



Editor: Penny Esplin

Secretary: Marlea Sheridan

Date: September 30, 2011

SHORT AND SWEET FROM THE PREZ: Please let Delmon or Claudia know how many hours you worked on our claims this summer as our club needs to fill out an assessment and maintenance report for our records.

Meeting Minutes: Marlea read the past minutes which are e-mailed to member. Minutes were approved.

Call to Order: Delmon called the meeting to order and new visitors and our guests were introduced.

In Attendance: There were 16 members present.

Guests: Howard Conner, member of the Willamette Valley Miners, was our special guest speaker. He is also involved in Risk Management.

Our other guests were Lee Cheattle and Bill Moore.

New Members: No new members.

Claims: Ted reported that there was no new claim news.

Treasurer Report: Joe reported that our treasury account is a bit low due to expenditures, claims and name tags. Vote on approving financial report was approved.

Old Business: Robyn has donated to the club, a 2"Dredge, which belonged to her late husband, Tom. It was voted on and agreed that it will be loaned to any member who wishes to borrow it. It would be up to the member to provide any claims fees as needed.

There was some discussion on the claim permit issue for new members benefit. See Joe or Claudia for information about permits.

Larry reported that the sign posts have been put up at Briggs Creek area. Thank you Larry and Marvin for all that heavy digging to put in the signs!!

Joe had donated a "power-sluice box" to add to the Trommel. Larry worked on it this past week and has added this. The trommel is housed at Larry's shop and is available for members to check out and use. Thank you Larry!

Penny reported she has sent out a Thank You card to Barb Parker, and Get Well cards to Mike Witt and Buzz Sizemore.

Events Committee: There were no new outings proposed this month. Please let Delmon, Claudia, or Joe know if you have an idea for an outing this month. Metal detecting?

Rocks Shared Beginning With the Letter S: Marlea brought and wore her **red sunstone necklace** and shared some **larger sunstones**. Penny brought some beautiful samples of **Sphalerite** (Zinc Sulfide), **Stibnite** (Sulfide of antimony), a **Star Garnet**, **Native Sulfur**, **Spodumene** (Kunzite-aluminum silicate) and a large **Silicone wafer ingot** (seed starter) which was very cool! She lightly tapped the stem, and it sent out a high pitch ringing that reverberated around the room as the sound bounced back and forth off the walls.

In OCTOBER bring: Rocks Beginning With the Letter T:Bring in your Tourmaline, Turquoise, Topaz, Tiger's Eyes or any Treasure you'd like to share.

Events/Activities: Our meeting on August 25th: **Howard Conner** was our guest speaker and gave us a wonderful and informative presentation on "**Family Preparedness for Emergencies and Disaster**" That was "Part 1" of his presentation. This month, Howard presented us with "Part 2" and had many great ideas for "**How to Prepare for Disaster**", both short term and long term emergencies. His handouts included "**Ten Essentials that Every Hiker Should Carry**" and "**How to Build a Kit for a Major Disaster**." He urged each of us to **use** a "**Trip Planner/Notification Form**" with family or friends before heading out on trips or adventures! By leaving information about your **destination, time leaving** and **time of return** could save your life!

New Business: Claudia reported that we voted as an organization to give our pledge of support to E.O.M.A. for their lead efforts in bringing the court case against the O.D.E.Q. for issuing an illegal NPDES permit and to insure we can dredge under fair regulation. The money coming in for the raffle has dried up...E.O.M.A. needs more funds to continue the court case. We as a group have donated funds to help but they are still short with funding.

The club decided that we would make individual donations and Claudia can mail any collected funds onto E.O.M.A. Also tickets can still be bought and sent in for the Gold Drawing.

MARK YOUR CALENDER! -Our annual **Christmas party** is scheduled for **December 9th at Almost Home Restaurant at 7:00**. (Located on Market St. west of Hawthorne and across from The Red Lion Inn)

Club News, Articles, etc

This is the (website?) address for the Quartzville self guided field trip publication Penny had mentioned at the meeting:

State of Oregon Dept. of Geological and Mineral Industries

The ORE-BIN

Volume 39, No. 6

June 1977

**"A GEOLOGICAL FIELD TRIP GUIDE FROM SWEETHOME, OREGON,
TO THE QUARTZVILLE MINING DISTRICT"**

Jerry J. Gray, Economic Geologist

It is very well written, and covers the geology and mining history. It also includes a detailed road log and a map to refer to. The description and explanation of each checkpoint is quite elaborate but so informative! I was excited (and still am)! I consider it to be very useful and interesting information.

