HomeLoans/Bonds/Series%20CJ.pdf>  
page A-144)

This is a lot of dough to be left out on the table that the State may have to pay out. By jumping into bed with the radical environmentalists, the State of California has painted itself into a corner that financially represents takings worth many times the annual State of California budget. We can expect the unexpected and we’ll need to pull together, stand strong and fight. The State cannot afford to rule in favor of Rinehart and the miners.

We, as a community, need to watch our opponents very carefully. Spread the word on whatever you may hear. Get involved and write letters to your representatives. Join AMRA, where your membership dollars will go directly into the legal fund.



## Know your rights – RS2477

By Tom Cullen

The United States Congress, in order to encourage settlers and development in the Western States, passed the Revised Statute 2477 in 1866. The entire law is a single sentence, which is surprisingly devoid of any ‘legalese’:

*The right-of-way for the construction of highways across public lands not otherwise reserved for public purposes is hereby granted.*

As with any law, each word can have specific meaning:

- *“Right of Way”* – There’s a huge body of law regarding access to and travel across a piece of property. In the case of RS2477, these rights are usually held by the County and will apply to Public Lands within the County. This also includes the rights to maintain and improve these access routes.
- *“Construction”* – This can mean anything from planned road-building activities to a trail that is “self-constructed” through continuous use. Think of the old wagon trails used by the original settlers, which eventually became our modern-day roads.
- *“Highway”* – Don’t think of the modern interstate here, as they were inconceivable in 1866. At the time, a highway was really any route that the general public could use. Foot-trails, wagon roads, horse-trails, toll & turnpike roads, even navigable waters and railroads.
- *“Public Lands”* – Your lands, a.k.a. “Federally Managed Lands”
- *“Reserved”* – Areas set aside for a specific purpose, such as National Parks, where creating new highways would not be permitted. However, if the highway grant was in place before the land was set aside, then that highway would continue to be valid.
- *“Is Hereby Granted”* – This means that when the conditions are met (a trail, road, etc., that the general public could travel), the right-of-way grant would occur. RS2477 is a self-executing law, meaning that no applications need to be filed, and once the highway was in place the title to that highway would be granted to the county or state.

In 1976, Congress passed the “Federal Land Policy Management Act” (“FLPMA”) which repealed RS2477. It’s simple mechanism for road and trail creation could no longer be used. However, within

the FLPMA, Congress included the following strongly worded exception:

*Nothing in this Act, or in any amendment made by this Act, 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. (Sec. 701. 43 U.S.C. 1701)*

This exception means that any RS2477 highway created before 1976 would remain valid and the county or state would remain the holder of title.

### ***The controversies***

With the current administration attempting to carve additional wilderness areas out of existing National Forest and BLM lands, these new areas need to be designated as “Roadless” first. While there are almost no “Roadless” areas left in the United States - outside of Alaska - that would be eligible for Wilderness status, the NFS and BLM are slowly putting up gates to close roads in the name of “sensitive habitat restoration”. Sometimes this is true - however if you question a ranger about when an area will be re-opened or a gate removed, nine times out of ten the answer will be “there is no plan”. Road closures by the BLM or NFS are attempts to create new Roadless areas that can later be converted into wilderness, where no traditional uses such as mining, timber harvesting, hunting, ranching, or gathering mushrooms would be allowed. This is a slow, steady march to lock you out of your land.

As with any road, these RS2477 highways will need periodic maintenance and safety improvements. As the County is usually the right-of-way titleholder, they will make plans and schedule this work. Usually, just before work is to begin, some environmentalist group will step in and file an injunction stating that an Environmental Impact Review (“EIR”) either was not done or needs further study. Maybe they have conveniently found Pink Legged Frogs and are seeking Endangered Species

Protection. Their only intention is to delay this maintenance through the courts, and making it exponentially more costly for the County to keep their road open and properly maintained. The environmentalist group hopes that by delaying these projects, the county will eventually abandon the maintenance as too costly – and by the same action abandon the road. Title to that right-of-way will then revert back to the Federal Agency managing that land, and can then be placed in the list of “Roadless areas” eligible to later be declared “Wilderness”.

