MINING POSSIBILITIES IN THE NATIONAL PARK SYSTEM

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In May 2022, National Park Service (NPS) employees at Mojave National Preserve in California encountered activity associated with mining in the Clark Mountain unit of the Preserve. The operations continue to this day and are in violation of NPS mining regulations at 36 CFR Part 9, Subpart A (the 9A's).

In this instance, the claimant asserts approval under a 1985 Bureau of Land Management (BLM) plan of operations: a plan that was long ago ended and supplanted by the NPS in a letter from the NPS of July 13, 1995. Although the BLM exercises no authority over Mojave National Preserve nor the mining claims within it, BLM alleged in April 2025 that the Colosseum Mine was lawfully proceeding under its 1985 approval.

This development takes place against a backdrop of national leadership committed to a renewed impetus on increased mining within the United States, particularly for the mining for certain “hardrock” metals and minerals used in an array of hi-tech applications. This renewed impetus precedes the current Trump administration but is today taking on greater emphasis.

With respect to mining within national parks, if a claimants' rights are valid under the applicable and ordinary tests, then the claimant, after compliance with the governing rules, must be allowed to mine. The National Park Service (NPS) has the authority to prescribe the conditions that govern the operations and demand the posting of adequate surety. The government may also acquire claims, as can nonfederal third parties, and then retire them; likely a costly and contentious proposition.

Thus, the search for minerals is a possible threat to the national park system.

According to information PEER has obtained from NPS under the Freedom of Information Act (FOIA), there are more than one thousand patented and unpatented mining claims on national park lands.

THE UNIVERSE OF EXISTING CLAIMS

The NPS estimates that 1,067 mining claims exist within 15 areas of the national park system in every western state, except four - Oregon, Idaho, Utah and New Mexico. The claims include 635 unpatented claims and 432 patented claims. The Pacific West Region has the largest number with 645 claims, due mainly to Death Valley National Park and Mojave National Preserve. The latter unit contains over 40 percent of all claims in the system (422 out of 1067). After that, the Alaska Region follows with 402 claims, three

quarters of which are in Wrangell-St. Elias National Park and Preserve (310 claims) – the largest NPS unit.

Claims reported in 2025 are down slightly from 1102 reported by the NPS in 2015. This reduction may be attributable mainly to attrition by unpatented claimants' failure to meet recordation or other statutory requirements. The entire reduction of reported claims is from the unpatented category (467 in 2015 to 432 in 2025), while patented claims remained the same at 635.

Patented claims comprise over 60% of all claims (635 of 1067). Patented claims are fully private property, confirmed by a "patent" - a title - from the Interior Department to the claim. Once patented, the claimant may devote the claim to any purpose and need not mine. There are a handful of congressional acts that limit a patent to the subsurface minerals only and not the surface. There may not be any such claims in the national park system. For example, it is reputed that a casino within the boundaries of Lake Mead National Recreation Area, lies on patented claims south of Boulder City, Nevada.

Normally, once a claim is patented to both the surface and the minerals, the agency lacks authority to govern mining on the claim. Not so for the NPS. Laws governing the national park system confer on the Secretary the power to regulate all mining operations, including on patented claims.

BACKGROUND INFORMATION

1. Mining Law of 1872: The complex canons of "the mining law" have evolved over 150 years, shaped by common practice, judicial rulings and administrative determinations that cannot be summarized here. Even the generic term "mining claims" can include placer or lode claims, tunnel sites or millsites. To illuminate this report, a lode claim encompasses approximately 20 acres.

1. Mining in the Parks Act (P.L. 94-429): In September 1976, President Gerald Ford signed into law the Mining in the Parks Act. That law withdrew the handful of park system areas that remained open to claim location under the Mining Law of 1872. Primary among these few open areas were then-Mount McKinley National Park (as provided for in Section 4 of the 1917 enabling act) and the then-Death Valley National Monument (as provided for in a law of June 1933). After the Mining in the Parks Act no new mining claims could be located in *any* national park system area.

In addition, Congress created new areas of the system that were formerly Federal public or other lands and upon which claims existed at the time of designation. Congress protected any rights that were valid at the time of designation. Most notable of these were areas established in Alaska in 1980 and the California Desert in 1994. As a result, mining claims exist within the boundaries of a number of western units of the system.

Congress required the Secretary of the Interior to regulate "all activities resulting from the exercise of valid existing mineral rights on patented or unpatented mining claims within any area of the national park system..." The NPS promulgated the prescribed

regulations at 36 CFR Part 9, Subpart A on January 26, 1977 (remarkably just four months after the law). The regulations govern all “operations” (as defined at 36 CFR 9.2(b)) in all areas of the national park system. The new rules assigned to NPS Regional Directors the governing responsibility. The rules are built on the fundamental premise that any person enraged in or proposing operations must submit a proposed plan of operations to the Regional Director for review, public notice and compliance with applicable laws protecting the parks and the environment. No operation may be conducted without an NPS-approved plan (36 CFR 9.9).

3. Leasing of Federally Owned Minerals: It is no surprise that a system of lands as large and complex as the national parks would contain claims established ("located") under a law that dates to 1872, the year when Congress also created Yellowstone as the nation's first national park.

Far fewer of us realize that Congress authorized the Secretary of the Interior to remove and/or lease federally-owned minerals in three existing park areas. Three laws, beginning in 1964, give the Secretary the discretion to lease not only the minerals associated with the Mineral Leasing Act of 1920 (coal, oil, gas, non-metallic minerals) but also to lease minerals considered to be "hardrock," normally obtained by mining claim. The laws for each of the three national recreation areas vary in their wording and in the standards that govern mineral disposition.

To date, no Secretary has issued a lease for any minerals in the three units where Congress allows it. But it remains possible.

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