

# MINING CLAIMS AND SITES ON FEDERAL LANDS

**BLM**





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# FOREWORD

The Bureau of Land Management (BLM) administers over 260 million acres of public lands and 700 million acres of subsurface minerals nationwide. BLM is responsible for the management of these lands, their resources, and their various values, with focus placed on what will best serve the needs of the American people. Management is based upon the principles of multiple use and sustained yield—a combination of uses that takes into account the long-term needs of future generations for renewable and nonrenewable resources. These resources include recreation, range, timber, minerals, watershed, fish and wildlife habitat, and natural, scenic, scientific, and cultural values.

The Federal Land Policy and Management Act (FLPMA) of 1976 launched a new era for public land management in America. The Act provides that the public lands remain under the stewardship of the Federal Government, unless disposal is in the national interest, and that their resources be managed under a multiple-use concept that will best meet the present and future needs of the American people. This pamphlet provides information on one facet of one of these multiple uses: activities under the General Mining Law of 1872, as amended.





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# INTRODUCTION

There are three basic types of minerals on Federal lands:

1. Locatable (subject to the General Mining Law of 1872, as amended)
2. Leasable (subject to the various Mineral Leasing Acts)
3. Salable (subject to mineral materials disposed of under the Materials Act of 1947, as amended)



Federal laws, regulations, and legal decisions have defined these minerals. Only those minerals that are locatable are discussed in this pamphlet.

The General Mining Law of May 10, 1872, as amended (30 U.S.C. §§ 22-54 and §§ 611-615) is the major Federal law governing locatable minerals. This law allows citizens of the United States the opportunity to explore for, discover, and purchase certain valuable mineral deposits on those Federal lands that are open for mining claim location and patent (open to mineral entry). These mineral deposits include most metallic mineral deposits and certain nonmetallic and industrial minerals. The law sets general standards and guidelines for claiming the possessory right to a valuable mineral deposit discovered during exploration. The General Mining Law allows for the enactment of State laws governing location and recording of mining claims and sites that are consistent with Federal law. The Federal regulations implementing the General Mining Law are found at Title 43 of the Code of Federal Regulations (CFR) in Groups 3700 and 3800.

This pamphlet gives a brief introduction to the Mining Law Administration program on Federal lands administered by the BLM. The last section provides additional sources for more information on the following topics:

- Geology and mineral resources of a particular area
- Mining and milling techniques
- Surface protection and reclamation requirements
- Other Federal and State legal requirements

The General Mining Law of 1872, as amended, has five elements:

1. Discovery of a valuable mineral deposit
2. Location of mining claims and sites
3. Recordation of mining claims and sites
4. Annual maintenance (annual assessment work or annual fees) for mining claims and sites
5. Mineral patents

The BLM's Mining Law Administration program involves mining claim recordation, annual maintenance (annual assessment work or annual fees), mineral patents, and surface management.

# EXPLANATION OF “DISCOVERY”



## Locatable Minerals

The General Mining Law of 1872, as amended, opened the public lands of the United States to mineral acquisition by the location and maintenance of mining claims. Mineral deposits subject to acquisition in this manner are generally referred to as “locatable minerals.” Locatable minerals include both metallic minerals (gold, silver, lead, copper, zinc, nickel, etc.) and nonmetallic minerals (fluorspar, mica, certain limestones and gypsum, tantalum, heavy minerals in placer form, and gemstones). It is very difficult to prepare a complete list of locatable minerals because the history of the law has resulted in a definition of minerals that includes economics.

Starting in 1873, the United States Department of the Interior (DOI) began defining locatable minerals as those minerals that are recognized as a mineral by the standard experts, are not subject to disposal under some other law, and make the land more valuable for mining purposes than for agriculture. Minerals normally locatable on lands acquired (purchased or received) under the Acquired Lands Act of 1947 by the United States or found on American Indian reservations are subject to lease only (43 CFR Group 3500). Therefore, it is easier for BLM to list the minerals that are not locatable because of the complexities listed previously.

Since July 23, 1955, common varieties of sand, gravel, stone, pumice, pumicite, and cinders were removed from the General Mining Law and placed under the Materials Act of 1947, as amended. Use of salable minerals requires either a sales contract or a free-use

permit. Disposals of salable minerals from BLM-administered lands are regulated by 43 CFR Part 3600.

Uncommon varieties of salable-type minerals may be locatable if the deposits meet certain tests created by various judicial and administrative decisions. See McClarty v. Secretary of the Interior, 408 F. 2d 907 (9th Cir., 1969). Federal certified mineral examiners determine uncommon variety on a case-by-case basis. (See 43 CFR Part 3830, Subpart C, for further information concerning the locatability of minerals.)

Since 1920, the Federal Government has leased fuels and certain other minerals (43 CFR Parts 3000-3590). Today, minerals that are subject to lease include oil and gas, oil shale, geothermal resources, potash, sodium, native asphalt, solid and semisolid bitumen, bituminous rock, phosphate, and coal. In Louisiana and New Mexico, sulphur is also subject to lease.

## **Discovery of a Valuable Mineral Deposit**

Federal statute does not describe what constitutes a valuable mineral deposit, therefore the government has adopted the "prudent man rule." This rule determines value based on whether or not a person will consider investing time and money to develop a potentially viable mineral deposit. This rule was first stated by the DOI in 1894, in the adjudication of Castle v. Womble, 19 L.D. 455 (1894), the holding of which states:

"...where minerals have been found and the evidence is of such a character that a person of ordinary prudence would be justified in the further expenditure of his labor and means, with a reasonable prospect of success in developing a valuable mine, the requirements of the statute have been met."

