

The Loop



Lancaster, California

July 2016

Antelope Valley Treasure Hunter's Society

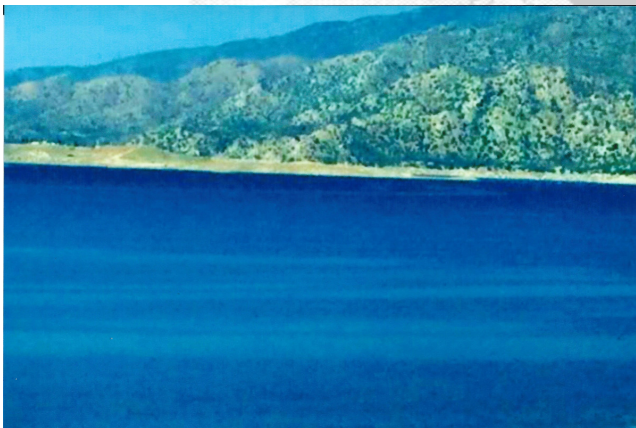
Volume 36 Issue 07

Meeting held 1st Monday of every month at 7:00 PM (unless otherwise noted in newsletter).

Prez Sayz, Don Duncan said he's not much of a writer, but will let me know when he has something to say. Meanwhile, I'll keep you updated with the activities.

From the Editor:

While I wasn't able to attend the June outing at Kern Park in Kernville, I had "reporters" standing by. CJ and Ray Qutoriano were there and said there was a good turnout, including Wes Weathers, Kirk Hansen, Jay and Linda Zeigler and Don Duncan. CJ said that she, Ray and Don hadn't found anything except coins and they weren't aware of anything special that the others may have found. So it looks like seven members were there—more than had signed up at the meeting. I hope everyone had a great time! And there is good news—the river and lake are UP! I guess the snow melt has contributed significantly to the local environment.



FYI, Due to the fact that Medrano's was already booked on our usual December outing/Christmas Party, the party will be held on **Saturday DECEMBER 3rd!** In order to have a meeting prior to the outing/party, we will have our **DECEMBER** meeting the **LAST MONDAY OF NOVEMBER!!!** This is November, 28th, the Monday

after Thanksgiving weekend. Robert Weaver confirmed that the Leisure Lakes Estates meeting hall is available *Jerry Balcer* on that date and he has booked it for us. PLEASE change your calendars with these modifications to our usual schedule. This all means we will have TWO meetings in November and NO meeting in December. This message will be reiterated in coming newsletters in order to ensure that EVERYONE will get the message!

One of our new members, Rich Brooks, left a note on the back of his membership form that may be of interest to some members:

"Interested parties that have a Whites Goldmaster II, I have info and modification plans for hot rodding machines to higher levels of performance! I do the work myself—nominal fee to club members! Contact me by phone."

Rich can be reached at 760-876-0339 if you are interested.

FYI, the Poker Run that Kim Holmes spoke to the club about has been combined with the PLP/MMAC Octoberfest at Sleepy Bear Mine for the weekend of Friday, Oct. 28—Monday, Oct. 31, 2016. The club will still be participating with a donation of \$200 in club apparel. This should be a fun weekend and DOES NOT compete with our October Chili Cookoff! Preregistration (through July 1) is \$40 going up to \$50 after July 1. Details can be found at

www.publiclandsforthepeople.org.

Call Walt Wegner at 818-652-3016 to register or to ask any questions.

This should be a fun event! I've always wanted to go to the Octoberfest, but it was always held on our October Chili-Cook-off weekend.

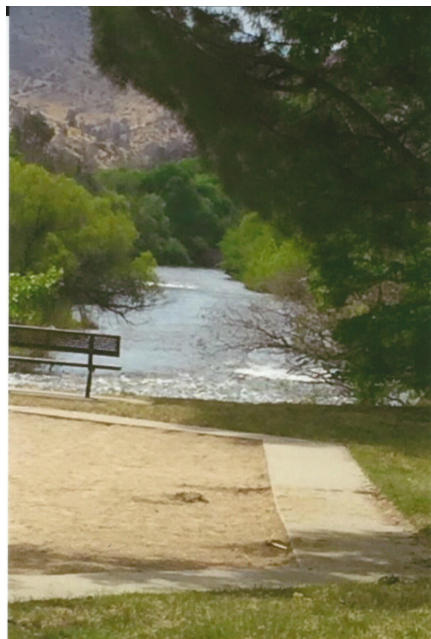
REMINDER: The July meeting falls on July 4th, so the meeting *Joe & JoAn Covey* has been postponed to Monday, July 11th. The July meeting will still be held at Castaic Lake on July 9.

Special Drawing: We will be holding the drawing for the Minelab Go-Pro 60 and accessories as well as a gold coin and silver round at the Chili Cookoff, if enough tix are sold! Get yours at meetings and outings, or request by mail. \$5 each or 6/\$25. Otherwise, it will be held at the Christmas Party. Flyer to follow.

FYI, a little while ago, Steve Howard and Dave Hoffman took some visitors, Chris and Becky Beck, from Washington State to our claims. They wanted to pay him for gas, but he continued to refuse the payment. So instead, they donated a homemade PVC/Bucket Trommel (from plans on the internet) to the club! Don Duncan will keep it in the storage shed at Leisure Lakes Resort. Anyone interested in using it can contact Don (661-478-2409) to borrow it.



Kern River flowing nicely at the June 2016 Outing.



