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August/Sept. 2004

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***FS Besieges
Small-Scale Miners
With Rules
Change! Page 9***

**GENESEE!
GOOD QUANTITIES OF
AU FOUND ON THE
NEW CLAIM AREAS! .**



***The Crossing! A small
part of the new acre-
age at Genesee!***

***THE NEXT OUT-
ING IS AT BULL
CREEK, OCT. 9 &
10!!***

***BE THERE FOR
THE BOARD
MEETING, 9:00
AM, AND DIS-
CUSSION OF 36
CFR 228, AND
POSSIBLE CLUB
BYLAW
CHANGES!!***



UNITED PROSPECTORS INC.

MESSAGE FROM THE PRESIDENT

Daniel Short Jr.

August/September 2004

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Daniel Short Jr.

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WAYS AND MEANS

Don Siegel

WAGON MASTER

Steve Letlow

WEB MASTER

Mark Weber

The Genesee outing was a great success. Unfortunately Kathy and I could not attend the outing. Kathy's son had a two-week leave from Iraq so we felt it important that we be here and spend time with him, on this precious leave, before he had to go back to Iraq for another eight months of service to our country.

The raffle took in over three hundred dollars with most of the proceeds going to Public Lands for the People to help pay for the cost of lawyers to help small-miners keep their rights intact. I instructed this board, and especially Bill Reboin, our Editor/Publisher, to put all the National Forestry Service's activities into writing, as they want to shove their agenda and new regulations down our throats, the rewriting of 36 CFR 228.

Members and others please are advised: If you want to continue to have the right to take your children and grandchildren panning this is a very, very big wake up call for you to fight for your public land rights. UPI is doing it, but you as an interested party must do so as well.

I hope to see all of you at the Bull Creek outing so you can express your opinion to the board at the general meeting that will be held Saturday Oct 9th at 9:00 am. As you know they, the FS, has shut down the Salmon River claim for a period of one year, at least, to make an environmental assessment. Bull Creek could be the next claim in October. Who Knows? All of our claims are legal and by the rules, however Bull Creek is the only claim that the FS requires individual members to file their own personal NOI on to mine it.

Remember the glory of the Minutemen? They brought forth this country.

Your Pres.
Daniel Short Jr.



The old miner sez: Gooness gracie wot be goin threw da Fores Service peoplz heads? Seems day musta got some sorta brain disease. Maybe day gots brane beddles or sumpin frum bein in da woods so much.

Outing Report

I really expected to see a greater number of attendance at the outing, but that's OK. Count at the potluck/ raffle indicates that there were 35 members and guests present at the outing. With the addition of 500 plus acres to the claim to mine, I am amazed that there wasn't at least double that number attending. Last year there was over an ounce of gold produced over the span of the outing at the original claim. Now there is an additional 500 plus acres to mine and the site is known to produce year after year. What happened to all of you? It was anticipated that there would be a rush on the site looking for that elusive yellow metal. Didn't happen. There were good quantities of Au produced on the new areas during the course of the outing and there were good quantities produced on the new areas between the release date and the outing. Folks there are now five miles of stream to mine. One drive up and dump your dredge in the water area has produced some nice Au over the last month. If the drive and dump areas *(Continued on page 10)*

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Partial Outing Schedule

This is the schedule for the rest of the year for scheduled outings.
Oct. 9 & 10: Bull Creek. Notice of intent required. *Please see page 17.*
Nov. 6 & 7: Coulterville. Fifth annual pre-Thanksgiving outing/feed. This is always a great turnout. So be there and make it even better. Last year we did it in a turn of the century schoolhouse.

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Chapters

For Chapter meeting times please contact the representative indicated for your Chapter area. For information or volunteer work on area Chapters listed as open, please contact:

Tom Eastland, Chapters Chairperson. Please see Contra Costa Co. below for contact information.

Alameda County, Chairperson; Steve Kleszyk, (925) 443-4993 or ratled88@aol.com

Meeting held at - - - Prospectors Claim Store
174 S. "K" Street
Livermore, CA

Contra Costa County, Chairperson; Tom Eastland, (925) 932-4288 or tceastland@comcast.net

Meeting held at - - - First Baptist Church Mansion
3033 Bonifacio St.
Concord, CA

Madera County, Chairperson; Open

Sacramento County, Chairperson; Open

San Joaquin County, Chairperson; Steve Letlow, (209) 986-6276 or upiwagonmaster@direcway.com
Call Steve for when and where. It is understood that meetings will be held at Terry Schoens shop.

Santa Clara County, Chairperson; Open

Stanislaus County, Chairperson: Don Siegel, (209) 551-9802 or dps0736@aol.com
Meeting held at - - - Dons home, call for particulars



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NEWSLETTER©

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The UPI Newsletter (ISSN 1544-7774) is published 8-10 issues per year, during the normal mining season, with an annual "Members Guidebook". Membership is \$35.00/year and includes first class mailing of the Newsletter and Members Guidebook in the United States, and use of our claims any time they wish, as limited by local governing agencies. Lifetime Membership is \$350.00 and provides the same. Current Guidebooks are issued at the first of the year for Life Memberships, and upon renewal for annual Memberships. *Non-member, subscription only*, is \$25.00/year and includes first class mailing of the Newsletter and the non-member Guidebook, issued upon renewal, in the United States, a picture guide of our claims with no locations indicated. Foreign Membership is \$45.00/year and foreign Lifetime Membership is \$450.00. Foreign non-member subscription is \$35.00/year. Foreign Memberships are in U.S. dollars. Updated Guidebooks are issued upon renewal of Membership/Subscription. Inserts will be provided as Guidebook information changes. Membership or Non-member Subscribers purchase Membership or Subscriptions understanding that information contained in the UPI publications come from many sources and information used is considered as reliable, however the UPI Officers, Directors and Editors do not guarantee its authenticity, nor do we assume liability for its use or correctness.

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BOARD NOTES

Meeting Held At Presidents Home

August 28, 2004

President Daniel Short Jr. called the meeting to order at 10:20a.m.

Roll Call:

Officers Present: Daniel Short, President; Samantha Wait, Treasurer; Rita Perry, Secretary.

Directors Present: Bill Reboin, Chet Chastain, Kathy Short, Linda Doyle, Steve Letlow, Don Siegel, Tom Eastland

Directors Absent: Ray Hughes; Gerald Hurt

Committee Member: None

Members Present: Christa Eastland; Chris Perry

Motion was made by Chet Chastain and seconded by Kathy Short to accept the minutes from our last meeting. Motion carried.

- Claims, Chet Chastain:** The National Forest Service has submitted what they call a "clarification" to the CFR the rules governing mining as the respects to the whole forest. For the record, we already submit a Notice of Intent to all forests except the BLM which is Moccasin Creek. They do not require a Notice of Intent because we stay within the casual limitations of no more than four (4) total inches of dredge at any time and no more than fifteen (15) people using twenty (20) acres. The only one we have a POO on is Salmon. River. The statuses of the claims are that with the exceptions of dredging between April and September, on Moccasin, all claims are still open. The Salmon River is basically closed for an indefinite amount of time. The amount paid on taxes is \$916.15. BLM has changed the rental fee, now that we have 18 claims instead of 10. We now have to pay \$125.00 per claim, which will be an extra \$450.00. The county taxes our claims because they consider it a business expense. He doesn't feel this is right and will contact PLP regarding this matter. Bill Reboin will be sending a check in the amount of \$318.00 for the legal fees for protecting our rights to mine. Gerald Hurt is in contact with the PLP in hopes of having an open forum with 20 to 30 representatives there so questions can be answered. He is hoping it will take place sometime in October around Fresno or Merced. We will be holding another PLP raffle at the Bull Creek Outing. We agreed to help PLP with their expenses. There is another claim offered to the club. It will be decided at the next board meeting whether we will purchase the claim or not. We will be addressing the By Laws at the next meeting as well. The next board meeting will be at the Bull Creek Outing at 9:00 a.m.

Treasurer, Samantha Wait: BILLS PRESENTED FOR PAYMENT.

Daniel Short, Jr., Administration	Ink Cartridges, Food for the Board Meeting	\$ 96.39
Steve Letlow	Port-o-Potties, Twain \$120; Genessee \$140	\$ 465.00
Chet Chastain, Claims	Taxes, Rental Fees, Postage, and Mileage	\$1,314.89
PLP, Administration	Donation	\$ 318.00

TOTAL BILL \$2,306.25

Motion was made by Linda Doyle and seconded by Steve Letlow to pay the bills. Motion carried.

