

From: [Charlie Parr](#)
To: [John Bennett](#); [Karen Tilton](#)
Subject: mining claims in National Forests
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FYI, a few good reads on the subject...

**UNITED STATES, Plaintiff-Appellee, and
State of Idaho, Department of Lands, Intervenor Plaintiff,
v.
E. B. WEISS, James Click, Sr., Orral W. Lake, H. G. King and Orson Baier,
Defendants-Appellants.**

[No. 78-2800.](#)

United States Court of Appeals, Ninth Circuit.

Argued and Submitted August 14, 1980.

Decided April 13, 1981.

How this document has been cited

While prospecting, locating, and developing of mineral resources in the **national** forests may not be prohibited nor so unreasonably circumscribed as to amount to a prohibition, the Secretary may adopt reasonable rules and regulations which do not impermissibly encroach upon the right to the use and enjoyment of placer **claims** for **mining** purposes.

- in [US v. Tracy, 2009](#) and 22 similar citations

Thus, "**mining** operations `may not be prohibited nor so unreasonably circumscribed as to amount to a prohibition.'"Id

- in [Bator v. US, 2010](#) and 17 similar citations

Secretary of Agriculture has "power to adopt reasonable rules and regulations regarding **mining** operations within the **national** forests

- in [US v. Ganoie, 2010](#) and 15 similar citations

While the regulation of **mining** per se is not within **Forest** Service jurisdiction, where **mining** activity disturbs **national forest** lands, **Forest** Service regulation is proper.

- in [Clouser v. Espy, 1994](#) and 18 similar citations

See 16 USC § 551.[4] The act recognizes "prospecting, locating, and developing the mineral resources" of the **national** forests as "proper and lawful" uses of **National Forest** System lands, but individuals engaged in those activities, "must comply with the rules and regulations covering [the] **national** forests." 16 USC § 478.

- in [US v. Backlund, 2012](#) and 13 similar citations

—a case involving the same **Forest** Service regulations considered by the Supreme Court in Granite Rock, the Ninth Circuit held that the **Forest** Service did not have authority to prohibit **mining** on unpatented **claims**.

- in [Federal Public Lands: The States' Authority to Regulate Activities On ...](#) and 7 similar citations
Requiring "prior approval" of residential occupancy "is a reasonable method of administering the

statutory balance between "the important interests involved here"—the interest of miners in reasonable use and enjoyment of their **claims**, and the interest of the government in improving and protecting the surface resources of the **national** forests.

- in [US v. Backlund, 2012](#) and 9 similar citations

Shumway concludes, consistent with precedent, that the **Forest** Service's authority extends to regulating **mining claims** insofar as such "regulations are "reasonable"and do not impermissibly encroach on legitimate uses incident to **mining** and mill site **claims**

- in [People v. Rinehart, 2016](#) and 7 similar citations

Our conclusion is bolstered by the fact that even the **Forest** Service is limited in the amount of regulation it may impose as a condition of **mining** in **national** forests because of the federal policy to encourage **mining** on federal lands.

- in [Granite Rock Co. v. California Coastal Com'n, 1985](#) and 7 similar citations

—stating that "16 USC § 551 confers broad powers on the **Forest** Service to regulate roads for the good of the forests

- in [Wyoming v. US Dept. of Agriculture, 2011](#) and 9 similar citations

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