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# Guide to the Preparation of Mineral Patent Applications



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# Guide to the Preparation of Mineral Patent Applications

**U. S. Department of the Interior**  
Bureau of Land Management

Alaska State Office  
222 West 7th, #13  
Anchorage, Alaska 99513-7599  
(907) 271-3791

Fairbanks Support Center  
1150 University Avenue  
Fairbanks, Alaska 99709-3844  
(907) 474-2200

October 1993

**ARLIS**  
Alaska Resources Library & Information Service  
Library Building, Suite 111  
3211 Providence Drive  
Anchorage, AK 99508-4614

October 1993

**I M P O R T A N T**

You **must** continue to pay the annual rental fee or file the certificate of exemption and affidavit of annual labor as required each year, even though you may have a mineral survey or patent application on file with BLM.

<u>Mining Claim Recordation Fees:</u>	<u>Cost</u>
Service fee	\$10/claim
Recording mining claim	\$25/claim
Rental fee	\$100/claim
Filing annual assessment work	\$5/claim
Filing notice of intent to hold	\$5/claim
Transfer of interest	\$5/claim
Amendment	\$5/claim
Deferment of assessment work	\$25/claim

Mineral Survey Deposit:

A deposit is required at the time the mineral survey application is filed. This deposit is used to cover administrative costs of processing the application. Any unused monies will be refunded following approval of the survey.

Application with one claim	\$850/application
Each additional claim	\$350/claim

Mineral Patent Application Fee:

Application with one claim	\$250/application
Each additional claim	\$50/claim

The requirement to pay the rental fee or file certificate of exemption and affidavit of annual labor will end only when BLM issues the first side of the Mineral Entry Final Certificate, after the mineral patent application has been adjudicated and the purchase price has been paid.

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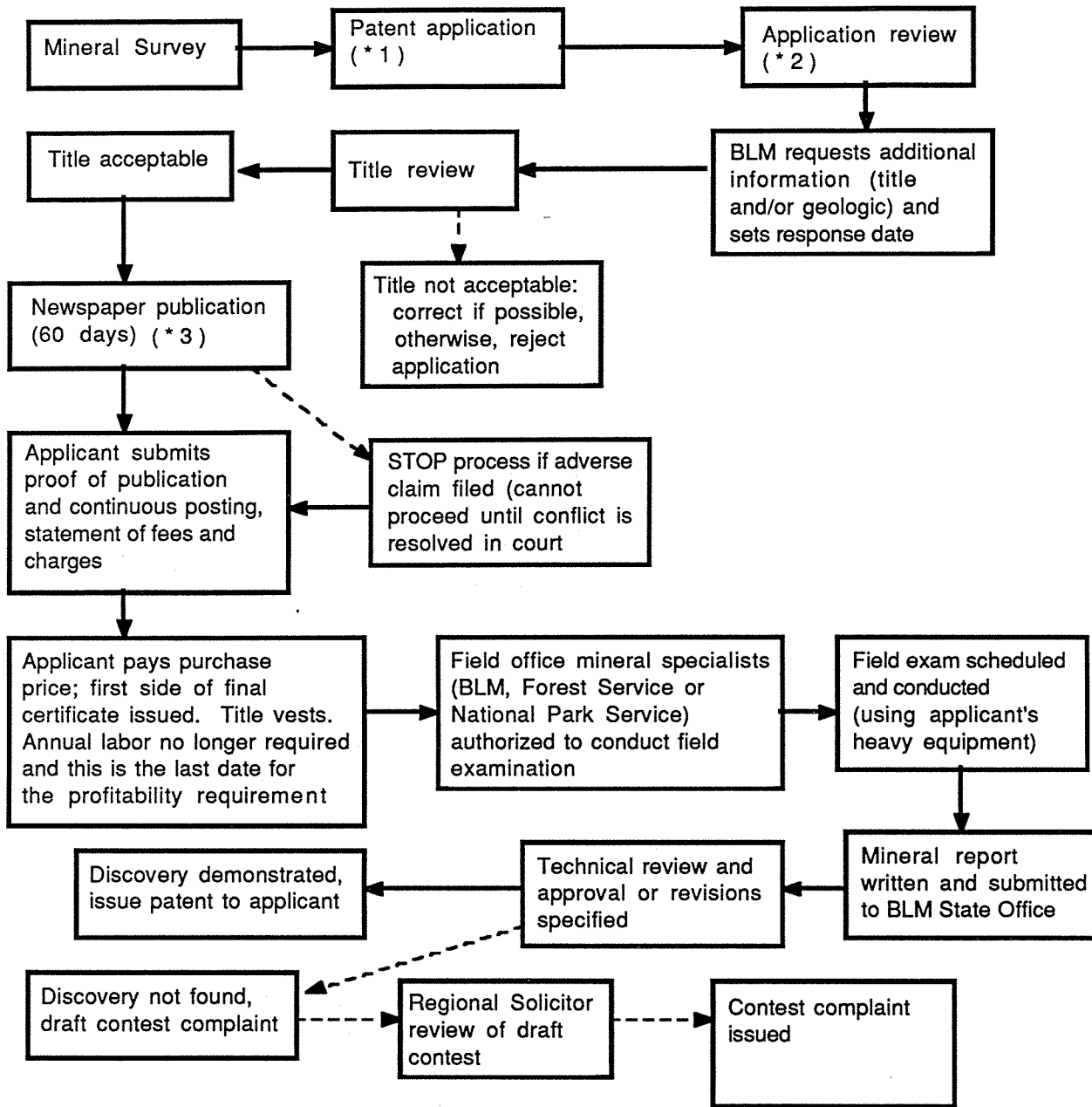
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## MINERAL PATENT PROCESS



\*1 On lands that are withdrawn from operation of the mining laws, the claimant may submit title and geologic information for BLM review prior to incurring the cost of mineral survey.

\*2 Adjudicative review of application, affidavits, land status, FLPMA filings (recordation, annual labor, etc.)  
 Technical review of geologic and economic data necessary to determine discovery of valuable mineral in the office, subject to field verification.

\*3 Claimant may elect to publish before title is approved -- at his own risk!

## I. SURVEY

Before applying for patent, the claims must be surveyed unless they can be described by legal subdivision of the Federal surveys. An application for mineral survey must be filed with the appropriate Bureau of Land Management Office (see Exhibit "A" on page 21, SURVEY APPLICATION and specifically instructions on the reverse side of the form; also see Code of Federal Regulations (CFR) 3861.1-1).

For discussion of survey requirements and procedures, consult the Division of Cadastral Survey, Branch of Examination & Records (AK 922) in the Alaska State Office, telephone (907) 271-3193. The survey application and deposit and fees must be filed in the appropriate BLM Public Service Office. The office issues the Mineral Survey Number and the BLM serial number. (Both numbers are important references when corresponding and/or requesting status or information regarding the survey or patent application.)

The Division of Cadastral Survey authorizes the survey when the application is complete. From the approved list of acceptable U. S. Mineral Surveyors furnished by the Division of Cadastral Survey, the applicant will select a surveyor and negotiate a private contract with him/her to survey the claims, 43 CFR 3861. See Exhibit "B" on page 23, MINERAL SURVEYOR ROSTER.

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See Exhibit "M" on page 37 for map of the Alaska State Office and Fairbanks Support Center boundaries.

Filings for claims located in areas within jurisdiction of the Alaska State Office should be mailed or taken to:

ALASKA STATE OFFICE  
222 W. 7TH AVENUE, #13  
ANCHORAGE, ALASKA 99513-7599

Telephone: (907) 271-5960

Filings for claims located in areas within jurisdiction of the Fairbanks Support Center should be mailed or taken to:

FAIRBANKS SUPPORT CENTER  
1150 UNIVERSITY AVENUE  
FAIRBANKS, ALASKA 99708-3844

Telephone: (907) 474-2200

## II. POSTING ON THE CLAIM

Formal notice of the application for patent must be given by posting a copy of the Mineral Survey plat and "Notice of Intention to Apply for Patent" on the claim (43 CFR 3861.7) (See EXHIBIT "C" on page 29). A separate application must be furnished for each group of contiguous claims; this requires a separate posting of the "Notice" and plat on each group of claims. Such posting must be in a conspicuous place on the claim, or on one of a group of claims, where it can be readily seen by any interested party. Posting must be in the presence of at least two (2) credible witnesses. A witness cannot be an attorney-in-fact. SEE EXHIBIT "D" on Page 30 for an example of required information in witness statements<sup>2</sup>.

Notice of patent application must contain the following information:

- A. Name of Claimant
- B. Name of Claims
- C. Mineral Survey Number
- D. Mining District (if any)
- E. In Alaska, name of organized borough if claims are within one, or judicial and recording district.
- F. Name of adjoining claims (if none, a statement must be made to that effect)
- G. Names of conflicting mining claims (if none, a statement must be made to that effect)
- H. Date of posting (must be corroborated by both witnesses).

If the initial posting of the "Notice of Intention to Apply for Patent" contains all the required information stated above, this will be sufficient at the time the "Notice of Application" appears in the newspaper. You need not repost your claims with a copy of the "Notice" that appears in the newspaper. Additionally, a copy of the Mineral Survey plat (all pages) must be posted as stated in Paragraph One on this page.

See also NOTICE OF APPLICATION, EXHIBIT "F" on Pages 32, 33, and 34, described in Section IV G of this booklet.

Additionally, the "Notice of Application" or "Notice of Intention to Apply for Patent" and Mineral Survey plat should be conspicuously posted on the claims during the nine (9) weeks of newspaper publication and remain posted for an additional four (4) days after the last legal notice ad appears in the newspaper. This provision of the regulations

2. All witnesses in mineral patent applications should be cautioned with respect to false swearing and the penalties therefrom (18 USC 1001). The purpose of the Government is to hold all persons in this capacity to strict accountability for any statements made by them (43 CFR 1823.2-3).

may not be waived. Any means of weatherproofing the "Notice" and plat to avoid loss or damage and to insure that the public is provided with adequate notice is highly recommended. Should the "Notice" and/or plats become damaged or destroyed, it is imperative that they be immediately replaced. The applicant is required to submit an affidavit stating the plat and notice have been posted in a conspicuous place on the claims during such period of publication.

A new ruling from the Washington Office now allows publication in the newspaper, at the applicant's own option or risk, after notification from BLM that the application is reasonably complete. Previously, BLM did not authorize publication until the title documents were approved showing that full title to the mining claim vested in the mineral patent applicant.



### III. APPLICATION FOR PATENT - FILE IN DUPLICATE<sup>3</sup>

There is no form - The application is presented in a narrative or "story" form and includes the following:

- (1) State your possessory right to patent by compliance with mining rules, regulations, and customs of the mining district or state (i.e., years of assessment filed with State).
  - (2) Facts constituting such compliance.
  - (3) Origin of possession (purchase, possessory right, or original location).
  - (4) Basis of claim to patent.
  - (5) Full description of the kind and character of the vein or lode. (Be sure to name the ore or minerals for which the mineral deposit is valuable.) See Section V for placer claims.
  - (6) State if ore has been extracted; if so, in what amount and of what value. (Only applicable to placer claims if located in conjunction with lode claims.)
  - (7) State precise place within limits of each claim where the vein or lode has been exposed or discovered; also, state its width at that point. (Not applicable to placer claims.)
  - (8) Application must be signed and filed in the proper BLM district. (See page 2).
- B. If the placer claims are applied for by legal subdivision (as opposed to approved mineral survey), the claimant should describe in detail in his application for patent the shafts, cuts, tunnels, or other workings claimed as improvements, giving their dimensions, value, and the course and distance thereof to the nearest claim corner or to the nearest corner of the public surveys/land or mineral monuments. If such markings cause additional survey expense, etc., in order to identify the location of the applicant's improvements, BLM will accept a tie to a prominent natural feature [43 CFR 3863.1-3(d) and (e)].
- C. If the mining claim was located after August 1, 1946, the application for patent must state whether the claimant has or has not had any direct or indirect part in the development of the atomic bomb project [43 CFR 3862.1-1(b)].

<sup>3</sup> If it is not possible to machine copy, use carbon paper, etc., to file the application for patent in duplicate; advise this office of your reasons for not doing so.

- D. The application must be signed by all applicants applying for patent; this includes both husband and wife. All applications filed by a partnership must conform to the Alaska State Partnership Laws and be signed accordingly. If the applicant is an association of persons, the application may be signed by a duly authorized agent on the association's behalf. The application must include a power of attorney from the parties forming the association authorizing such agent to act on their behalf.
  
- E. Departmental procedures for a patent conveyance document require that full legal names be imprinted on the patent document. No initials are used, unless such initials are a part of the legal name. In the case of a corporation, the Articles of Incorporation will dictate the correct spelling of the corporation's name.

**\*\*CAUTION:**

It is the policy of the Department of the Interior to make the records of the Department available to the public to the greatest extent possible, in keeping with the spirit of the Freedom of Information Act. However, certain matters are exempted from the Act's statutory disclosure requirement. Included as such matters are "Trade secrets and commercial or financial information obtained from a person and privileged or confidential" (43 CFR 2.13(c)(4)).