Month	Meeting Date	Outing Date	Location	Notes
January	1/04/2016	1/09/2016	Ventura Harbor Village	BYOF
February	2/1/2016	2/6/2016	Zuma Beach	Club food/potluck (Hunt?)
March	3/07/2016	3/12/2016	Lovetta's Mystery Hunt? Lancaster City Park	Club food—Costco pizza/potluck
April	4/04/2016	4/09/2016	TBD Relic Hunt	BYOF
May	5/02/2016	5/07/2015	Map Hunt—Lancaster City Park	Club food (breakfast) (Hunt)
June	6/06/2016	6/11/2015	Kernville park	Club-hot dogs/potluck
July	7/11/2016	7/09/2016	Castaic Lake (lower)	BYOF
August	8/01/2016	8/6/2016	Silverwood Lake	BYOF
September	9/12/2016	9/09/2016	Cajon Creek (sluicing/prospecting)	BYOF
October	10/03/2016	10/08-10/2016	Chili Cookoff—Rocky Road	Chili/potluck (Hunt 1 free, 1 paid)
November	11/07/20156	11/12/2016	AVT claim off 395	BYOF
December	11/28/2016	12/03/2016	Christmas Party	Medrano's Mexican Restaurant

Dredgers defend mining rights in California Supreme Court

Author: [Brad Jones](#) Tuesday, June 14, 2016



Categories: [From Gold Prospectors magazine](#)

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People v. Rinehart: A NEWS ANALYSIS

Dredgers defend mining rights in California Supreme Court

By Brad Jones

Brandon Rinehart's lawyer may have said it best when he told the Supreme Court of California that the state's ban on suction dredging is like "giving the finger" to federal mining law.

Lawyers for the state and mining groups faced off recently in California Supreme Court in the *People v. Rinehart* case over the rights of miners to use suction dredges.

Brandon Rinehart, a gold miner, was cited more than four years ago for suction dredging without a state permit on his own mining claim in Plumas County, resulting in two misdemeanors, an \$832 fine and three years probation. The 'Catch 22' is that the state was not issuing dredging permits at the time despite the fact the original statewide two-year moratorium on suction dredge mining had expired. Since 2009, the state and government agencies have placed a *de facto* ban on dredging that miners argue violates their longstanding congressionally granted mining rights.

The pivotal point in the California court cases over suction dredging mining has been federal preemption, in other words the Supremacy Clause of the United States Constitution which states that federal law is the "supreme law of the land" and therefore trumps state law. Most mining claims are on public lands which are owned by the people of the United States and managed by federal agencies.

What happened in the lower courts?

In another case on dredging, California Superior Court Judge Gilbert Ochoa ruled in favor of miners, and not only supported the argument of federal preemption over state laws, but accused the state of concocting an “extraordinary scheme” to stonewall miners by requiring permits and then refusing to issue them through one form of legislation or another since the moratorium was imposed in 2009. That case in Superior Court is still on hold, awaiting the higher court’s decision in the Rinehart case.

Before Ochoa ruled, however, Rinehart appealed his case and won. His conviction was overturned. However, the state was served an unexpected twist when the appellate court judges decided to publish their opinion, which meant it could be referenced by other courts. Then, not long after Ochoa’s ruling in [January 2015](#) in favor of the miners, the state petitioned the California Supreme Court to hear the Rinehart case and also to depublish the appellate court’s findings, presumably so previous findings which would favor the miners could not influence the California Supreme Court case.

Interestingly enough, the Supreme Court issued a media release Wednesday, [June 1](#)—the same day as oral arguments in the Rinehart case were heard in Los Angeles—announcing changes in the rules on publishing court opinions. However, the changes were not made effective until a month later, the timing of which many miners have said is suspect.

California Supreme Court

In California Supreme Court [June 1](#), state attorney Marc Melnick argued that the state has the right to reasonably regulate miners including placing a ban on suction dredging, while Rinehart’s lawyer James Buchal argued that the state does not have the legal authority to unreasonably impede mining nor prohibit the rights of miners to use suction dredges under the federal Mining Law of 1872.

The state’s position

Melnick argued that when Congress enacted the federal law to encourage mining, that lawmakers of the day also intended for state and local lawmakers to regulate miners with respect to protecting the environment. He also cited the Granite Rock precedent case which essentially said the state has the right to “reasonably regulate” mining.

“When Congress enacted the Mining Act of 1872, it explicitly envisioned a role for state and local laws. The purpose was to encourage mining that complied with federal, state, and local laws. And so for more than 100 years, California law has affected mining and its profitability,” Melnick told the panel of seven Supreme Court justices. “We banned hydraulic mining, we tax mining claims, we have a whole host of laws that affect mining’s profitability.”

Associate Justice Mariano-Florentino Cuellar questioned Melnick, asking him to what degree the state can regulate mining without defeating the purpose of the federal law.

“Counsel, your theory of the statutes here and the purpose presumably nonetheless still implies some acknowledgment that there are limits of what the state can do, and if so what are those limits?” Cuellar asked.

“The limit is the state cannot enact a law that would make it impossible to comply with federal and state law,” Melnick replied. He admitted that the purpose of the law is “to not only encourage mining but also to allow states to regulate mining.”

The court then grilled Melnick about how much regulation the state considers reasonable: “Well, if you are encouraging mining but the state precludes the only viable method of mining, how does that work out in your theory? That’s the postulate of the case here—that although he [Brandon Rinehart] had the right to mine, the environmental regulations precluded his using the suction method, and he argued that’s the only method that was feasible.”