Also, at the same site, another publication you may find interesting:

State of Oregon Dept. of Geological and Mineral Industries

The ORE-BIN

Volume 39, No. 12

December 1977

"MINERALIZATION IN THE NORTH-CENTRAL WESTERN CASCADES"

R.S. Mason, J.J. Gray, and B.F. Vogt

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**PLEASE READ:**

This is an important letter written by Josephine County Sheriff Gil Gilbertson. It is in support of the miners and our ongoing fights with government agencies overstepping their given authority. This man has really done his homework!! He deserves our praise, gratitude and mutual backing for his factual hard work. He is a person of fine courage and character.

Following his letter, Claudia Wise has written back to him, commending him for his time and also for his support of us, the miners. Please feel free to write to him (individually) and let him know how important he is in this fight!

## "This is Our Land, the Feds Have No Jurisdiction"

### Josephine County Sheriff Gilbertson's LETTER

#### Federal Jurisdiction within a State

The ultimate goal of this document is to identify true jurisdictional authority of the Federal Government, examine how the powers of individual States are usurped by federal agencies, and examine how the health, safety, and welfare of the citizens within the State are undermined: as well as, provide a positive and equitable solution.

Soon after declaring independence from the British Crown, the original Colonies established themselves as sovereign and separate nations. In fact, so independent were they it caused an unforeseen rift between the states in terms of interstate activity and commerce. In an attempt to link the several states, the

**Articles of Confederation** of November 17, **1777**, emerged.

*"Each state retains its sovereignty, freedom, and independence, and every Power, Jurisdiction and right, which is not by this confederation expressly delegated to the United States, in Congress assembled."* <sup>1</sup>

It became abundantly clear a more cohesive and functional link between the states needed to be developed. The First Constitutional Congress of **1787**, eleven years after the Declaration of Independence convened; from which emerged a legal contract between the states and the people, called the "**United States Constitution**".

The U.S. Constitution delegates, describes and limits the powers of each of the three branches of government; they are Legislative, Executive, and Judicial.

*"All legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives."* <sup>2</sup>

The subsequent sections of Article I and paragraphs grant enumerated responsibilities to the central government. The Framers intended that those were the only powers ceded to the central government but a condition of ratification for many states was a "Bill of Rights," which became the first ten amendments.

The 10th **Amendment** of the **Bill of Rights** reaffirmed that any power not **explicitly granted** to the central government was **explicitly withheld** from the central government.

*"The powers not delegated to the United States by the Constitution not prohibited by it to the States, are reserved to the States respectively, or the people."*<sup>3</sup>

The principal purpose was not the distribution of power between the central government and the states but rather a reservation to the States, or people of all powers not explicitly granted.

### **POWER OVER LAND**

The Constitution explicitly identifies geographic concerns as well as imposing limits on Congress' authority and jurisdiction; *"to exercise **exclusive** Legislation in all cases whatsoever, over such District (not exceeding ten miles square) as may, by Cession of particular States, and the Acceptance of congress, become the Seat of the Government of the United States, and to exercise like authority over all places purchased by the consent of the legislature of the State in which the same shall be, for the erection of forts, magazines, arsenals, dock-yards, and other needful buildings".*<sup>4</sup>

*"The Court established a principle that federal jurisdiction extends only over the areas wherein it possesses the power of **exclusive** legislation, and this is a principle incorporated into all subsequent decisions regarding the extent of federal jurisdiction. To hold otherwise would destroy the purpose, intent and meaning of the entire U.S. Constitution"*<sup>5</sup>

The State of Oregon consented to the federal government the acquisition of land for federal buildings and granted exclusive jurisdiction for needful public buildings <sup>6</sup> ; the same applied to Fort Stevens <sup>7</sup>, and Oregon City canal <sup>8</sup>. However, the State only granted **concurrent** jurisdiction over land acquired for national forests. <sup>9</sup> *"The State of Oregon retains a concurrent jurisdiction with the United States in and over lands so acquired; So that civil processes in all cases, and such criminal processes as may issue under the authority of this state against any person charged with the commission of any crime without or within such jurisdiction, may be executed thereon in like manner as if this consent had not been granted."* <sup>10</sup>

Concurrent jurisdiction does not reference perceived federal police powers but rather the state's ability to file the case in either state or federal court.