Therefore, any information requested or submitted that the applicant believes to be of a confidential and/or proprietary nature should be clearly marked as such on each page. This material will then be kept in a separate secure file and will be returned to the applicant when the casefile is closed.

#### IV. ADDITIONAL DOCUMENTS REQUIRED

- A. Filing fee of \$250 for the first claim or site and \$50 for each additional claim or site in the application must accompany each application for patent (43 CFR 3862.1-2). Each group of contiguous claims is a separate application and the fees are required for each application. The application and fees are filed with the Public Service Office where the documents are time and date stamped and the fee is received. NOTE: Applicants must state the BLM serial number for the mineral survey file (not recordation serial numbers), either AA-xxxx or F-xxxx.
- B. Two copies of the field notes for the mineral survey (one copy will be sent to the Mineral Examiner's office by the BLM Branch of Mineral Law and one copy retained in BLM serialized file).
- C. Two copies of the mineral survey plat (one copy will be sent to the Mineral Examiner's office by BLM Branch of Mineral Law and one copy retained in BLM serialized file).
- D. The Certificate of Expenditures, BLM Form 3860-8 (SEE EXHIBIT "E" on page 31) should be submitted with the patent application. This form serves as evidence that not less than \$500 worth of labor has been expended or improvements made for the benefit of the contiguous mining claims (SEE Regulations 43 CFR 3861.2-2). The mineral survey applicant normally receives the form at the time the final field notes and approved plat are mailed to him/her. If you do not have the form, contact the Division of Cadastral Survey at (907) 271-3193.
- E. Statement by applicants for patent regarding citizenship (43 CFR 3862.2) consists of :
- ( 1 ) Individuals must state date and place of birth and present residence. "Residence" consists of a road name or street address, not a post office box or star route number.
  - ( 1 a ) An alien, who has declared his intent of citizenship, must submit a statement showing date, place, and court before which he declared such intention. He must also state his present residence. (See (1) above).
  - ( 2 ) Corporations must furnish BLM with a certified copy of the charter or Certificate of Incorporation. Corporations must show that they are organized under laws of the United States or the laws of any of the individual states. In addition, non-Alaskan CORPORATIONS must furnish evidence of their authority to do business in the State of Alaska.

(3) Authorized Agents are required to submit a copy of the Board of Directors Resolution, signed by its secretary under seal, authorizing the agent to file the application, and submit such charter or certificate; or in the case of Associated Persons Unincorporated, the authorized agent must submit a copy of the Power of Attorney authorizing him/her to act on behalf of the association and furnish the citizenship statement for each member of the association, giving the same information required for individuals (See (1) above).

F. Publisher's Agreement which stipulates that the applicant has made satisfactory arrangements to pay the publication cost of the "Notice" of mineral patent application in the newspaper designated by the BLM. SEE EXHIBIT "G" on Page 36 and 43 CFR 3862.4-1.

(1) Weekly newspaper: Once each week for nine (9) consecutive weeks.

(2) Daily newspaper: Wednesday issue for nine (9) consecutive weeks.

See EXHIBIT "H" on Page 37 for selection of newspaper to be designated for publication of "Notice."

G. Contents of the published "Notice" must indicate the locus of the claim by giving the connecting line (as shown by the field notes and plat) between a corner of the claim and a U.S. mineral or land monument or a tie to a corner of the public land survey system. (See 43 CFR 3862.4-4 and the example of publication.) In the CFR example, the tie is described in that part of the description that starts with the word "whence." After establishing the ground marker, proceed to describe the claims by tracing the exterior boundaries of the claims beginning with the word "thence," as used in the CFR example. It is not necessary to identify each claim corner or describe all four corners of each claim; just give bearings, courses, and distances around the exterior limits of the contiguous claims. SEE EXHIBIT "F" on Pages 32, 33, and 34 for an advertisement containing all essential data necessary for publication.

H. In Alaska, sworn statements (notarized) by the applicant and two (2) disinterested witnesses<sup>4</sup> are required which set out the facts regarding land occupancy and appropriation based on 43 CFR 3862.1-5. The reference to the occupation of the lands by the Natives of Alaska refers to the 1906 Native Allotment Act. See Exhibit "I" on page 38.

I. Submit ONE of the following to show Evidence of Title Ownership:

- (1) Abstract of Title - The application for patent must be supported by a certified copy of each location notice<sup>5</sup> and also by an abstract of title of each claim, brought down to a date reasonably near the date of filing the application and must be supplemented later to include the date of filing the application. The abstract of title must be in such a form and submitted by an abstractor or title company that is acceptable and satisfactory to the BLM. Any abstractor who has not been certified by BLM must submit the required qualifications for review. In the event an abstractor is not certified by the BLM, the abstract of title will be rejected and BLM will request a new one. SEE EXHIBIT "J" on Page 39.
- (2) Certificate of Title - BLM Form 3860-2. Instructions on the back of the form require that certified copies of location notices for each claim must be attached to the Certificate of Title (See footnote 5 below). Corporations signing a Certificate of Title must submit additional information as instructed on the back of Form 3860-2. SEE EXHIBIT "K" on Page 40.

4. "Disinterested witness" is defined as a person who is not employed or does not receive any type of revenue from the mineral patent applicant, but who is cognizant of the facts relative to the application. Examples are: pilots, grocery suppliers, postal employees, machine parts sellers, etc. The disinterested witnesses must state in what way they are considered "disinterested" and yet knowledgeable about the subject claims. See also footnote 2 of this booklet.

5. If certified copies of all location or amended location notices are already of record in the survey file, the applicant does not need to furnish new copies; only refer to previous filings.

- (3) Assertion of Possessory Right - Possessory title to mining claims may be shown by secondary evidence if mining records have been lost or destroyed, as by fire or natural disasters. The applicant must submit a notarized statement supported by notarized statements of at least two (2) disinterested witnesses (see footnote 4) cognizant of the facts, as to the applicant's location or origin, occupancy, possession, amount and extent of mining improvements, area of claim, etc. The two supporting statements should show in what way the witnesses are knowledgeable about the applicant and the mining claims, i.e., live or work other claims in the area, how long witness was in the area and observed applicant's possession of the claims, etc. The applicant must furnish any deeds, certificates of location or purchase, or any other evidence which establishes his/her claim. If the land was withdrawn or selected subsequent to location of the mining claims, the applicant must show proof that he/she "held"<sup>6</sup> and "worked"<sup>7</sup> the claims for ten years prior to the segregative date of withdrawal or selection.

Required evidence consists of, but is not limited to, the following:

- (i) Certified copy of the statute of limitations applicable to mining claims in Alaska. The proper citation is: Alaska State Statute 09.10.030. [The statute provides that possession must be for a period of ten (10) continuous years.] "Certified copy" consists of a statement made by the Lieutenant Governor for the State of Alaska attached to a copy of Alaska State Statute 09.10.030. The statement and statute may be obtained by writing to the Office of the Lieutenant Governor, Attn: Sally Hanson, Pouch AA, Juneau, Alaska 99811. Cost is \$2 per copy. Telephone information is available in Juneau at (907) 465-3520. (43 CFR 3862.3-1)

6. "held" as described in 3 Lindley on Mines, Sec. 688, pp. 1719-1720, as follows:

...such possession, in order to vest a title under the statute of limitations, must be open, notorious, exclusive and continuous and not loose, uncertain, scrambling and mixed. Any interruption of the adverse possession within the required period prevents the acquisition of title by this method. The Acts of mining should not be merely occasional, fugitive and desultory, but as continuous as the nature of the business and customs of the country permit and require.

7. "worked": Submission of copies of recorded assessment affidavits can satisfy the requirement of prima facie evidence that the claims have been "worked" during the years covered by the affidavits. Also, a sworn submission of the date of and time encompassed by each of the items of labor and improvements listed in the field notes for the mineral survey may tend to show uninterrupted continuity of work on the claims during a designated 10-year prescriptive period.

- (ii) Applicant must state whether title has been disputed in court proceedings or otherwise, with details.
  - (iii) Applicant must also state any other matters known to him that bear upon his right of possession.
  - (iv) Applicant must submit a certificate, under seal by the Clerk of the Superior Court having jurisdiction in the area where the mining claims are located, that no action involving right of possession to the claims is pending and that there has been no litigation in the court affecting the title to the claims, other than has been decided in favor of the applicant for patent for the ten-year time fixed by the statute of limitations in Alaska. Specific dates indicating the full ten-year period must be stated. SEE EXHIBIT "L" on page 42 (43 CFR 3862.3-2).
- J. All mineral patent applications must include sufficient details for the Mineral Examiner<sup>8</sup> to determine in the office whether a valuable mineral deposit has been found. Items which must be addressed are listed as follows:
- (1) Complete description of general geology.
  - (2)\* Complete description of economic geology and mineralization.
  - (3)\* Complete description of mineral deposit as to quantity and quality on each claim (ore reserves by grade).
  - (4) Complete description of all discovery points.
  - (5)\* Maps and results of drilling, sampling, and analysis of samples (if other than routine methods of analysis are used, describe the methods of testing or analysis).
  - (6) Complete description of all workings, improvements, etc., on the claim.
  - (7)\* Description of mining or extraction method.

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8. The Mineral Examiner is the Geologist or Mining Engineer employed by the Bureau of Land Management, U.S. Forest Service or National Park Service, who examines the claim in the field to verify that a discovery of valuable mineral was made on the critical dates.

CRITICAL DATES are the dates that discovery must exist for the claim. On lands open to mineral entry, the date of issuance of the first side of the final certificate is the critical date. On lands presently withdrawn from operation of the mining laws, critical dates begin on the date of withdrawal and end on the date of issuance of the first side of the final certificate. These are the dates that physical exposure of valuable mineral must have existed and the dates that the claim must have been capable of being mined at a profit considering mineral prices and mining costs for the respective dates

- \* Items marked with an asterisk (\*) are especially important in enabling the government mineral examiner to verify the discovery of valuable mineral.

- ( 8 ) \* Complete description of milling, mineral concentration methods.
- ( 9 ) \* Description of transportation method from mine to mill or processing plant, and, if appropriate, to market.
- (10)\* Economic analysis including actual or estimated mining, processing and other costs, value or price of product, and estimated profitability.
- (11)\* An analysis of anticipated environmental and reclamation costs under State and local laws.

\* Items marked with an asterisk (\*) are especially important in enabling the government mineral examiner to verify the discovery of valuable mineral.

If any of these items are considered to be confidential or proprietary in nature, they should be clearly marked as such. Confidential materials will be kept in a secured area separate from the rest of the mineral patent application. See pages 6 and 13.



NOTE: The withholding or disclosure of confidential information submitted by or required from the applicant is governed by the provisions of 43 CFR 2.13(c)(4) and (9).

**§ 2.13 Records available.**

(a) *Department policy.* It is the policy of the Department of the Interior to make the records of the Department available to the public to the greatest extent possible, in keeping with the spirit of the Freedom of Information Act.

(b) *Statutory disclosure requirement.* The Freedom of Information Act requires that the Department, on a request from a member of the public to inspect or copy records made in accordance with the procedures in this subpart, shall promptly make the records available.

(c) *Statutory exemptions.* The Act exempts nine categories of records from this disclosure requirement. The Act provides that disclosure is not required of matters that are:

(1) Specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy and in fact properly classified pursuant to such Executive order;

(2) Related solely to the internal personnel rules and practices of an agency;

(3) Specifically exempt from disclosure by statute;

(4) Trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(5) Inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency;

(6) Personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;

(7) Investigatory records compiled for law enforcement purposes, but only to the extent that production of such records would (i) interfere with enforcement proceedings; (ii) deprive a person of a right to a fair trial or an impartial adjudication, (iii) constitute an unwarranted invasion of personal privacy, (iv) disclose the identity of a confidential source and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source, (v) disclose investigative techniques and procedures, or (vi) endanger the life or physical safety of law enforcement personnel;

(8) Contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions; or

(9) Geological and geophysical information and data, including maps, concerning wells.

(d) *Decisions on requests.* It is the policy of the Department to withhold information falling within an exemption only if (1) disclosure is prohibited by statute or Executive Order or (2) sound grounds exist for invocation of the exemption.

(e) *Deletion of portions of records.* If a requested record contains material within an exemption together with material not within an exemption and it is determined under the regulations in this subpart to withhold the exempt material, any reasonably segregable nonexempt material shall be separated from the exempt material.

(f) *Creation of records.* This subpart applies only to records which exist at the time a request for records is made. Records are not required to be created in response to a request by combining or compiling selected items from the files or by preparing a new computer program, nor are records required to be created to provide the requester with such data as proportions, percentages, frequency distributions, trends, or comparisons.

(g) *Records of concern to other departments and agencies.* (1) If the release of a record would be of concern to both the Department of the Interior and another Federal agency, the record will be made available by the Department only if the interest of the Department is the primary interest. If the Department's interest is not the primary interest, the requester shall be referred in writing to the agency having the primary interest. The Department of the Interior has the primary interest in a record if the record was developed pursuant to Department regulations, directives, or request even though the record originated outside of the Department.