“He argued it was the only economically feasible method to mine,” said Melnick, contending that Rinehart could still mine without the use of motorized equipment. “It’s certainly possible for Mr. Rinehart to mine his claim. He can mine outside of the river. He can also mine using non-motorized methods. They might not be as efficient. He might not make as much of a profit. But, he can certainly mine.”

“So, your position is he has a right to mine; he doesn’t have a right to mine in a given way?” the court asked.

“Correct,” Melnick replied.

Chief Justice Tani G. Cantil-Sakauye questioned Melnick about where to draw the line between the a miner’s federal right to mine and the state’s ability to regulate mining.

“Does it matter at all how practicable or not the available methods of mining remain, so if his only available method is to take sort of a garden shovel and dig in the dirt, that’s the only thing that state law would permit him to do. Is that problem from a federal preemption standpoint?” Cantil-Sakauye asked.

"I don't think that flows from the language in the statute or from what the federal agencies have talked about here," Melnick replied. "So, I understand there may be some unease with that proposition, but the statute here doesn't make distinctions other than whether the state law is inconsistent with federal law."

"It sounds like you think it would be a problem from a federal preemption standpoint for the state to ban mining all together within a claim under the Mining Act of 1872, but it's OK for a state to effectively ban any form of mining that might actually yield a product?" Cantil-Sakauye asked. "Is that an accurate characterization of your position? And, if so, how do you draw that line looking at the text and the purposes of the Mining Act?"

Melnick contended that a clear line should be drawn so there is more consistency and less confusion about the police powers of the state. When it comes to the environment, he argued the state has authority to intervene to regulate mining, however he was not specific on what the limits of state powers should be. Instead, he urged the court to interpret federal preemption in "the narrowest way possible."

"We are also not giving enough credence to the federal agencies who have come to that conclusion," Melnick said. "And perhaps most importantly, if we draw the line at some place that's like economic practicability, we run into all sorts of problems," Melnick contended. "The price of gold has fluctuated wildly over the course of this litigation and in the past 10 years. Different miners have different abilities. Different places have different amounts of gold. And, if we have is standard that says subjective as economic practicability, then we have a situation where preemption depends on whether it's 2003 or 2010, whether I'm mining the claim or an experienced miner is mining the claim, and that is not something that Congress intended, certainly, "

While Melnick admitted it is appropriate for the federal government to have control over federally managed public lands, he repeatedly dodged questions on what the limits of state police power should be under federal preemption. Melnick essentially argued that short of a complete ban on all forms of mining, the state is within its rights to regulate as strictly as it sees fit, especially with anything concerning environmental concerns.

"It's appropriate for federal agencies to make decisions about whether land is used for housing or commercial or mining or something like that," Melnick said. "But in contrast, when you have an environmental regulations like this that focus on the significant environmental effects, then you are back in the wheelhouse of the states. The core police power in the state is to protect fish and wildlife, water quality, its citizens and so environmental regulations fall within that scope and the court should be more deferential of that."

"Is your position, counsel, there really is no obstacle preemption of the Mining Act?" the court asked,

"No, but I think obstacle preemption depends on the purposes in the statute," Melnick said.

When asked for his best evidence of what particular purpose Congress had in mind with respect to the federal mining laws, Melnick said the federal mining law "was enacted after the California Gold Rush. California's Gold Rush was the Wild West. Local groups in the state set up their own rules and regulations and Congress met in 1866 and then in 1872 to leave those in place ... The language of the statute is the best evidence of Congress's intent."

Melnick was pressed by the court to offer a scenario of when state regulations would interfere with federal preemption.

"It's hard to think of a situation, but I think there could be," Melnick replied.

When pressed further by the court about where the line should be drawn on federal preemption, Melnick would admit that only a total statewide ban on all mining would violate the Mining Law of 1872.

"If California passed a statute that said no mining of any kind is allowed in the entire state — I don't see that happening and we have plenty of statutes that encourage mining in California — but that might go so far as to pass that line," Melnick said.

The court questioned his logic, asking: "Why would it be that a state law that bans mining all together would pose an obstacle to achievement of the purposes under federal law, but a law that bans ... all forms of mining that would make it worth anybody's while to mine would not pose the same kind of obstacle?"

"Because when Congress enacted the Mining Act of 1872, it gave miners the opportunity to go on federal land and seek gold. It didn't guarantee them that. It didn't guarantee they would find anything. It didn't guarantee they would find enough to make a profit," Melnick said.

When challenged to explain the difference between a moratorium and a ban on suction dredging, Melnick said the moratorium is a "temporary ban."

"We did not ban suction dredge mining. We placed a moratorium on it for a period of time while an environmental review was proceeding," he said.

Meanwhile, the mining community strongly disagree the ban is temporary since it was originally imposed in 2009 and has been extended under various pieces of legislation ever since. In fact, most miners see the intent of the ban as an outright prohibition.

When asked why the state decided it was necessary to place a moratorium on suction dredging in the first place, Melnick said suction dredging affects fish and fish habitat, a claim that the mining community adamantly disputes.

"The reason the environmental review was done was suction dredge mining is putting the vacuum in the bottom of the river, and sucking gravel and rocks and the dirt out, and it affects the habitat of fish," he said. "In this environmental review, there were threats to endangered salmon in northern California and the concern was that ... suction dredge mining was affecting endangered fish."