The U.S. Supreme Court approved this definition in Chrisman v. Miller, 197 U.S. 313 (1905).

The DOI's Solicitor issued an opinion in 1933 on the issue of widespread nonmetallic minerals with questionable marketability. The Solicitor noted a need for a distinct showing that the mineral could be mined, removed, and marketed at a profit. In 1968, the U.S. Supreme Court approved the opinion in U.S. v. Coleman, 390 U.S. 602-603 (1968). The marketability test is supplemental to the prudent man rule and considers deposit economics and market entry. The claimant is required to show a reasonable prospect of making a profit from the sale of minerals from a claim or a group of contiguous claims.

DOI decisions require a discovery on each claim based on an actual physical exposure of the mineral deposit within the claim boundaries. The DOI's holding in Jefferson-Montana Copper Mines Co., 41 L.D. 321 (1912), established the full test for a lode claim:

"To constitute a valid discovery upon a lode claim, three elements are necessary:

1. There must be a vein or lode of quartz or other rock-in-place
2. The quartz or other rock-in-place must carry gold or some other valuable mineral deposit
3. The two preceding elements, when taken together, must be such that as to warrant a prudent man in the expenditure of his time and money in the effort to develop a valuable mine."

For traditional placer claims, in addition to proof of a discovery of a pay streak, each 10 acres must be shown to be mineral-in-character (there is a reasonable expectation of further economic mineral under these

lands). Mineral-in-character may be based on geologic inference from adjoining lands and a reasonable opportunity for profitable extraction. An actual exposure of the valuable mineral deposit is not necessary. Mineral-in-character may be used to show the potential extent of the valuable mineral deposit on the claim(s), but cannot be used alone for such purposes.

Under the holding in Schlosser v. Pierce, 93 I.D. 211 (1986), contiguous mining claims on the same mineral deposit may be grouped together into a logical mining unit and evaluated as an economic unit. Each claim must still contain a physical exposure of the ore-bearing mineral deposit whose value meets or exceeds the cutoff grade for the mining of the mineral deposit as a whole.

# EXPLANATION OF “LOCATION”



## Mining Claims and Sites

A person who is a citizen of the United States or has declared an intention to become a citizen with the Immigration and Naturalization Service may locate and hold a mining claim or site. A corporation organized under State law is considered a citizen and may locate and hold a mining claim or site. A corporation is held to the same standards as a citizen. Non-citizens are not permitted to own or have an interest in mining claims or sites. There is no limit to the number of claims and sites that you may be hold as a qualified claimant, as long as the requirements of the General Mining Law have been met.

A mining claim is a selected parcel of Federal land, valuable for a specific mineral deposit or deposits, for which you have asserted a right of possession under the General Mining Law. Your right is restricted to the development and extraction of a mineral deposit. The rights granted by a mining claim protect against a challenge by the United States and other claimants only after the discovery of a valuable mineral deposit. The two types of mining claims are lode and placer. In addition, mill sites and tunnel sites may be located to provide support facilities for lode and placer mining claims (43 CFR Part 3832).

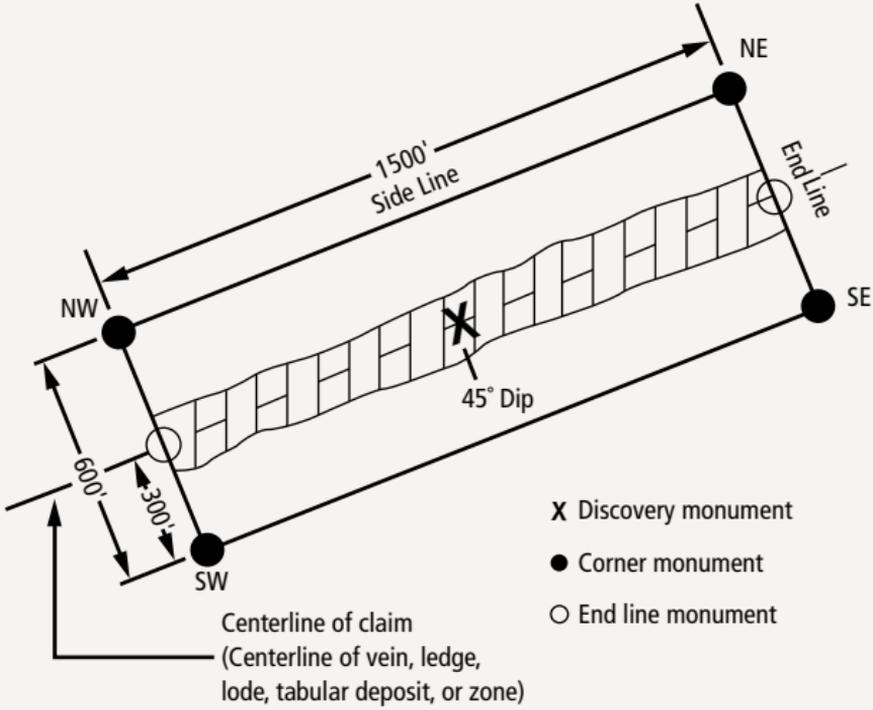
**Lode Claims** cover classic veins or lodes having well-defined boundaries and also include other rock in-place bearing valuable mineral deposits. Examples include quartz or other veins bearing gold or other metallic mineral deposits and large volume, but low-grade disseminated metallic deposits, such as Carlin-type gold deposits and copper-bearing granites.