In a dispute over federal jurisdiction of title to real property, the court held; *"We think a proper examination of this subject will show that the United States never held any municipal sovereignty, jurisdiction, or right of soil in and to the territory, of which Alabama or any of the new States were formed,"* .

*"Because, the United States have no constitutional capacity to exercise municipal jurisdiction, sovereignty, or eminent domain, with the limits of a State or elsewhere, except in the cases in which it is expressly granted,"*

*"Alabama is therefore entitled to the sovereignty and jurisdiction over all the territory within her limits, subject to the common law,"* <sup>11</sup>

The Constitution further grants Congress with the power, *"To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all*

*other powers vested by this Constitution in the government of the United States, or in any department or officer thereof.”<sup>12</sup>*

Nowhere in these Articles is Congress granted a **GENERAL** legislative power.

Accordingly, the **10<sup>th</sup> Amendment** reserved those powers to the States. This Article does not delegate a new and independent specific power but rather a provision for making effective the powers theretofore mentioned.

### **MISSION CREEP**

A term often used in military circles called “mission creep” seems to be a repetitive phenomenon that occurs within most organizations as well as governments, throughout history. Over the many years, our system of government seemingly has fallen victim to this dilemma.

This methodology is often engaged to usurp limiting or prohibitive factors or to fill voids where deemed necessary; as seen with the advent of, and continued efforts by the United States Forest Service, Bureau of Land Management, Environmental Protection Agency, Department of Environmental Quality, Fish and Game, and many other federal regulatory organizations.

According to enumerated powers of Congress expressed in Article 1, and subsequent paragraphs, the only exceptions enabling Congress' power over an individual State is often referred to as the **Interstate Commerce Clause**, which states: *“To regulate commerce with foreign nations, and among the several states, and with the Indian tribes.”* <sup>13</sup>

In careful reading of the paragraphs contained in Article 1, the only other exception is the federal governments' authority to coin money, declare war, raise revenue, and certain felonies such as counterfeiting, piracy, espionage.

The largest volume of violations to the Constitution is under color of the **Commerce Clause**. In many cases, the issues assume the form of a recommendation, guideline, or federal regulation of which the States are often forced into compliance through threatening a loss of federal funding.

The **United States Department of Agriculture** and **Department of Interior**, specifically the **United States Forest Service** and **Bureau of Land Management** identifies their source of authority to: *“The Congress shall have power to **dispose of and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States; and nothing in this Constitution shall be so construed as to Prejudice any Claims of the United States, or of any particular State.**”* <sup>14</sup>

Their claims of authority, however, **do** prejudice the claims and powers of individual states.

The 10th Amendment, which was seemingly adopted with a precognitive insight that our central government would eventually overstep their authority; by disclosing the widespread fear that the central government might, under pressure of a supposed general welfare, attempt to exercise powers which had not been granted. With equal determination, the Constitutional framers intended that no such assumption should ever find justification; and if in the future, it were determined such additional powers seemed necessary - only **the people should grant them**, in the proper manner prescribe for amending those acts.

The second claim of federal jurisdiction purportedly emanates from an interpretation describing their power as “**without limitation**” referencing the Supremacy Clause. (see *Kleppe v. New Mexico*) <sup>15</sup>

A study conducted (1956-1957) referred to as the Eisenhower Document examined the federal authority within a State. It was determined local law enforcement overlooked duties within the lands held in trust by the federal government and the federal agencies were not engaged in such actions. What emerged from this study were four levels of jurisdiction. They are (1) **exclusive**, (2) **concurrent**, (3) **partial**, and (4) **propriatorial**.

Most lands fit into the propriatorial level of jurisdiction, unless specifically stated otherwise.

The United States Constitution was signed September 17, 1787; this document stood on its' own for well over 100 years; with a clear understanding of content and meaning. The public lands (out West) were considered by many as the “problem lands”. Accordingly, these lands were for “**disposal**” and open for purchase. The reason for selling these lands was to repay the National debt incurred by the Civil War.

Moreover, to open the lands for expansion, exploration, occupancy, and production by settlers. When the actual shift in paradigm occurred is open for debate, but many of these “public lands” held in trust seemingly became more desirable to retain, rather than for “**disposal**”. Whenever that actually started, newly formed federal regulatory agencies worked their way into existence, each taking an increasingly expanding role (enter “mission creep”).

