

California Supreme Court Holds Unanimously that the State May Restrict Mining Methods on Federal Lands | 1

Last year, as I discussed in a prior [post](#), the California Supreme Court granted the State of California's petition for review in the case of *People v. Rinehart*. I'm pleased to say that today, the Supreme Court has issued [a unanimous opinion](#), authored by Justice Werdegarr, in favor of the state's moratorium on suction-dredge mining on federal lands. This opinion confirms that states may exercise robust regulatory authority over mining in National Forests and on other public lands in order to protect the environment.

At issue in this case was whether the state's moratorium on suction-dredge mining in streambeds (and, at least in theory, a whole range of state regulations on mining that apply to federal lands) was preempted by the federal Mining Law of 1872. (State law has evolved since the case was filed, with the enactment of a [new law that took effect earlier this year](#), but that is a subject for another blog post, since this case addressed a criminal conviction under the prior law.) Miners and property-rights advocates have long argued that states' authority to restrict mining on federal lands is very limited, even where a state may conclude that mining will impair environmental quality or other resources.

In 2014, a [panel of the Court of Appeal agreed](#) with the miners' argument that the state moratorium violated federal law that generally allows miners to obtain and maintain property rights in federal lands for the purpose of mining. The State successfully petitioned the California Supreme Court to hear its arguments why the Court of Appeal got it wrong.

Professors John Leshy (UC Hastings), Eric Biber (UC Berkeley), Alex Camacho (UC Irvine), and I filed an [amicus curiae brief](#) in support of the State's position (with assistance from two of Eric's students).

My [earlier post](#) provides background on the case and related issues, and I won't repeat that background here. The underlying question raised by the case is whether, and to what extent, a state may enact or enforce laws or regulations that have the effect of prohibiting particular methods of mining on federal lands.

The California Supreme Court carefully analyzed the historical role of the Mining Law and cases decided by multiple courts since the enactment of that law. The Court, in a clear victory for the ability of states to regulate to limit mining practices in order to reduce environmental harm, held that "[t]he federal statutory scheme does not prevent states from restricting the use of particular mining techniques based on their assessment of the collateral consequences for other resources." The opinion provides a useful analysis of the relationship between state police powers to protect health and safety and the federal Mining Law, concluding that "[t]he federal laws Rinehart relies upon reflect a congressional intent to afford prospectors secure possession of, and in some instances title to, the places they mine. But while Congress sought to protect miners' real property interests, it did not

go further and guarantee to them a right to mine immunized from exercises of the states' police powers."

The opinion also provides insight into how the leading U.S. Supreme Court case on federal preemption of state regulation of mining on federal lands, [*California Coastal Comm'n v. Granite Rock Co.*](#), 480 U.S. 572 (1987), should be applied. The Court noted that *Granite Rock* "for the first time clearly established the states' authority to regulate on environmental grounds mining claims within their borders," and the Court also implicitly rejected Mr. Rinehart's claim, based on an interpretation of language from *Granite Rock*, that where such regulation "render[s] mining ... commercially impracticable," it is preempted by federal law. The California court's interpretation of *Granite Rock*, while not binding in other states, is likely to be noted by government agencies and courts in other states, and thus to empower states to use their regulatory powers more broadly, where appropriate, to restrict mining activities that they find to be harmful to resources.

Finally, it's notable both that the Court's opinion was unanimous, and that the federal government – typically an advocate of federal preemption, for obvious reasons – filed [an amicus curiae brief supporting the position](#) that the State acted within its lawful authority. Several members of the California Supreme Court tend to be skeptical of robust environmental regulation, and the Justices are certainly not apt to stretch in order to reach a decision that is more protective of the environment. While Mr. Rinehart has the right to petition the U.S. Supreme Court to hear the case, and may do that, the well-reasoned and unanimous decision by the California Supreme Court, coupled with the fact that the federal government has weighed in against a finding of preemption, should make it less likely that the U.S. Supreme Court will take the case.