Lode claims are usually located as parallelograms with the side lines parallel to the vein or lode (see Figure 1). Descriptions are by metes and bounds surveys (giving the length and compass bearing of each boundary line from a central point or monument to each corner post, and then sequentially around the perimeter of the claim). Federal statute limits a lode claim to a maximum of 1,500' in length along the vein or lode. The width is a maximum of 600', 300' on either side of the center-line of the vein or lode. The end lines of the lode claim must be parallel to qualify for underground extralateral rights. Extralateral rights involve the rights to minerals in vein or lode form that extend at depth outside the vertical boundaries of the claim. (43 CFR Part 3832, Subpart B).

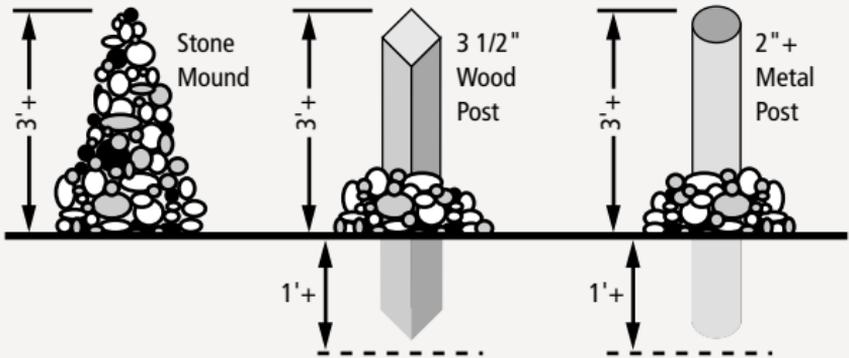
**Placer Claims** cover all those deposits not subject to lode claims. Originally, placer claims included only deposits of mineral-bearing sand and gravel containing free gold or other detrital minerals. By congressional acts and judicial interpretations, many nonmetallic bedded or layered deposits, such as gypsum and high-calcium limestone, are located as placer claims. Where possible, placer claims are to be located by legal subdivision, such as the E1/2NE1/4NE1/4, Section 2, Township 10 South, Range 21 East, Mount Diablo Meridian (30 U.S.C. § 35 and 43 CFR 3832, Subparts A and B). The maximum size of a placer claim you may locate is 20 acres (see Figure 2). An association of two locators may locate 40 acres, and three may locate 60 acres, etc. The maximum area of an association placer claim permitted by law is 160 acres for eight or more persons.

The maximum size of a placer claim for a corporation is 20 acres per claim. Corporations may not locate association placer claims unless they are in association with other private individuals or other corporations as co-locators. (43 CFR Part 3832, Subpart B).

Drawing of an ideal lode mining claim (Metes and Bounds survey method) in California (Cal. Pub. Res. Code, Chapt. 4, Sec. 2316).



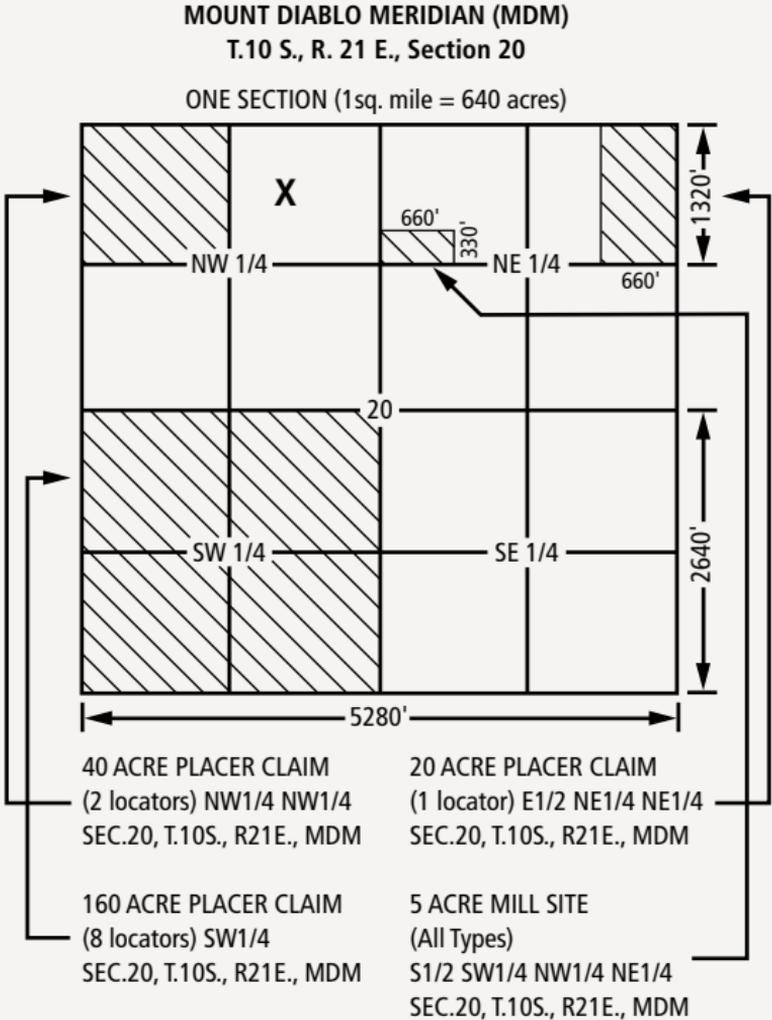
Most State laws require conspicuous and substantial monuments for all types of claims and sites.