Instead of reading the Constitution in the matter of which it was designed – “**pari materia**” (all together), it becomes easier to distort or usurp the original meaning of the U.S. Constitution. *“The courts have stated repeatedly that laws relating to the same subject (such as land disposal laws) must be read in pari material (all together). In other words, Federal Land Plan Management Act (FLPMA) or any other land disposal act cannot be read as if it stands alone....”* <sup>16</sup> Thereby, allowing these federal regulatory entities to come up with their own agenda driven rules, which not surprisingly often benefits the special interest groups' agendas.

Examples of the continuation of “mission creep” are demonstrated in illegal road closures of Revised Statutes 2477 (RS2477) roads, which only meet the qualifications of consideration for Wild Lands designation if they are 5,000 acres, or more, and

**“roadless”**. These road and trail closures by “decommissioning” or destruction have been occurring for years.

In 1964, the U.S.G.S. redefined categories of roads to meet with their new agenda...road closures for qualifying as Wild Lands.

The Bureau of Land Management under the U.S. Department of Interior issued a letter dated June 1, 2011 from Mr. Salazar (Secretary of Interior) stating the BLM will not designate any lands a Wild Lands; but directs Deputy David Hays to develop management of public lands with Wilderness characteristics and to solicit members of Congress, state and local officials, tribes and federal land managers to identify BLM lands that may be appropriate candidates for Congressional protection under the Wilderness Act.

The USFS recently sent out a communication dated July 15, 2011 titled **Federal Register publication of Final Proposed Rules 262,261 and 212**; purportedly to clarify and expand their authority.

*“Representatives of the USFS failed to defend their position from a legal standpoint, submitting no legal analysis that justified their position. Instead, they simply “ruled” that they did not recognize the validity of the County’s assertion to the road.”* <sup>17</sup>

It is no wonder everyone is confused with various federal entities writing their own rules and regulations, which serve only to confuse the public and often contradict each other. These many federal agencies often fail to follow their own rules and regulations; examples being mining laws, clean water, timber harvest, grazing, travel management acts such as FLPMA, and so on. This manner of business has turned into a 900-pound gorilla and needs to be addressed at the highest levels.

### **POLICE POWERS**

Getting back to the original issue of the federal government bodies engaging in **“police powers”** within the States – one of the more important cases, *“the court ruled that forest reserves were not federal enclaves subject to the doctrine of exclusive legislative jurisdiction of the United States. **Local peace officers were to exercise civil and criminal process over these lands.** Forest Service rangers were not law enforcement officers unless designated as such by state authority. The USFS had no general grant of law enforcement authority within a sovereign State.”* <sup>18</sup>

Road closures, for example, are critical to our public health welfare, and safety. As the chief law enforcement authority, saddled with those responsibilities, I must assert my lawful authority to use any road deemed essential in this regard to conduct law enforcement operations including crime prevention, crime response, fire suppression, emergency medical response, assistance to federal agents, search and rescue operations, drug cartel and illicit drug eradication, and related operations. The closure of roads and harassment by federal agents upon miners has prompted my actions.



## LEGAL FOUNDATION FOR POLICE POWER

Recently, there has been a movement by the Supreme Courts in rendering decisions relative to the clear meaning and intent of our Constitution. A recent Court reviewed many of the clear attempts on the part of Congress to usurp authority it did not have. The Court stated *"But law in the sense in which courts speak of it today does not exist without some definite authority behind it. The common law so far as it is enforced in a State, whether called common law or not, is not the common law generally but the law of that State existing by the authority of that State without regard to what it may have been in England or anywhere else...." "The authority and only authority is the State, and if that be so, the voice adopted by the State as its" own (whether it be of its Legislature or of its Supreme Court) should utter the last word."* Thus the doctrine of *Swift v. Tyson* is, as Mr. Justice Holmes said, *"an unconstitutional assumption of powers by the Courts of the United States which no lapse of time or respectable array of opinion should make us hesitate to correct."* In disapproving that doctrine, we do not hold [304 U.S. 64, 80] unconstitutional section 34 of the Federal Judiciary Act of 1789 or any other act of Congress. We merely declare that in applying the doctrine this Court and the lower courts have invaded rights which in our opinion are reserved by the Constitution to the several states."

