

PUBLIC LANDS FOR THE PEOPLE

EST. 1990



A 501(c)(3) Non-Profit Corporation

PLP exists to "Represent and assist outdoor user groups and individuals interested in keeping public and private lands open to prospecting, mining and outdoor recreation through education, scientific data and legal means."

May 2022

Rogue Federal Agents of the U.S. Forest Service?

Hello Friends!

Public Lands for the People (PLP) has heard rumblings that there is a small effort by some miners to see about writing another federal law based upon the Veterans Accountability Act (VA Act) that will apply more broadly to other federal agents, like the U.S. Forest Service. The intent is to rein in abuses by rogue agents of the Forest Service that have an anti-mining agenda whereby a miner can get a bad federal agent fired. While this sounds good and we at PLP will not disagree with the fact agents of the Forest Service are poorly trained in mineral regulations and law and that the ant-mining sediment is taught in the ranks of the agency – we on the other hand say new law may not be the answer and in truth prove as difficult as pushing federal elected officials into agreeing to give themselves term limits. Let us explain.

Several years ago, PLP tested a few leading Republican conservative members of Congress and posed the same question of federal agent accountability to members of Congress as those that wish to do it presently by copying the VA Act application. On the surface, the Congressional people expressed support, but in drafting substantive language their legislative directors would say: “no, it would place a chilling effect on the work environment of the federal employee”. After going round and round again with these Congressional people that said one thing and did another, PLP’s researchers asked these members of Congress: Is there presently a legal path of accountability for citizens and miners against rogue federal agents? The answer they gave

was none existed. PLP's researchers knew better and asked: Are you aware of *Bivens v. Six Unknown Named Agents of Fed. Bureau of Narcotics, 403 U.S. 388 (1971)* that went to the U.S. Supreme Court in 1971? Their answer was either silence or Ok, so you know...". Yes, **PLP is aware of a legal remedy to hold rogue federal agents accountable** that the U.S. Supreme Court created using in part congressional law (under Title 42 section 1983 for general application upon state agents) in order to get damages, get the agent transferred, or even fired! Generally, the federal agents have immunity from being sued because of their position and because of the Civil Service Act, but they are not shielded when they knew or should have known that their acts under color of law were a sham to deprive an individual from clearly established law or a right protected by the U.S. Constitution. Three separate PLP members had gone on the offensive and successfully sued Forest Service agents many years ago. Two PLP members used an attorney to file and prosecute the case and one did it Pro-Per (without attorney) after first serving the agents conspiring to deprive them of their rights a 60-day notice to sue (also called a direct and constructive notice).

PLP researchers have found that successful miners win when the agency or agent commands an action verbally or in writing without giving the miner an appeal right as set forth in the Administrative Procedures Act and 36 CFR 228.14. When the agency or agent do not give this appeal right, it deprives the miner and citizen of a substantive right of due process of law protected by the 5th and 14th Amendment to the U.S. Constitution. PLP must point out that this has been consistently upheld by both conservative and liberal judges on the court. That is why as recently as 2011 in *Edgar v. Forest Service*, miner James Edgar and his attorney James Buchal were successful in suing the Forest Service district ranger personally for destroying Mr. Edgar's cabin (real property) on his mining claim without due process and under color of law.

Not all encounters that are negative between the miner and federal agent will rise to a level that will be convincing to a judge or jury. Documentation through video, audio and writing will and can build your case. Just calling a mining advocacy organization and telling them that the Forest Service is trying to stop us prospectors is not going to cut it. For years PLP has advised miners to ask the agent to put it in writing. That way a better understanding of their wishes can be done without misunderstanding, and to test the waters to see if the Forest Service is truly acting in good faith by following their own rules. The Forest Service under their own regulations require that non-compliance must be in writing and state:

36 CFR 228.7 Inspection, noncompliance.

“(a) Forest Officers shall periodically inspect operations to determine if the operator is complying with the regulations in this part and an approved plan of operations.

(b) If an operator fails to comply with the regulations or his approved plan of operations and the

noncompliance is unnecessarily or unreasonably causing injury, loss or damage to surface resources the **authorized officer shall serve a notice of noncompliance upon the operator or his agent in person or by certified mail. Such notice shall describe the noncompliance and shall specify the action to comply and the time within which such action is to be completed...**"

36 CFR 228.14 Appeals.

"Any operator aggrieved by a decision of the authorized officer in connection with the regulations in this part may file an appeal..."