- Membership, Linda Doyle:** She submitted membership stats as of August 27, 2004. We have a total of 434 members, which include 52 life members, 1 honorary member, 11 subscribers, and 370 regular members. This leaves a total of 833 family members. She mentioned that the membership postage should be going down.

Meeting adjourned at 12:15 p.m.

MEMBER RESPONSE (More respondents on page 15)

Sent: Saturday, September 04, 2004 9:01, PM

Subject: Re: Red Alert # 2/ Protest sent

Dear UPI,

I have just sent a protest to this new "regulation". I think this type of regulation, is not only dumb, but also very stupid. They sure ain't too bright!

Goes to show you, that the government wants to own everything, and everyone. And we have more "freedoms"? I don't think so. The wonderful colleges and universities we have! (Educated idiots.)

You have my permission to print this, if you like.

Thanks.

UPI Life Member # 9590

Richard C. Owings

NEW CLAIM

Have you ever had something, something really good! Something that is so good that you want to tell everyone, but at the same time, you

don't want anyone to find out about it? Well you have one. Chet, and others, found it for us, and it's a good one! So guess what, I am not going to tell you where it is! I will just say it's one of our new claims!

We camped there last week, with a few good old buddies! The creek bottom in many areas has this black, un-touched stuff on top of the rocks. Those rocks are lodged into place! You need a pry bar to break them loose. As you dredge down, the gravel is tightly packed. Further down into the gravel, there are larger boulders, packed with material that you need to break up with your pry bar. Some areas have this layer of rust red color. You will see nails, and bullets. Do you remember those old "split shot", you can tell they're are the old ones. Then, you get down to this white granite bedrock! It is off white with pieces of mica, which looks like gold. Sometimes this bedrock is soft, you put your nozzle on it, and it breaks up and sucks up your nozzle!

Here is the good news, " WE ALL FOUND GOLD! " Nice gold flakes, they have been described as "oatmeal flakes". Pat said "Oh The Possibilities"! Yes, we got a good claim. Miles of creek bed that seem to

NEW MEMBERS AND RENEWING MEMBERSHIPS

This section is devoted to acknowledging and welcoming all members new and those renewing!

Welcome aboard for a year of fun.

Information is from 7/2/04 through 9/25/04

New Members

<u>Name</u>	<u>City/State</u>
Jacqueline Cama	Livingston, TX
Bruce Carso	Livingston, TX
Sean Hiro	San Leandro, CA
Keith Kimse	San Jose, CA
Carol Anne Lacy	Taylorville, CA
Alex Marinello	Redlands, CA
Danny Page	Turlock, CA
Brian Page	Fresno, CA
Ernie & Virginia Sandberg	Red Bluff, CA
David Saunders	Pleasanton, CA
Sharen Schlemmer	Placerville, CA
Earl Sessions	Lemoore, CA
Trevor Stanley	Tehachapi, CA
Richard Varnes	Naples, FL
Bob Williams	Concord, CA

Renewing Members

<u>Name</u>	<u>City/State</u>
Bob Azbill	Polloc Pines, CA
Vic Belloli	Truckee, CA
Darrell Billups	Redwood, CA
Edward Black	Campbell, CA
James D. Blake	Vallejo, CA
Bill & Carol Bowman	Citrus, CA
John S. Cook Sr.	Antioch, CA
Sean Cox	Chico, CA
John Ellison	Hayward, CA

Name

Kim Ellison
Robert Fainelli
Gary Gallo
Gary & Lora Grutkowski
Willie Hammond Sr.
Ron Hess
Howard Hughes
Gene Hurn
Charles A. Kerner
Ken Liddle
Beth McBrien
Tim Obole
Richard Owings
Debbie Peck
Ivan & Diane Perkins
Frank Potter
Jim Prink
Al Reynolds
Joe W. Rowell
Paul Ruff
William & Mary Shannep
Henry Sisler
Derald H. Smith
Allen Sorenson
Paul Sprenkle
Dirk Verhoest
Keith White

City/State

Hayward, CA
Vallejo, CA
Ukiah, CA
Sebastopol, CA
Dos Palos, CA
Reno, NV
Modesto, CA
San Leandro, CA
Santa, CA
Stockton, CA
Diablo, CA
San Dimas, CA
Modesto, CA
San Jose, CA
Brentwood, CA
Quincy, CA
Livermore, CA
Lakeport, CA
Strathmore, CA
Pleasanton, CA
Boulder City, ID
Los Gatos, CA
El Paso, TX
Santa Maria, CA
Clovis, CA
Los Gatos, CA
Valley, CA

Members up for renewal in Sept. & Oct.

Harry Bradfield
BrunoSteve & Jean Dorman
Duane & Virvinia Degner
Albert Duchsherer
Pete & Casey Harvey
Richard Hicks
Wayne & Sue Hudson
Jerry & Tammy
Charles J Darr
Mike & Linda Doyle
Jack Galusha
Douglas Hiatt
James & Sarah Hill
Johnnell Jackson

(Continued on page 17)



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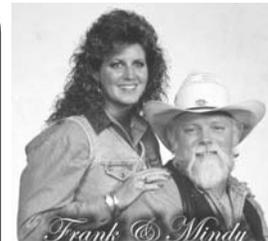
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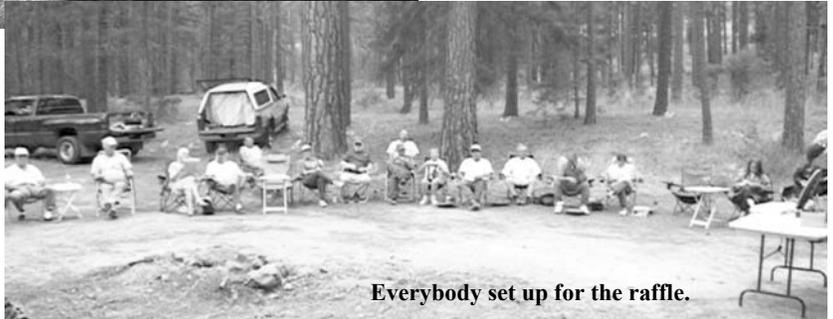
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THE OUTING!



Very top: An abandoned original camp site, nothing there but the potties.



Everybody set up for the raffle.

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Bruce & Mary Hampton
Owners

Ace Smithart
Manager





UPI ROLL CALL

List of members and guests present at the Outing, Potluck and Raffle including the raffle results.

Genesee Outing July 31 and August 1, 2004

1. Steve and Joy Letlow: Joy was the winner of the elusive UPI raffle nugget and Steve won a "super pan".
2. Ernie Sandberg: Ernie was the big winner of items donated for the PLP fund raising raffle, he won the 3' sluice box and a two gallon hot or cold insulated jug.
3. Dennis and Pat Mobley: This pair went home better equipped than they came. According to the raffle win list Pat won a plastic scoop and 3 super pans. Dennis won a four quart canteen and a finishing pan.
4. John and Lisa Ljuba: John won a Keene gold pan and
5. Gerald and Cheri Hurt: Cheri won a Keene pan and a
6. Bill Reboin: Bill won a really nice pack frame.
7. Bill and Carol Eastland: Carol won a hibachi.
8. Don Siegel: Don won a bucket classifier.
9. Mike Ancona: Mike won a super pan, now he can clean his cons faster.
10. Dan and Audrey Coffman: Dan won a three piece rain suit. Now he can dredge in the rain without getting wet.
11. Tom and Christa Eastland: Christa won a mess kit.
12. Sid, Lorrie and Susie Parrish
13. Linda Iverson and Hank Sisler
14. Chuck and Sue Morris
15. Alex Marinello
16. Chuck Ucker
17. Brenda Marsh
18. Chris Carson
19. Cliff Sweatt
20. Pat Avilla
21. Ray Hughes
22. Alice Barrios
23. Bob Hanna



a super pan.
four quart canteen.

Excepting the gold nugget, all items in this raffle were donated. Merv Hemp the Editor for the Western Mining Council newsletter donated the sluice, pans, classifiers, canteens, two gallon jug and mess kit. I think that covers it. Others that donated items were Chuck and Sue Morris, new members of a few months. They donated the pack frame and the three piece rain suit. I didn't write down the name, shame on me, of the person that donated the hibachi. I really apologize.

