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The 1872 Mining Law, As Amended

by NORTHWEST MINING ASSOCIATION
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There has been talk of mining law reform in virtually every Congress since 1866. Mining law opponents claim the Mining Law originally passed in 1872 is antiquated, a relic of frontier times that has remained virtually unchanged for 125 years. The facts are that there have been substantial changes to federal mining law over the years. Congress has enacted more than 50 changes that directly affect rights granted under the Mining Law of 1872. More than 400 million acres (1.6 million hectares) have been placed off-limits to exploration and a number of environmental statutes directly and indirectly affect all mining operations under the 1872 Mining Law on federal land and elsewhere.

Among the more notable changes are the Antiquities Act of 1906 which authorizes the President to establish national monuments which are closed to mineral exploration; the Mineral Land Leasing Act and Mineral Leasing Act of 1920

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"Not the law, but the land sets the limit"

—The Land of Little Rain, Mary Austin

The Lawless West?

by DAVID CARROLL, Director

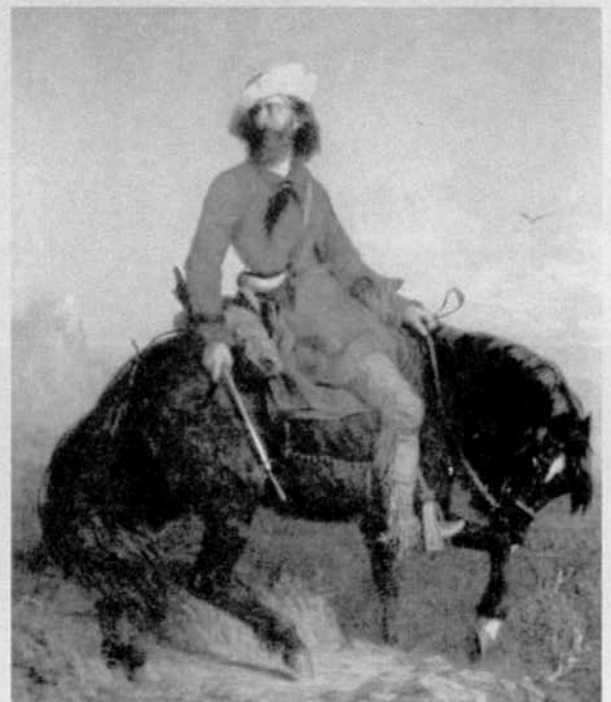
Myths can be a powerful narrative in shaping our understanding of the past. Nowhere is that more evident than in the myths of the American West. From the Great American Desert to the Garden of the West or the yeoman farmer and the heroic mountain man, myths have shaped our image of the West that still lives on today.^[1] How did these myths get started? In part, they were the result of Easterners struggling to define, characterize, and at times romanticize, the typical Westerner.

The threat to Easterners who had not gone West was political, economic and, perhaps most of all, social. Would this uncharted territory kindle authenticity or savagery? One approach to answering these questions was the popular dime novels. As early as 1860, publisher Beadle & Adams created the first series of dime novels with over 320 issues of mostly frontier tales. Another popular series written by Edward L. Wheeler was the Deadwood Dick novels that ran through thirty-three issues.

Within the first couple of chapters, the stage was set for the West as a lawless frontier. The reader only had to glance at the first page of *Deadwood Dick's Doom*; or, *Calamity Jane's Last Adventure* to know that the West was a place void of any civilized rules.

"Even the Government officials, cognizant of the lawlessness within the borders of death Notch, hesitated to interfere, because of the desperate character of the residents—hardest of the hard."^[2]

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Currently part of the Denver Art Museum's collection, the image of Long Jake is far from your typical hero.

The Lawless West?

—cont. from p 1

Artists also played a role in shaping the stereotype that the typical frontiersman was violent and unsophisticated.^[3] Charles Deas seemed to have a keen understanding of this perspective when he exhibited *Long Jakes* to a New York audience in 1944. Currently part of the Denver Art Museum's collection, the image of *Long Jakes* is far from your typical hero. Although posed on top of his horse, the horse itself seems a bit crude and unrefined with its head down and tucked under the front leg. *Long Jakes* moccasins and buckskin breeches with fringe along the side would certainly have brought to mind the fame of Davy Crockett, who by 1835 was known for his wilderness skills

but clearly was unsuitable for the urban drawing room. A closer look at Jakes' scruffy beard, torn broadbrimmed hat, and red on his nose and cheeks suggested a familiarity with alcohol. Later published as an illustration in *New York Illustrated Magazine of Literature and Art*, Deas' work was reprinted as a lithograph with the title *Western Life—The Trapper*. For Eastern audiences struggling to better understand the people of this new frontier, this was a popular image.

But was the West really filled with lawless individuals? As early as 1849, when a mass of new Easterners had stampeded toward California, numerous mining laws were established as new districts were formed. After a couple of speeches, miner's meetings would turn to the real business of writing a code. Each district had its own codes or laws and would typically elect a Recorder, Judge and other officers to enforce the decisions of the Jury of Miners. The laws established by the district and documented by the Recorder would define the boundaries of the district; number of feet allowed for a claim, as well as the amount of work required to hold the claim.^[4] In 1859, the first mass meeting ever held in the Rocky Mountains hosted 2,000 to 3,000 eager prospectors who had likely just arrived six weeks prior. This commitment to regulation and orderliness was further illustrated as the Committee on Codification would later add addendums due to the

changes in mining practices as well as the many other unforeseen circumstances.^[5] Several examples could be pulled from the original records of most of the early mining camps, but all in all it would lead to the same conclusions. The West was filled with individuals that had a sophisticated understanding of the rule of law.

Like the artists of the past, contemporary artist Margaret Whiting presents a forum for the viewer to think about our relationship with the West—specifically our relationship to law and the land. Her work has been exhibited in many museums nationwide and she currently spends most of her time focusing on books and materials from nature. In 2007 she began to explore contemporary issues

related to land use and encouraging thoughtful consideration of the laws that regulate the land. The result is a body of work titled *Laws of the Land*. Using discarded law books, she alters the books dramatically by highlighting keywords and phrases that result in objects that are both stirring and gentle. In September the museum will exhibit a selection from Whiting's *Laws of the Land* series as we hope to engage you in a dialogue about the history, myths and future of mining law with this extraordinary work.

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1. Smith, Henry Nash. *Virgin Land: The American West as Symbol and Myth*. Cambridge: Harvard University Press, 1950.
 2. Wheeler, Edward L. *Deadwood Dick's Doom; or, Calamity Jane's Last adventure, a tale of Death Notch*. New York: Beadle and Adams, 1899.
 3. Johns, Elizabeth. *American Genre Painting: The Politics of Everyday Life*. New Haven: Yale University Press, 1991.
 4. Morrison, Robert Stewart. *Morrison's Mining Rights*. Denver: The Smith-Brooks Printing Company, 1900.
- Miller, Charles Wallace. *Stake Your Claim: The Tale of America's Enduring Mining Laws*. Tucson: Westernlore Press, 1991. p. 54

WMMI'S NEW EXHIBIT

23 September - 30 December, 2010

Margaret Whiting's Laws of the Land