(2) If the release of a record in which the Department has a primary interest would be of substantial concern to another agency, the official processing the request, should, if administratively feasible and appropriate, consult with that agency before releasing the record.

(h) *Records obtained from the public.* If a requested record was obtained by the Department from a person or entity outside of the Government, the official responsible for processing the request shall, when it is administratively feasible to do so, seek the views of that person or entity on whether the record should be released before making a decision on the request.

## V. PLACER CLAIMS

The application for a patent to placer mining claims must contain the same information mentioned previously in Sections I, II, III, and IV of this Guide Booklet, with the exceptions noted in the various sections. In addition, the following statements are also required:

- A. Title is being sought in good faith because of the mineral values and not to control the water courses or to obtain valuable timber (43 CFR 3863.1-3(a)).
- B. Description of natural features of the claim, i.e. :<sup>9</sup>
  - ( 1 ) Streams as to their course and amount of water carried.
  - ( 2 ) Amount of timber, kind, and other vegetation, adaptability to mining or other uses.
- C. If the deposit is gold, state:
  - ( 1 ) Yield per pan or cubic yard, as shown by prospecting and development work.
  - ( 2 ) Distance to bedrock.
  - ( 3 ) Formation and extent of deposit.
  - ( 4 ) Any other facts evidencing that the claim is valuable for placer gold.
- D. For deposits other than gold, claimed under placer laws, describe the following:
  - ( 1 ) Kind, nature, and extent of the deposit.
  - ( 2 ) Reasons why placer claim is regarded valuable.
- E. Applicant must state if the claim is all placer ground or if known lodes or veins are situated within the boundaries of the placer claim.
- F. If all placer ground, notarized statements attesting to this fact by two or more witnesses must be submitted. (Be sure they name the claims or state that the claims are within patent application BLM Serial No. AA-xxxx or F-xxxx.) Witnesses are again reminded to see footnote 2 of this booklet.

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9. Questions concerning A, B or C can be answered by the mineral examiners for the BLM, National Forest Service or National Park Service.

- G. If the applicant states that there are mixed placer and lode claims, he must also state (pursuant to 43 CFR 3863.1-3(b) and 43 CFR 3863.1-4):
- (1) Whether the vein or lode claims are in the applicant's possession.
  - (2) Ownership of the lode claim should be identified.
  - (3) Whether or not the lode claim is included in the mineral patent application.
  - (4) Description of all known lodes situated within the boundaries of the placer claim.
- H. Information regarding existing lode claims within the placer claim mineral patent application must be indicated in the "Notice" posted on the mining claim and be stated in the newspaper advertisement.

## VI. MILL SITES

When applying for a patent to a mill site, the same information, statements, and documents required in Sections I, II, III, and IV which are applicable to mill sites will need to be submitted.

The following items are specifically related only to mill sites and should be included in the patent application:

- A. Proof must be submitted to verify that the lands are nonmineral in character. Such proof, among others, should consist of:
  - ( 1 ) Complete description of the geology.
  - ( 2 ) Reasons why the land is considered nonmineral.
- B. Two disinterested persons cognizant of the facts must furnish notarized statements attesting that the land applied for as a mill site is nonmineral in character. They must also make statements regarding applicant's use and occupancy of the mill site (43CFR 3864.1-4). See footnote 2 of this booklet.
- C. When applications for lode/placer mining claims and mill sites are filed simultaneously, both the mining claim area and the mill site area must be individually posted with a survey plat and "Notice" of application. However, the "Notice" may describe both the claims and the mill site. (Posting must be in the presence of at least two witnesses as stated in Section II of this Guide. 43 CFR 3864.1-2)
- D. Improvements on the mill site should be discussed, citing their use for mining or milling purposes:

Where there is no mineral survey because the mill site could be described by legal subdivisions, there must be notarized statements by the applicant and two disinterested witnesses as to the improvements and use and occupancy of the mill site.
- E. No expenditures for improvements are required.

## VII. REQUIREMENTS AFTER INITIAL FILING

### A. NEWSPAPER PUBLICATION

Although the applicant supplies a Notice for Publication with the application itself, BLM (not the applicant) forwards the notice and tells the newspaper to begin publication. The publisher is instructed to send copies of the first published notice to the applicant and to BLM so that the copy can be reviewed and corrected, if necessary, before the next publication. The publisher is also asked to send Proof of Publication to the applicant after the final notice has run.

After the publication period has ended, the applicant is required to supply BLM with:

1. Proof of Publication (mentioned above): A sworn statement from the newspaper that the notice was published for the full nine weeks, giving first and last dates of publication.
2. Affidavit of Continuous Posting: A sworn statement from the applicant that the notice and the survey plat remained conspicuously posted on the claims throughout the period of publication and for at least four days after the last publication. The extra four days is necessary to cover the full 60 days required by law (weekly publication for nine weeks only covers 56 days). The notice and plat do not need to be removed from the claims at the end of the 60-day period; they may remain posted indefinitely and, if so, the affidavit should state this fact. It is essential, however, that the posting not be removed before the 60-day period has ended.

### B. STATEMENT OF FEES AND CHARGES

Before the claims in a mineral patent application may be purchased from the United States, the applicant must submit to BLM a statement of all the fees and charges paid in conjunction with the application, including:

- \_\_\_\_\_ Costs of survey, including both the costs of the contract with the mineral surveyor and BLM processing costs.
- \_\_\_\_\_ Cost of newspaper publication.
- \_\_\_\_\_ BLM filing fees.
- \_\_\_\_\_ Amount of Purchase price.

### C. PURCHASE PRICE

After the mineral patent application and title have been reviewed and approved, the newspaper publication has ended (if no adverse claims have been filed), and all the required proofs and statements have been submitted, the applicant may purchase the mining claims at the following rates<sup>10</sup>:

Lode claims:	\$5.00 per acre
Placer claims:	\$2.50 per acre
Millsites:	\$5.00 per acre in conjunction with lode claims, \$2.50 per acre in conjunction with placer claims, \$5.00 per acre for quartz mill or reduction works.

If the claims are purchased before a BLM mineral validity examination is done, the purchase ultimately depends upon the results of the examination. If contest is recommended on the basis of a negative mineral report and BLM's determination is upheld, the applicant will need to request a refund of the purchase price.

### D. LEASABLE MINERAL RESERVATIONS

For mining claims located after August 13, 1954, the BLM district office must request a report from its Minerals Division as to whether or not the lands in the mineral patent application are valuable for leasable minerals such as coal, oil, gas, geothermal steam etc. If the report concludes that the lands are valuable, BLM will issue a decision to the applicant stating that the particular mineral or minerals will be reserved to the United States in the patent document. The applicant will have the right to appeal this decision to the Interior Board of Land Appeals if he does not agree with BLM's determination. If the Minerals Division reports that the lands are not known to be valuable for any leasable minerals, no decision will be issued and no such reservation will be placed in the patent.

<sup>10</sup>. Fractional acres are calculated as whole acres; for example, 18.786 becomes 19.000 acres for the purpose of figuring purchase price.

MINERAL PATENT APPLICATION CHECKLIST (USE ONLY AS A GUIDE)

Note: All required documents must be filed in duplicate.

I. DOCUMENTS TO BE FILED INITIALLY WITH APPLICATION

A. LODE CLAIM APPLICATION:

- \_\_\_ 1. \$250.00 filing fee (non-refundable). 43 CFR 3862.1-2.
  - \_\_\_ 2. Application (filed in duplicate). 43 CFR 3862.1-1.
    - \_\_\_ a. Signed by all applicants (or their agents) within land district where claims are located.
    - \_\_\_ b. Exclusions identified (if shown on survey plat or in field notes). 43 CFR 3861.2-1(b).
    - \_\_\_ c. Narrative concerning origin of possession, kind of lode, extraction of ore, etc. 43 CFR 3861.1-1(a).
  - \_\_\_ 3. Two (2) copies of survey plats and field notes. 43 CFR 3861.7-2.
  - \_\_\_ 4. Proof of posting on claims: two (2) copies of witness affidavits with two (2) copies of "Notice of Intention to Apply for Patent" as posted. At least two (2) credible witnesses. 43 CFR 3861.7-1 and 2.
  - \_\_\_ 5. Evidence of citizenship, corporation papers, etc. 43 CFR 3862.2.
  - \_\_\_ 6. Publication notice. 43 CFR 3862.4.
  - \_\_\_ 7. Publisher's agreement. 43 CFR 3862.4-1.
  - \_\_\_ 8. Atomic Bomb Project statement (for claims located after 8/1/1946). 43 CFR 3862.1-1(b).
  - \_\_\_ 9. Certificate of Expenditures (Cadastral Survey). Form 3860-8. 43 CFR 3861.2-2.
  - \_\_\_ 10. Applicant affidavit that land is unoccupied, unreserved, unimproved, and unappropriated. 43 CFR 3862.1-5.
  - \_\_\_ 11. Witness affidavits [at least two (2) disinterested] that land is unoccupied, unreserved, unimproved, and unappropriated. 43 CFR 3862.1-5.
  - \_\_\_ 12. Title Evidence (Certificate of Title, Abstract of Title, or Assertion of Possessory Right under 30 U.S.C. 38). 43 CFR 3862.1-3.
- \*Note: Special requirements for possessory title: see pages 10 and 11. 43 CFR 3862.3.
- \_\_\_ 13. Details of geology, mining methods, costs, etc.

B. PLACER CLAIM APPLICATION:

See Lode Claim Checklist (above) where applicable plus additional requirements:

- \_\_\_ 1. Statement that title is being sought in good faith because of mineral values and not to control the water courses nor to obtain valuable timber. 43 CFR 3863.1-3(a).

- 2. Description of natural features (stream courses, amount of water, amount and kind of timber and other vegetation, etc.) 43 CFR 3863.1-3(a).
- 3. Gold deposit: see 43 CFR 3863.1-3(a) for specifics.
- 4. Deposit other than gold: description of deposit, etc. See 43 CFR 3863.1-3(a) for specifics.
- 5. Applicant statement of known lodes or veins or if all placer ground. 43 CFR 3863.1-3(b) and 1-4.
- 6. If all placer ground, witness affidavits [at least two (2) disinterested]. 43 CFR 3863.1-3(b).

C. MILLSITE APPLICATION:

See lode claim checklist (above) where applicable plus additional requirements:

- 1. Lands must be non-mineral in character. Description of geology and reason land is considered non-mineral. 43 CFR 3864.1-1.
- 2. Witness affidavits [at least two (2) disinterested] that land is non-mineral. 43 CFR 3864.1-4.

II. DOCUMENTS TO BE FILED AFTER NEWSPAPER PUBLICATION:

- 1. Proof of publication (affidavit from newspaper). 43 CFR 3862.4-5.
- 2. Affidavit of Continuous Posting during 60-day publication period. 43 CFR 3862.4-5.
- 3. Statement of fees and charges. 43 CFR 3862.4-6.
- 4. Payment of purchase price. 43 CFR 3862.4-6, 3863.1(b), 3864.1.



Form 3860-5  
(March 1991)

UNITED STATES  
DEPARTMENT OF THE INTERIOR  
BUREAU OF LAND MANAGEMENT

FORM APPROVED  
OMB NO. 1004-0025  
Expires: August 31, 1993

Date

APPLICATION FOR SURVEY OF MINING CLAIM

SEE INSTRUCTIONS ON REVERSE

1 Name of Applicant ( <i>first, middle initial, last</i> )	Address ( <i>include zip code</i> )
--	-------------------------------------

Hereby makes application for an official mineral survey of the mining claims named and identified in this application

2. Give group name (*if any*)

3. NAME OF CLAIM(S)

NAME OF LOCATION	DATE			BLM MINING CLAIM SERIAL NUMBER
	LOCATED AND AMENDED	RECORDED WITH COUNTY	RECORDED WITH BLM	

4. LOCATION OF CLAIM(S)

Section	Township	Range	Meridian
County		State	National Forest

5a. Is each claim based on a valid location and fully described in the certified copy of the record of each location certificate filed with this application?  Yes  No

b. Is each location distinctly marked by monuments on the ground and can its boundaries be traced readily?  Yes  No

6. A deposit, is submitted with this application by  cash  money order  certified check made payable to the Bureau of Land Management, in the amount of \$ \_\_\_\_\_, to cover the estimated cost of office work.