NOTE: Many States have other requirements for monuments. Other forms of monuments can be used in California as long as they are conspicuous and substantial. Due to wildlife fatalities, BLM does not allow the use of perforated or uncapped pipe as monuments, corner posts, or side line posts.

Figure 1. Example of Methods of Monumenting Mining Claims in California

Drawing of a section of land showing types of placer mining claims and a mill site. The legal description method is based on the U.S. Public Land Survey.



**Figure 2. Methods of Describing Placer Mining Claims and Mill Sites**

**Mill Sites** must be located on non-mineral land. The mill site may be located in the same manner as a lode or a placer mining claim. Its purpose is to either:

- Support a lode or placer mining claim mining operation; or
- Support itself independent of any particular claim by custom milling or reduction of ores from one or more mines.

A mill site must either include the erection of a mill for grinding, crushing, flotation, or chemical processing of

ores; or a reduction works for chemical processing of ores, siting of furnaces, and related facilities. This may include other uses reasonably incident to the support of a mining operation, including tailing impoundments, waste dumps, and leach pads. Mill sites are described either by metes and bounds surveys or by legal subdivision. The maximum size of a mill site is 5 acres (see Figure 2). You may hold as many mill sites as necessary for the support of the mining operation. (43 CFR Part 3832, Subpart C).

**Tunnel Sites** are tunnels excavated to develop a vein or lode. They are also used for the discovery of unknown veins or lodes. To locate a tunnel site, place two stakes up to 3,000' apart on the surface axis of the proposed tunnel. The compass bearing and distance of the tunnel must be posted at the entrance to the tunnel. Tunnel sites must be recorded in the same manner as lode claims. Some States require additional centerline stakes (for example, in Nevada, centerline stakes must be placed at 300' intervals).

Lode claims must be located over any or all blind (not known to exist at the surface) veins or lodes discovered by the tunnel in order to maintain possession of the lodes or veins. The maximum distance these lode claims may cover is 1,500' on either side of the centerline of the tunnel. This, in essence, gives you the right to prospect underground an area 3,000' wide and 3,000' long. Any mining claim you locate for a blind lode discovered while driving a tunnel has the same location date as the date of the location of the tunnel site. (43 CFR Part 3832, Subpart D).

## **Federal Lands Open to Mining**

There are 19 States where you may locate mining claims or sites. These States are Alaska, Alabama, Arizona, Arkansas, California, Colorado, Florida, Idaho,

Mississippi, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oregon, South Dakota, Utah, Washington, and Wyoming. The BLM manages the surface of public lands in these States and the Forest Service manages the surface of National Forest System lands. The BLM is responsible for the subsurface minerals on both its public lands and National Forest System lands.

You may prospect and locate mining claims and sites on lands open to mineral entry. Claims may not be located in areas closed to mineral entry. Subject to valid existing rights, these areas are withdrawn from further location of mining claims or sites.

Areas withdrawn from mineral entry include National Parks, National Monuments, American Indian reservations, most reclamation projects, military reservations, scientific testing areas, most wildlife protection areas (such as Federal wildlife refuges), and lands withdrawn from mineral entry for other reasons. Lands withdrawn for power development are subject to mining location and entry only under certain conditions. Mining claims may not be located on lands that have been:

- Designated by Congress as part of the National Wilderness Preservation System
- Designated as a wild portion of a wild and scenic river
- Withdrawn by Congress for study as a wild and scenic river

There is usually a 1/4-mile buffer zone withdrawn from location of mining claims or sites from either side of a river while the river is being studied for inclusion in the Wild and Scenic Rivers System. Additions to the National Wilderness Preservation System are withdrawn to mining claim and site location at the time of designation by Congress. Mining activities are permitted

only on those mining claims that can show proof of a discovery either by December 31, 1983, or on the date of designation as wilderness by Congress.

## **Staking a Mining Claim or Site**

Federal law simply specifies that claim and site boundaries must be distinctly and clearly marked to be readily identifiable on the ground (43 CFR Part 3832). The General Mining Law allows States to establish their own laws regarding the manner in which mining claims and sites are located and recorded. Location requirements include the placement, size, and acceptable materials for a corner post or a discovery monument. Check with the proper State agency before locating mining claims. State agencies may include the State's geological survey, mineral resource department, lands commission, or department of environmental protection.

Generally, staking a mining claim requires:

- Erecting corner posts or monuments
- Posting a notice of location on a post or monument in a conspicuous place (see Figures 1 and 2)
- Complying with the requirements of 43 CFR Part 3830, 3832, and 3833

The conspicuous place on the mining claim is usually the point of discovery. The discovery point must be tied to some well-known, permanent object. Examples of permanent objects include an existing cadastral survey monument, a benchmark, a bridge, a fork of a stream, or a road intersection. Several States also require side-line or end-line posts or monuments for claims. Mining claims and sites described by legal subdivision in some States do not require the erection of corner monuments (see Figure 2). However, all mining claims and sites must have a location or discovery

monument. Be sure to check what the law requires in the State where the mining claims and sites are to be located.

For a specific tract of land, check the official land records at the BLM State or field office responsible for administering the land area. Rather than looking randomly through the records for lands open to location, it is better to restrict your search to a specific area of interest. Topographic maps of the area (published by the U.S. Geological Survey) provide the legal description (meridian, township, range, section) of such lands. Visit the local BLM field office or the BLM State Office and check maps, the BLM Master Title Plats, mining claim records, and files. Ultimately, it is your responsibility to determine if there are prior existing mining claims on the ground.