Melnick suggested that because dredgers often prospect for gold in legacy mining areas where mercury was once used to separate gold from black sands that they are dislodging mercury from the sediment of streams and rivers and releasing it into the water. However, he neglected to mention that only a very small percentage of the mercury is released, as Buchal pointed out later in the proceedings. In fact, dredgers remove almost all the mercury that is collected in their dredges, thus cleaning the rivers and streams.

Melnick said there is a concern that mercury would flow downstream from legacy mines to the San Francisco Bay area.

"California has a history of using mercury, so there is mercury in the sediment in the rivers ... where the fish live ... They pull all of that mercury out. It ends up in sediment in the water column and flows down to where people live," Melnick said.

Melnick cited the restrictions on hydraulic mining in the early 1900s as evidence of the government's intent to regulate the environmental effects of mining.

In [August 2015](#), the federal government submitted an *amicus curiae* brief to the Supreme Court of California, which Melnick argued was relevant to the Rinehart case

"The United States filed an amicus brief in this case and they made the point that this provision as well as other federal laws recognize that the environment is part of the balancing, and that mining isn't to be encouraged at all costs," Melnick said. "There are environmental needs ... that need to be taken into account as well under the mining acts."

In his closing arguments, Melnick urged the court not to look at the dredging ban as a restrictive to all mining.

"Actually, don't take the view that this a ban," Melnick said. "A ban deprives him [Rinehart] of all of this mining claim. Know he can mine on the land or mine with non-motorized methods and he can wait until the moratorium ends. But, the economic viability is not important."

Melnick said the state wants full mitigation for significant environmental effects.

"They have asked for a study and they have said that we want full mitigation of all significant environmental effects—not all effects—*significant* environmental effects," Melnick said. "It's not my opinion that matters; it is what the state legislature and agencies decided. They decided we want full mitigation ... If we go down the road of saying that a reasonable environmental regulation is all that is allowed, then we start to second-guess the agencies ... and those agencies were empowered by the legislation," Melnick said.

The Miners' position

Rinehart's attorney James Buchal argued that state has overstepped its bounds by banning suction dredge mining, which is both legal on a federal level and allowed in other states.

Buchal urged the court to show mutual respect for the United States government as a sovereign power, Congress, and federal laws.

"I'm here [today](#) to urge you that respect and comity are a two-way street. And, what is going on here is that California is totally disrespecting the federal policy," Buchal said.

"... There is a role for state law, but even going back to the turn-of-the-century it was always the law that whatever the state did ... could not interfere with the liberal spirit of the mining laws."

"It remains the case, does it not, that the state has not banned mining? The state has said you just can't mine using this technique," said Associate Justice Carol Corrigan.

"I would agree that it is true that Mr. Rinehart can still use a teaspoon. He can use a gold pan, but this gold is underwater and you can't breathe underwater without equipment using motors," said Buchal. "It places the valuable minerals in his claim completely off limits."

To explore what constitutes reasonable regulation on mining, the court justices used a hypothetical scenario on using explosives.

"Well, suppose somebody decided that the best way to get gold out of a river is to lower a depth charge, because boy that would blow gold right up into the ..." Corrigan said.

"I gotcha. That's what the law professors would say: 'We could have an atomic bomb to dig these things up,'" Buchal quipped.

"I wouldn't go that far, but help me with the depth charge example," Corrigan said.

Citing case law, Buchal pointed out a federal case in which the court concluded a miner could not use dynamite, but had to use a core-drilling method instead.

"You're not allowed to use dynamite unless it's really, really necessary," Buchal said.

He told the court there are countless examples in case law that show reasonable mining regulations were implemented rather than outright bans.

"The courts have developed a body of law over 100 years to narrow and protect environmental values on the federal regulatory side," Buchal said.

Although the state is allowed to impose "reasonable regulations" in keeping with the spirit of federal law to encourage mining, the state does not have the right to take a backdoor approach to the law and prohibit through regulations, he argued.

When asked by the court to explain what the state should be allowed to regulate under his theory, Buchal referred precedent case known as *Granite Rock* [*California Coastal Commission et al. v. Granite Rock Co.* (1987) 480 U.S. 572, 581 [94 L.Ed.2d 577, 592]]

"Under my theory, it can do what *Granite Rock* told it it can do and have reasonable environmental regulations that do not interfere with the federal policy," Buchal said.

He said there are fundamental inconsistencies in the way the state and federal governments view the statutes.

"The federal view is that the minerals are there and they are in a place; they are not anywhere else. And, the only way to get the minerals out is by taking them out of that place, and you can't take them out of that place without causing some environmental impact. It's inevitable," Buchal said.

Congress enacted the mining law because it recognized that the extraction of minerals are essential for national defense and security, industrial needs and stable industries—"all the things that are destroyed by moratoriums," Buchal said.

He argued that suction dredge mining does not violate environmental standards, and that the state has gone to great lengths to prohibit the dredging rather than approach the activity with the intent of allowing it with reasonable regulations as it has done prior to 2009.

"... We can't have a state statute that says 'Oh, you've got to fully mitigate every effect we can think of,' when the history of that provision indicates that its expressly designed as a prohibition," Buchal said.

He argued that with respect to hydraulic mining that Congress never issued an outright ban in the early 1900s as Melnick had claimed, but rather that it had passed legislation stating hydraulic mining could continue as long as there was no serious damage to the lands downstream.

Unlike modern suction dredge mining, hydraulic mining washed away mountainsides with large water cannons, and caused noticeable damage, washing out bridges and covering thousands of acres of farmland with mud and rocks for miles downstream. So, the destructive practice was eventually abandoned completely.