7. It is requested that the survey be made, in accordance with the regulations, by the following U.S. Mineral Surveyor.

Date	Signature of Applicant
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### INSTRUCTIONS

1. This application is made under the provisions of Chapter 6, Title 32, Revised Statutes of the United States and regulations thereunder (43 CFR 3861.1).
2. Application *must* be typed or printed plainly in ink and submitted to the State Director, Bureau of Land Management, having authority to issue survey orders in that State as follows: Alaska, Anchorage; Arizona, Phoenix; Arkansas and New Mexico, Sante Fe; California, Sacramento; Colorado, Denver; North and South Dakota and Montana, Billings; Nebraska, Kansas, and Wyoming, Cheyenne; Idaho, Boise; Nevada, Reno; Washington and Oregon, Portland; Utah, Salt Lake City; all other States, Director, Bureau of Land Management, Washington, D.C. 20240.
3. Name of the claimant (individual, partnership, company, or corporation) should appear on the application in the same manner as it will appear in the patent when issued. The application *must be signed* by the claimant or an authorized agent.
4. Two copies of the record of the location certificate *must be filed with the application*, one of which *must be certified* by the custodian of the records where mining claims are recorded, usually the Clerk of the County in which the claim is located. Each certificate *must* contain the name of the locator, date of location, point of discovery, and such definite description of the claim by reference to natural objects or permanent monuments as will serve to identify the claim on the ground. If a location certificate has been amended and the survey is to be based on the amended location, *two* copies of the latest amended certificate are required with the application for survey, *one of which must be certified*.
5. Applicants are requested to list in one application the contiguous locations constituting the claim for which an official survey is desired. Several locations may be embraced in a single survey *only* when they are contiguous, by which is meant locations that are actually in conflict or adjoining; locations joining at a single corner are *not considered as contiguous*.
6. A millsite may be applied for separately or in conjunction with the survey of a mining claim. Millsites *must* be located on nonmineral ground, may not embrace more than five acres in compact form, and *must* be occupied or used in connection with mining activity.
7. Any change in an application for survey, including the addition or exclusion of locations, or the designation of a different mineral surveyor, requires an amended application which will be the basis for issuance of an amended survey order.
8. The claimant is required, in all cases, to select the mineral surveyor to execute the survey from the Bureau of Land Management register of mineral surveyors and to make satisfactory settlement arrangements for payment for his services. *The United States will not be responsible for the settlement.*
9. A minimum deposit of ~~\$750~~<sup>\$250</sup> for the first location, plus ~~\$300~~<sup>\$350</sup> for each additional location or millsite, to cover the cost of office expense, *must be made with the Bureau of Land Management before an order for survey will be issued.* In accordance with CFR 43 Section 3861.6-1, each State Office may require a deposit that is sufficient to cover their estimate of each order for survey. If this deposit is insufficient to cover the actual cost of office work, the claimant will be billed for an additional sum sufficient to cover the actual cost of drafting and other office work in connection with processing the returns of the mineral surveys. If the deposit is more than the actual cost, a refund will be made to the claimant.
10. Mineral surveyors are precluded from acting, either directly or indirectly, as agents or attorneys in proceedings to obtain patent for mining claims. Interested parties are precluded from working on mineral surveys as chainmen or field assistants.

### NOTICE

The Privacy Act of 1974 and the regulation in 43 CFR 2.48(d) provide that you be furnished the following information in connection with information required by this application.

**AUTHORITY:** 30 U.S.C. 22, 29, 39, 43 CFR 3861.1-1.

**PRINCIPLE PURPOSE:** The information is to be used to process your application for a mineral survey.

**ROUTINE USES:** (1) The adjudication of the applicants' rights to the land or resources. (2) Documentation for public information in

support of notations made on land status records for the management, disposal, and use of public lands and resources. (3) Transfer to appropriate Federal agencies when concurrence is required prior to granting a right in public lands or resources. (4)(5) Information from the record and/or the record will be transferred to appropriate Federal, State, local or foreign agencies, when relevant to civil, criminal or regulatory investigations or prosecutions.

**EFFECT OF NOT PROVIDING INFORMATION:** The application may be rejected.

The Paperwork Reduction Act of 1980 (44 U.S.C. 3501, et seq.) requires us to inform you that:

Information is being collected to allow the Bureau of Land Management to properly provide the requested service  
Information will be used to determine the level of service required.  
Response to this request is required to obtain a benefit.

Public reporting burden for this form is estimated to average 4 hours per response, including the time for reviewing instructions, gathering and maintaining data, and completing and reviewing the form. Direct comments regarding the burden estimate or any other aspect of this form to U.S. Department of the Interior, Bureau of Land Management, (Alternate) Bureau Clearance Officer, (WO-771), 1849 C Street, N.W., Washington, D.C. 20240, and the Office of Management and Budget, Paperwork Reduction Project (1004-0025), Washington, D.C. 20503.

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**UNITED STATES DEPARTMENT OF THE INTERIOR**  
**BUREAU OF LAND MANAGEMENT**  
**MINERAL SURVEYOR ROSTER**

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**ALASKA**

**Mr. John F. Bennett**  
3123 Penguin Lane  
Fairbanks, Alaska 99712  
Phone: (907) 488-3814

**Mr. Harry M. Campbell, Jr.**  
P.O. Box 721  
Palmer, Alaska 99645  
Phone: (907) 745-4157

**Mr. Richard C. Davis**  
14870 Snowshoe Lane  
Anchorage, Alaska 99516  
Phone: (907) 562-3931

**Mr. Neil K. Eklund**  
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Phone: (907) 452-4094

**Mr. Eric P. Goozen**  
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**Mr. Richard C. Heieren**  
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Phone: (907) 479-0477

**Mr. Michael J. Home**  
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Wasilla, Alaska 99687  
Phone: (907) 376-3744

**Mr. Laurence H. Irving**  
1205 Smythe Street  
Fairbanks, Alaska 99701  
Phone: (907) 456-4298

**Mr. Patrick H. Kalen**  
1041 Chena Ridge Road  
Fairbanks, Alaska 99709  
Phone: (907) 479-2628

**Mr. Wayne F. Larson**  
P.O. Box 61201  
Fairbanks, Alaska 99706-1201  
Phone:

**Mr. George C. Loyd**  
3835 Clay Products Drive  
Anchorage, Alaska 99517  
Phone: (907) 248-9555

**Mr. Malcolm A. Menzies**  
6205 Glacier Highway, P.O. Box 34278  
Juneau, Alaska 99803  
Phone: (907) 780-6060

**Mr. Timothy L. Mullikin**  
P.O. Box 2610  
Homer, Alaska 99603  
Phone: (907) 235-6213

**Mr. Maurice P. Oswald**  
3015 Emory Street  
Anchorage, Alaska 99508  
Phone: (907) 279-2848

**Mr. Russell H. Oswald**  
3015 Emory Street  
Anchorage, Alaska 99508  
Phone: (907) 279-2848

**Mr. Tyler J. Sweet**  
10224 LeDoux Lane  
Eagle River, Alaska 99577  
Phone: (907) 694-2375

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**UNITED STATES DEPARTMENT OF THE INTERIOR  
BUREAU OF LAND MANAGEMENT  
MINERAL SURVEYOR ROSTER**

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**NOTICE TO ALL UNITED STATES MINERAL SURVEYORS**

In the event of a change in either your address or phone listing please notify the Washington Office, in writing, at the address below:

Director (WO-720)  
Bureau of Land Management  
1849 "C" Street, NW  
Washington, D.C. 20240

**Attention: Mineral Surveyor Correspondence**

**\*\*EXAMPLE\*\***

NOTICE OF INTENTION TO APPLY FOR PATENT

NOTICE IS HEREBY GIVEN, pursuant to the laws of the United States and pertinent regulations, that [applicant name; address] intends to apply for patent to the following named mining claims, situated in the [            ] Recording District [and \_\_\_\_\_ Mining District], [            ] Judicial District, State of Alaska : [list claim names], included within U.S. Mineral Survey No. [#]. The total area of the claims is [#] acres. There are no known adjoining or conflicting claims.

This notice was posted this [#] day of [month], 198[ ] on [for example, the east side of the cabin] located on the [name] claim.

Witnesses:

[name]

[name]

Note: Notice itself need not be signed or notarized, but witness statements must be (See EXHIBIT D).

Brackets denote specific items to be inserted.



E X H I B I T "E"

Form 3860-8  
(February 1977)

UNITED STATES  
DEPARTMENT OF THE INTERIOR  
BUREAU OF LAND MANAGEMENT

CERTIFICATE OF EXPENDITURES, IMPROVEMENTS,  
AND MINERAL SURVEY

Serial Number

Date

Name of Claimant

Mineral Survey Number

I HEREBY CERTIFY That the record of the above-described mineral survey furnishes such an accurate description of all claims embraced within the survey that it will, if incorporated into a patent, serve fully to identify the premises and that references are made in the survey to natural objects or permanent monuments so that the location of the claims will be perpetuated and fixed.

I FURTHER CERTIFY That the record reveals not less than \$500 worth of labor has been expended for improvements upon or for the benefit of each of the .lode claims embraced within the survey and that the improvements were made by the claimant or his grantors.

Date

Authorized Signature

(See reverse)

REVERSE SIDE OF FORM 3860-8

INSTRUCTIONS

1. Title 43 Code of Federal Regulations 3861.2-2 requires that this *Certificate* be filed with the manager of the proper BLM office by an applicant for patent at time of filing the application or at any time within the sixty (60) days of publication.
2. If the record shows that the expenditures for improvements equal or exceed \$500 at the time of survey then this form should be attached by the cadastral engineer to the claimant's copy of the field notes.
3. If the record shows that the expenditures for improvements do not equal or exceed \$500 at the time of survey then it is the responsibility of the applicant to have this form executed by the office cadastral engineer and filed with the manager of the proper BLM office during the 60-day publication period.

GPO 839-498

- EXAMPLE -

NEWSPAPER PUBLICATION  
(No indentation or paragraphing)

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NOTICE OF APPLICATION

Mineral patent application [ BLM Serial No. ], Bureau of Land Management, Alaska State Office, 222 West Seventh Avenue, #13, Anchorage, Alaska 99513-7599 OR Fairbanks Service Center, 1150 University Avenue, Fairbanks, Alaska 99709-3844, [ Date of filing mineral PATENT application with BLM - do not use the date of filing the mineral SURVEY application ]. Notice is hereby given that [ Name of applicant(s) ] whose address is [ insert complete mailing address(es) ] has made application to the United States of America for a mineral patent for the following [ insert placer/lode or millsite or all three if applicable ] mining claims: [ List each claim separately and set off by commas ], designated as Mineral Survey No. [ Survey No. ] located in [ surveyed or unsurveyed ] section(s) \_\_\_\_, T. \_\_\_\_ [ N. or S. ], R. \_\_\_\_ [ E. or W. ], [ insert meridian ] Meridian, Alaska, all situate in the \_\_\_\_\_ Mining and \_\_\_\_\_ Recording District, Alaska, at Latitude [ ° ' " ] [ North or South ], Longitude [ ° ' " ] [ East or West ] at [ survey plat designates the tie of the Latitude and Longitude to the permanently fixed marker on the ground, i.e., land or mineral monument ] and described as follows: [ Description of the exterior boundary of claims as described on the plat, i.e., 1/ Beginning at Corner No. 1 of Brown Band

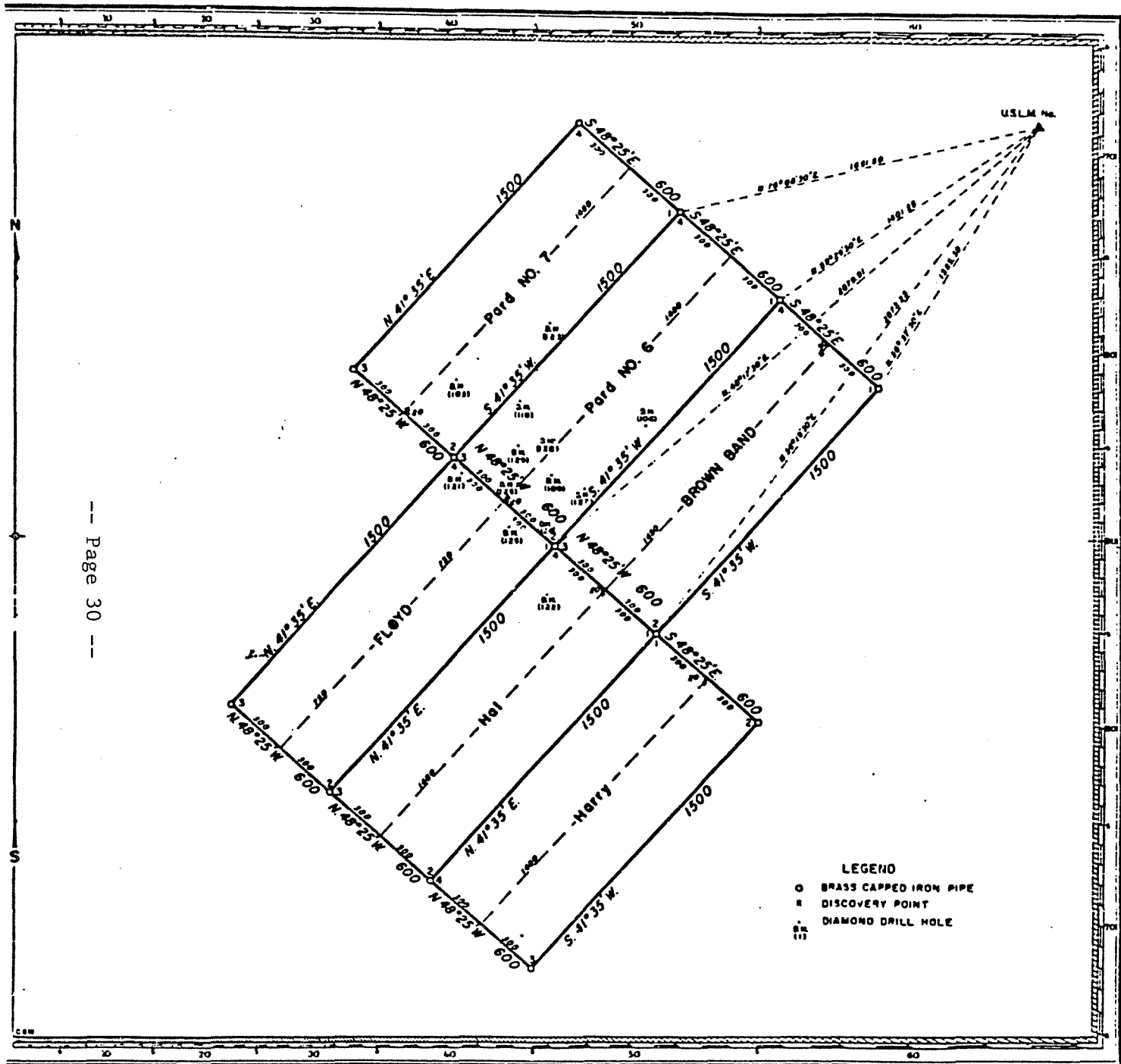
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1/ Exterior boundary description based on attached sample of mineral survey plat.