Lands previously patented under the Stock Raising Homestead Act of 1916, as amended, may be entered and mining claims located under special procedures (43 CFR Part 3838).

# RECORDING A MINING CLAIM OR SITE



As established by Section 314 of FLPMA, as amended, your claims and sites must be recorded with the proper BLM State Office within 90 days of the date of location and recorded with the proper county in accordance with their requirements. In Alaska, claims and sites can also be recorded with the BLM Northern Field Office located in Fairbanks.

**County:** State laws require filing the original location notice or certificate in the county recorder's office, county clerk's office, or borough office. The proper county or borough is the one in which your claim or site is located. Each State has its own requirement for when a location notice must be filed and recorded. The maximum period is 90 days from the staking of your claim or site on the ground. However, some States require earlier filings, such as 60 or 30 days from the date of location.

Location notices must contain the following basic information (43 CFR Part 3832, Subpart A, and Part 3833, Subpart A):

- The date of location on the ground
- The names and addresses of the locator(s)
- The name of the claim or site
- The type of claim or site
- The acreage claimed
- A description of the parcel on the ground

Local printing companies, office supply stores, stationery stores, and BLM offices are sources for obtaining State location notice and certificate forms.

**BLM:** FLPMA (43 U.S.C. § 1744) requires you to file a copy of the official record of notice or certificate of location with the BLM within 90 days after the date of location. You must record any amendments (changes) in claim boundaries and any changes in ownership with BLM. You are required to submit a map of the claim or site boundaries. Other documents filed under State law must also accompany the copy of the official record filed with the BLM. Even if State law does not require recording, you must still file the proper documents with the BLM. Federal recording regulations in 43 CFR Part 3833 specify the information required. These requirements may be obtained from BLM State or field offices. There is a non-refundable service charge to record each new location due at the time of recording. These fees pay for the assessment year in which the mining claim or site is located. See Table 1 for the schedule of fees and service charges. FLPMA requires a finding of abandonment if you fail to record with the BLM, the county, or the borough within the prescribed 90-day period. You must use a separate location notice for each mining claim, mill, or tunnel site.

**Amendments and Transfers of Interest:** Your legal interest in a properly recorded mining claim or site may be conveyed in its entirety or in part. Generally, a quitclaim deed or other type of recordable conveyance document (this is governed by State law) is needed for this transfer of legal interest (43 CFR Part 3833, Subpart C). An amended location notice is necessary to show changes in the description of a claim or site, but cannot be used for a transfer of ownership (43 CFR Part 3833, Subpart B). File transfer and amendment documents with the proper county office and BLM State Office within 90 days after the transfer or amendment. The BLM has a non-refundable service charge to file amendments and transfers of ownership for each

mining claim or site. See Table 1 for the schedule of service charges. Failure to file these documents results in no notification of any action or contest initiated by the United States, and provides you no legal defense against failure to be properly served.

**Abandonment or Relinquishment:** If you abandon a mining claim or site or relinquish it to the Federal Government, you should file a notice with the proper county or borough office and the BLM State Office. No particular form is required; a letter is acceptable. Be sure to include the claim or site name and the BLM serial number. There is no charge to file these documents.

**THE APPROPRIATE BLM STATE OFFICE IS THE ONLY OFFICIAL FILING OFFICE FOR THE FEDERAL GOVERNMENT.** The only exception is the BLM Northern Field Office in Fairbanks, Alaska, which is also a filing office.

**Table 1. List of Fees for Filing Mining Claim and Site Document with the BLM (July 2004)**

New Location Notice (per claim/site) a total of \$165 that includes:	
Service Charge (recording fee) . . . . .	\$10
Location Fee . . . . .	\$30
Initial Maintenance Fee . . . . .	\$125
Notice of Intent to Locate Mining Claims	
on Stockraising Homestead Act Lands (each notice) . . . . .	\$25
Amendments/Transfers of Ownership (per claim/site) . . . . .	
Notice of Intent to Hold (per claim/site) . . . . .	\$5
Affidavit of Annual Assessment Work (per claim/site) . . . . .	\$5
Annual Maintenance Fee . . . . .	\$125
Petition for Deferment of Assessment Work (per petition) . . . . .	\$25
Mineral Patent Application (first claim/site) . . . . .	\$250
Filing for each additional claim/site in one	
patent application (per additional claim/site) . . . . .	\$50





# MAINTENANCE OF A MINING CLAIM OR SITE

If you have a legal interest in 10 or fewer mining claims nationwide and also meet certain other requirements, you have the option to perform assessment work and file evidence of the assessment work as described below (43 CFR Part 3835). All other claimants must pay an annual maintenance fee per claim or site to the BLM. You must either pay the required fees or if you are qualified and desire to do so, file for a waiver from payment of fees by September 1 of each year. Failure to file for a waiver or pay the fee by September 1 results in the claim or site becoming forfeited by operation of law. (43 CFR Parts 3834, 3835, and 3836).

If you have received the first half of the mineral entry final certificate for a mineral patent application, you are exempted from payment of fees or performance of assessment work (43 CFR Part 3835). This requirement is reinstated upon cancellation of the final certificate by the BLM or upon your withdrawal of the application.