In a concurring opinion, Justice Thomas stated; *"the exchanges during the ratification campaign reveal the relatively limited reach of the Commerce Clause and of federal power generally. The Founding Fathers confirmed that most areas of life (even many matters that would have substantial effects on commerce) would remain outside the reach of the Federal Government. Such affairs would continue to be under the exclusive control of the States."*

*"We have said that Congress may regulate not only „Commerce...among the several states," U.S. Const., Art. I, 8, cl.3, but also anything that has a „substantial effect" on such commerce. This test, if taken to its logical extreme, would give congress a "police power" over all aspects of American life. Unfortunately, we have never come to grips with this implication of our substantial effects formula. Although we have supposedly applied the substantial effects test for the past 60 years, we always have rejected readings of the Commerce Clause and the scope of federal power that would permit Congress to exercise a **"police power"**; our cases are quite clear that there are real limits to federal power...Indeed, on the crucial point, the majority and Justice Breyer agree in principle: the Federal Government has nothing approaching a police power."*

*"The Constitution mandates this uncertainty by withholding from Congress a plenary **"police power"** that would authorize enactment of every type of legislation."* <sup>19</sup>

In another case, the Court claimed the federal government had no jurisdiction over crimes committed within the 50 States.<sup>20</sup>

*"In the United States of America, there are two separate and distinct jurisdictions, such being the jurisdiction of the states within their own state boundaries, and the other being federal jurisdiction (central government), which is limited to the District of*

*Columbia, the U.S. territories, and federal enclaves within the states, under Article 1, Section 8, Clause 17.* "The article which describes the judicial power of the United States is not intended for the cession of territory or of general jurisdiction... Congress has power to exercise exclusive jurisdiction over this district, and over all places purchased by the consent of the legislature of the state in which the same shall be, for the erection of forts, magazines, arsenals, dockyards, and other needful buildings."<sup>21</sup>

*"Special provision is made in the Constitution for the cession of jurisdiction from the States over places where the federal government shall establish forts or other military works. And it is only in these places, or in the territories of the United States, where it can exercise a general jurisdiction."*<sup>22</sup>

### **USES OF PUBLIC LAND**

There seems to be more and more regulations coming forth that violate property rights and grants to the people by our Constitution; such as, the "Executive order creating Humboldt National Forest, Where the Road resides and relevant Congressional acts contain a savings clause protecting preexisting rights. The Presidential Executive Order which created the Humboldt National Forest contained a savings clause, protecting all existing rights and excluding all land more valuable for agriculture and mining."<sup>23</sup>

"Public Lands" are "lands open to sale or other dispositions under general laws, lands to which no claim or rights of others have attached" „The United States Supreme Court has stated: "It is well settled that all land to which any claim or rights of others has attached does not fall with the designation of public lands." „FLPMA defines "public lands" to mean "any land and interest in land owned by the United States with the several states and administered by the Secretary of the Interior through the Bureau of Land Management."<sup>24</sup>

"Public land" that is disposed by claims under the act of 1872 is "**Public Domain**". "The locators of all mining locations made on any mineral vein, lode, or ledge, situated on the public domain, their heirs and assigns, were no adverse claim existed on the 10th day of May 1872 so long as they comply with the laws of the United States, and with State, territorial, and local regulations not in conflict with the laws of the United States governing their possessory title, shall have the exclusive right of possession and enjoyment of all the surface included within the lines of their locations."<sup>25</sup>

The mechanics of what happens to the "public land" once found to be mineral in character is expressly evidenced in the Organic Act of 1897, that "any public lands embraced within the limits of any forest reservation which..." "...shall be found better adapted for mining or for agricultural purposes than for forest usage, may be restored to the public domain." By private settlement under various land disposal laws of the United States, such as the Mining Law of 1872, "public land" is restored to the public domain.

The federal agencies have management authority only over "public land", not privately settled public domain. The act of location restores the land to public domain and the mining law provides the locator of such segregation "shall have the exclusive

*right of possession and enjoyment of all the surface included within the lines of their locations”* <sup>26</sup>

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Federal mining claims are “private property” <sup>27</sup>

*“but so long as he complies with the provisions of the mining laws his possessory right, for all practical purposes of ownership, is as good as though secured by patent.”* <sup>28</sup>

*“All mining claims, whether quartz or placer, are real estate. The owner of the possessory right thereto has a legal estate therein with the meaning of ORS 105.005”* <sup>29</sup>

Setting the required boundaries of a mining claim literally sets a boundary describing land separate and distinct from agency authority placing the land under the exclusive authority and jurisdiction of the locator.

This interest is also stated as case law and Forest Service Manual details. <sup>30</sup>

By clear and identical language, Congress has stated in the Organic Act of June 4, 1897, the Eastern Forests (Week's) Act of 1911, and the Taylor Grazing Act of 1934, that there was no intention to retain federal jurisdiction over private interests within national forests. The courts have consistently upheld the ruling in *Kansas v. Colorado* since 1907.