Some Counties have fought back against this interference by environmentalist groups, and won – setting legal precedence. In one such case Garfield County in Utah wished to widen a portion of the Burr Trail Road from a single lane gravel road into a two-lane gravel road. Sierra Club sued the Department of the Interior on the grounds that no EIR/EIS was performed, potential impact on wildlife, historical artifacts, wilderness study areas, etc. (Sierra Club vs. Holden -848 F.2d 1068, United States Court of Appeals, Tenth Circuit). During the appeals process, the Sierra Club continually changed its’ argument (sound familiar?). While this ended up being a long-drawn out case, in the end Garfield County was able to improve the road. In the Appeals Opinion, the Judge commented that he “agrees with the County's contention that its performance of construction activities within the scope of its right-of-way does not require a BLM environmental analysis” (Sierra Club v. Hodel, 848 F.2d 1068 (1988))

### ***The Opposition-***

The extreme environmentalists and anti-access advocates will claim that RS2477 is no longer valid, as it was passed nearly 150 years ago... The same argument that they use on the 1866 & 1872 General Mining laws. By this argument, the Bill of Rights or the Constitution would be even less valid as they are well over 200 years old now. RS2477, as well as all congressional actions, remain the law of the land, no matter how old.

We need to get involved in our local NFS and BLM administered lands, and if you see a newly closed area – either gated or lined with boulders – question the Rangers and Supervisors of that area. Know your rights and press the issues in a rational manner.

*(Inspiration and parts of this article are drawn from the now defunct <http://rs2477roads.com/>)*

*Further reading: [http://www.icmj.com/more\\_page.php?id=5&](http://www.icmj.com/more_page.php?id=5&)*



### **AMRA Outing!**

By Jon Siptrott, Outings Coordinator I hope your calendars are marked for AMRA's outing on Feb 28th- March 1st from 9 am - 4 pm. at our "RATCHILLA" claim near Greeley Hill!

AMRA Outings are open to everyone and are family friendly, so bring your friends, neighbors, grandparents, kids & grand kids.

Come meet the experts and ask questions. Shannon Poe, the President of AMRA along with other AMRA Board Members, will be there to show you what it takes to get the GOLD and answer questions. Remember AMRA is you, not us, we are all in this together!

AMRA's own "BS Miner" will be bringing his two teens that have outdoor and kid sitting experience, who have graciously volunteered to help entertain smaller kids for the parents that want to get to diggin.

We will be camping overnight and enjoying a warm fire with everyone!

All AMRA outings are not only to learn from experts, make new friends, have fun and just plain

get away from the hustle and bustle of daily life, but to generate funds for our fight.

As many of you know AMRA has taken the bull by the horns and are standing up for your rights. We are working on uniting miners and all public land users to create a stronger alliance against the overreach of those determined to take our forests away from us. We are all tired of this.

AMRA is putting together a meeting of the minds to come up with a stronger and more effective way to handle communications in an expedient manner. This will cost a lot of money, but will benefit all of us a great deal. AMRA needs your funds to make this happen or we all will be hiding, just to use the forest for all entertainment and income purposes. Please join everyone at your outings but if you can't, you can join AMRA and have access to all the claims, when you can get away, at..... <http://americanminingrights.com/join-us/> Please contact [JonS@americanminingrights.com](mailto:JonS@americanminingrights.com) with any questions about outings or donations of items to generate funds for our giveaways.

Your cash donations are greatly needed NOW to support this fight! If you cannot afford to join you can still help by donating smaller amounts at....

<http://www.firstgiving.com/fundraiser/AMRA/AMRA1sPage>

Make your money work for you!

I expect a large turnout so if you are coming with large RV's I recommend to us the RV park just a couple of miles away at.....

Yosemite Westlake Campground and RV Park  
6554 Greeley Hill Road  
Coulterville, CA 95311 Directions to this claim are as follows.....  
From Coulterville, drive up the mountain towards Yosemite on Hwy 132 to Greeley Hill 7 miles. Turn right on Holtzel Road, between the grocery store and hardware store. Follow Holtzel Road for 2.1 miles to Dogtown Road, turn LEFT on Dogtown Road and follow Dogtown Road for two miles to the

claim. Huge claim sign at the campground. The claim is where Dogtown Road crosses the creek, about 1/2 mile from where the pavement ends.

I look forward to seeing everyone there...Lets all have some fun!!!!



## Call to Action!

By Shannon Poe

Have you ever wondered what is it going to take to stop this insanity of politicians and environmental groups from taking away our rights? Well, it is pretty simple really. First, we need to understand why the opposition to the small mining community, public land users, hunters, fishermen, off-roaders and other outdoor groups are so successful. In a few words, they are united and they have a level of communication we don't. Have you wondered how to combat the lies these people tell about suction dredging? With information and facts. Not many of us can rattle off the suction dredge study performed by Claudia Wise and Joseph Greene, quote US -v- Hicks, Granite Rock or the articles in the ICMJ about using a water pump without a permit. But that will change.

We plan to change it. If we are to stop this, we must become united as we never have been before. We must be able to notify all of our community what is happening, what their rights are, what they need to do to help and we must do it in a precise and expedient manner. We've all received the "calls to action" emails where we have literally a day or two to write a Congressman, DFG, USFS or some other agency to voice opposition to a bill or regulation intent upon taking away more of our rights or public lands. We currently rely on forwarding emails sent to one, then another, then

another with the hopes of reaching as many people as possible. This is ineffectual and needs to change. Our opposition is organized, and we must be just as well organized.