The court proceedings then turned to the issue of mercury.

"So, you will argue with your opponent here about whether or not the dislodging of mercury into waterways that is going to people's houses is or is not sufficiently harmful?" the court asked Buchal.

"Of course, because what he [Melnick] didn't tell you is mercury is like gold. It winds up in the dredge and they take it home. What they are fighting about is there is one percent—a little piece—that goes back in and falls backward and some may drift further upstream," said Buchal. He pointed out that some states have programs that encourage dredgers to collect mercury and remove it from their waterways.

Buchal accused the state of exaggerating the effects of dredging in its reports to suit its political agenda and skirt federal law that allows dredging.

"The papers that they [the state] have written on this thing are just—they are fraudulent," Buchal said.

When asked whether he could imagine any realistic scenario in which a moratorium on suction dredge mining could be seen as a reasonable environmental regulation, Buchal replied: "Not where it [suction dredging] has been underway for decades without killing or hurting anything and the federal agencies are essentially authorizing it ... We've had a functional system in place for decades, and there were no dead fish and no sick people and no traces of anything anywhere that could be measured. There is nothing."

Associate Justice Leandra Kruger questioned why the state should not have the right to place a moratorium on suction dredge mining while it studies the environmental impact of dredging. Buchal said that nothing prevents the state from conducting environmental studies as long as the state's intent is not prohibitory in nature.

When the court suggested the Mining Law of 1872 is dated and that "the views of governments generally and people around the country were a little less refined with regard to environmental protection than they are now," Buchal maintained that the purpose of the federal mining laws are to protect mining rights, not the environment. He argued that both the federal and state governments have more than enough other laws, including the Endangered Species Act and Water Quality Act, to protect the environment.

"There are 50 different acts to protect environmental values," he said. "If we are worried so much about the state and environmental values, why do we have to authorize the state to flatly prohibit any effect of mining whatsoever when it has got all these other laws?"

Buchal said it's clear from examining the federal mining law that Congress understood and accepted the fact there would be environmental impacts involved in extracting minerals. Calling the state's efforts to frustrate the intention of federal mining law are either deliberately prohibitory or "insane" to expect no environmental impact. "It's not about fish. The regulations say there is no harm to fish. Those were the regulations that weren't good enough and that's where we are at—underwater with the fish," he said.

Buchal panned state legislators for adding the California State Water Resources Control Board to the mix, adding that the water board is already on record stating that there is no way to totally eliminate the environmental impact of dredging other than to ban it entirely.

“That is what the state wants—zero impact. And, that is what is giving the finger to the federal policy,” Buchal said. “It is not the respect that is due to a coordinate sovereign. So, that’s what I would like to leave you with. There is a real powerful conflict of policy here.”

Buchal said the federal government has been reasonable in regard to the state’s ability to impose reasonable regulations. “But we can’t just say, ‘I’m sorry, there has to be no effects whatsoever.’ That is what California is saying and that is an obstacle, clearly an obstacle. And it’s because it is so clearly an obstacle that we get off on all these sideshows and arguments about preemption law that are completely wrong ... No state ever tried to do this or ban mining. Every time they tried to do it for 100 years, it was struck down as preemptive. That’s the background that Congress legislated.”

When asked about the *amicus curiae* brief, Buchal scoffed at the idea that federal agencies, which admit they are not allowed by federal law to prohibit mining seem to support the idea that the state can circumvent higher authority.

“I don’t think what some attorney in the natural resources division thinks about congressional intents is any more than his opinion ... You have agencies that as a matter of law will say ‘We can’t prohibit,’ and we’re supposed to believe that these agencies that can’t prohibit were granted by Congress the power to say, ‘Oh yeah, but we were granted power by Congress to authorize the state to prohibit it.’ That’s preposterous. It really is.”

Buchal asked the court to consider that if Congress had intended for a state government or agency to be able to shut down mining and withdraw lands from mineral entry, then why would federal mining laws exist in the first place?

“You can’t have stable mineral industries if the state is allowed to ban it and ban it and ban it. There comes a point where it becomes unreasonable.”

Buchal said any environmental law that requires 100 percent mitigation is not a moratorium but a prohibition.

“It’s a disguised ban. That is what is going on here. If you look closely at the legislative history, it’s all about prohibitory intent. So it’s not about just addressing the environmental standard,” Buchal said. “I’m not here because Mr. Rinehart was told he couldn’t have a permit ... I would be dead in the water.”

Buchal accused the state of coming up with “evolving schemes” to prohibit miners from suction dredging.

“They had to come up with these evolving schemes over and over again to just shut these people [suction dredge miners] down no matter what,” Buchal said. “And that is what this is really about — shut them down no matter what.”

When asked to explain the basic objectives of the federal mining law, Buchal said all the statutes boil down to the intent of Congress to secure the extraction of minerals and develop a stable mining industry by granting rights to mine with an overriding policy that accepts there will some environmental impacts and allows reasonable regulation that doesn’t interfere with getting the minerals out.

“That is really what the mining law was about. It wasn’t about teaspoons and gold pans. It was about getting out significant quantities of minerals ...” Buchal said. “Our clients are here [today](#) because that is what they want to do. They want to vindicate the purposes of the federal statute. And so, we have the interference with their rights and interference with the objectives and we have the whole line of preemption law.”

What happens next?

According to Public Lands for People President Ron Kliewer a decision by the Supreme Court is expected within 90 days of the [June 1](#) hearing.