No section of the FLPMA and, therefore, no Forest Service authority may impair or amend locator's rights under the act of 1872. <sup>31</sup>

*Further that, “no provision of this section or any other section of this Act (FLPMA) shall in any way amend the Mining Law of 1872 or impair the rights of any locators or claims under that Act, including, but not limited to, rights of ingress and egress”*

One final point, *“where rights secured by the constitution are involved, there can be no legislation or rulemaking that would abrogate them”* <sup>32</sup>

## CONCLUSION

In summation, the Supreme Court has declared the federal government has no authority or jurisdiction over individuals or issues not involving interstate commerce or issues not involving federal territory. Neither Congress, nor the President, can pass laws that govern life or activities within the boundaries of the several States. “Police” powers are **not explicitly granted** to the central (federal) government and thereby fall within the purview of the 10th Amendment Clause of the Bill of Rights.

The points addressed in this document are not all that require redress, but rather presented to identify violations and disjointed (often overbearing) management of our public lands. The lack of federal **Coordination** and the inaccurate scientific studies to mention two, must also be addressed, as the federal agencies seem to blatantly ignore.

At the beginning of this document, reference was made proposing a possible solution. To that end, I would begin with a point made in the Congressional Record referred to several times from Hon. Jim Gibbons of Nevada, to wit:

*"forest reserves were not federal enclaves subject to the doctrine of exclusive legislative jurisdiction of the United States. Local peace officers were to exercise civil and criminal process over these lands. Forest Service rangers were not law enforcement officers unless designated as such by state authority."*<sup>33</sup>

Put police enforcement back where it belongs, within the several States, or political subdivisions. In these tough economic times, it would put our citizens back to work; by sub-contracting to local authorities for Law Enforcement services it would most certainly provide a cost savings benefit to the federal government; and places the protection of our forests and natural resources with those having a real stake in the safety, health, and welfare of the community they serve. It is my hope; this letter will serve as a starting point of discussion.

Respectfully,

**Gil Gilbertson, Sheriff**  
**Josephine County, Oregon**

- 1 Article 2, Articles of Confederation
- 2 United States Constitution Article 1 § 1
- 3 10th Amendment, Bill of Rights
- 4 United States Constitution, Article 1 § 8 c.17
- 5 United States v. Bevens 16 U.S. (3Wheat.) 366 (1818)
- 6 Oregon Revised Statute 272.030
- 7 Oregon Revised Statute 272.033
- 8 Oregon Revised Statute 272.036
- 9 Oregon Revised Statute 272.040 (2)
- 10 Oregon Revised Statute
- 11 Pollard v. Hagan, 44 U.S. (3 How.) 212 (1845)
- 12 United States Constitution, Article 1 § 8 c.18
- 13 United States Constitution, Article 1 § 8 c.3
- 14 U.S. Constitution, Article IV § 3 c.2 (AKA Property Clause)
- 15 Kleppe v. New Mexico, 426 U.S. 529, 542-543 (1976)
- 16 Congressional Record, October 23, 2000 E1883, Hon. Jim Gibbons of Nevada in the House of Representatives.
- 17 Congressional Record, October 23, 2000 E1884, Hon Jim Gibbons of Nevada in the House of Representatives.
- 18 Congressional Record, October 23, 2000 E1886, Hon Jim Gibbons of Nevada in the House of Representatives.
- 19 United States v. Lopez, 115 S.Ct. 1624 (1995)
- 20 United States v. Morrison, 169 F.3d 820 (1999)
- 21 United States v. Bevens, 16 (3 Wheat.) 336 (1818)
- 22 New Orleans v. United States, 35 U.S. (10 Pet.) 662, 737 (1836)
- 23 Congressional Record October 23, 2000 E1885 Hon. Jim Gibbons of Nevada in the House of Representatives
- 24 Congressional Record October 23, 2000 E1885-E1886 Jim Gibbons of Nevada
- 25 30 USC § 26