So what do we do to change this? Let's take California and start there. Delta Gold Diggers President, Robert Guardiola and AMRA are teaming up together to hold a meeting with every leader of every gold chapter, gold club, retail facility, manufacturer and association in California. This meeting will establish a list of contacts and the protocol to quickly and concisely distribute calls to action for the small mining community. This WILL NOT be used to promote any entity, it will be used exclusively for "getting out the word on important and urgent matters". Urgent matters like bills which the political left seems so fond of trying to pass to ban mining, close large swaths of public land or other freedom opposing issues. The calls to action will be sent to the heads of each of these clubs, companies and associations, then forwarded to their members, followers and contacts. This should enable our industry to reach the most people in the shortest time.

The NRA started small, got organized and now is the largest voice for the 2nd Amendment in America. We need to do the same thing, not just for California, but for every state. We are going to start with California, then move on to Washington where they are literally under attack from the environmental groups and the politicians in their pockets. Then Idaho, Oregon, Montana and so on.

We are compiling notebooks for every person in attendance to this meeting which show the science, studies, court cases and documentation which conclusively show suction dredging is not harmful to fish, but in fact helps it. It will also contain facts and laws on rights of access pertaining to public lands and federal mining claims. It is time, long past time we all join together and the mining community is provided with all the tools at their disposal to combat the propaganda promulgated by our opposition. Wouldn't it be nice to pull out a notebook which lists all the studies performed in

the last 30 years on suction dredging which dispels the lies? These publications will also be available to anyone and everyone on line on the AMRA website and can be printed out for anyone interested. We must educate our people with the truth, they in turn can educate the next generation, which, unless we do something now will not exist in small mining.

As I sit here today writing this for the ICMJ, judge Ochoa has just ruled in favor of the small miners in California on the suction dredge moratorium. What a victory! We need to give credit where it is due, and that is to PLP and the late Jerry Hobbs for his tireless and rigid defense of the small miners for over two decades. I know Jerry is smiling from that "loaded" placer in the sky right now. However, if you know anything about the direction of our country right now, you will also know our opposition is already scheming, planning and plotting the next method they will use to try and devastate the small miners and public land users.

Guaranteed.

If you are a President or Board member of a gold club, a business owner which deals with small mining, a manufacturer or other entity which has members or a customer base which can help fight the stunning attack on small mining, contact us about attending this event. The date scheduled is March 14th, 2015 in Sacramento CA. We will announce the location of the meeting once we can ascertain how many will be in attendance. Inquiries into this event can be made at:

[minersmeeting@americanminingrights.com](mailto:minersmeeting@americanminingrights.com)

Another opportunity we are missing is to partner with other public land users such as the off roaders, the fishermen and women, the hunters and the hikers. They need to understand that what these politicians and environmental groups are doing will affect them immensely. They should be our allies as most of these groups we deal with have the same fundamental values we do and that is of freedom, independence and liberty. There is a fundamental difference between a "right" and a "privilege". Privilege is what the hunters, hikers and other public land use people have in regards to

public lands. Mining claim owners have “rights”, rights that are passed by Congress and signed into law by the President of the United States which cannot be taken away, no matter how hard they try.

Partnering with these other groups will help to explain what happens to them when these freedom killing bills and regulations are passed. In other words.....we must unite, all of us to preserve what we love for future generations. Because if we don't fight now, who will?

### **Final notes:**

Is anyone interested in a Google Earth overlay of all active AMRA Claims? I have been slowly putting one together, and it should be ready in the next week. PM me on Facebook – “BSMiner” – this is available only to verified AMRA members.

AMRA is a community focused organization. We *\*want\** your feedback, ideas for articles, and will accept appropriate articles. Have a good topic for an article? Great. Send it in. Want to write something? Even better. Send it in. As this is the first AMRA newsletter, and the format is still coming together, please let me know what you want to see.... Claim reviews? Member profiles? Hot news and ‘Calls to Action’? We can work this in. email [stomcullen@comcast.net](mailto:stomcullen@comcast.net) if you have ideas or want to contribute.

At this time, we are not accepting any advertising in the newsletter – this may change at some time in the future.

AMRA is a 501(c)(3) not-for-profit educational and advocacy association which informs and educates miners and public land users on their right to mine, use public lands and fights back on behalf of those people. AMRA offers access to their proven gold claims in Arizona, California, Idaho and Alaska for a small tax deductible donation to the miner's legal fund. AMRA also produces high quality mining videos which teaches small miner's techniques and methods to obtain the most gold possible from small mining operations.

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