The proceeds from this raffle, \$340.00, excepting \$22.00 for the UPI nugget, is being donated to PLP to help fund the lawsuit against the Forest Service regarding the changes they made in 36 CFR 228.

We thank you for you donations and support!

Well if the count is correct there were 35 members and guests that attended the potluck and raffle. Sorry if you were missed or if your name was misspelled.

MORE RAFFLE WINNERS!



Above and below: The first six winners! Three of the ladies 1, 2 and 3, then three of the gents. After that it was pretty much back and forth.



The old miner sez: The las couple o da outins been heck fer me ta git der. Shur glad ah made dis'en an gots ta seeda Au.



More raffle pics



Oh, oh, bet I catch the dickens for this pic of Cheri Hurt! I'll probably be in for it not having my UPI vest on as well. Oh well, that's life in the woods.



End of the raffle pics On to the rest of the outing!

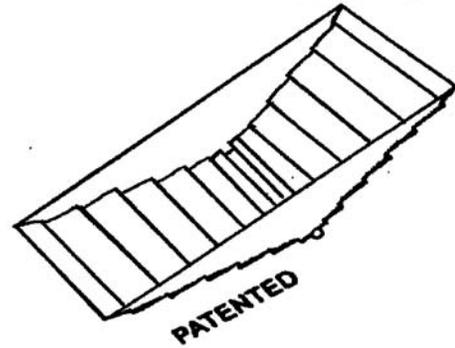
Below: The folks really jammed themselves into this small flat spot next to the creek. It's a good thing that we are a friendly bunch and like sharing.



Lower left: I was the only one camped at our original claim, it was deserted.
Upper left: This camp site is about two miles up stream from the original. The lower right pic is the northerly end of this camping area.
Upper right: A picture of the camping area at "The Crossing". There is plenty of space at this site for a lot of campers and the potluck/raffle.



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POTPOURRI

MISCELLANEOUS ITEMS OF INTEREST ©

Views and opinions expressed in this column are the personal viewpoint of the Editor/Publisher, and have no bearing on, nor do they have any relationship toward, the goals, purposes, policies, programs of United Prospectors Inc. though they may play a part as indicated by your responses. This is my playground!

Some may like it, some may not. I hope it starts you thinking, taking responsibility, and enjoying life and livingness.



Bill Reboin, Ed/Pub and his pooch Samantha.

FOREST SERVICE THROWS MINERS A CURVE!

A percentage of you probably got an e-mail message, that is if you have registered your address with membership and have kept it current, about the recent FS shenanigans. We the Board have solicited your help in giving us ammunition to fight the re-writing of 36 CFR 228. We sincerely hope that you have taken some sort of a personal responsible positive action toward getting this rule changed. Help was called for in issue 268 as well.

Following is some information that will shed some light on what is occurring and why you need to step up to the plate and fight this as an individual. **From the Federal Register, a couple of the justifications for the rule change:** "There has been widespread dissemination of the district court decision among groups of small miners who have long

objected to obtaining prior approval for their mining operations, and who frequently believe that mining operations invariably justify residential occupancy of NFS lands. This, coupled with the fact that the season for locatable mineral operations has already begun in many areas of the country due to favorable weather conditions, including unusually low snow pack levels in much of the west, has resulted in the initiation of many mining operations on NFS lands for which a notice of intent to operate or a plan of operations has always been required without the submission of a notice of intent to operate or the approval of a plan of operations. **Consequently, many operations are already ongoing and a much larger number are**

imminent which will unnecessarily and unjustifiably adversely impact NFS lands and resources, including water quality, visual quality, natural features and species listed under the Endangered Species Act. The only means by which such significant adverse environmental effects can be avoided during this field season for locatable mineral operations is to promulgate the amended rule immediately." (Italics and bold for emphasis by Ed/pub) Ed/Pub note: If the FS knows this to be true as stated above they should be going after the alleged perpetrators not re-writing rules that make things more difficult and costly for the law-abiding. (This entire document can be downloaded at; www.regulations.gov/freddocks/04-15483.htm) (See page 13)

Further the Forest Service states they will soon require a Notice of Intent in any situation in which a mining operation causes a surface disturbance. The key word here is "any". From the Random House Dictionary, definition 1: one, a, an, or some; one or more without speci-

fication or identification. **This is scary.** There are no quantifications or definitions of what causes or what is considered a surface disturbance. Is just walking on the earth considered any surface disturbance? Major surface disturbance is defined in the new rules as "mechanized earth moving equipment such as bulldozers or backhoes or the cutting of trees." **Sounds OK but read on!**

Information in the August '04 issue of ICMJ's Prospecting and Mining Journal points this out: **A memo, dated May 24, 2004, from Regional Forester, Jack Blackwell instructs Region 5 California Forest Supervisors that (all of California is Region 5): A suction dredge is to be considered mechanized earth moving equipment. (Ed/pub comment: Suction dredging is a sub-surface under water activity.)** It further directs Forest Supervisors to consider camping, equipment storage, campfires and other ancillary items connected with mining in determining if there is a **significant**, again not quantified or defined but purely subjective, surface disturbance, thus requiring a POO. (Could require reclamation bonding) This memo pre-dates our Claim Manager notice of closure, July 1, 2004, of the Salmon by about a month. Just enough time to circulate it and put it into affect. The new rule was published in the Federal Register July 9, 2004. The new rule took affect August 9, 2004.

As of this writing it is not fully known what all of the ramifications,

to us UPI , other clubs and small-scale miners, as a result of the rule re-writing may turn out to be. However from the bit of information provided above it sure doesn't look pretty.

Due to holding back the newsletter this has not arrived into your hands in time for you to respond to the FS about the rule change. 9/7/04 was the response deadline. However you can still take up a letter writing regimen and let all of your elected officials know where you stand on the issue. You can also direct funds to PLP for litigation costs or perhaps contact the Mountain States legal Foundation and invite them to get involved.

Yes this, small-scale mining, is supposed to be fun. Something that individuals,

family and friends can enjoy. None-the-less there are those governmental agencies, and individuals within them that loose sight of what they are supposed to be doing and sort of take the law into their own hands and wreak havoc on a working system. It is believed that this is the case with this 36 CFR 228 re-write issue. When things such as this take place if you want to continue with your fun without undue hardships you must take responsibility and help correct the problem.

As more on this issue develops this office will keep you posted by way of this medium, unless it becomes and urgent issue and we will e-mail it out. If you want to be in this loop, and you should be, please advise Membership, Linda Doyle of your e-mail address.



Do you notice all of the "surface disturbance" caused to the area surrounding these two pieces of "mechanized earth moving equipment", two suction dredges? "Targets of Blackwell." They have been working this area for several days. I see none. Do you?



The old miner sez: What every happen to da daz o common sense? Me thinks there be to meny expsurts wit college degerees an no real trainin ruinin things!

CLAIM JUMPING RESOLVED

The alleged claim jumping at Bull Creek has been solved. I reported to UPI what had been reported to me by one of the Sierra Camping & Prospecting Club Board Members.

There was no claim jumping and both club's members are following the rules. A member of both clubs, Jim Lewis, who lives in Somis, CA read the UPI newsletter and called me this week to say that he was the person who was on the claim. Everything he told me as to the dredging location and dates fit with what I was told. He apologized for causing the controversy and said that he would call Dan Short to stop any hard feelings. I feel that this matter is resolved.

Perhaps the letter can have a positive effect if it reminds all miners to respect the rules and honor code that we try to adhere to.

Roy A. Dunston
President
SC&PC



The matter is resolved and there are no hard feelings either way. We both clubs just need to be cognizant of the line that separates the two clubs claims. Also as there is a number of cases where a person does in fact belong to each of the clubs, that person really needs know which hat he wearing at the time if any question(s) should arise.

May you find gold in your pan!!!

(Continued from page 2) The Outing Continued

produce, hit by everybody and their brother over the years, what do the less accessible areas have in store?

Well it is getting to be a habit. What is the habit? Not a habit of my choice, none-the-less it keeps happening. For the Twain outing, there was work related stuff that prevented me from spending at least the weekend at the outing. It was a day trip for me, six plus hours of driving. This outing, Genesee, work related stuff again popped its head up and says no; you can't take Friday all day off. OK, half a day and meet up with Merv Hemp around 3:00 pm for the raffle prizes and then head out. That didn't work out either. Merv got hung up and we weren't able to connect up until after six. Oh well! Off we go to the woods in the morning.

