

## The Truth About Rep. Pombo's Land Sale

### *Despite Claims, Legislation Is Worst Land Grab in Modern History*

**Pombo says:** The bill explicitly prohibits the Secretary from selling any lands meeting the bill's requirements that are located in National Parks, Wildlife Refuges, Wild & Scenic Rivers System, or Trails System, and in any National Conservation Area, Recreation Area, National Monument, or Wilderness Area.

**The TRUTH:** The mining subtitle specifically allows the selling of preexisting claims (i.e. valid existing rights) in these areas. In the National Parks alone, according to the National Park Service, more than 18,000 acres of mining claims predate this mining subtitle and are available for purchase.

**"Subject to valid existing rights,** nothing in sections 6202, 6203, 6204, 6205 and 6206 shall be construed as affecting any lands within the boundary of any unit of the National Park System..." (section 6207) [emphasis added].

**Pombo says:** This provision will not lead to the privatization of millions of acres of public land.

**The TRUTH:** The mining subtitle opens **two** paths to purchasing public lands. Together they combine to authorize the privatization of all public lands open to mining.

In section 6202, the **first** path would repeal the moratorium on mining land sales that was established in 1994 and has been renewed by Congress every year since then. This section would authorize the privatization of approximately 300,000 currently active claims -- or approximately 6 million acres of public lands (mining claims are generally about 20 acres each).

The section would also allow all *new* claims established on the public lands to be privatized. According to the BLM, during the last year alone approximately 70,000 new claims were staked on public lands.

Section 6204 would create a **second** and entirely new, path to purchase public lands. Purchases would be allowed for any purpose that would "facilitate sustainable economic development" (section 6204(b)). "Sustainable economic development" is undefined.

Lands subject to purchase under 6204 would not have to contain a valuable mineral and could be claimed in huge blocks, so long as some portion of the blocks are contiguous to former mining lands (section 6204(c)). Because many western public lands and national forests have been mined continuously since the first mining laws were passed

in the mid 19<sup>th</sup> century, patented and unpatented mining claims are everywhere. In sum, sections 6202 and 6204 would legalize claiming and purchase of all public lands open to mining: some 350 million acres according to the National Academies of Science.

**Pombo says:** This legislation is about mining and would limit land purchases to mining operations.

**The Truth:** The very first thing the mining subtitle does is eliminate the language in the 1872 Mining Law requiring that valid mining claims include the discovery of a valuable mineral

(it deletes this phrase in 30 USC 23: "but no location of a mining claim shall be made until the discovery of the vein or lode within the limits of the claim located"). (section 6201(a))

Revised "discovery language" is reinstated for section 6202 (patenting), *but it is not reinstated for section 6204*. So claims can be staked and purchased under 6204 without demonstrating that any mineral has been found, effectively turning the mining law into a real estate giveaway.

Section 6204 requires "mineral development work" before public land can be purchased, but such work is vaguely defined, including "any other work reasonably incident to mineral development." (Section 6204 g). Anything, including filing the claims, could be construed as meeting this condition.