## **Annual Assessment Work**

If you have an interest in 10 or fewer claims nationwide, you may elect to file for a waiver from payment of the maintenance fee and perform annual labor or make improvements worth \$100 each year for each mining claim held. Assessment work is work or labor that you perform that develops the claim for production (43 CFR Part 3836). Geological, geophysical, and geochemical surveys may qualify as assessment work for a limited period. Use of these surveys requires the filing of a detailed report, including basic findings.

Most State laws require the annual filing of an affidavit of assessment work with the proper county or borough, if you perform the work. FLPMA requires the filing of an affidavit of annual assessment work with both the local county or borough office and the proper BLM State Office if you elect to file a waiver from payment of the maintenance fees. The affidavit or proof of labor must be filed no later than December 30 following the filing of a waiver in the proper BLM State Office and in the county or borough recorder's office.

There is no requirement for assessment work for owners of mill or tunnel sites. If covered by a waiver, you must file a notice of intention to hold the site(s) with the BLM. If not covered by a waiver, you must pay the maintenance fee. For mill sites and tunnel sites, the need to file with the county or borough is controlled by State law.

Performance of assessment work must be within a certain period referred to as the assessment year. The assessment year begins at noon of each September 1. It ends at noon September 1 of the next year (43 CFR Part 3836). Performance of assessment work need not occur during the first assessment year of location.

A "notice of intention to hold" a mining claim or site is a letter or notice signed by you or your agent. It satisfies the recording requirement in those circumstances where an affidavit of labor cannot be filed, but an annual statement is required under State or Federal law. It must include the name and BLM serial number assigned to each claim or site and any change in mailing address of the claimant(s).

The BLM may grant a "temporary deferment of assessment work" to owners of 10 claims or less under certain conditions (43 CFR Part 3837). These

are conditions that restrict or deny legal access to a mining claim. You must begin action to regain access. There is no particular form for a petition for deferment of assessment work. Your petition can be a letter to the BLM signed by at least one of the owners of the claim. It must fully explain the legal obstacles preventing access and the actions you have taken to obtain access. Your petition must include the name(s) and BLM mining claim serial number(s) and the assessment year to be deferred. A copy of the notice to the public recorded with the county or borough must accompany the petition. A non-refundable service charge must accompany your petition for deferment of assessment work.

A deferment may not exceed one assessment year, but may be renewed for one additional year upon your request and upon approval by BLM if the legal impediment still exists. A notice of intent to hold must be filed with the BLM and the county or borough by December 30, which refers back to the granted deferment by the BLM serial number and date granted. When the deferment expires, all back assessment work or fees are due.

**County:** Each State has its own deadline for filing an affidavit of assessment work or notice of intent to hold. Most States require filing within 30 to 90 days after the end of the assessment year (September 1). Therefore, it is important for you to check the requirements for filing periods in the State where the claims are located.

**BLM:** File a copy of any of the previously mentioned documents that you record or will record with the county or borough with the BLM as well. Even if a State does not have a filing requirement, you must still file

with the BLM. The deadline for filing with the BLM is December 30 of the assessment year following the assessment year of location. A non-refundable service charge for each mining claim and site must accompany the affidavit or notice. See Table 1 for a schedule of service charges.

Your claim or site is forfeited and void by operation of law if you fail to file these documents within the prescribed period (43 CFR Part 3835, Subpart D).

**THE APPROPRIATE BLM STATE OFFICE IS THE ONLY OFFICIAL FILING OFFICE FOR THE FEDERAL GOVERNMENT.** The only exception is the BLM Northern Field Office in Fairbanks, Alaska, which is also a filing office.

## **Surface Management**

Most Federal agencies have regulations to protect the surface resources of Federal lands during exploration and mining activities. You must reclaim disturbed sites after completion of exploration and mining activities. Most State governments have mining and reclamation requirements you must meet. To avoid duplication, several States have entered into cooperative agreements with Federal agencies. You should check with Federal and State agencies to determine the proper lead agency before submitting permit applications.

**USDA Forest Service:** Exploration and mining activities are administered by the Forest Service by regulations of the Secretary of Agriculture contained in 36 CFR 228 Part A. These regulations require that if your proposed operation could likely cause "significant disturbance of surface resources" you must submit an operating plan. If you wish to prospect, explore, and develop claims or sites in National Forests, contact the local District Ranger about operating plans.

**BLM:** Exploration and mining activities on BLM-administered land are controlled by the regulations of the Secretary of the Interior contained in 43 CFR, Subparts 3715 and 3809 and for Wilderness Study Areas, 43 CFR, Subpart 3802. You are required by these regulations to prevent unnecessary or undue degradation of the land. For activities other than casual use, you are required to submit either a notice or a plan of operations. A plan of operations, which includes a reclamation plan, is required where activities involve the surface disturbance of more than 5 acres. Notices also require the submission of a reclamation plan and are submitted for exploration activities covering 5 acres or less.

There is no requirement for notifying the BLM of casual use activities. Casual use activities are those that cause only negligible disturbance of public lands and resources. For example, activities that do not involve the use of earthmoving equipment or explosives may be considered casual use.

You are required to reclaim any surface disturbing activity, even if the claim or site is declared abandoned and void or forfeited by the BLM. Reclamation is required if you relinquish the claim or site to the Federal Government. The BLM requires a reclamation bond or other financial security prior to approving your plan of operations or allowing operations under a notice to proceed.

Surface Management actions are processed at the local level. Therefore, you should contact the proper BLM field office for questions concerning plans of operation.