Kliewer said he is cautiously optimistic about the Rinehart case but declined to offer a prediction.

“Hopefully, the California Supreme Court justices will see that the state has overstepped its bounds in this illegal prohibition of suction dredge mining, and rule in a way that will create a legal path to get dredgers back in the water soon,” Kliewer said.

Pat Keene, a founding board member of PLP, also expressed optimism that the Supreme Court will rule in favor of miners.

“The judges wouldn’t have mentioned the conflict with federal preemption so many times if they didn’t already know there is a problem,” Keene said “The court case unveiled the state’s motives for imposing the statewide dredging ban not as a moratorium to allow more time for environmental study but as an all-out prohibition. And, I don’t believe that California Supreme Court justices want to be responsible for shutting down economically viable forms of mining in the state.”

Chronology of events *People v. Rinehart*

Supreme Court of California

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Supreme Court of California

- **June 2012:** California Department of Fish & Wildlife cites Brandon Rinehart for possession and use of a small-scale suction dredge in a closed waterway. Rinehart was operating without a permit, as the state of California refused to issue permits at the time and was working his federal mining claim in the Plumas National Forest. Equipment was confiscated.
- **May 2013:** Rinehart goes to court and is found guilty of two misdemeanors, fined \$832 and given three years probation. Confiscated equipment returned.
- **October 2013:** Rinehart appeals decision to Third District Appellate Court.
- **September 2013:** Third District Appellate Court issues favorable opinion in support of Rinehart and reverses judgment. The court decides that the state does not have the authority to impose restrictions that “materially interfere with the commercial viability of mining on the public lands.”
- **October 2014:** Third Appellate Court of California formally publishes its decision in Rinehart case due to a large volume of letters in support of publication sent in by the mining community. In response, State files petition for rehearing of Appellate Court decision. Order denying rehearing filed.
- **November 2014:** State of California petitions California Supreme Court to review and depublish the Court of Appeal ruling in favor of Rinehart.
- **January 2015:** California Supreme Court grants review of Appeals Court decision, which overturned Rinehart’s conviction for dredging without a permit.
- **May 2015:** Pacific Legal Foundation files amicus brief in support of Rinehart.
- **July 2015:** American Exploration and Mining Association files amicus brief in support of Rinehart. Karuk Tribe and law professor John D. Leshy file amicus brief in support of the State.
- **August 2015:** United States Assistant Attorney General submits amicus curiae in opposition of Rinehart.
- **September 2015:** Rinehart files response briefs to Karuk Tribe, John D. Leshy, and United States amicus briefs and files second conditional request for judicial notice.
- **June 2016:** Supreme Court of California hears oral arguments in the *People v. Rinehart* case. A decision is expected with 90 days.

Here are five separate YouTube links to the audiocast of the ***People v. Rinehart*** case that was heard in the Supreme Court of California Wednesday, **June 1** in Los Angeles. You will hear both State attorney Marc Melnick and Brandon Rinehart’s lawyer James Buchal present oral arguments as well as answering questions from the panel of seven California Supreme Court justices:

- Part 1: https://youtu.be/OqJ4C_Ylc54
- Part 2: <https://youtu.be/kWfgzdu3Rxg>
- Part 3: <https://youtu.be/BUHM84roGBY>
- Part 4: <https://youtu.be/vqan58XFq0s>
- Part 5: https://youtu.be/bUT_BFG-QZ8

Here is a background article on the Brandon Rinehart case:

[Miners rally in support of Rinehart](#)

People v. Rinehart Court documents: <http://www.courts.ca.gov/34755.htm>

Brad Jones is the Managing Editor/Communications Director for the Gold Prospectors Association of America. He can be reached at bjones@goldprospectors.org.

Article as featured in the July/August 2016 edition of Gold Prospectors magazine.

RICK & VICKIE WYATT (661) 943-1124

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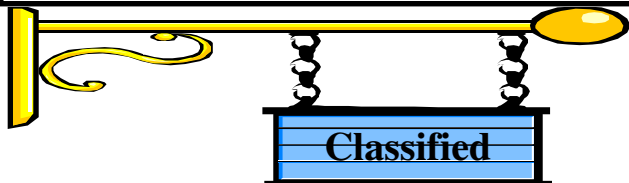
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Club Apparel is available

Support your Club by purchasing one of our
new hats or shirts.

All members will be receiving *The Loop* via E-mail to save on printing and postage costs, unless they don't have e-mail. If they are currently receiving it by snail mail and later get an email account they can send their request to me at avthnews@gmail.com and I would be happy to send it as a .pdf file. It is generally about 2mb for the issue.



Apex Pick Sale !!!

Weasel 18" - \$45 seven in stock
Badger Lt 18" 1 magnet—\$55 1 in stock
Talon St 24" 3 magnets—\$75 1 in stock
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FREE RAFFLE TICKET

If you find your name in the newsletter and it looks like this: *Your Name* You get a free raffle ticket at the next general meeting. Bring it to the attention of the ticket seller. If two names appear (i.e. husband/wife) ONE ticket is given out.

FOR SALE: Minelab Eureka Gold. Brand new in box. Never assembled. Includes 10" coil cover (used) \$1,000 FIRM. Connie Smith 661-526-7494 (h) 818-414-6707 (c) If you're interested I'll bring to meeting.