- 26** R.S. § 2332 derived from act May 10, 1872 ch. 152, § 3, 17 Stat. 91
- 27** Freese v. United States, 639 F.2d 754, 757, 226 Ct.Cl. 252 cert. denied, 454 U.S. 827, 102 S.Ct. 119, 70 L.Ed.2d 103 (1981); Oil Shale Corp. v. Morton, 370 F. Supp. 108, 124 (D.Colo. 1973)
- 28** Wilbur v. U.S. ex rel. Krushnic, 1930, 50 S.Ct. 103, 280 U.S. 306, 74 L.Ed. 445
- 29** Oregon Revised Statute 517.080 Mining claims as realty.
- 30** Forest Service Manual 2813 – rights and obligations of claimants
- 31** 43 USC 1732 (b)
- 32** Miranda v. Arizona, 384 U.S. 436 p. 491
- 33** Congressional Record October 23, 2000 E1886 Hon. Jim Gibbons of Nevada in the House of Representatives, and U.S. Supreme Court May 19, 1907 Kansas v. Colorado

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## **Claudia's letter to Sheriff Gilbertson**

**Subject: Thank you for standing up for us**

Dear Sheriff Gilbertson,

I live in Albany, Oregon and am the vice president of a gold and treasure organization, the Millennium Diggers. We have several mining claims in Josephine County on Briggs Creek. I feel very fortunate and proud that there is a sheriff in charge there that is looking after our rights to mine and is there to protect our constitutional rights.

I am a retired USEPA physical scientist and have been volunteering along with Joseph Greene, a research biologist also a retired USEPA employee since about 2002 to research the effects of suction dredging on the environment at the request of miners across Oregon, California and Washington. We have reviewed many peer-reviewed articles and have not found a single claim leveled against suction dredgers to be a significant threat to the environment. This is the same finding as USEPA found in several commissioned studies they supported.

Yet suction dredgers are continually at odds with the environmental community as well as many state agencies. Something else is going on here that does not really have to do with the environment.

We do need officials like your self to see us through the times ahead. Thank you for your efforts in pulling together a group of like-minded sheriffs from other counties to further study, educate and support each other in keeping our citizens rights safe.

You are one of the true hero's of our society,

Sincerely,

**Claudia Wise**

Millennium Digger, Vice President

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## **Why Isn't the Gold Price Going Through \$2,000 Now?**

Source: Julian Phillips, Gold Forecaster (10/7/11)

"In 2008 confidence in the financial system as well as in the monetary system appeared unassailable, not this time."

The gold price went over \$1,900 and looked as though it was going to mount \$2,000, but since then has fallen back to \$1,600 and is in the process of consolidating around the lower \$1,600 area. It was expected that it would have moved a lot higher faster, but that hasn't happened, yet.

In the face of Italy's downgrade to A2 by the ratings Agency, Moody's summary that, **"There has been a profound loss of confidence in certain European sovereign debt markets, and Moody's considers that this extremely weak market sentiment will likely persist. It is no longer a temporary problem that might be addressed through liquidity support, and several euro-area governments are increasingly affected by the loss of confidence."** The downgrading was expected, as are further downgrades for the different Eurozone members, shouldn't the gold price be on its way through \$2,000 to much higher levels?

### **The 'Downturn'**

The news over the last few weeks has sent global financial markets down very heavily as a slow recovery morphed into a downturn and at best a flat economic future in the developed world. These falls have been accompanied by tremendous worries that there could be a major banking crisis that will cripple the Eurozone economy as a whole, not just the debt-distressed nations. In France growth is now at zero, in Greece it is somewhere south of a 5% dip in growth well into recession. Greater austerity simply adds to the fall in government revenues defeating their purpose of reducing their deficit. All of this implies an ongoing shrinkage of the Eurozone economy. This hurts investor capacities in all financial markets and wealth throughout the Eurozone. Cash becomes king' as investors flee markets to a holding position waiting for much cheaper prices before re-entering markets at lower levels.

The path to deflation is then made. Deflation in its early stages causes tremendous de-leveraging. That is the selling of positions to pay off loans taken to increase positions. It may come about because of investor prudence, banks calling in loans, stop-loss triggers and margin calls [where the level of debt against positions becomes too high and forces sales]. This often and particularly in the case of precious metals has nothing to do with the fundamentals of the market. It is simply the position of investors. This happened in the precious metal markets as well. This is why gold and silver prices fell.

## **De-leveraging**

As was the case in 2008 and often through history, the process of de-leveraging is a short-lived one, even when it is savage. Once an investor has sold the positions he feels he needs to that downward pressure on prices disappears. Leveraged positions are the most vulnerable of investor held positions and can make up the froth or 'surf' in the markets, which cause the volatility levels to increase when dramas strike. In 2008 these positions were huge because there had been two and a half decades of burgeoning markets that encouraged greater risk taking. Since then, while leveraging has taken place it has been less and rapidly removed when dramas hit.

