



American
Exploration & Mining
ASSOCIATION

May 25, 2017

The Honorable Ryan Zinke
Secretary U.S. Department of the Interior
1849 C Street N.W.
Washington D.C. 20240

Re: *Rinehart v People of the State of California*, on Petition for Writ of Certiorari, United States
Supreme Court NO. 16-970

Dear Mr. Secretary:

The United States Supreme Court has invited the Solicitor General to file a brief on whether the Supreme Court should accept Rinehart's petition for *writ of certiorari* for review of the California Supreme Court decision allowing the State of California to ban mining on federal lands open to mineral entry under the 1872 Mining Law. We are writing to encourage you to support Mr. Rinehart's petition for writ of certiorari and to ask the Solicitor General to file a brief supporting acceptance of the petition.

We believe the Obama administration grossly misinterpreted federal law and federal court precedent when it filed a brief in the California Supreme Court stating that federal law did not preempt the State of California's attempt to ban suction dredge mining on rivers and streams located on National Forest Lands open to mineral entry, exploration and occupation under the 1872 Mining Law (30 U.S.C. §21, *et seq*).

We believe the decision of the Supreme Court of California erred holding, in direct conflict with decisions of the U.S. Supreme Court, the 8th circuit court of appeals, and the Colorado Supreme Court that the Mining Law of 1872, as amended, does not preempt state bans of mining on federal lands despite being "an obstacle to the accomplishment and execution of the full purposes and objectives" of that law.

Prior to the filing of its *amicus* brief in the California Supreme Court, the position of the United States for more than a century had been that the states could not ban an activity on federal land within their state that was otherwise lawful under existing federal law. The leading case is *California Coastal Commission v Granite Rock Company*, 480 U.S. 572 (1987), which held that states could impose reasonable environmental regulations of general applicability to mining on federal lands, but could not enact regulations that directly or indirectly banned mining on federal lands open to mineral entry. The California Supreme Court decision overturned the California Court of Appeals which recognized that an outright ban on mining on federal lands frustrates the purposes of the 1872 Mining Law. The California Supreme Court decision ignores the

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Supremacy Clause of the U.S. Constitution and Congress' powers under the Property Clause, and bestows a limitless power on the state to prohibit mining on federal lands, and thereby eviscerate the 1872 Mining Law.

Mr. Secretary, it is important to restore the correct and longstanding interpretation of the 1872 Mining Law and confirm the ruling in *Granite Rock* that while states may impose environmental regulations of general applicability on mining operations on federal land, they may not impose a regulation that results in, either directly or indirectly, a ban on that lawful activity.

We urge you to support the petition for *writ of certiorari* in the *Rinehart* case and to ask the Solicitor General to support the petition.

Thank you.

Sincerely,

A handwritten signature in dark ink, appearing to read "Laura Skaer", with a stylized, flowing script.

Laura Skaer
Executive Director

LS/ds

cc: Kathy Benedetto, Acting Deputy Director for Policy, BLM
Jeff Wood, Acting Assistant Attorney General, Environment and Natural Resources
Division, DOI
Jeffrey B. Wall, Acting Solicitor General