Refreshments volunteers for 2016

July:

August:

September:

October:

November:

December:

Harry Surtees

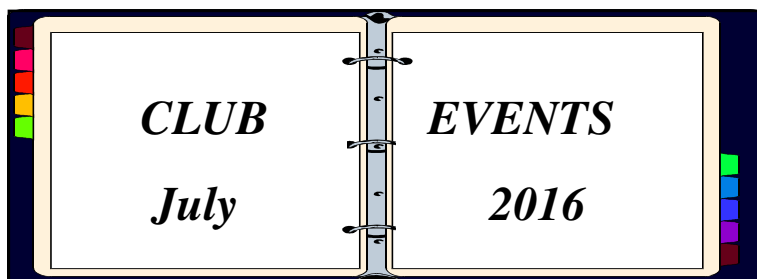
Linda Bravo

Gary Spain

Don Duncan

Jay Zeigler

Steve & Peggy Howard



July 11, 2016 General Meeting - 7:00 pm
Leisure Lake Mobil Estates
48303 20th St. West
Lancaster, CA 93534

July 11, 2016 Board Meeting following
immediately after the General
Meeting

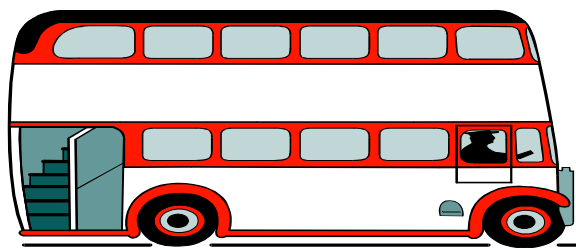
3rd Qtr. 2016 Scavenger Hunt

Scavenger Hunt items for
July 12, 2016 to Oct. 3, 2016 ***

01. Silver charm
02. 1980 Penny
03. Tweezers
04. Key for padlock
05. New York Quarter
06. 1980 Quarter
07. North Carolina Quarter
08. Hexagonal nut
09. Idaho Quarter
10. ID bracelet
11. Lock
12. Gold nugget (0.2 gr. or larger)
13. Tire Stem
14. Large metal hoop earring
15. Silver earring

Finds must be brought to the October 3, 2016 General Meeting or earlier if all found. Display owner must be present to win. First member that finds all 15 items will win a Silver Half Dollar *If there is a tie, the winner will be decided by the cut of a deck of cards and runner-up will receive a Silver Quarter. If all items are not found, the member finding the most will win a Silver Quarter. If there is a tie, a cut of a deck will decide the winner. Members finding at least 10 items will get a Silver Dime. *** Only Items found between July 12, 2016 meeting and the Oct. 3, 2016 meeting, qualify to be displayed. All items must be found ***in the act of*** treasure hunting or while prospecting. Items found with the naked eye qualify. ***No purchased items or planted hunt finds allowed.***

CLUB OUTINGS



July 9, 2016—Time 8:00 a.m.

This is a BYO Food outing

The lake is open again!

From south, take I-5 to Ridge Route Rd. exit and go east to Castaic Lake Rd. Turn right into park and pay at kiosk. If coming from north take Lake Hughes Rd. Exit and go east then turn north (left) onto Ridge Route Rd. then turn right to Castaic Lake Rd. and pay at Kiosk. Fee is \$11/car. No senior discounts on weekends. The Swim Beach opens at 10:00 a.m. and closes at 5 p.m. but you may want to get there earlier to get decent parking. For those who don't water hunt, the grassy area is huge so plenty of area to park hunt. Be sure not to leave ugly holes! If you don't know how to dig targets without leaving traces that you've been there, ask someone!

For those who want to caravan or carpool, we will meet at the Ave. S Park 'n' Ride at **7:00 a.m.** I will head down early to snag a picnic spot. Look for the AVTHS sign!

32132 Castaic Lake Drive Castaic, CA 91384
(661) 257-4050

Treasure Hunters Code of Ethics

I will always check federal, state, county and local laws before searching; it is my responsibility to know the law.

I will respect private property and will not enter private property without the owner's permission. Where possible, such permission will be in writing.

I will take care to refill any holes and try not to leave any damage.

I will remove and dispose of any and all trash and litter that I find.

I will appreciate and protect our inheritance of natural resources, wildlife, and private property.

I will, as an ambassador for the hobby, use thoughtfulness, consideration and courtesy at all times.

I will work to help bring unity to our hobby by working with any organization of any geographic area that may have problems that will limit their ability to peacefully pursue the hobby.

I will build fires in designated or safe places only.

I will report to the proper authorities any individuals who enter and/or remove artifacts from federal parks or state preserves.

“THE END OF THE LOOP”

June Finds of the Month

Member must be present to display finds

Most Unique

Scott Sandahl—1915 CA veh. tag

Best Gold Item

Ben Molstad—Gold Ring

Best Natural Gold

Mary Black

Best U.S. Coin

???

Best Foreign Coin

Dan Petrozzi—French 1932 Franc

Best Silver Item

Harry Surtees—1947 Navy pin

Best Overall

Harry Surtees

Attendance Drawing

Butch Smith—\$25

50/50 Draw

Larry Blair



July Birthdays

Don Duncan, Barbara Harnos, Richard Haynes, Ray (or CJ?) Quitariano, Deborah Schadt, Vivian Sexton (7/4 🎂), Ralph Smith, Rick Wyatt

Please note: If your birthday isn't listed in your birth month, you probably didn't give us your information. This information is gleaned from the active membership roster. Contact Linda Bravo to update.