claim whence U.S.L.M. No. 2246 bears N. 30° 37' 30" E., 1385.39 feet; thence S. 41° 35' W., 1500.00 feet; thence S. 48° 25' E., 600.00 feet; thence S. 41° 35' W., 1500.00 feet; thence N. 48° 25' W., 1800.00 feet; thence N. 41° 35' E., 1500.00 feet; thence N. 48° 25' W., 600.00 feet; thence N. 41° 35' E., 1500.00 feet; thence S. 48° 25' E., 1800.00 feet to Corner No. 1 of the Brown Band claim and the point of beginning.] The total area of the [ Number of claims ] [ placer or lode ] claim(s) is [ Number of acres found in field notes ] acres. There are no conflicting claims [ or designate which claims are in conflict and how many acres involved ]. The adjoining claims are: [ If applicable ] [ or state as above: There are no conflicting or adjoining claims ]. The location notices are recorded in the [ Name of District ] Recording District, Alaska, [ Name of claim ], Book \_\_\_\_\_, Page \_\_\_\_\_; [ Name of claim ], Book \_\_\_\_\_, Page \_\_\_\_\_; [ Etc., for each claim ]. [ Amended claim locations should also be specified, identifying each Book and Page ]. The notice of intention to apply for patent was posted on the claim(s) on [ Date as stated on the affidavits of posting notice and plat ]. Any and all persons claiming adversely the ground, premises, or any part of the same so designated, platted, and applied for, are hereby notified that unless their adverse claims are duly filed according to law and the regulations thereunder, within the 60-day period of publication of the notice of application, with the Bureau of Land Management in which the patent application has been filed, they will be barred by virtue of the provisions of said statute.

Lead Land Law Examiner  
Branch of Mineral Law



--- Page 30 ---

**MINERAL SURVEY**  
**No.**  
**ALASKA**

CLAIM OF

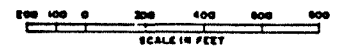
KNOWN AS

COMPRISING  
 Pard NO. 7, Pard NO. 6,  
 BROWN BAND,  
 Harry, Hal & FLOYD  
 LODES

SITUATE IN

Noatak-Kobuk Mining District  
 (Unsurveyed)

Latitude 67°03.6'N, Longitude 157°02.4'W  
 of U.S.L.M. No.



Magnetic Declination 23°15'E.

Surveyed July 10 to Aug. 3, 1971  
 By Kenneth L. Preston, Mineral Surveyor

UNITED STATES DEPARTMENT OF THE INTERIOR  
 BUREAU OF LAND MANAGEMENT  
 DIVISION OF CADASTRAL SURVEY

I hereby certify that this plot of Mineral Survey  
 No. Alaska, is strictly conformable to the  
 field notes of said survey which have been  
 examined and approved.

Anchorage, Alaska *Jack C. Means*  
 Acting Chief,  
 Nov 16, 1973 Division of Cadastral Survey

- LEGEND**
- BRASS CAPPED IRON PIPE
  - ✕ DISCOVERY POINT
  - DH DIAMOND DRILL HOLE

E X H I B I T "G"

\*\*EXAMPLE\*\*

[NEWSPAPER CLOSEST TO CLAIM]  
[CIRCULATION THAT HAS A SECOND CLASS MAIL PERMIT]  
[SEE 43 CFR 1824.1-1]

PUBLISHER'S AGREEMENT

To: U.S. Department of the Interior      U.S. Department of the Interior  
Bureau of Land Management      Bureau of Land Management  
Anchorage District Office      OR      Fairbanks District Office  
6881 Abbott Loop Road      1541 Gaffney Road  
Anchorage, Alaska 99507      Fairbanks, Alaska 99703

Re: Application for mining claim patent, [Name of Applicant] and  
[Name of Applicant], applicants, for U.S. Mineral patent  
Application Serial Number [BLM No.].

This is to advise you that [Name of Applicant] and [Name of Applicant], applicants for the above-referenced patent, have made satisfactory arrangements with the [Name of Newspaper] newspaper, to assume liability for and make the payment for the cost of publication of the required Notice of Patent Application for a period of nine consecutive weeks.

DATED at [City/town], Alaska, this     day of [month],  
[year]

1/ [Signature]  
Publisher  
[Typed or Printed name of  
person signing]

NOTE: Brackets denote specific items to be inserted.

1/ Must be signed (not rubber stamped); if publisher does not sign, it must be someone with authority to sign on publisher's behalf.

NEWSPAPERS TO BE USED FOR PUBLICATION

Anchorage Daily News  
 P. O. Box 14-9001  
 Anchorage, Alaska 99514-9001

Ketchikan Daily News  
 P. O. Box 7900  
 Ketchikan, Alaska 99901

The Tundra Times  
 Eskimo, Indian, Aleut Publishing Co.  
 P. O. Box 104480  
 Anchorage, Alaska 99510-4480

Kodiak Daily Mirror  
 216 W. Rezanoff  
 Kodiak, Alaska 99615

The Tundra Drums  
 P. O. Box 868  
 Bethel, Alaska 99559

Nome Nugget  
 P. O. Box 610  
 Nome, Alaska 99762

Cordova Times  
 P. O. Box 200  
 Cordova, Alaska 99574-0200

The Seward Phoenix Log  
 P. O. Box 89  
 Seward, Alaska 99664

Fairbanks Daily News-Miner  
 P. O. Box 710  
 Fairbanks, Alaska 99707-0710

The Daily Sitka Sentinel  
 P. O. Box 799  
 Sitka, Alaska 99835

Juneau Empire  
 3100 Channel Drive  
 Juneau, Alaska 99801-7814

The Valdez Vanguard  
 P. O. Box 157  
 Valdez, Alaska 99686-0157

The Peninsula Clarion  
 P. O. Box 4330  
 Kenai, Alaska 99611

The Frontiersman  
 1261 Seward Meridian  
 Wasilla, Alaska 99687

Wrangell Sentinel  
 P. O. Box 798  
 Wrangell, Alaska 99929

NOTICES must be published in the newspaper of general circulation nearest to the location of the mining claim or millsite. Determination of which newspaper to use is derived by counting the number of townships and ranges from the claims to the town where the newspaper is published.

E X H I B I T "I"

\*\*EXAMPLE\*\*

MINERAL APPLICATION NO. [BLM Serial No. AA-0000/F-0000]

AFFIDAVIT THAT THE LAND APPLIED FOR IS  
UNRESERVED, UNOCCUPIED, UNIMPROVED AND UNAPPROPRIATED

That I found no portion of the land applied for occupied or reserved by the United States, so as to prevent its acquisition under the mining laws of the United States, that the said land is not occupied or claimed by Natives of Alaska, and that the land is unreserved, unoccupied, unimproved, and unappropriated by any person claiming the same other than the applicant.

DATED at \_\_\_\_\_, Alaska, this \_\_\_\_ day of \_\_\_\_\_,  
19\_\_.

(1) \_\_\_\_\_ [Signature of Applicant]

(2) \_\_\_\_\_ [Signature(s) of Witness]

(3) \_\_\_\_\_ [Signature(s) of Witness]

SUBSCRIBED AND SWORN TO before me this \_\_\_\_ day of \_\_\_\_\_,  
19\_\_, at \_\_\_\_\_, Alaska.

\_\_\_\_\_  
Notary Public in and for Alaska  
My Commission Expires: \_\_\_\_\_

NOTE: Brackets denote specific items to be inserted. Two (2) disinterested witnesses and each applicant must sign a similar affidavit in the presence of a Notary Public in and for the State of Alaska. If the witnesses and/or applicants are unable to appear before a Notary Public at the same time, a separate affidavit is required of each person. Be sure to add a statement which describes in what way the witnesses are to be considered disinterested. See also footnote 2 of this booklet.

COMPANIES/INDIVIDUALS APPROVED TO PROVIDE TITLE  
EVIDENCE TO THE DEPARTMENT OF THE INTERIOR IN ALASKA<sup>1</sup>

<u>ALASKA</u>	<u>CITY</u> <sup>2</sup>
Alaska Title Guaranty Co.	Anchorage
Chicago Title Ins. Co.	Chicago, IL
Commonwealth Land Title Ins. Co.	Philadelphia, PA
Davis & Renfrew	Anchorage
First American Title Ins. Co.	Santa Ana, CA
Kelleher, Thomas P., Title Guarantee Trust Company	Anchorage
Klindt, Miss Kathleen H. (Office of District Engineer)	Anchorage
Lawyers Title Insurance Corp.	Anchorage
Safeco Title Insurance Company	Anchorage
Security Title & Trust Co. of Alaska	Anchorage
Title Insurance Company of Minnesota	
Transamerica Title Ins. & Trust	Anchorage
Tregaskis, Jack, Corps of Engineers, Department of the Army	Anchorage
Land Field Services	Anchorage
TransAlaska Title	Statewide
Stewart Title Company of Alaska	Statewide
Alaska First Title Insurance Agency	Palmer
Title Insurance Agency	Juneau
William O. Vallee / Abstract Services	Anchorage
Fairbanks Title Agency	Fairbanks
Kachemak Bay Title Agency, Inc.	Homer
Land Title Co.	Anchorage
Western Alaska Land Title Company	Kodiak

Current as of: July 28, 1992

For updates, call the Office of the Regional Solicitor at 271-4131.

<sup>1/</sup> Some of these entities are still on the approved list even though they are defunct.

<sup>2/</sup> The city listed is where the approved entity has an established office. An approved entity may, however, provide title evidence for other areas so long as its title plant and system of examination is sufficient.

Form 3860-2  
(July 1981)

UNITED STATES  
DEPARTMENT OF THE INTERIOR  
BUREAU OF LAND MANAGEMENT

Mineral Entry Serial Number

CERTIFICATE OF TITLE ON MINING CLAIMS

An individual  a corporation, hereby

certifies that an examination of the instruments shown by the indices in the office of the Recorder of the County of \_\_\_\_\_, State of \_\_\_\_\_, discloses that the title to the mining claim hereinafter described that was acquired by the locators of said claim by the filing of said claim is at the date hereof vested in

- Subject to:
- (1) Paramount title of the United States of America.
  - (2) Any taxes or assessments that may be a lien.
  - (3) The inadequacy of any evidence of labor that may appear of record.
  - (4) Adverse rights which may exist by reason of any encroachment of other mining claims onto the claim hereinafter described or of any overlapping of the boundaries of said claim onto other claims.

The mining claim above referred to is that certain claim situate in the \_\_\_\_\_ mining district, County of \_\_\_\_\_, State of \_\_\_\_\_, more particularly described as follows (*see instructions*):

This certificate is issued and accepted upon the understanding that the liability assumed hereby shall not exceed \$100.

Seal

\_\_\_\_\_  
(Individual or Firm Name)

\_\_\_\_\_  
(Address)

\_\_\_\_\_  
(Date)

By

\_\_\_\_\_  
(Signature)

(Instructions on reverse)

INSTRUCTIONS

1. Description of mining claims may be incorporated by reference to and attachment of a certified copy of certificate of location.
2. A certificate, when executed by a corporation, must:
  - (a) bear the corporate seal;
  - (b) indicate where corporation was organized; and,
  - (c) indicate authority to do business in the state in which the land is located.