In 2008 we saw a similar drop in prices from \$1,200 to \$1,000 [20%], which equates to the fall from \$1,910 to \$1,590 [16.9%]. In 2008 the precious metal prices then slowly rose as buyers started to come in from all over the world. It took over a year for prices to recover back to \$1,200.

## **Change in Market Structure**

Today the shape of the precious metal markets is quite different, particularly that of gold. In 2008 central banks were sellers—today they are buyers. In 2008 the Chinese gold markets were small. Since then they have grown to such an extent that they are soon to overtake India. These are two dynamic features that give demand a totally different shape to 2008. More than that, the impact of the developed world long-term has diminished quite considerably. It now represents less than 21% of jewelry, bar and coin demand. The emerging world as a whole represents over 70% of such demand now.

The bulk of the world's physical gold that comes to the market is dealt at the London twice daily Fixings. The balance that is traded outside the Fixings is the most short-term price influential amounts, producing the swings that resemble the waves on the seashore. It is these traders and speculators that often persuade long-term buyers to stand back and wait for the prices to swing to the point that persuades them to enter the market. The drop from \$1,900 had this effect on investors. Now that the fall has happened we see a surge in demand from the emerging world to pick up the slack in the market. We have no doubt that central banks are buying the dips as well.

So once the selling from the developed world has stopped [emerging market demand waits for this before buying, allowing the fall to extend further] in come the buyers happy that they are entering the market at a good time. Because of this change in market shape we fully expect the market to take far less time to find its balance and allow demand to dominate.

## **2012 Recession and the Battle Against It**

The I.M.F. has just warned that the developed world will enter a recession in 2012. Will that be a negative for the gold market? We do not believe that it will. The world has seen the recovery peter out, has seen the sovereign debt crisis arrive and now sees the

I.M.F. recommend that the Eurozone banks be recapitalized. What does this mean for precious metals?

Cast your minds back to the recapitalization of U.S. banks under the TARP measures whereby the Fed bought the 'toxic' debt investments of the banks against fresh money. When we say fresh we mean just that, newly created money in the trillions. This did lower the perceived value of the dollar inside and outside the U.S. The effect on gold was palpable as it rose back through \$1,200 and onto new highs.

Already we are hearing rumors of an E.U. government minister's plan to walk the same or similar road. With the recent past in mind, we are certain that that will lower the perceived value of the euro and see euro investors seek places to cling onto the value the euro still has. This time round we fully expect markets to discount these actions in the same way. The downturn will therefore be fought with new money creation in the same way the U.S. did it from 2008 on.

### **Second Time Round**

There is a significant difference between 2008 and now. In 2008 the credit crunch was new to investors and shocked the markets into overreactions. In 2011 we are not shocked but expectant of what lies ahead. In 2008 the developed world economy had considerably more resilience than it does now, so the situation is more serious and less likely to be believed as the panacea for the developed world's economic crisis. Because the gold and silver prices rose so strongly after that time and in the face of those 'solutions' the same will be expected now. In 2008 confidence in the financial system as well as in the monetary system appeared unassailable, not this time. While the developed world, outside of the gold ETF's in the U.S., has not been the main driver of rising gold prices, this time we would not be surprised to see their resilient confidence in their world snap and a frantic search for safe-havens follow.

Yes, if we see a repeat of the 2008 breakdowns in the near future they will slaughter remaining confidence in the monetary system and the ability of its governments to set matters straight. What then for gold and silver?

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**Visit our website at <http://www.millenniumdiggers.com/>**

The Millennium Diggers Club is a group based in Keizer, Oregon, which is near Salem, Oregon. The club is for people that share an interest in searching for things of value. The club's charter is to provide members with a club that will help promote the hobbies of metal detecting, prospecting, rock hounding, and treasure hunting. Part of our yearly dues pay for mining claims that are available for all club members to use. We use club meetings to share information about locating gold, silver, coins, jewelry, gemstones, fossils and metal detecting. We plan club outings each month where we can help each other learn all aspects of our hobbies. This is a



great family activity, bring the kids! Please feel free to drop in on one of the monthly meetings or outings.

**We meet the 4th Thursday of each month, 7:00 p.m., at:**

**Keizer/Clear Lake United Methodist Church  
920 Marks Drive  
Keizer, OR 97303**

The church is located across the street from the Clear Lake Fire Station. There's plenty of parking in the church's parking lot. We meet in the church's fellowship hall. Enter at the rear of the building.