**States:** Be aware that many States have their own mining and reclamation laws. Many also have their own environmental laws to regulate air, water pollution,

and use of hazardous materials. Some States, like California, Oregon, and Alaska, require a permit for use of suction dredges. Similarly, construction activities usually require meeting the standards of a county code, as well as State public health and safety standards. Some States have entered into a memorandum of understanding (MOU) or a cooperative agreement with the BLM and the Forest Service. These agreements reduce duplication by the operator and Federal and State agencies in enforcing rules. For these reasons, you should inquire about State and local requirements before trying to mine on public lands and National Forest System lands.

The Federal Government maintains the right to manage the surface and surface resources on mining claims and sites located under the General Mining Law. This includes the use of the area for public recreational and resource management purposes that do not materially interfere with an ongoing mining activity.

The public has the conditional right to cross mining claims or sites for recreational and other purposes and to access Federal lands beyond the claim boundaries. The right of access to a mining claim or site across Federal lands does not mean that the you have a right to cause unnecessary or undue degradation of the surface resources. You are liable for damages if found responsible for unnecessary loss of or injury to property of the United States.

You may not construct permanent structures, mobile structures, or store equipment without the prior approval of an authorized Federal official. Intermittent or casual mineral exploration and development do not normally justify the use of such structures (43 CFR 3715).

Mining claims and sites located on lands after the effective date of a withdrawal are null and void from the beginning. No rights are obtained by claims or sites declared null and void by the BLM. However, a claim or site located before a withdrawal is considered a potential valid existing right. To have valid existing rights in this situation, you must have discovered a valuable mineral deposit before the date of withdrawal. Individuals who disturb resources after the effective date of withdrawal and who do not have valid existing rights may be considered in trespass and can be held liable for trespass damages. In addition, trespassers may be fined and sentenced to a term in jail.



# MINERAL PATENTS



NOTE: Since October 1, 1994, the BLM has been prohibited by Acts of Congress from accepting any new mineral patent applications. The moratorium has been renewed annually through the various Interior Appropriations Acts. It is unknown how long this moratorium will continue.

A patented mining claim or millsite is one for which the Federal Government has conveyed title to you, making it private land. You may mine and remove minerals from a mining claim without a mineral patent. However, a mineral patent gives you exclusive title to the locatable minerals, and in most cases, also grants you title to the surface. Requirements for filing mineral patent applications may be found in 43 CFR Part 3860 and at BLM State Offices. Mineral patents can be issued for lode claims, placer claims, and mill sites, but not for tunnel sites.

Applications for mineral patents (43 CFR, Subparts 3861-64) consist of statements, documentation, and proofs relative to each individual claim or site and require you to demonstrate the existence of a valuable mineral deposit that satisfies the prudent man rule and test of marketability or use and occupancy. In addition, you must:

- Have the claim surveyed (if it is a lode claim, a claim described by metes and bounds, or a claim situated on unsurveyed land) by a Deputy United States Mineral Surveyor selected from a roster maintained by the BLM State Office (43 CFR, Subpart 3861)
- Pay the BLM a nonrefundable application fee (see Table 1 for the fee schedule)

- Show the BLM that you have a complete title to the mining claim or mill site
- Post a “notice of intent to patent” on the claim or site and publish it as a legal notice in a local newspaper selected by BLM for a 60-day period (43 CFR, Subpart 3862)
- Show the BLM proof that not less than \$500 worth of development work or improvements have been made to benefit each claim
- Show the BLM proof of discovery of a valuable mineral deposit for mining claims and proper use or occupancy for mill sites

A BLM land law examiner will adjudicate your application and a Federal certified mineral examiner will conduct an on-the-ground examination of your mining claim(s) to verify that a discovery of a valuable mineral has been made. For mill sites, an examination is made to verify proper use or occupancy and the mineral character of the land. This is documented in a formal mineral report. If all the requirements of the mining law and regulations have been satisfied, you may purchase the claim(s) or site(s) at the following rates: lode claims at \$5 per acre, placer claims at \$2.50 per acre, custom mill sites and mill sites associated with lode claims at \$5 per acre, and mill sites associated with placer claims at \$2.50 per acre. A mineral patent must then be issued, as required by the mining law.

**THE APPROPRIATE BLM STATE OFFICE IS THE ONLY OFFICIAL FILING OFFICE FOR THE FEDERAL GOVERNMENT.** The only exception is the BLM Northern Field Office in Fairbanks, Alaska, which is also a filing office.

# BLM LAND AND MINERAL RECORDS



The Federal Government office with the complete set of land and mineral records for Federal lands in a particular State is the BLM State Office. The BLM State Office is the only office where the mining claim records are filed and available for public inspection. BLM also maintains its files in electronic format in a system known as LR 2000. This system may be accessed through terminals located in the BLM Public Information Centers. In Alaska, the Alaska Land Information System (ALIS) maintains the electronic record and is accessible via the Internet at <http://www.ak.blm.gov>. It is also available in the Public Information Centers in the Alaska State Office located in Anchorage and the Northern Field Office in Fairbanks. The Forest Service does not keep the official land and mineral records for the National Forests; they are deposited with the proper BLM State Office.

Federal land records include land status plats (i.e. Master Title Plats or MTPs), land survey notes and maps, mineral survey notes and maps, and the Controlled Document Index (CDI). The CDI is a microfilm copy of all grants, deeds, patents, rights-of-way, and other official actions that occurred on the lands under the administration of that BLM State Office. It is organized by legal land description only. BLM publishes a series of multicolored surface and mineral management maps (except for Alaska). These maps depict the ownership pattern of Federal lands. They may be purchased at most BLM offices.



