

“PETITION FOR RULEMAKING TO STOP STATE LAW-BASED  
PROHIBITIONS OF MINING ON FEDERAL LANDS”

Submitted June 18, 2019 to Secretary of Interior David Bernhart and Secretary of Agriculture Sonny Purdue.

## SOME TALKING POINTS

NOTE: Below are some suggestions, points or issues you may bring up in your letters. Tweak them as necessary to reflect your personal experience or feelings. In the hierarchy of petitioning the government, individual written letters mean the most. Form letters mean less. Internet petitions are at the bottom, although at the present, we want the officials to hear from as many of us as possible. Although doing something is always better than doing nothing! We are including email addresses for all or most of the recipients. This is because you can cc a single message to all of the officials on the list.

Or, you could include the petition in the envelope or attached to an email with a short note (needs to have your name and address) which asks the officials to please help us resume small-scale mining on the federal lands.

1. The federal regulations are allowing the States to prohibit mining, something the federal agencies cannot do.
2. The federal regulations, by allowing the States to further restrict mining without any oversight are acting to “hinder and discourage” mineral development rather than “foster and encourage” as required by the Minerals Policy Act of 1970.
3. By prohibiting the methods, rather than regulating the effects, the States are for all practical purposes withdrawing those deposits on federal lands open to mining from mining.
4. By prohibiting mining, the States have not only taken the miners right to mine the minerals but have also destroyed the value of their claims; all without compensation.
5. The laws already exist that allow the States to petition the federal government to withdraw lands from mining in order to protect other values. These State-law prohibitions are a back-door circumvention of those federal laws.
6. The 1872 Mining Law clearly grants that all valuable mineral deposits “shall be free and open to exploration and occupancy...” (30 U.S.C. Sec. 22) and the States are, by prohibiting the use of the equipment *required* to access many deposits – is making them closed to exploration and occupancy.

7. The Granite Rock court required that any State regulation on mining be “standards based”. Prohibiting the method of mining regardless of the size of the equipment or scale of operation, and regardless of the size of the stream, is not a “standard”. It is a Land Use Plan; something prohibited by the U.S. Supreme Court.
8. The State prohibitions are designed to stop specific very popular methods of mining, and yet allow other non-mining activities that produce the same or worse effects. The State of California is so determined to prohibit small-scale mining, they redefined the word “suction dredge” to include any and all forms of motorized or mechanized gear of any kind that assists in the recovery of minerals, within 100 yards of any waterway, regardless of the circumstances.
9. To date, and after over 30+ years of studies on the effects from suction dredge mining, not one study has shown a single significant detrimental effect. Many studies show very real and even long-lasting beneficial effects from suction dredge mining. This makes the prohibitions “politically-based”, and not “science-based”. **Not one dead fish!**
10. Since 2009, California has banned the use of all suction dredges Statewide, even in streams with no fish. Since 2017, the State of Oregon has banned all “motorized placer mining equipment” in all streams designated as Essential Salmon Habitat. Thousands, if not tens of thousands of individual miners are now out of work.
11. The bans are or have all but destroyed an easily-\$100 Million a year industry, not including value of any gold recovered, depressing local rural communities and suppliers of the miners.
12. Thousands of support jobs have been lost. Some manufacturers of mining equipment have closed. Others are holding on by a thread in hopes that Mr. Trump will eventually see that the swamp creatures have basically killed our industry. How can America become truly great if we are dependent on other countries for our strategic minerals?
13. The courts have ruled that the owner of an unpatented mining claim has “real property” in the minerals and the right to remove them. The land itself belongs to the United States who is holding the title “**in trust for**” the claim owner against the day the claim is patented. “In trust for” makes this a fiduciary trust where by the Grantor (United States) is holding title for the benefit of the Grantee (claim owner), and is charged to protect the Grantee’s rights.  
  
By not stopping these unlawful and unwarranted State prohibitions against mining on federal lands that are supposed to be open to mining, the United States is violating its duty to protect the trust and the rights granted the Grantee.
14. BLM and USFS regulations give quasi-authority to the States to do what they themselves cannot do. **This is wrong!** In this case, State authority originates from the federal regulations of the agencies that are themselves forbidden from “materially interfering” with mining. This is like saying that

although I can't rob a bank, it is OK if I give someone else permission to do it!