I get to the original Genesee site and not nary a body around. What the heck is going on here any way? I drive down just to be sure and yep, nobody. Knowing the Eastland's said they were going up early and knowing where they said they would be I headed upstream. About half of the members attending the outing were at this site. It looked a little like a tight random packed sardine can. I stopped and chatted for a while and then continued on up stream to the crossing. There the approximate other half of the attendees were camped and set up for mining. There was plenty of room there for camping, but I opted, the loner I tend to be, to camp at the original site for the potty facilities. Both of the potties were delivered there anticipating that that would be where most of the group would be camping. Not so. This'll have to be worked on next year.

My camp being mostly set up I headed out to get pictures before potluck and raffle time came about. There were some nice quantities of Au found by several members. A lot of the Au had Hg, mercury, attached to it. The environmentalists, the USFS and all that think mining is detrimental should be jumping up and down and fighting for our right to mine. We are removing a toxin from the stream when we take the gold. We are protecting the "Red Legged Frog" so that the other species indigenous to the stream and area that feed on the "frog" don't get a build up of Hg in their systems and start going endangered. We are helping the fish in the stream and helping those that fish the stream and eat the fish from ingesting tainted fish and tainting themselves. Shucks you can even make money with the mercury if you retort it off and sell it to a chemical supply house. Yeah the opposition should be rooting us on for cleaning up the environment, they should be opening areas up for us rather than trying to close us down.

Back to pictures: I got some good pictures of the camping sites and of Au and of members mining and or setting up for mining. I also got some nice pictures of the site in general. Then potluck and raffle time came rolling in. So duty bound, pictures of both. 35 members and guests were present. The raffle was good and resulted in \$318.00 to go to PLP, Public Lands for the People Inc., who have file suit against the Forest Service for some unnecessary rules changes that can be very detrimental to our and numerous other clubs and individuals mining activities. PLP is a 501 C(3) non-profit corporation dedicated to the public's use of

public lands. As a non-profit your donations in support of our cause should be tax deductible. Please send them a personal donation in support of fighting for our/your use of the public lands as we do and as permitted by law. Just joining, \$25.00 will help.

A relatively new member, Chuck Morris, addressed the group at the potluck and thanked them for making UPI such a good club. He also gave a brief story on how he found out about the Salmon River closure, he is a member, or was, of another club up there that has Salmon River claims. In short it was a long drive to find out that all that could be done was panning or mossaing.

Sunday morning was a leisurely get up; fix the coffee and a big breakfast. Then it was off to work. Out taking more pictures, talking to members and exploring the claim. Chets claim markings are spot on as close as can be determined without a GPS unit. The signs are where they should be. I spotted several areas toward the upper end of the claim that look to be good areas to get to the elusive yellow metal. I told a couple of members that dredge what I had seen.

What I had been seeing and hearing about Au being found is encouraging. I did a little investigation of feeders and those of you into exploring, panning and crevicing might do well to check them out. I didn't see any claim markers, but be sure to keep your eyes open if you venture off exploring. We don't want to be on other people's claims.

Well folks that was the outing.



Top: Everybody set up for the potluck and raffle at the original site. **Above:** The folks lined up at the potluck tables. The tamale pie was fantastic, and it was done in the woods. The potluck/raffle was held at the original site as that was where the potties were set up. We didn't want to have any mess in the woods.

A Very Brief UPI History!

(All dates, references and historical information are to the Jerry Bowen History of UPI ©)

United Prospectors Inc. (UPI) is now 57 years old. Jack Douglas and a few other miners in the small community of Dutch Flat California conceived the idea of United Prospectors early in 1947. This was about 99 years after the discovery of gold at Sutters Mill, which was the birth of the Great Gold Rush of California. At this conception it was decided that the club was to be run by the members, not by the few that proposed the idea. Yes there was a governing authority to speak but it was not the founders. It was decided so that the few did not run the Club that there would be 100 charter members, which would govern the Club activities.

The original intentions in the formation of the club were that the club would be a voice and an educational facility for those that earned their living prospecting and mining. This was their primary objective. As a secondary objective the club would assist small-scale miners more in the classification as recreational mining.

From reading the Bowen history of the club, Jerry Bowen is my predecessor; one needs to assume that there were land use/mining issues back then just as there are now. Being that there was most likely at this time one-tenth the population in the state of California, than there is now, and probably the entire country would come under this general statement: the issues may not have been as drastic as the current Forest Service (FS) rule change, 36 CFR 228. None-the-less there was obviously a need to form an alliance because of issues at the time affecting those that earned their living mining, and those that choose to dabble or just try their luck. From Bowen's History: "Politics then, as is true today, reflected some interesting parallels. It's like watching history repeat itself as you read through the old United Prospectors books."

Within one years time United Prospectors had a membership of "250 miners and would be miners." The bulk of the membership was in California, but was spreading across the United States. Jack Douglas attributed the rapid rise in membership to the "kind of people" that makes up the membership. One has to believe that the membership at that time was composed some pretty rugged individuals that were determined not to loose their rights to earn a living mining public land as set forth by the Mining Law of 1872. Jack believed that the make up of the membership would make United Prospectors "an outstanding organization in its field." During the early years UPI's membership consisted of professionals and those that earned their living mining. The early issues of the publications were full of educational information on mining and prospecting, plans for mining equipment, stories of members' field experiences and stories of lost treasure. The newsletter was by the members and their contributions.

United Prospectors was incorporated in November of 1949, thus United Prospectors Inc. With the change to a corporation the necessary corporate structure was applied to the club. Jack Douglas was elected President and there were six other Officers/Directors. The officers and directors were from California, Washington, Oregon and Illinois thus demonstrating the breadth of the membership. The corporate structure carries through today, as it must. Now as back then the membership is invited to be a voice in the running of the Club.

Early on UPI had no claims. They leased claims that had the potential to produce and that had ample space for holding outings. Some outings drew upwards of 500 people. UPI acquired its first claim in 1981. Haskell Berry donated his Digger 1 claim to the club. This is now one of the Greenhorn UPI claims. Today UPI has 18 claims for a total of over 1200 acres. Most of the sites will support upwards of 80 for an outing, though rarely are there that many present.

In 1982 UPI changed its priorities from professional min-

ing interests to small-scale, recreational interests. The Club slowly added claims to its portfolio. In 2000 the idea of adding variety to the claims was brought up. The idea was to start acquiring claims that wouldn't necessarily support large outings, but that would hold more promise for finding more gold for those wanting to go the extra mile and perhaps do some hiking to get to it. These types of claims would appeal to those that were not into the big campout scenario and would attract members of that mind set. Through this change and getting our page in cyberspace the club has worked the membership up from a barely sustainable approximate membership, year 2000, of 300 to a steady 425 plus and slowly growing.

Throughout the history of the club there have been problems with regulatory agencies and the environmental set. These situations only become worse as the demand on the public land increases due to population increases and the increase of mobility of the general population, and the demand for recreation out of the city environment. Problems have also increased with the increase of environmental extremism.

Also throughout the history of UPI as now there has been the problem of getting members involved in the operations of the club. The Bowen History indicates several times where Officers and Directors have resigned after several years at their respective positions, as there were no members willing to step up and replace them or help. This put more burden on those in office to keep the newsletter going out and tending to the ongoing functions necessary to keeping a dynamic operation going. At times there were cases of one person wearing several of the most important hats of the Club structure. Had not someone eventually stepped up to the plate the Club may have folded, it came close a couple of times. This was due to member non-involvement. More now than ever in the history of the Club, with the continual pressure from regulatory agencies and environmentalists, **Member involvement is needed. As a Club we now have a lot more to lose than the Club has ever had. Step up to the plate now and become a part of the legacy of UPI.**



UPI at Alpha Pit in '99



Bull Creek 2004- - - Small-scale miners

(Continued from page 11)

SMALL-SCALE MINERS ACTIVITIES QUESTIONED BY FS

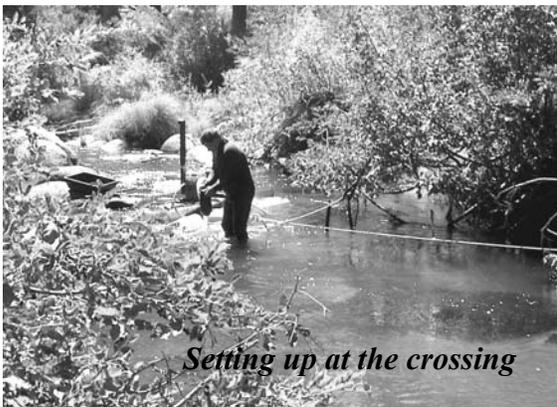
You are receiving this information after the closure of the comment period that the Forest Service (FS) allowed on their re-writing of 36 CFR 228 has closed. This doesn't mean that the issue is closed in any respect. It is still an issue and an issue that you as members need to get involved in. All of you received your issue # 268 of the newsletter with a request for response to the FS. An additional advisory and request for help in listed ways went out to all members with known e-mail addresses, 232, on 8/25. The UPI Board heartily thanks all of you that have responded and taken personal responsibility in helping UPI, all similar clubs, and all small-scale miners to try and remove the yoke that the FS has put on our backs affecting the small-scale miner. This issue is not over by a long shot.