E X H I B I T "L"

SUPERIOR COURT  
State of Alaska

[Third Judicial District]  
[303 K Street]  
[Anchorage, Alaska 99501]

Date: \_\_\_\_\_

From: Office of the Clerk

To: Whom It May Concern

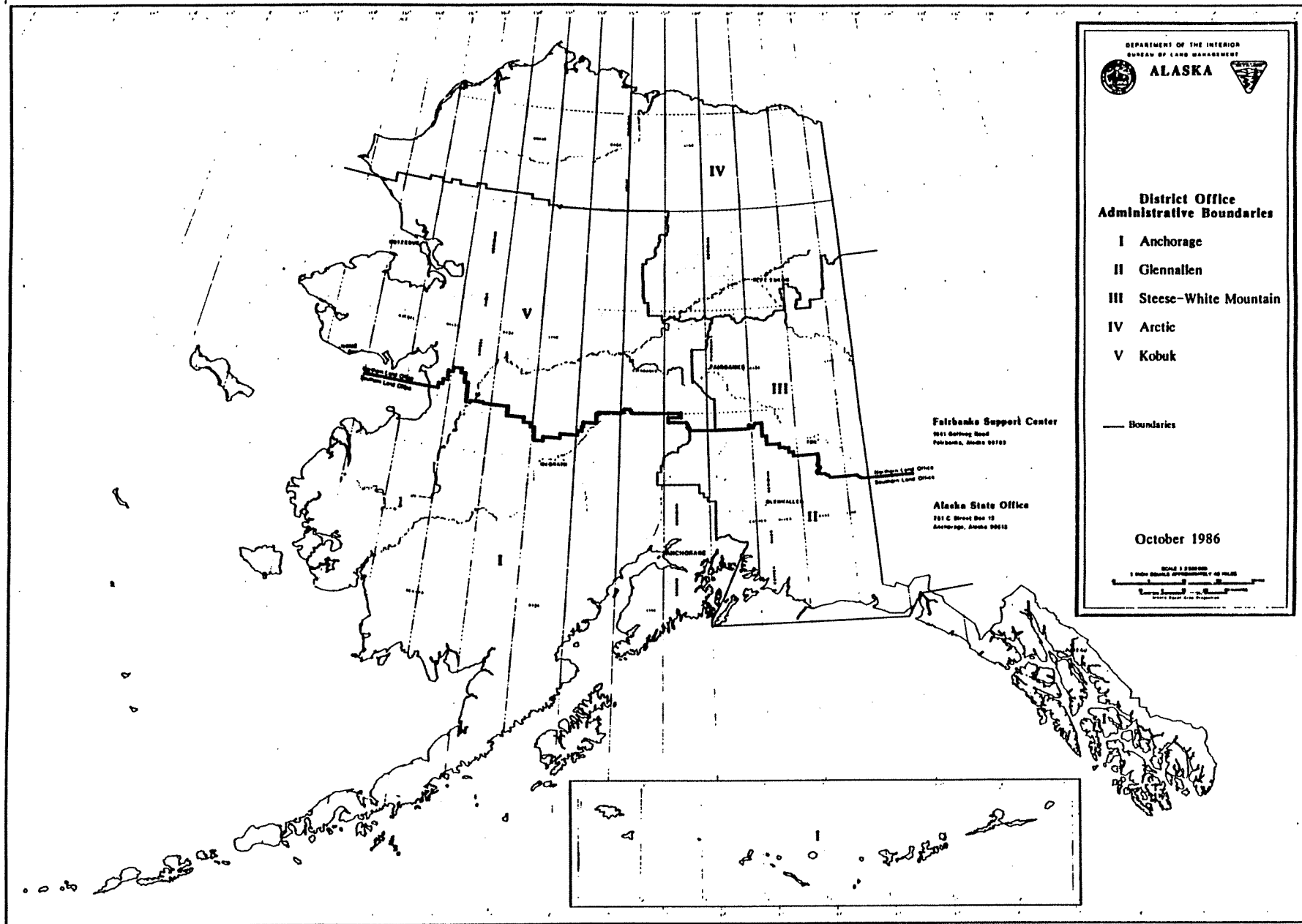
Re: [Applicant(s)]

There are no Court cases on file in the Superior Court naming [Applicant for Patent or Company] as a Plaintiff or Defendant as of [name the ten-year possessory period (for example, September 10, 1970 through September 10, 1980)]

(SEAL OF THE COURT)

\_\_\_\_\_  
[Clerk's Signature]  
Clerk of the Superior Court  
By: \_\_\_\_\_  
Deputy Clerk

NOTE: Brackets denote specific items to be inserted. Also, the Seal of the Court is REQUIRED.



A P P E N D I X

CODE OF FEDERAL REGULATIONS (CFR)

Note: The following excerpts taken from Title 43 of the Code of Federal Regulations are intended only as an aid to the mineral patent applicant. The full text is available at any Bureau of Land Management office. These regulations are subject to changes which will be incorporated into future editions of the Guide.

year if justifiable conditions exist. If the conditions justifying deferment are removed prior to the specified termination date of the deferment period, the deferment shall automatically be ended as of such earlier date.

§ 3852.5 When deferred assessment work is to be done.

All deferred assessment work may be begun at any time after the termination of the deferment but must be completed not later than the end of the assessment year commencing after the removal or cessation of the causes for the deferment or the expiration of any deferments granted under the act and shall be in addition to the annual assessment work required by law for such year.

## PART 3860—MINERAL PATENT APPLICATIONS

### Subpart 3861—Surveys and Plats

#### Sec.

- 3861.1 Surveys of mining claims.
  - 3861.1-1 Application for survey.
  - 3861.1-2 Survey must be made subsequent to recording notice of location.
  - 3861.1-3 Plats and field notes of mineral surveys.
- 3861.2 Surveys: Specific.
  - 3861.2-1 Particulars to be observed in mineral surveys.
  - 3861.2-2 Certificate of expenditures and improvements.
  - 3861.2-3 Mineral surveyor's report of expenditures and improvements.
  - 3861.2-4 Supplemental proof of expenditures and improvements.
  - 3861.2-5 Amended mineral surveys.
- 3861.3 Mineral surveyors.
  - 3861.3-1 Extent of duties.
  - 3861.3-2 Assistants.
- 3861.4 Contract for surveys.
  - 3861.4-1 Payment.
- 3861.5 Appointment and employment of mineral surveyors.
  - 3861.5-1 Appointment.
  - 3861.5-2 Employment.
- 3861.6 Plats and notices.
  - 3861.6-1 Payment of charges of the public survey office.
- 3861.7 Posting.
  - 3861.7-1 Plat and notice to be posted on claim.
  - 3861.7-2 Proof of posting on the claim.

#### Sec.

### Subpart 3862—Lode Mining Claim Patent Applications

- 3862.1 Lode claim patent applications: General.
  - 3862.1-1 Application for patent.
  - 3862.1-2 Service charge.
  - 3862.1-3 Evidence of title.
  - 3862.1-4 Evidence relating to destroyed or lost records.
  - 3862.1-5 Statement required that land is unreserved, unoccupied, unimproved, and unappropriated.
- 3862.2 Citizenship.
  - 3862.2-1 Citizenship of corporations and of associations acting through agents.
  - 3862.2-2 Citizenship of individuals.
  - 3862.2-3 Trustee to disclose nature of trust.
- 3862.3 Possessory rights.
  - 3862.3-1 Right by occupancy.
  - 3862.3-2 Certificate of court required.
  - 3862.3-3 Corroborative proof required.
- 3862.4 Publication of notice.
  - 3862.4-1 Newspaper publication.
  - 3862.4-2 Contents of published notice.
  - 3862.4-3 Authorized officer to designate newspaper.
  - 3862.4-4 Charges for publication.
  - 3862.4-5 Proof by applicant of publication and posting.
  - 3862.4-6 Payment of purchase price and statement of charges and fees.
- 3862.5 Entry and transfers.
  - 3862.5-1 Allowance of entry; transfers subsequent to application not recognized.
- 3862.6 Diligent prosecution.
  - 3862.6-1 Failure to prosecute application with diligence.
- 3862.7 Application processing upon contest or protest.
  - 3862.7-1 Resumption of patent proceedings after suspension due to adverse claim or protest.
- 3862.8 Patents for mining claims.
  - 3862.8-1 Land descriptions in patents.

### Subpart 3863—Placer Mining Claim Patent Applications

- 3863.1 Placer mining claim patent applications: General.
  - 3863.1-1 Application for patent.
  - 3863.1-2 Proof of improvements for patent.
  - 3863.1-3 Data to be filed in support of application.
  - 3863.1-4 Applications for placers containing known lodes.

### Subpart 3864—Millsite Patents

- 3864.1 Millsite patents: General.
  - 3864.1-1 Application for patent.
  - 3864.1-2 Millsites applied for in conjunction with a lode claim.

Sec.

3864.1-3 Millsites for quartz mills or reduction works.

3864.1-4 Proof of nonmineral character.

AUTHORITY: 30 U.S.C. 22 *et seq.*

**Subpart 3861—Surveys and Plats**

SOURCE: 35 FR 9754, June 13, 1970, unless otherwise noted.

§ 3861.1 Surveys of mining claims.

§ 3861.1-1 Application for survey.

The claimant is required, in the first place, to have a correct survey of his claim made under authority of the proper cadastral engineer, such survey to show with accuracy the exterior surface boundaries of the claim, which boundaries are required to be distinctly marked by monuments on the ground. He is required to have a correct survey where patent is applied for and where the mining claim is in vein or lode formation, or covers lands not surveyed in accordance with the U.S. system of rectangular surveys, or where the mining claim fails to conform with the legal subdivisions of the federal surveys. Application for authorization of survey should be made to the appropriate land office (see § 1821.2-1 of this chapter).

[Circ. 2220, 31 FR 16785, Dec. 31, 1966]

§ 3861.1-2 Survey must be made subsequent to recording notice of location.

The survey and plat of mineral claims required to be filed in the proper office with application for patent must be made subsequent to the recording of the location of the claim (if the laws of the State or the regulations of the mining district require the notice of location to be recorded), and when the original location is made by survey of a mineral surveyor such location survey cannot be substituted for that required by the statute, as above indicated. All matters relating to the duties of mineral surveyors, and to the field and office procedure to be observed in the execution of mineral surveys, are set forth in Chapter X of the Manual of Instructions for the Survey of the Public Lands of the United States, 1947.

§ 3861.1-3 Plats and field notes of mineral surveys.

When the patent is issued, one copy of the plat and field notes shall accompany the patent and be delivered to the patentee.

§ 3861.2 Surveys: Specific.

§ 3861.2-1 Particulars to be observed in mineral surveys.

(a) The following particulars should be observed in the survey of every mining claim:

(1) The exterior boundaries of the claim, the number of feet claimed along the vein, and, as nearly as can be ascertained, the direction of the vein, and the number of feet claimed on the vein in each direction from the point of discovery or other well-defined place on the claim should be represented on the plat of survey and in the field notes.

(2) The intersection of the lines of the survey with the lines of conflicting prior surveys should be noted in the field notes and represented upon the plat.

(3) Conflicts with unsurveyed claims, where the applicant for survey does not claim the area in conflict, should be shown by actual survey.

(4) The total area of the claim embraced by the exterior boundaries should be stated, and also the area in conflict with each intersecting survey, substantially as follows:

	Acres
Total area of claim.....	10.50
Area in conflict with survey No. 302.....	1.56
Area in conflict with survey No. 948.....	2.33
Area in conflict with Mountain Maid lode mining claim, unsurveyed.....	1.48

(b) It does not follow that because mining surveys are required to exhibit all conflicts with prior surveys the area of conflict with prior surveys the area of conflict are to be excluded. The field notes and plat are made a part of the application for patent, and care should be taken that the description does not inadvertently exclude portions intended to be retained. The application for patent should state the

portions to be excluded in express terms.

**§ 3861.2-2 Certificate of expenditures and improvements.**

(a) The claimant at the time of filing the application for patent, or at any time within the 60 days of publication, is required to file with the authorized officer a certificate of the office cadastral engineer that not less than \$500 worth of labor has been expended or improvements made, by the applicant or his grantors, upon each location embraced in the application, or if the application embraces several contiguous locations held in common, that an amount equal to \$500 for each location has been so expended upon, and for the benefit of, the entire group; that the plat filed by the claimant is correct; that the field notes of the survey, as filed, furnish such an accurate description of the claim as will, if incorporation in a patent, serve to identify the premises fully, and that such reference is made therein to natural objects or permanent monuments as will perpetuate and fix the locus thereof.

(b) In case of a lode and mill-site claim in the same survey the expenditure of \$500 must be shown upon the lode claim.

**§ 3861.2-3 Mineral surveyor's report of expenditures and improvements.**

(a) In the mineral surveyor's report of the value of the improvements all actual expenditures and mining improvements made by the claimant or his grantors, having a direct relation to the development of the claim, must be included in the estimate.