# MORE INFORMATION

## Sources of Information

**BLM:** The BLM has been delegated by the Secretary of the Interior with the primary responsibility for administering the laws and regulations regarding the disposal of all minerals from all federally owned lands. The BLM's statutory authority here is derived from the General Mining Law of 1872, as amended (30 U.S.C. §§ 22 et seq.), the original public land authority in 43 U.S.C. §§ 2, 15, 1201 and 1457, and FLPMA (43 U.S.C. 1701 et seq.). These statutes, together with the implementing regulations (43 CFR Groups 3700 and 3800) and numerous judicial and administrative decisions that have interpreted them, make up the body of the mining law system. These laws may be examined in most BLM State Offices or in most public libraries. For information concerning BLM regulations and public lands open to mining in specific areas, contact the proper BLM State or local office. BLM State Office locations are listed in the back of this pamphlet.

**USDA Forest Service:** For information regarding Federal land within the National Forest System and Forest Service surface management regulations (36 CFR 228, Part A), contact the appropriate Forest Service Regional or local Ranger District Office. Forest Service regional office locations are also listed in the back of this pamphlet.

**State:** Information on State and local requirements and cooperative agreements between the State, the BLM, and the Forest Service may be obtained at local BLM and Forest Service offices. Otherwise, contact the appropriate State or local agency.



## **Geology and Minerals, Topographic Maps, and Mining Technology**

**United States Geological Survey (USGS):** The USGS publishes many topographic maps, geologic maps, and reports. The central source of information for these maps and related materials is the Earth Science Information Center, USGS National Center, Reston, Virginia 22092. Maps and reports are available for purchase from the Branch of Distribution, Box 25286, U.S. Geological Survey, Denver Federal Center, Denver, Colorado, 80225. In addition, USGS publications can be obtained from the Internet at:

*<http://ask.usgs.gov/sources.html>*

*and*

*[http://mapping.usgs.gov/esic/esic\\_index.html](http://mapping.usgs.gov/esic/esic_index.html)*

**State:** Information concerning State mining laws and regulations that supplement the General Mining Law of 1872, as amended, plus information concerning the geology and minerals of specific areas in a State, can be obtained from State geologists, geological surveys, or mining departments.

U.S. Department of the Interior  
Bureau of Land Management  
State Offices

BLM Alaska

222 West 7th Avenue #13  
Anchorage, AK 99513-7599  
907-271-5960

BLM Arizona

222 N. Central Avenue  
Phoenix, AZ 85004-2203  
602-417-9200

BLM California

2800 Cottage Way, W-1834  
Sacramento, CA 95825-1886  
916-978-4400

BLM Colorado

2850 Youngfield Street  
Lakewood, CO 80215-7093  
303-239-3600

BLM Eastern States

7450 Boston Boulevard  
Springfield, VA 22153-3121  
703-440-1600

BLM Idaho

1387 S. Vinnell Way  
Boise, ID 83709-1657  
208-373-4000

BLM Montana, North Dakota  
and South Dakota

P.O. Box 36800 (59107-6800)  
5001 Southgate Drive  
Billings, MT 59101  
406-896-5000

BLM Nevada

P.O. Box 12000 (89520-0006)  
1340 Financial Blvd.  
Reno, NV 89502-7147  
775-861-6400

BLM New Mexico, Kansas,  
Oklahoma, and Texas

P.O. Box 27115 (87502-0115)  
1474 Rodeo Road  
Santa Fe, NM 87505  
505-438-7400

BLM Oregon and Washington

P.O. Box 2965 (92708-3420)  
333 SW 1st Avenue  
Portland, OR 97204  
503-808-6001

BLM Utah

P.O. Box 45115  
Salt Lake City, UT 84145-0155  
801-539-4001

BLM Wyoming

P.O. Box 1828  
5353 Yellowstone Road  
Cheyenne, WY 82003  
307-775-6256

BLM Washington, DC Office

1849 C St., NW., LS-501  
Washington, DC 20240-0001  
202-452-0350



U.S. Department of Agriculture  
Forest Service  
Regional Offices

FS Northern Region (R-1)

Federal Building

P.O. Box 7669

Missoula, MT 59807-7669

406-329-3511

FS Pacific Region (R-6)

333 S.W. 1st Avenue

P.O. Box 3623

Portland, OR 97208-3623

503-808-2468

FS Rocky Mountain Region (R-2)

740 Simms Street

P.O. Box 25127

Golden, CO 80401

303-275-5350

FS Southern Region (R-8)

1720 Peachtree Road, NW.

Atlanta, GA 30309

404-347-4177

FS Southwestern Region (R-3)

333 Broadway SE

Albuquerque, NM 87102

505-842-3292

FS Eastern Region (R-9)

626 East Wisconsin Avenue

Milwaukee, WI 53202

414-297-3600

FS Intermountain Region (R-4)

Federal Building

324 25th Street

Ogden, UT 84401-2310

801-625-5306

FS Alaska (R-10)

P.O. Box 21628

Juneau, AK 99802-1628

907-586-8806

FS Pacific Southwest Region (R-5)

1323 Club Drive

Vallejo, CA 94592

707-562-8737

FS Washington, DC Office

1400 Independence Ave. S.W.

Washington, DC 20090-6090

202-205-8333



The mention of company names, trade names, or products does not constitute endorsement for use by the Federal Government.

