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Crowell & Moring Prevails Before U.S. Supreme Court in Long Running Western Mineral Rights Controversy

U.S. Supreme Court Rules That Congress Did Not Intend to Reserve Sand and Gravel in Nevada Through Its Reservation of "Valuable Minerals" in the 1919 Pittman Act

Washington, DC – April 1, 2004: In a case argued to the U.S. Supreme Court in January of 2004, C&M prevailed on March 31, 2004, on behalf of Petitioners BedRoc Limited, LLC, and Western Elite, Inc., in a long running controversy over whether private landowners owned the sand and gravel located on property originally granted under the Pittman Underground Water Act of 1919. That Act rewarded individuals who successfully developed water resources in the Nevada desert by granting them the ownership of desert land. However, Congress expressly reserved "valuable minerals" for the United States. The question presented to the Supreme Court in *BedRoc* was whether that reservation of "valuable minerals" included common sand and gravel, which had become commercially valuable in recent years. The Interior Board of Land Appeals, Nevada district court and the Ninth Circuit Court of Appeals had ruled in favor of the federal government. C&M represented BedRoc in petitioning for certiorari, and in the merits briefing and argument before the Court.

The Supreme Court reversed the Ninth Circuit, with six justices agreeing with Petitioners that Congress did not intend to reserve the sand and gravel of Nevada when it enacted the Pittman Act in 1919. The Court concluded that sand and gravel at issue could not have been considered "valuable" minerals in 1919 because those substances had no commercial value at that time or even as late as 1940, the year of the land patent to which Petitioners' traced their title. Quoting our brief on the merits, the Court noted that "even the most enterprising settler could not have sold sand in the desert" in the early 1900s.

In so holding, the Court rejected the government's argument that the Court's 1983 *Watt v. Western Nuclear* decision controlled the outcome. In that case, the Court had held that gravel on other western lands was reserved to the federal government by a 1916 statute purporting to reserve all "minerals." In *BedRoc*, the government argued, and the lower courts had agreed, that there was no distinction between the reservation of "minerals" in the 1916 statute and that of "valuable minerals" in the 1919 statute. C&M demonstrated that *Western Nuclear* did not control the outcome in *BedRoc* — and the Court in *BedRoc*, including even the three-justice dissent, intimated that *Western Nuclear* was wrongly decided, though it did not overrule *Western Nuclear*. Amicus briefs supporting BedRoc were filed by the National Stone, Sand and Gravel Association, the Associated General Contractors of America, and the Wyoming Stock Growers Association.

C&M's Tim McCrum argued the case for the Petitioners. Please click on the link to read the Supreme Court's decision in [*BedRoc v. United States*](#). You can also link to the [merits](#) and [reply](#) briefs filed by C&M on behalf of the Petitioners. If you have further questions about this case, please contact [Tim McCrum](#), [Ellen Steen](#), [Cliff Elgarten](#), or [Dan Wolff](#).

Crowell & Moring is a full-service law firm with more than 300 attorneys committed to solving legal problems and providing business solutions efficiently and effectively for our clients, who include *Fortune* 100 companies and multinational corporations across a range of industries. Based in Washington, D.C., the firm also has offices in Brussels, California and London.

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