

02-1593 BedRoc LIMITED, LLC v. UNITED STATES

Ruling below: CA 9, 314 F.3d 1080

QUESTIONS PRESENTED

The Pittman Underground Water Act of 1919 (the "Pittman Act") authorized patents of up to 640 acres of land in Nevada to applicants who successfully developed subterranean water sources, provided that such patents reserved to the United States "all the coal and other valuable minerals." Citing *Watt v. Western Nuclear*, 462 U.S. 36 (1983), the Ninth Circuit ruled that the Pittman Act reserved all sand and gravel as "valuable minerals," regardless of whether the materials at any given property had economic value at the time the land was patented.

The questions presented are:

- (1) Whether the reservation of "valuable minerals" includes all common materials (such as sand and gravel), without regard to whether the materials located on particular lands were "valuable minerals" at the time of the patent; and
- (2) If *Watt v. Western Nuclear* calls for the application of a per se rule regarding the reservation (or non-reservation) of common materials, whether congressional intent would be better served by a rule that common materials are not reserved to the government as "valuable minerals."

CERT. GRANTED: 9/30/03