PLP, Public Lands for the People have taken the bull by the horns and have filed a lawsuit against the Forest Service. Again this doesn't imply that this issue is over or handled in any way. Filing suit is just a start. Lawsuits cost money. Lawsuits require people backing them supplying information, helping search for precedence, in this case influencing your/our elected officials with letters etc. standing for our rights and how the FS is trying to change them. The rewriting of the rule is directed solely at mining activities, and may even qualify for a civil rights issue as being discriminatory, who knows what will happen.

In the past as your Editor-in-Chief /Publisher I have tried to keep you informed of various activities perhaps contributing to losses of use/ rights of the National Forests to the owner of the forests, the taxpayer. I have written or have been supplied articles for the newsletter on mining rights issues, closure issues, fee for use issues, and various other questionable activities that appeared as detrimental toward our survival as forest/public land users, and as Citizens and taxpayers of the country that we live in.

In some cases I have been overt about the particular issue being addressed. Having to pay fees to just walk in the forest we own, and a picture of FS personnel looking more like SWAT team members than Forest Rangers.

Some hits were taken for that and perhaps rightfully so. In other cases I have been subtle in the approach to the issue being addressed. In all cases it has been my intention to catch your attention so



Setting up at the crossing

that you may contribute, to take personal action in helping in defeating the perhaps threatening issue at hand.

The Club Board of Directors wants to get you as members of the Club involved in running the Club, as well as standing up for our rights as defined by law. The Board by itself can only do so much. The issues presented requires not only Club members personal involvement, but the involvement of all affected parties involving Forest use issues and or potential losses. In almost all cases the issues as put forth have not been too political or too radical. This is a fun, family club and we don't want to raise hackles, though from time to time some were. I agree this is supposed to be a fun family thing. However on the flip side I have

come to the conclusion that if I am withholding information or compromising in analysis or the presentation of vital information important to our endeavors as a group I am doing a disservice to the Club membership and other forest users. There comes a point where activities by bureaucrats and extreme environmental people/groups directly threaten that which we hold dear. The re-writing of 36 CFR 228 by the FS appears to fall in this category. This FS action calls for a full confront of this FS activity. The FS appears as to having defined itself as contra our group, other similar groups and all small-scale miners. Remember the fee for use article a few issues back? What is going on? It appears that they are out of control and want to control everything.

Higher authorities than myself and other Board Members say that the FS is playing hardball because they got their hands slapped by a judge that said that it was OK for claimants in the process of working their claim to live (camp) on their claim. He further said they could live (camp) on their claim while in the process of mining it even if it extends beyond the general public limit of 14 days. Thus the re-writing of the 36 CFR 228 rule to get around the judges ruling on the case. The rewritten rule now requires that if a mere scratch of the soil be made in connection with a mining claim that a NOI be filed. Digging a fire pit and clearing the required FS safety perimeter as required, when connected with mining could be considered a "significant disturbance" and require a POO. Will this rule re-write affect hunters, fishers, hikers, shooters, or just plain campers as such? This is a democracy and all users should be treated alike. When the opposition is playing hardball you don't play patty-cake, you do your best to play better hardball.

Here I am sitting here and proof reading this and this thought flashes across my mind. How many of you are hunters or just plain firearms owners? A few I know, and perhaps more than I know. As a firearms owner do you pay attention to the constant barrage of senseless laws and rules pertaining to fire arms? Do you belong to and support the NRA? Do you write your representatives letting them know your thoughts? The thought was this: The re-writing of 36 CFR 228 will do absolutely nothing to stop those miners that do not play by the rules. The re-writing only punishes those that do play by the rules. This is the same thing that so many pieces of intended legislation, and legislation that becomes law does to law abiding people owning firearms. It punishes the law abiding and in no way serves as a deterrent to the criminal. Criminals cannot buy firearms. How do they get them? They purchase them through the black market, and by stealing them. In principle is there any difference? We as a Club play by the rules, but now the rules have been changed.

Myself, and others I am sure a lot of others, look forward at being able to go out in the forest and camp, do some prospecting and digging for gold as a survival activity. We are away from all of the crap and crime that goes on in the cities and towns, ah, rest and relaxation, quite, no cops flying the skies searching for perps and no sirens, piece of mind found. Not to mention just being out there enjoying Mother Nature and the camaraderie of the Club members.

The current state of affairs with respect to the rules change is that everything is not peachy keen. There is many ways this thing could go,



we have to stick it out and do our best to make the thing turn our way. In the past there hasn't been great success getting members to step to the plate when the Board of Directors ask for help, or ask members to run for an office or directorship. We are now asking you again to step up to the plate. Now may be one of the most important times for you to do



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this. You as a Club member, we as a Club and all other small-scale miners have a lot at stake in this particular rule change. What are we going to do to help change it?

Following is an edited printing of 36 CFR 228. The entire rewritten rule is 100% intact. The editing involved removal of a lot of the preamble rambling, dates etc. taking up unnecessary space in this publication.

[Federal Register: July 9, 2004 (Volume 69, Number 131)]
[Rules and Regulations]
[Page 41428-41431]
From the Federal Register Online via GPO Access [wais.access.gpo.gov]
[DOCID:fr09jy04-27]
DEPARTMENT OF AGRICULTURE
Forest Service
36 CFR Part 228
RIN 0596-AC17

Clarification as to When a Notice of Intent and/or Plan of Operations Is Needed for Locatable Mineral Operations on National Forest System Lands

AGENCY: Forest Service, USDA.

ACTION: Interim rule; request for comments.

SUMMARY: This interim rule sets forth technical amendments which clarify the regulations regarding the requirement for filing a notice of intent or a plan of operations for locatable mineral operations on National Forest System lands. The Forest Service invites written comments on this interim rule.

DATES: This interim rule is effective August 9, 2004. Comments on this interim rule must be received in writing by September 7, 2004..

FOR FURTHER INFORMATION CONTACT: Sam Hotchkiss, Minerals and Geology Management Staff, (703) 605-4852.

SUPPLEMENTARY INFORMATION:

Public Notification and Request for Comments

The Department will make every effort to ensure locatable mineral operators, locatable mineral related organizations and associations, and other interested parties are informed of the availability of the interim rule. In order to ensure the widest distribution, the interim rule shall be distributed by paper copy mailings, e-mail notices, posting on the Forest Service Minerals and Geology Management Staff Internet Web site, as well as published notices in local newspapers. Copies of the interim rule will also be provided to the appropriate Congressional Committee members.

Background and Need for Interim Rule

Since 1974, the Forest Service has applied the regulations at 36 CFR part 228, subpart A, to minimize adverse environmental impacts from mineral operations by requiring mineral operators to file proposed plans of operations for mineral operations which the District Ranger determines will likely cause significant surface disturbance to National Forest System (NFS) lands. These regulated operations may include the construction of storage facilities, mills, and mill buildings; placement of trailers or other personal equipment; residential occupancy and use; storage of vehicles and equipment;

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excavation of holes, trenches, and pits by non-mechanized procedures; diversion of water; use of sluice boxes and portable devices for separating gold from sediments; off highway vehicle use; road and bridge construction; handling and disposal of mine and other wastes; and signing and fencing to restrict public use of the National Forest area affected by mining. The Forest Service and the courts have consistently required locatable mineral operators to obtain approval of a plan of operations whenever such operations would likely cause a significant surface disturbance whether or not those operations would always involve mecha-

nized earth moving equipment or the cutting of trees. However, last year a District Court departed from this consistent interpretation and ruled that 36 CFR 228.4 (a)(2)(iii) allows a mining operation to occur



This is UPI!

on NFS lands without prior notification to the Forest Service or Forest Service approval when the operation, irrespective of the impact of its surface disturbing activities, does not involve mechanized earthmoving equipment or the cutting of trees. This unprecedented ruling severely restricts the ability of the Forest Service to regulate miners engaged in surface disturbing operations which have serious environmental impacts although they do not involve mechanized earth moving equipment or the cutting of trees. Moreover, this new interpretation of 36 CFR 228.4 (a)(2)(iii), if left unclarified, will result in significant and unnecessary impacts to NFS lands and resources, including impacts to water quality, visual quality, natural features, species listed under the Endangered Species Act, and conflicts with other National Forest users.