The Forest Service loves to say they have plenty of different tools in their 36 CFR 261 general prohibition enforcement toolbox, but if they deprive an individual miner of his or her real property interest in their mining claim, without due process, it has been shown by caselaw to make the agents of the **Forest Service very venerable to being sued personally for acting in bad faith.** Poorly trained and uncertified Forest Service agents with an environmental chip on their shoulder and bias against the miner eventually in PLP's experience can become a liability to the agency. The miner's communication should only be done with a certified minerals officer as stated by the Forest Service 2800 manual. If the Forest Service agent is not certified – you are under no obligation to discuss your prospecting or mining activity. **You may find upon simple inquiry that not a single Forest Service agent is certified in your National Forest where you are mining.** Enforcement of Forest Service regulations can and will fail when no one in the department is certified minerals administrator level 1 or 2 and they try and issue citations and take someone into court who knows the rules and questions the agents' qualifications before a judge. See U.S. v. Pearson in PLP's accomplishment section of the website. So, in conclusion, you can either become a victim of agency abuse and cry tyranny about it on social media or you can educate yourself with the help of PLP and quietly and politely get your evidence together to later drop a legal rock around the offending and misguided government agent's neck! This legal strategy can be done and has been proven to be effective presently without some new federal legislation modeled after the VA Act.

If you like this information **USE IT WISELY** and please continue to:

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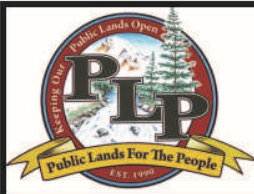
Supporting PLP's Grand Raffle also helps us continue to fight for your rights.

A book of 12 tickets is only \$10. We have a lot of great high value prizes, and a list of the prizes is at the end of this short newsletter. You can't win if you don't enter! Tickets are available NOW to purchase by phone for

the July 14th 2022 Grand Raffle Drawing. You can call our toll-free number (844)-PLP-1990 which is (844) 757-1990 by July 11th deadline or Mail a Check by the July 1st deadline (to the address below) and specify the number of ticket books you wish to have mailed to you.

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The original. No compromise. Standing 32 years strong for Multiple Use on Public Land "RIGHTS"!



PUBLIC LANDS FOR THE PEOPLE
Publiclandsforthepeople.org

A 501(c) (3) non-profit organization whose mission is:

"TO REPRESENT AND ASSIST OUTDOOR USER GROUPS AND INDIVIDUALS INTERESTED IN KEEPING PUBLIC AND PRIVATE LANDS OPEN TO PROSPECTING, MINING, AND OUTDOOR RECREATION THROUGH PUBLIC EDUCATION, SCIENTIFIC DATA, AND LEGAL MEANS."

The PLP Annual Raffle is BACK!!

ORDER YOUR RAFFLE TICKETS TODAY, SUPPORT PLP, AND BE ELIGIBLE TO WIN ONE (OR MORE) OF THE PRIZES BELOW. MORE PRIZES WILL BE ADDED.

NEW RAFFLE!! 2022 FUNDRAISING RAFFLE
 Drawing to be held July 14, 2022!

<u>LIST OF PRIZES & DONORS</u>	<u>VALUE</u>
(32) One-ounce silver rounds - 32 WINNERS! (PLP Board)	Market
20-acre Placer Claim in California Mother Lode (Ron Kliewer)	\$5,000
New '49ers Lifetime Membership (PLP member Richard Haynes)	\$3,500
New! 1-Week Stay at Skookum AK Gold Camp (www.skookumgoldcamp.com)	>\$1,999
Single-head Blasting System, 50 charges & booster* (SierraBlaster.com)	\$ 950
Fisher Gold Bug 2 Metal Detector (www.fisherlab.com)	\$ 899
Minelab Equinox 800 (theminerscache.com)	\$ 899
Thompson II Puffer Mini-Drywasher (madmining.com)	\$ 890
New! Gold/Quartz Specimens (meetingoftheminers7@gmail.com)	\$ 600
New! 7-Day Camp/Outing near Quartzsite, AZ (Gold Fever Adventures Campground)	\$ 500
Gold Cube 4-Stack Deluxe (www.GoldCube.net)	\$ 480
New! 5-dwt Gold Nugget (www.MinersKeepers.com)	\$ 575**
3 or 4 Day Stay at Roaring Camp (roaringcampgold.com)	\$311 / \$415
One-day Mining Trip to private Mother Lode claim (reinkegoldmining.com)	\$ 250
(2) Reinke Mining Adventures & Svcs 1-yr membership (reinkegoldmining.com)	\$ 150 ea.
Razer Snake Gaiters (goldrushtradingpost.com)	\$ 64

(Winners are responsible for taxes due on prizes. *Winner must be at least 18 & pass SierraBlaster test. **Market value on 3/17/22.)

HURRY! Don't miss out on our **2022 RAFFLE**, which includes several great prizes -- mining equipment, metal detectors, precious metals, a mining claim & MORE!

TWO WAYS TO ORDER:

1. Phone: (844) 757-1990 Toll Free
 or (844) PLP-1990
*Leave a message and we will call you back.
 Last day to order by phone is July 11, 2022.*

2. Mail: PLP, PO Box 1660
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Just \$10
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12 Tickets!
HURRY!
Drawing is July 14!

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 are ALWAYS welcome
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