

# Digger strikes gold in court

Michelle Rose

A GOLD digger accused of prospecting illegally on public land has hit the jackpot with a court win over the State Government.

The Department of Sustainability and Environment issued Nick Dubuc-Timson with a miner's right — and then arrested him for prospecting near a timber harvesting site.

Mr Dubuc-Timson, of Blackwood, was charged while looking for gold at a disused mine in the Wombat State Forest in 2002.

A departmental officer told the long-time prospector he was trespassing, even though he held a miner's licence.

A magistrate this week dismissed four charges against Mr Dubuc-Timson, ruling the Government could not stop genuine prospectors from accessing public land.

Magistrate Jennifer Bowles found conflicting laws meant those holding miner's licences had as much right as the logging industry to be on the land.

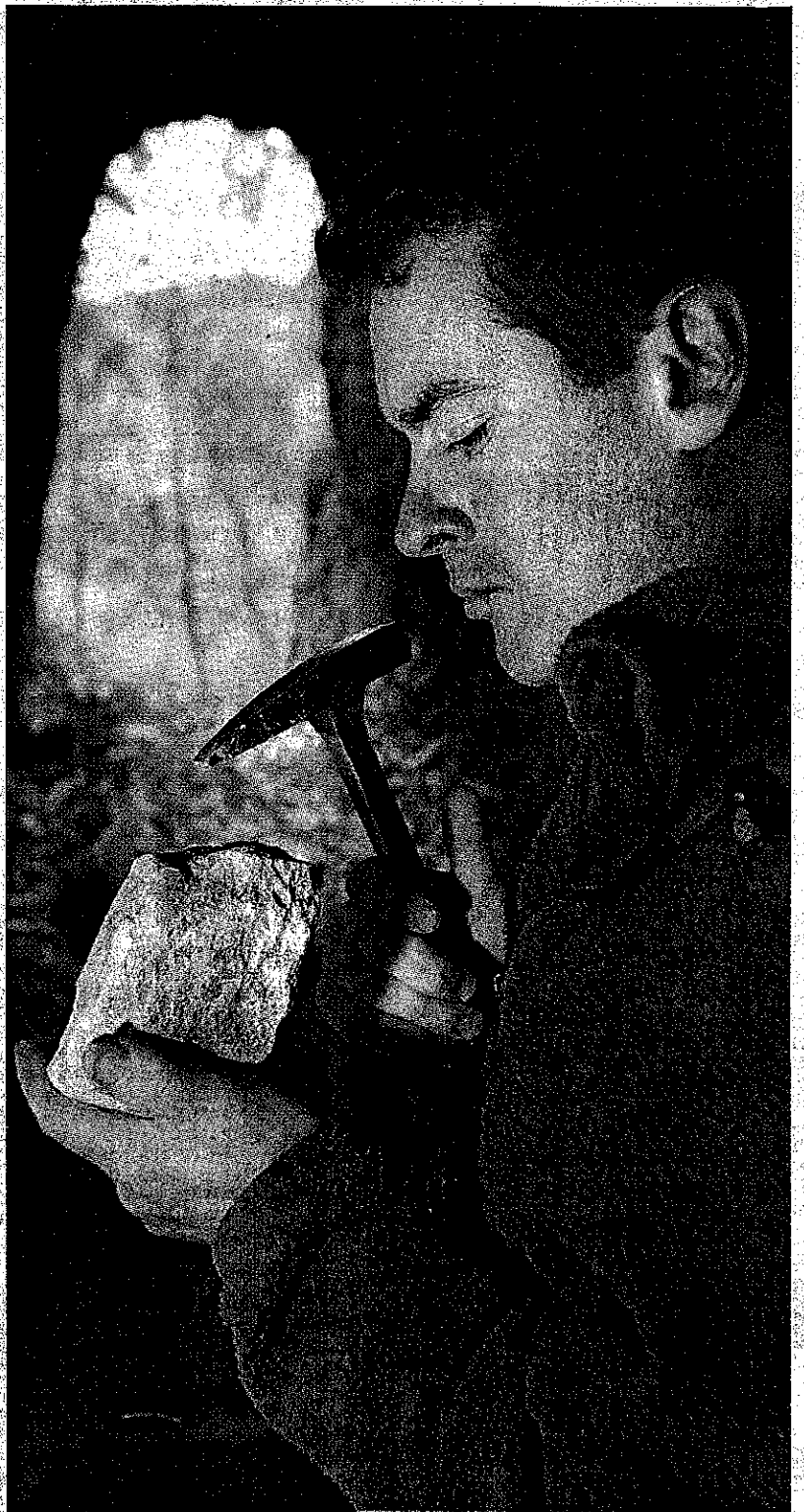
But the decision has raised concerns anti-logging campaigners will buy the \$19 miner's licences to legally stage protests on logging sites.

Defence lawyer James Catlin said: "(The decision) puts real constraints on the power of departmental officers to kick people out of logging coupes."

The Government said it was considering an appeal but would look at closing the loophole.

"Any changes would need to protect the rights of legitimate prospectors while addressing the issue of illegal protesters fraudulently using miners' rights," DSE spokeswoman Louise Martin said.

Mr Dubuc-Timson, 34, said he was shocked when he was told during a fun day he had organised for friends and



**Prospecting:** Nick Dubuc-Timson has won the day. Picture: JAY TOWN

family he was trespassing on one of his favourite gold-hunting sites.

He said he felt vindicated by the court decision, but feared for the future of his hobby if laws were changed to restrict miners.

He said prospecting was a way of life and "to be restricted in my

movements in the forest would be horrific".

Victorian Association of Forest Industries spokesman Pat Wilson said laws needed to be changed to ensure industry and the public were kept well apart.

"Legislation is required that is clear and unambivalent, that

deals properly with people's rights and at the same time prevents people from creating unsafe situations on the coupe," he said.

The industry held grave fears for safety at logging and harvesting sites if members of the public had ready access to them, he said.