The technical changes contained in this interim rule, for which prior notice and opportunity for public comment is not legally required, are designed to prevent confusion as to the proper interpretation of the regulations. Specifically, the technical amendments clarify the longstanding requirement that a notice of intent and/or plan of operations is mandatory whenever the District Ranger determines that there may be significant surface disturbance to NFS lands and resources, whether or not the operation involves the cutting of trees or use of mechanized earth moving equipment.

Clarification for Submitting a Notice of Intent and a Plan of Operations

The technical amendments to Sec. 228.4(a) clarify the requirement that a notice of intent is mandatory in any situation in which a mining operation causes a surface disturbance, regardless of whether that disturbance is caused by mechanized earth moving equipment or the removal of timber. The technical amendments to Sec. 228.4(a) also seek to eliminate any possible confusion by more specifically addressing the issue of what level of operation requires a notice of intent and what level of operation requires a plan of operations by directing a mining operator to submit a notice of intent to operate when the proposed operation might cause a disturbance to surface resources. After a notice of intent is submitted, the District Ranger determines whether the proposed operations will likely cause a significant disturbance of surface resources. If the determination is that the proposal will likely cause a significant disturbance of surface resources, the operator is notified that a plan of operations is required.

Exemption From Notice and Comment

Prior notice and opportunity for public comment is not required to promulgate technical amendments to a regulation. Moreover, even if the

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changes to 36 CFR 228.4(a) adopted herein were not technical amendments to that provision, the Administrative Procedure Act (the "APA") allows agencies to promulgate rules without notice and comment when an agency, for good cause, finds that notice and public comment are "impracticable, unnecessary, or contrary to the public interest." (5 U.S.C. 553(b)(3)(B)). Furthermore, the APA exempts certain rulemakings from its notice and comment requirements, including rulemakings involving "public property" (5 U.S.C. 553(a)(2)).

In 1971, Secretary of Agriculture Hardin announced a voluntary partial waiver from the APA notice and comment rulemaking exemptions. (July 24, 1971; 36 FR 13804). Thus, USDA agencies proposing rules generally provide notice and an opportunity for public comment on proposed rules. However, the Hardin policy permits agencies to publish final rules without prior notice and opportunity for public comment when an agency finds for good cause that notice and comment procedures would be impracticable, unnecessary, or contrary to the public interest. The courts have recognized this good cause exception of the Hardin policy and have indicated that since the publication requirement was adopted voluntarily, the Secretary should be afforded "more latitude" in making a good cause determination. See *Alcaraz v. Block*, 746 F.2d 593, 612 (9th Cir. 1984).

To the extent that 5 U.S.C. 553 applies to this interim rule, good cause exists to exempt this rulemaking from advance notice and comment. (5 U.S.C. 553(b)(B) and 553(d)(3)). (Ed/Pub note: This is the justifications portion, for this information please reread *justifications on page 9, this is for space saving.*) For the Under these circumstances, the Department has determined that prior notice and opportunity for public comment are not practicable and are contrary to the public interest.

Comments received on this interim rule will be considered in adoption of a final rule, notice of which will be published in the Federal Register. The final rule will include a response to comments received and identify any revisions made to the rule as a result of the comments.

Regulatory Impact

This interim rule has been reviewed under USDA procedures and Executive Order 12866 on Regulatory Planning and Review. It has been determined that this interim rule is not significant. It will not have an annual effect of \$100 million or more on the economy nor adversely affect productivity, competition, jobs, the environment, public health or safety, nor State or local governments. This interim rule would not interfere with an action taken or planned by another agency nor raise new legal or policy issues. Finally, this action will not alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and



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obligations of recipients of such programs.

Moreover, this interim rule has been considered in light of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), and it has been determined that this action will not have a significant economic impact on a substantial number of small entities as defined by that act. Therefore, a regulatory flexibility analysis is not required.

Environmental Impacts

This interim rule more clearly establishes the criteria for determining

when a notice of intent to operate or a plan of operations should be submitted by the operator. Section 31.1b of Forest Service Handbook 1909.15 (57 FR 43168; September 18, 1992) excludes from documentation in an environmental assessment or impact statement "rules, regulations, or policies to establish Service-wide administrative procedures, program processes, or instruction." This interim rule clearly falls within this category of actions and no extraordinary circumstances exist which would require preparation of an environmental assessment or an environmental impact statement.

Energy Effects

This interim rule has been reviewed under Executive Order 13211 of May 18, 2001, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use." It has been determined that this interim rule does not constitute a significant energy action as defined in the Executive Order.

Controlling Paperwork Burdens on the Public

This interim rule does not contain any new record keeping or reporting requirements or other information collection requirements as defined in 5 CFR part 1320 that are not already required by law or not already approved for use. Accordingly, the review provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.) and its implementing regulations at 5 CFR part 1320 do not apply.

Federalism

The agency has considered this interim rule under the requirements of Executive Order 13132, Federalism, and Executive Order 12875, Government Partnerships. The agency has made a preliminary assessment that the interim rule conforms with the federalism principles set out in these Executive orders; would not impose any compliance costs on the States; and would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Based on comments received on this interim rule, the agency will consider if any additional consultations will be needed with the State and local governments prior to adopting a final rule.

Consultation and Coordination With Indian Tribal Governments

This interim rule does not have tribal implications as defined by Executive Order 13175, Consultation and Coordination With Indian Tribal Governments, and, therefore, advance consultation with tribes is not required.

No Takings Implications

This interim rule has been analyzed in accordance with the principles and criteria contained in Executive Order 12630. It has been determined that the interim rule does not pose the risk of a taking of private property.

Civil Justice Reform

This interim rule has been reviewed under Executive Order 12988 on civil justice reform. If this interim rule were adopted, (1) all State and local laws and regulations that are in conflict with this interim proposed rule or that impedes its full implementation would be preempted; (2) no retroactive effect would be given to this interim proposed rule; and (3) it would not require administrative proceedings before parties may file suit in court challenging its provisions.

Unfunded Mandates

Pursuant to title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538), which the President signed into law on March 22, 1995, the agency has assessed the effects of this interim rule on State, local, and tribal governments and the private sector. This interim rule would not compel the expenditure of \$100 million or more by any State, local, or tribal government or anyone in the private sector. Therefore, a statement under section 202 of the act would not be required.

List of Subjects in 36 CFR Part 228

Environmental protection, Mines, National forests, Oil and gas exploration, Public lands--mineral resources, Public lands--rights-of-way, Reporting and record keeping requirements, Surety bonds, Wilderness areas.

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(Continued on page 15)

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Therefore, for the reasons set forth in the preamble, amend part 228 of title 36 of the Code of Federal Regulations as follows:

PART 228--MINERALS

Subpart A--Locatable Minerals

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1. The authority citation for part 228 continues to read as follows:

Authority: 30 Stat. 35 and 36, as amended (16 U.S.C. 478, 551); 41 Stat. 437, as amended sec. 5102(d), 101 Stat. 1330-256 (30 U.S.C. 226); 61 Stat. 681, as amended (30 U.S.C. 601); 61 Stat. 914, as amended (30 U.S.C. 352); 69 Stat. 368, as amended (30 U.S.C. 611); and 94 Stat. 2400.

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2. Revise Sec. 228.4(a) to read as follows:

Sec. 228.4 Plan of operations--notice of intent--requirements.

(a) If the District Ranger determines that any operation is causing or will likely cause significant disturbance of surface resources, the operator shall submit a proposed plan of operations to the District Ranger.

(1) Unless the District Ranger determines that an operation is causing or will likely cause a significant disturbance of surface resources, the requirements to submit a plan of operations shall not apply:

(i) To operations which will be limited to the use of vehicles on existing public roads or roads used and maintained for National Forest purposes;

(ii) To individuals desiring to search for and occasionally remove small mineral samples or specimens;

(iii) To prospecting and sampling which will not involve removal of more than a reasonable amount of mineral deposit for analysis and study;

(iv) To marking and monumenting a mining claim; or

(v) To subsurface operations.