(b) The expenditures required may be made from the surface or in running a tunnel, drifts, or crosscuts for the development of the claim. Expenditures for drill holes for the purpose of prospecting and securing data upon which further development of a group of lode mining claims held in common may be based are available toward meeting the statutory provision requiring an expenditure of \$500 as a basis for patent as to all of the claims of the group situated in close proximity to such common improvement. Improvements of any other character, such as buildings, machinery, or road-

ways, must be excluded from the estimate, unless it is shown clearly that they are associated with actual excavations, such as cuts, tunnels, shafts, etc., are essential to the practical development of and actually facilitate the extraction of mineral from the claim.

(c) Improvements made by a former locator who has abandoned his claim cannot be included in the estimate, but should be described and located in the notes and plat.

**§ 3861.2-4 Supplemental proof of expenditures and improvements.**

If the value of the labor and improvements upon a mineral claim is less than \$500 at the time of survey the mineral surveyor may file with the cadastral engineer supplemental proof showing \$500 expenditure made prior to the expiration of the period of publication.

**§ 3861.2-5 Amended mineral surveys.**

(a) Inasmuch as amended surveys are ordered only by special instructions from the Bureau of Land Management, and the conditions and circumstances peculiar to each separate case and the object sought by the required amendment, alone govern all special matters relative to the manner of making such survey and the form and subject matter to be embraced in the field notes thereof, but few general rules applicable to all cases can be laid down.

(b) The expense of amended surveys, including amendment of plat and field notes, and office work in the Bureau of Land Management office will be borne by the claimant.

(c) The amended survey must be made in strict conformity with, or be embraced within, the lines of the original survey. If the amended and original surveys are identical, that fact must be clearly and distinctly stated in the field notes. If not identical, a bearing and distance must be given from each established corner of the amended survey to the corresponding corner of the original survey. The lines of the original survey, as found upon the ground, must be laid down upon the preliminary plat in such manner as to

contrast and show their relation to the lines of the amended survey.

### § 3861.3 Mineral surveyors.

#### § 3861.3-1 Extent of duties.

The duty of a mineral surveyor in any particular case ceases when he has executed the survey and returned the field notes and preliminary plat, with his report, to the cadastral engineer. He will not be allowed to prepare for the mining claimant the papers in support of his application for patent. He is not permitted to combine the duties of surveyor and notary public in the same case by administering oaths. It is preferable that both preliminary and final oaths of assistants should be taken before some officer duly authorized to administer oaths, other than the mineral surveyor. In cases, however, where great delay, expense, or inconvenience would result from a strict compliance with this section, the mineral surveyor is authorized to administer the necessary oaths to his assistants, but in each case where this is done, he will submit to the proper cadastral engineer a full written report of the circumstances which required his stated action; otherwise he must have absolutely nothing to do with the case, except in his official capacity as surveyor. He will not employ field assistants interested therein in any manner.

#### § 3861.3-2 Assistants.

The employing of claimants, their attorneys, or parties in interest, as assistants in making surveys of mineral claims will not be allowed.

### § 3861.4 Contract for surveys.

#### § 3861.4-1 Payment.

(a) The claimant is required, in all cases, to make satisfactory arrangements with the surveyor for the payment for his services and those of his assistants in making the survey, as the United States will not be held responsible for the same.

(b) The state director has no jurisdiction to settle differences relative to the payment of charges for field work, between mineral surveyors and claimants. These are matters of private con-

tract and must be enforced in the ordinary manner, i.e., in the local courts. The Department has, however, authority to investigate charges affecting the official actions of mineral surveyors, and will, on sufficient cause shown, suspend or revoke their appointment.

### § 3861.5 Appointment and employment of mineral surveyors.

#### § 3861.5-1 Appointment.

Pursuant to section 2334 of the Revised Statutes (30 U.S.C. 39), the Director or his delegate will appoint only a sufficient number of surveyors for the survey of mining claims to meet the demand for that class of work. Each appointee shall qualify as prescribed by the Director or his delegate. Applications for appointment as a mineral surveyor may be made at any office of the Bureau of Land Management listed in § 1821.2-1 of these regulations. A roster of appointed mineral surveyors will be available at these offices. Each appointee may execute mineral surveys in any State where mineral surveys are authorized.

[38 FR 30001, Oct. 31, 1973]

#### § 3861.5-2 Employment.

A mineral claimant may employ any United States mineral surveyor qualified as indicated in paragraph (a) of this section to make the survey of his claim. All expenses of the survey of mining claims and the publication of the required notices of application for patent are to be borne by the mining claimants.

### § 3861.6 Plats and notices.

#### § 3861.6-1 Payment of charges of the public survey office.

With regard to the platting of the claim and other office work in the Bureau of Land Management office, including the preparation of the copies of the plat and field notes to be furnished the claimant, that office will make an estimate of the cost thereof, which amount the claimant will deposit with it to be passed to the credit of the fund created by "Deposits by Individuals for Surveying Public Lands."

§ 3861.7 Posting.

§ 3861.7-1 Plat and notice to be posted on claim.

The claimant is required to post a copy of the plat of survey in a conspicuous place upon the claim, together with notice of his intention to apply for a patent therefor, which notice will give the date of posting, the name of the claimant, the name of the claim, the number of the survey, the mining district and county, and the names of adjoining and conflicting claims as shown by the plat of survey.

§ 3861.7-2 Proof of posting on the claim.

After posting the said plat and notice upon the premises the claimant will file with the proper manager two copies of such plat and the field notes of survey of the claim, accompanied by two copies of the statement of at least two credible witnesses that such plat and notice are posted conspicuously upon the claim, giving the date and place of such posting, and two copies of the notice so posted to be attached to and form a part of said statement.

**Subpart 3862—Lode Mining Claim Patent Applications**

SOURCE: 35 FR 9756, June 13, 1970, unless otherwise noted.

§ 3862.1 Lode claim patent applications: General.

§ 3862.1-1 Application for patent.

(a) At the time the proof of posting is filed the claimant must file in duplicate an application for patent showing that he has the possessory right to the claim, in virtue of a compliance by himself (and by his grantors, if he claims by purchase) with the mining rules, regulations, and customs of the mining district or State in which the claim lies, and with the mining laws of Congress, such statement to narrate briefly, but as clearly as possible, the facts constituting such compliance, the origin of his possession, and the basis of his claim to a patent. The application should contain a full description of the kind and character of the vein or lode and should state whether ore has been extracted therefrom; and

if so, in what amount and of what value. It should also show the precise place within the limits of each of the locations embraced in the application where the vein or lode has been exposed or discovered and the width thereof. The showing in these regards should contain sufficient data to enable representatives of the Government to confirm the same by examination in the field and also enable the Bureau of Land Management to determine whether a valuable deposit of mineral actually exists within the limits of each of the locations embraced in the application.

(b) Every application for patent, based on a mining claim located after August 1, 1946, shall state whether the claimant has or has not had any direct or indirect part in the development of the atomic bomb project. The application must set forth in detail the exact nature of the claimant's participation in the project, and must also state whether as a result of such participation he acquired any confidential, official information as to the existence of deposits of uranium, thorium, or other fissionable source materials in the lands covered by his application.

(c) In applying for patent to a mining claim embracing land lying partly within one proper office and partly within another, a full set of papers must be filed in each office, except that one abstract of title and one proof of patent expenditures will be sufficient. Only one newspaper publication and one posting on the claim will be required, but proof thereof must be filed in both offices, the statements as to posting plat and notice on the claim to be signed within the respective land districts, as well, also, as all of the other statements required in mineral patent proceedings, except such as, under the law, may be signed outside of the land district wherein the land applied for is situated. Publication, payment of fees, and the purchase price of the land will be further governed by the provisions of §§ 1823.4(a) and 1861.2 of this chapter.

§ 3862.1-2 Service charge.

Each Mineral Patent Application shall be accompanied by a nonrefund-



able service charge of \$250 per application and the initial mining claim or site plus \$50 for each additional mining claim or site contained within the application.

[54 FR 48882, Dec. 2, 1988]

§ 3862.1-3 Evidence of title.

(a) Each patent application must be supported by either a certificate of title or an abstract of title certified to by the legal custodian of the records of locations and transfers of mining claims or by an abstracter of titles. The certificate of title or certificate to an abstract of title must be by a person, association, or corporation authorized by the State laws to execute such a certificate and acceptable to the Bureau of Land Management.

(b) A certificate of title must conform substantially to a form approved by the Director.

(c) Each certificate of title or abstract of title must be accompanied by single copies of the certificate or notice of the original location of each claim, and of the certificates of amended or supplemental locations thereof, certified to by the legal custodian of the record of mining locations.

(d) A certificate to an abstract of title must state that the abstract is a full, true, and complete abstract of the location certificates or notices, and all amendments thereof, and of all deeds, instruments, or actions appearing of record purporting to convey or to affect the title to each claim.

(e) The application for patent will be received and filed if the certificate of title or an abstract is brought down to a day reasonably near the date of the presentation of the application and shows full title in the applicant, who must as soon as practicable thereafter file a supplemental certificate of title or an abstract brought down so as to include the date of the filing of the application.

§ 3862.1-4 Evidence relating to destroyed or lost records.

In the event of the mining records in any case having been destroyed by fire or otherwise lost, a statement of the fact should be made, and secondary evidence of possessory title will be received, which may consist of the state-

ment of the claimant, supported by those of any other parties cognizant of the facts relative to his location, occupancy, possession, improvements, etc.; and in such case of lost records, any deeds, certificates of location or purchase, or other evidence which may be in the claimant's possession and tend to establish his claim, should be filed.

§ 3862.1-5 Statement required that land is unreserved, unoccupied, unimproved, and unappropriated.

Each person making application for patent under the mining laws, for lands in Alaska, must furnish a duly corroborated statement showing that no portion of the land applied for is occupied or reserved by the United States, so as to prevent its acquisition under said laws; that the land is not occupied or claimed by natives of Alaska; and that the land is unoccupied, unimproved and unappropriated by any person claiming the same other than the applicant.

§ 3862.2 Citizenship.

§ 3862.2-1 Citizenship of corporations and of associations acting through agents.

The proof necessary to establish the citizenship of applicants for mining patents must be made in the following manner: In case of an incorporated company, a certified copy of its charter or certificate of incorporation must be filed. In case of an association of persons unincorporated, the statement of their duly authorized agent, made upon his own knowledge or upon information and belief, setting forth the residence of each person forming such association, must be submitted. This statement must be accompanied by a power of attorney from the parties forming such association, authorizing the person who makes the citizenship showing to act for them in the matter of their application of patent.

§ 3862.2-2 Citizenship of individuals.

(a) In case of an individual or an association of individuals who do not appear by their duly authorized agent, the statement of each applicant, showing whether he is a native or natural-

ized citizen, when and where born, and his residence, will be required.

(b) In case an applicant has declared his intention to become a citizen or has been naturalized, his statement must show the date, place, and the court before which he declared his intention, or from which his certificate of citizenship issued, and present residence.

§ 3862.2-3 Trustee to disclose nature of trust.

Any party applying for patent as trustee must disclose fully the nature of the trust and the name of the cestui que trust; and such trustee, as well as the beneficiaries, must furnish satisfactory proof of citizenship; and the names of beneficiaries, as well as that of the trustee, must be inserted in the final certificate of entry.

§ 3862.3 Possessory rights.

§ 3862.3-1 Right by occupancy.

(a) The provisions of R.S. 2332 (30 U.S.C. 38), greatly lessen the burden of proof, more especially in the case of old claims located many years since, the records of which, in many cases, have been destroyed by fire, or lost in other ways during the lapse of time, but concerning the possessory right to which all controversy or litigation has long been settled.

(b) When an applicant desires to make his proof of possessory right in accordance with this provision of law, he will not be required to produce evidence of location, copies of conveyances, or abstracts of title, as in other cases, but will be required to furnish a duly certified copy of the statute of limitation of mining claims for the State, together with his statement giving a clear and succinct narration of the facts as to the origin of his title, and likewise as to the continuation of his possession of the mining ground covered by his application; the area thereof; the nature and extent of the mining that has been done thereon; whether there has been any opposition to his possession, or litigation with regard to his claim, and if so, when the same ceased; whether such cessation was caused by compromise or by judicial decree, and any additional

facts within the claimant's knowledge having a direct bearing upon his possession and bona fides which he may desire to submit in support of his claim.

§ 3862.3-2 Certificate of court required.

There should likewise be filed a certificate, under seal of the court having jurisdiction of mining cases within the judicial district embracing the claim, that no suit or action of any character whatever involving the right of possession to any portion of the claim applied for is pending, and that there has been no litigation before said court affecting the title to said claim or any part thereof for a period equal to the time fixed by the statute of limitations for mining claims in the State as aforesaid other than that which has been finally decided in favor of the claimant.

§ 3862.3-3 Corroborative proof required.

The claimant should support his narrative of facts relative to his possession, occupancy, and improvements by corroborative testimony of any disinterested person or persons of credibility who may be cognizant of the facts in the case and are capable of testifying understandingly in the premises.

§ 3862.4 Publication of notice.

§ 3862.4-1 Newspaper publication.