OFFICERS

President..... **Don Duncan**
H 661-478-2409

Vice-Pres..... **Lovetta Burns**
E-mail - lburns57@att.net
H 661 256-1654 C 661 428-0797

Treasurer..... **Linda Bravo**
E-mail - lsb7203@yahoo.com 661-480-5642

Secretary..... **Lorelei Paland**
661-273-3932

MEMBERS AT LARGE

Robert Weaver..... 661-948-8350
Connie Smith 661-526-7494
Mike Snowden..... 661-269-2937
Rick Wyatt..... 661-943-1124
Vicky Wyatt..... 661-943-1124
Linda Reitz..... C 661-478-7938
Jerry Paland..... 661-273-3932

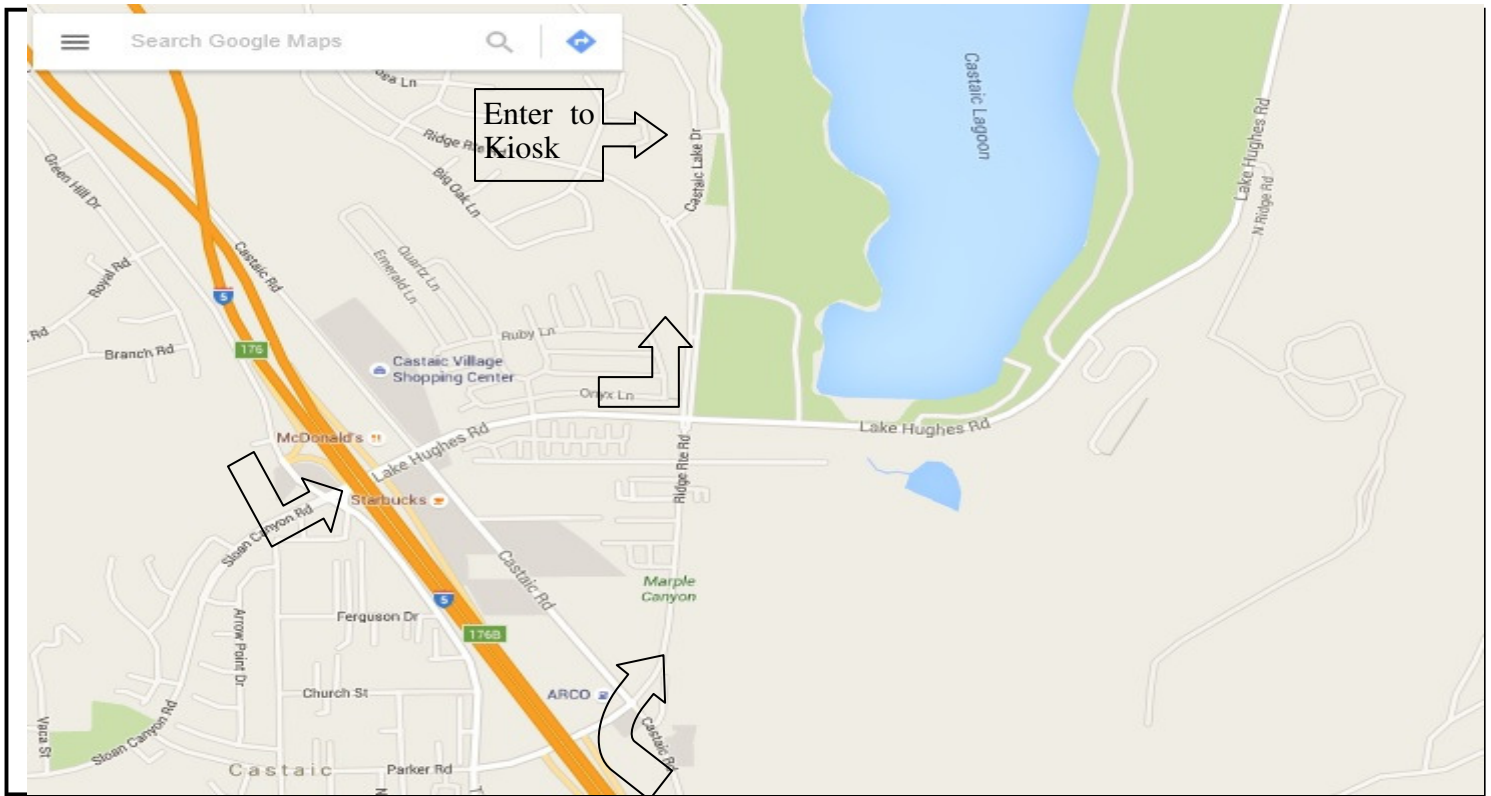
COMMITTEE CHAIRPERSONS

Welcome..... Vivian Sexton
Raffles..... Connie Smith, Harry Surtees, Larry Blair
Club Photographer..... Anyone With Camera
Find of the Month..... Scott Sandahl
Claims..... Linda Bravo
Metal Detecting..... Scott Sandahl
Refreshments..... Volunteer for each meeting
Club Apparel..... Mike Snowden
Club Public Web Page..... Rick Wyatt
Newsletter..... Connie Smith
(H)661 526-7494
(C) 818-414-6707
Membership..... Vivian Sexton
661 478-0174
Recycling..... Jay Zeigler
661-943-0397



Remember, as with the recycling collection, the proceeds from the sale of apparel are put back in the club to fund prizes and food at the outing.

Outing Map—Castaic Lake



Antelope Valley Treasure Hunter's Society
P. O. Box 4718
Lancaster, California 93539



This Month's Club Outing

**Castaic Lower Lake
(Castaic Lagoon)**