(2) Except as provided in this paragraph, a notice of intent to operate is required from any person proposing to conduct operations which might cause disturbance of surface resources. Such notice of intent shall be submitted to the District Ranger having jurisdiction over the area in which the operations will be conducted. Each notice of intent to operate shall provide information sufficient to identify the area involved, the nature of the proposed operations, the route of access to the area of operations, and the method of transport. If a notice of intent is filed, the District Ranger will, within 15 days of receipt thereof, notify the operator whether a plan of operations is required. A notice of intent need not be filed:

(i) Where a plan of operations is submitted for approval in lieu thereof;

(ii) For operations excepted in paragraph (a)(1) of this section from the requirement to file a plan of operations; or

[[Page 41431]]

(iii) For operations which will not involve the use of mechanized earth-moving equipment such as bulldozers or backhoes or the cutting of trees, unless those operations otherwise might cause a disturbance of surface resources.

* * * *

Dated: June 30, 2004.

Mark Rey,
Under Secretary, Natural Resources and Environment.
[FR Doc. 04-15483 Filed 7-8-04; 8:45 am]

BILLING CODE 3410-11-P

Who is Mark Rey?

While browsing through the August 2001 issue of ICMJ I ran across an interesting article. "Former timber lobbyist named to oversee Forest Service." Mark Rey was nominated by President Bush to the Agriculture department.

Among Reys credentials listed in the ICMJ article were: A former top timber industry lobbyist, who fought the Clinton administration in trying to shut down logging on public land. One of the foremost experts in protection and management of forests.

At the time of the ICMJ article, referring to the Forest Service, "The agency is working on revisions to a Clinton administration ban on road construction and most logging and mining on a third of all national forest land."

The indications perceived from reading the article were that Rey would most likely be an ally of pro public land users large and small. It appears from today's perceptions that he is still allied with big business public land users and to heck with us small guys. It appears that he/they are trying to lock us out of the forest. Could that be the intention? Lock the small-scale miners out and save it for some other bigger interest. This appears to be the bent of the current FS regulation, which appears to fly in the face of the Presidential Order of 08/26/04. (*See page 17 for more.*)

(Continued from page 4) **The new claim** - - - be "Virgin."

Here is the good news, "WE ALL FOUND GOLD!" Nice gold flakes, they have been described as "oatmeal flakes". Pat said "Oh The Possibilities"! Yes, we got a good claim. Miles of creek bed that seem to be "Virgin"!

UPI Genesee outing! This was a good outing - At least 35 members present! The Pot Luck dinner was excellent! Don, Bill, Brenda, Dennis and Patty did a great job with the raffle. There were several new members present.

We arrived Tuesday evening, stayed until Sunday morning. We wanted to stay another week! Don't you wish you would had been there"? Wow! This is a memory! A great time, a time that money can't buy, a time of friendship, a time with UPI!

It's all in how you dig it!

Tom, Christa & Howard



Camping at Bull Creek!

June 2004 outing: They, the FS, can't take this away from us nor can they cite us for camping on our claim. This is an unimproved FS camping area open to all. Our claims are minimally a few hundred yards from this open public camping site in all directions.

More Respondents to Red Alert

In addition to Richard Owings response to the red alert, the following members have taken personal responsibility to help in this important matter: Paul Rupf, Gerald Hurt, Mike & Linda Doyle, Art & Lucy Apodaca, Leland Brown, Bill Reboin and Michael and Gail McCann.

I Personally thank you for the birthday present and UPI sincerely thanks you for your interest and help in this grave matter. I only wished that there would have been more response. This is not just a UPI matter it is a nationwide matter.



The old miner sez: By golly by g. Da FS shur noz howta mess up a folks dayz don't they. Be shur ta be at da outtin to join in on da discussin bout the sitchuation!

(Continued from page 15)

THE Following are articles of information regarding the activities going on with respect to the FS mining rule change. United Prospectors Inc. has a Club membership with PLP, Public Lands for the People.

Those of you that have personal claims that are being affected by this rules change should consider joining PLP. Please read the following articles for further information so that you may make a decision.

NEWS FROM PLP

HOBBS MEMO, PRESIDENT OF PLP

September 10, 2004

On July 9, 2004 Under Secretary of the Department of Agriculture, Mark Rey, published the Interim Rule@ (69 FR 41428) (2004 WL 1530411 (F.R.)) The Interim Rule, allegedly, interprets 36 CFR 228.4 but, in fact, does substantially more than that. By its own terms, the Interim Rule became effective on August 9, 2004; and without regard to public comments. Public comments were, however, received until September 8, 2004.

36 CFR 228.4 is a Forest Service Mining Regulation which, until the Interim Rule, exempted small miners from having to submit either a notice of intent or a plan of operations for their small mining operations. Under the Interim Rule, every small miner, and for every mining operation, must submit either a notice of intent or a plan of operation, before mining.

The district ranger is required to review each notice of intent and make an informed determination of significance. If the district ranger determines that the noticed mining operation is likely to cause significant surface disturbance, a plan of operation is required. Forest Service, (Jack Blackwell, Regional Forester for Region 5), has formally directed his supervisors to require a plan of operation for every dredging operation. Public Lands for the People, Inc., (PLP), believes Blackwell's directive proves that Forest Service intends to require a plan of operation for every mining operation, no matter how small. For these reasons, PLP is adamantly opposed to the Interim Rule; and, has retained legal counsel, David Young, to oppose it.

P u b l i c
Lands for the People, Inc. (PLP), (who can be reached at 1-909-889-3039 or <www.plp2.org>), is a small non-profit organization. Many of its members, including its President, Jerry Hobbs, are owners and operators of small mining operations.

Thus far, PLP, (in its opposition of the Interim Rule), through and by its attorney, David Young, has: (1) submitted public comments opposing the emergency implementation of the Interim Rule; (2) appealed the emergency implementation of the Interim Rule; (3) petitioned the Secretary of the Interior, Gale Norton, to revoke the emergency implementation of the Interim Rule; (4) submitted two sets of comments opposing the Interim Rule; and (5) gave formal notice of Intent to sue, under the citizen-suit provision of the Endangered Species Act.

All in all, Mr. Young has outlined, in his papers, (75) separate causes

of action (counts). Each cause of action presents an independent violation of law or regulation for which the Interim Rule violated. These causes of action are too numerous to repeat here. They may, however, be retrieved from PLP's web site.



OPEN LETTER FROM HOBBS September 2004 JOINT EFFORT

Public Lands for the People is a 501 C-3 non-profit

organization that was set up to help protect the public from agency abuse and to keep public lands open for use. Recently we have obtained an attorney for the purpose of getting the Interim Rule of the Forest Service new 228.4 regulations overturned. There have been two sets of comments, a petition to repeal an appeal and a 60-day notice to sue on the interim regulations. We have been able to do this through the generosity of the mining community and businesses from all over the country.

PLP was instrumental in assisting the District Attorney in Sacramento in the recent win on the occupancy on a mining claim in the U.S. vs. Ronald O. Lex and Kenneth Waggener. We feel that this decision was the correct decision, however the Forest Service felt that it inhibited their powers to regulate and to abuse the public users of the land so they have decided to give themselves more control over the public and its use of the FS lands by changing their 36 CFR mining regulations.

It has now come to the attention from several small-scale miners and mining organizations that since the Interim Rule implementation on Aug 9th 2004 and prior, that there have been numerous violations of the rights of small-scale miners to operate or camp on their mining claims. The FS has demanded a Notice of Intent (NOI) to operate and or a Plan of Operation (POO) to operate from the miners in several of the forests. At least one citation has been issued for occupying a mining claim under 36 CFR 261, occupying a mining claim without the proper permit from the FS. This is most likely because of the new Interim Rule and is a direct violation by the FS against the court order from the U.S. vs. Ronald O. Lex and Kenneth Waggener.

PLP feels that it is most necessary to get involved in this type of abuse and would consider the direction of a lawsuit against the FS for the abuse in the form of a lawsuit for Declaratory Relief and a Restraining Order to stop them. In order to do that there are a few things that PLP will need to go forward with the lawsuit. First, an aggrieved party would have to be a member of Public Lands for the People, for those who may not be able to afford it there is assistance available to pay for those memberships (\$25.00). Another of those things that PLP would need would be a copy of the letter that the FS used to solicit that NOI or your verbal declaration of the verbal request for that NOI, and a copy of the NOI that you submitted to the FS, or a copy of the POO if it were submitted. We would also need a copy of the approval of the NOI or more important a copy of the denial of that NOI. In some cases we understand that a denial letter was sent back to the NOI applicant notifying them that a POO would be required instead of the NOI and it would take from 1 to 3 years to get that POO. This is the type of information that PLP would



Do you dig it?

(Continued on page 17)

(Continued from page 16)

need, along with any other information in which a small miner has that he might feel that there was FS abuse. The more of these documents that PLP receives the more apt we are to be successful in a court of law. That information can be sent to: PLP, 7194 Conejo Drive, San Bernardino, CA 92404.

The other thing that PLP would need to go forth with such a lawsuit is funding for the legal costs of such a lawsuit. PLP has a legal fund and any monies for this lawsuit would go directly to that legal fund. The donations would be sent to: PLP, 3700 Santa Carlotta, La Crescenta, CA 91214. If there is an overwhelming interest and support for this type of action from the mining community and others, PLP would be more than willing to go to the wall for the small scale miners. With that said, lets get this ball rolling ASAP and help ourselves to a victory!

Thank You All

Jerry Hobbs
President PLP

(Continued from page 5) MEMBERSHIP

Members up for renewal in Sept. and Oct.

- | | |
|---------------------|----------------------------|
| Don & Martha Jacobs | Steve Letlow |
| John and Lisa Ljuba | Tom Lutrel |
| Ray Malone | Aaron & Denise Matula |
| William McCarole | Doug & Victoria Piccolotti |
| John Pruett | Rudelf Reyes |
| Lester Romine | Terry Schoen |
| James Short | Michael Simoskevitz |
| Dennis Smith | William Sobo |
| Joseph Steiner | Rick Trevino |
| Pierce Leon Vaugh | Michael Vye |
| James West | |

Welcome aboard for a year of fun and camaraderie with UPI. It is really nice to see names of members I have met on the claims at the outings coming back for another year. We hope that those up for renewal will renew and continue on with the group.

There are some uncertainties in front of us with the FS rule change and we need numbers to help in the effort to get things running on an even keel again.

Thank you for sticking with us and helping to carry on the legacy of UPI.

Presidential Order

On August 26th President Bush signed an Executive Order, 13352, Facilitation of Cooperative Conservation. I have a copy of the order, but have opted to leave it out of the newsletter as there is already so much text.

I had Derald Smith do some research on it for authenticity and it is real. Derald contacted ICMJ and their reply was five pages of differing views from around the country on the order. From Scott Harn, the Editor for ICMJ. Scott's reply in part: "At first, the words "cooperative conservatism" set my alarm bells off."

"This is the part the enviros don't like:"

The bureaus were told they must "take appropriate account of and respect the interests of persons with ownership or other legally recognized interests in land and other natural resources." Reuters

The Bureaus being: Interior, Agriculture, Commerce, Defense and the EPA. The FS falls under Agriculture. This may work out nice for us with the current situation at hand.

Bull Creek, October 9 & 10
The Next Outing! Mining Notice

The next outing is at Bull Creek. We hope you are there as there are things to discuss.

Remember if you are to do any mining on the creek you must have a NOI or you could get your hands slapped hard with the current FS scenario taking place. Please see Chet Chastain's response to the question on what constitutes the need for a NOI at Bull Creek: "**The handbook contains the explanation approved by the board on the U/M/L Bull Creek UPI page. It is bold and underlined in my copy. When we discussed this it was decided that anything more than a pan and hand trowel was considered "mining" and therefore a NOI was necessary**".

OK, now it's time for some heavy reading!



The Ed/Pub caught in the act!

Below are some pics of past outings and some people you may not know or have seen for a while. Supplied by Don Scalise.



This may be Greenhorn



The lower middle pic is at the first Salmon River outing in 1999. The picture at the right is at the Moccasin Creek claim in 2000 as I recall.



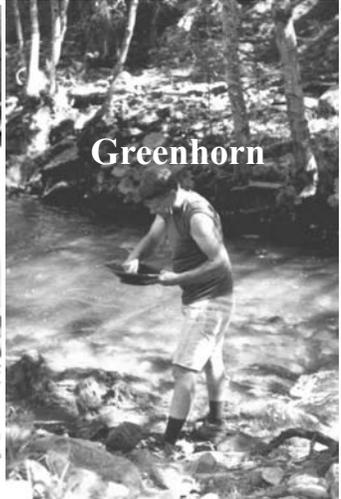
More heavy reading! Pics from the past.



Coulterville, 2000?



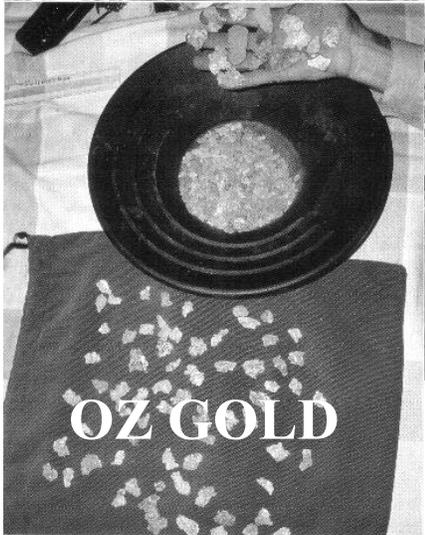
Above: Coulterville



Greenhorn



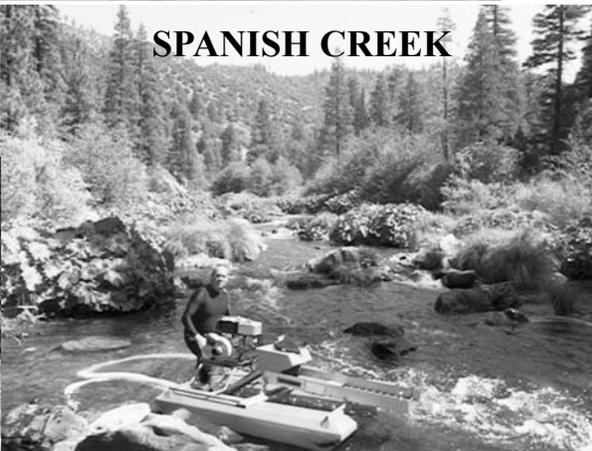
Genesee



OZ GOLD



OXBOW GOLD



SPANISH CREEK



Deep Canyon 2002?

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I hereby apply for membership/renewal with United Prospectors, Inc. ("United Prospectors"). I understand that United Prospectors and its agents do not provide goods or services for my activities including, for example, mining equipment or supplies, lodging, transportation, food services etc. United prospectors is not liable for any negligent or willful act or failure to act by providers of such goods or services during my activities. I acknowledge that there may be certain risks involved with activities as a member including, but not limited to, rugged or uneven terrain, uncertain or unpredictable river currents, physical exertion for which I am not prepared, other un-known forces of nature, high altitude, accident or illness without access to means of rapid evacuation or availability of medical supplies, the adequacy of medical attention once provided, or negligence on the part of United Prospectors. I HEREBY AGREE TO BE RESPONSIBLE FOR MY OWN WELFARE AND ACCEPT ANY AND ALL RISKS OF UNANTICIPATED EVENTS, ILLNESS, INJURY, EMOTIONAL TRAUMA OR DEATH. I acknowledge that the cost of United Prospectors memberships is based upon participants executing this Release of Liability. Therefore, as lawful consideration for being permitted to participate as a member, I hereby RELEASE AND DISCHARGE FOREVER UNITED PROSPECTORS FROM AND AGAINST ANY AND ALL LIABILITY ARISING FROM MY MEMBERSHIP OR MY ACTIVITIES AS A MEMBER. I agree that this release shall be legally binding upon me personally, all members of my family and all minors traveling with me, my heirs, successors, assigns and legal representatives, it being my intention to fully assume all the risk associated with my activities as a member and to release United Prospectors from any and all liabilities to the maximum extent permitted by law.

I HAVE READ AND FULLY UNDERSTAND THIS RELEASE AND MEMBERSHIP APPLICATION

SIGNATURE _____ DATE _____

Please mail this completed (signed and dated) application along with your check/money order to:

UPI Membership, C/O Linda Doyle
P. O. Box 1480
El Dorado, CA 95623