Upon the receipt of applications for mineral patent and accompanying papers, if no reason appears for rejecting the application, the authorized officer will, at the expense of the claimant (who must furnish the agreement of the publisher to hold applicant for patent alone responsible for charges of publication), publish a notice of such application for the period of 60 days in a newspaper published nearest to the claim. If the notice is published in a daily paper, it shall be published in the Wednesday issue for nine consecutive weeks; if weekly, in nine consecutive issues; if semiweekly or triweekly, in the issue of the same day of each week for nine consecutive weeks. In all cases the first day of issues shall be

excluded in estimating the period of 60 days.

[35 FR 9756, June 13, 1970, as amended at 41 FR 21642, May 27, 1976]

§ 3862.4-2 Contents of published notice.

The notices published as required by the preceding section must embrace all the data given in the notice posted upon the claim. In addition to such data the published notice must further indicate the locus of the claim by giving the connecting line, as shown by the field notes and plat, between a corner of the claim and a United States mineral monument or a corner of the public survey, and thence the boundaries of the claim by courses and distances.

§ 3862.4-3 Authorized officer to designate newspaper.

The authorized officer shall have the notice of application for patent published in a paper of established character and general circulation, to be by him designated as being the newspaper published nearest the land.

§ 3862.4-4 Charges for publication.

(a) The charge for the publication of notice of application for patent in a mining case in all districts shall not exceed the legal rates allowed by the laws of the several States for the publication of legal notices wherein the notice is published.

(b) It is expected that these notices shall not be so abbreviated as to curtail the description essential to a perfect notice, and on the other hand that they shall not be of unnecessary length. The printed matter must be set solid without paragraphing or any display in the heading and shall be in the usual body type used in legal notices. If other type is used, no allowance will be made for additional space on that account. The number of solid lines only used in advertising by actual count will be allowed. All abbreviations and copy must be strictly followed. The following is a sample of advertisement set up in accordance with Government requirements and contains all the essential data necessary for publication:

M. A. No. 04421, U. S. Land Office, Elko, Nevada, October 5, 1921. Notice is hereby given that the Jarbidge Buhl Mining Company by W. H. Hudson, attorney in fact, of Jarbidge, Nevada, has made application for patent to the Altitude, Altitude No. 1, Altitude No. 3, and Altitude Annex, lode mining claims. Survey No. 4470, in unsurveyed T. 46 N., R. 58 E., M. D. B. and M., in the Jarbidge mining district, Elko County, Nevada, described as follows: Beginning at corner No. 1, Altitude No. 3, whence the quarter corner of the south boundary of sec. 34 T. 46 N., R. 58 E., M. D. B. and M., bears south 41°54' west 7285.63 feet, thence north 20°14' west 1500 feet to corner No. 2 of said lode; thence north 69°46' east 589 feet to corner No. 3 of said lode; thence south 20°14' east 417.5 feet to corner 2, Altitude No. 1; thence north 69°46' east 1606.1 feet to corner No. 3, Altitude lode; thence south 20°14' east 1500 feet, to corner No. 4 of said lode; thence south 69°46' west 1606.1 feet, to corner No. 1, Altitude No. 1 lode; thence North 20°14' west 417.5 feet to corner No. 4, Altitude No. 3; thence south 69°46' west 589 feet to point of beginning. There are no adjoining or conflicting claims. The location notices are recorded in Book 17, pages 373 and 374, and in Book 15, pages 52 and 53, mining locations, Elko County, Nevada, John E. Robbins, Manager.

(c) For the publication of citations in contests or hearings, involving the character of lands, the charges may not exceed the rates provided for similar notices by the law of the State.

§ 3862.4-5 Proof by applicant of publication and posting.

After the 60-day period of newspaper publication has expired, the claimant will furnish from the office of publication a sworn statement that the notice was published for the statutory period, giving the first and last day of such publication, and his own statement showing that the plat and notice aforesaid remained conspicuously posted upon the claim sought to be patented during said 60-day publication, giving the dates.

§ 3862.4-6 Payment of purchase price and statement of charges and fees.

Upon the filing of the statement required by the preceding section, the authorized officer will, if no adverse claim was filed in his office during the period of publication, and no other objection appears, permit the claimant

to pay for the land to which he is entitled at the rate of \$5 for each acre and \$5 for each fractional part of an acre, except as otherwise provided by law, issuing the usual receipt therefor. The claimant will also make a statement of all charges and fees paid by him for publication and surveys, together with all fees and money paid the authorized officer of the proper office, and a patent shall be issued thereon if found regular.

§ 3862.5 Entry and transfers.

§ 3862.5-1 Allowance of entry; transfers subsequent to application not recognized.

No entry will be allowed until the authorized officer has satisfied himself, by careful examination, that proper proofs have been filed upon the points indicated in the law and official regulations. Transfers made subsequent to the filing of the application for patent will not be considered, but entry will be allowed and patent issued in all cases in the name of the applicant for patent, the title conveyed by the patent, of course, in each instance inuring to the transferee of such applicant where a transfer has been made pending the application for patent.

§ 3862.6 Diligent prosecution.

§ 3862.6-1 Failure to prosecute application with diligence.

The failure of an applicant for patent to a mining claim to prosecute his application to completion, by filing the necessary proofs and making payment for the land, within a reasonable time after the expiration of the period of publication of notice of the application, or after the termination of adverse proceedings in the courts, constitutes a waiver by the applicant of all rights obtained by the earlier proceedings upon the application.

§ 3862.7 Application processing upon contest or protest.

§ 3862.7-1 Resumption of patent proceedings after suspension due to adverse claim or protest.

The proceedings necessary to the completion of an application for patent to a mining claim, against

which an adverse claim or protest has been filed, if taken by the applicant at the first opportunity afforded therefor under the law and departmental practice, will be as effective as if taken at the date when, but for the adverse claim or protest, the proceedings on the application could have been completed.

§ 3862.8 Patents for mining claims.

§ 3862.8-1 Land descriptions in patents.

The land description in a patent for a lode mining claim, for a millsite, or for a placer claim not consisting of legal subdivisions, shall hereafter consist of the names and survey numbers of the claims being patented and those being excluded, or of the names of the excluded claims if they are unsurveyed, or of the legal subdivisions of excluded land covered by homestead or other nonmineral entry. The land description shall refer to the field notes of survey and the plat thereof for a more particular description and the patent shall expressly make them a part thereof. Where shown by the mineral entry the patent shall give the actual or approximate legal subdivision, section, township and range, the name of the county and of the mining district, if any, wherein the claims are situated. A copy of the plat and field notes of each mineral survey patented will be furnished to the patentee.

**Subpart 3863—Placer Mining Claim Patent Applications**

SOURCE: 35 FR 9758, June 13, 1970, unless otherwise noted.

§ 3863.1 Placer mining claim patent applications: General.

(a) The proceedings to obtain patents for placer claims, including all forms of mineral deposits excepting veins of quartz or other rock in place, are similar to the proceedings prescribed for obtaining patents for vein or lode claims; but where a placer claim shall be upon surveyed lands, and conforms to legal subdivisions, no further survey or plat will be required. Where placer claims cannot be conformed to legal subdivisions, survey

and plat shall be made as on unsurveyed lands.

(b) The price of placer claims is fixed at \$2.50 per acre or fractional part of an acre.

§ 3863.1-1 Application for patent.

§ 3863.1-2 Proof of improvements for patent.

The proof of improvements must show their value to be not less than \$500 and that they were made by the applicant for patent or his grantors. This proof should consist of the statement of two or more disinterested witnesses.

§ 3863.1-3 Data to be filed in support of application.

(a) In placer applications, in addition to the recitals necessary in and to both vein or lode and placer applications, the placer application should contain, in detail, such data as will support the claim that the land applied for is placer ground containing valuable mineral deposits not in vein or lode formation and that title is sought not to control water courses or to obtain valuable timber but in good faith because of the mineral therein. This statement, of course, must depend upon the character of the deposit and the natural features of the ground, but the following details should be covered as fully as possible: If the claim be for a deposit of placer gold, there must be stated the yield per pan, or cubic yard, as shown by prospecting and development work, distance to bedrock, formation and extent of the deposit, and all other facts upon which he bases his allegation that the claim is valuable for its deposits of placer gold. If it be a building stone or other deposit than gold claimed under the placer laws, he must describe fully the kind, nature, and extent of the deposit, stating the reasons why same is by him regarded as a valuable mineral claim. He will also be required to describe fully the natural features of the claim; streams, if any, must be fully described as to their course, amount of water carried, fall within the claim; and he must state kind and amount of timber and other vegetation thereon

and adaptability to mining or other uses.

(b) If the claim be all placer ground, that fact must be stated in the application and corroborated by accompanying proofs; if of mixed placers and lodes, it should be so set out, with a description of all known lodes situated within the boundaries of the claim. A specific declaration, such as is required by R.S. 2333 (30 U.S.C. 37) must be furnished as to each lode intended to be claimed. All other known lodes are, by the silence of the applicant, excluded by law from all claim by him, of whatsoever nature, possessory or otherwise.

(c) While these data are required as a part of the mineral surveyor's report in case of placers taken by special survey, it is proper that the application for patent incorporate these facts.

(d) Inasmuch as in case of claims taken by legal subdivisions, no report by a mineral surveyor is required, the claimant, in his application in addition to the data above required, should describe in detail the shafts, cuts, tunnels, or other workings claimed as improvements, giving their dimensions, value, and the course and distance thereof to the nearest corner of the public surveys.

(e) The statement as to the description and value of the improvements must be corroborated by the statements of two disinterested witnesses. The proof showing must be made in duplicate. See 51 L.D. 265 and 52 L.D. 190.

(f) Applications awaiting entry, whether published or not, must be made to conform to this part, with respect to proof as to the character of the land. Entries already made will be suspended for such additional proofs as may be deemed necessary in each case.

§ 3863.1-4 Applications for placers containing known lodes.

Applicants for patent to a placer claim, who are also in possession of a known vein or lode included therein, must state in their application that the placer includes such vein or lode. The published and posted notices must also include such statement. If

veins or lodes lying within placer locations are owned by other parties, the fact should be distinctly stated in the application for patent and in all the notices. But in all cases whether the lode is claimed or excluded, it must be surveyed and marked upon the plat, the field notes and plat giving the area of the lode claim or claims and the area of the placer separately. An application which omits to claim such known vein or lode must be construed as a conclusive declaration that the applicant has no right of possession to the vein or lode. Where there is no known lode or vein, the fact must appear by the statement of two or more witnesses.

### Subpart 3864—Millsite Patents

SOURCE 35 FR 9758, June 13, 1970, unless otherwise noted.

#### § 3864.1 Millsite patents: General.

##### § 3864.1-1 Application for patent.

(a) Land entered as a millsite must be shown to be nonmineral. Millsites are simply auxiliary to the working of mineral claims. R.S. 2337 (30 U.S.C. 42) provides for the patenting of millsites.

(b) To avail themselves of this provision of law, parties holding the possessory right to a vein or lode claim, and to a piece of nonmineral land not contiguous thereto for mining or milling purposes, not exceeding the quantity allowed for such purpose by R.S. 2337, or prior laws, under which the land was appropriated, the proprietors of such vein or lode may file in the proper office their application for a patent, which application, together with the plat and field notes, may include, embrace, and describe, in addition to the vein or lode claim, such noncontiguous millsite, and after due proceedings as to notice, etc., a patent will be issued conveying the same as one claim. The owner of a patented lode may, by an independent application, secure a millsite, if good faith is manifest in its use or occupation in connection with the lode and no adverse claim exists.

(c) The Act of March 18, 1960 (74 Stat. 7; 43 U.S.C. 42(b)), amends R.S.

2337 to allow the holders of possessory right in a placer claim to hold nonmineral land for mining, milling, processing beneficiation, or other operations in connection with the placer claim. Applications for patent for such millsites are subject to the same requirements as to survey and notice as one applicable to placer mining claims. No one millsite may exceed five acres and payment will be \$2.50 per acre or fraction thereof.

##### § 3864.1-2 Millsites applied for in conjunction with a lode claim.

Where the original survey includes a lode claim and also a millsite the lode claim should be described in the plat and field notes as "Sur. No. 37, A," and the millsite as "Sur. No. 37, B," or whatever may be its appropriate numerical designation; the course and distance from a corner of the millsite to a corner of the lode claim to be invariably given in such plat and field notes, and a copy of the plat and notice of application for patent must be conspicuously posted upon the millsite as well as upon the vein or lode claim for the statutory period of 60 days. In making the entry no separate receipt or certificate need be issued for the millsite, but the whole area of both lode and millsite will be embraced in one entry, the price being \$5 for each acre and fractional part of an acre embraced by such lode and millsite claim.

##### § 3864.1-3 Millsites for quartz mills or reduction works.

In case the owner of a quartz mill or reduction works is not the owner or claimant of a vein or lode claim the law permits him to make application therefor in the same manner prescribed for mining claims, and after due notice and proceedings, in the absence of a valid adverse filing, to enter and receive a patent for his millsite at the price named in the preceding section.

##### § 3864.1-4 Proof of nonmineral character.

In every case there must be satisfactory proof that the land claimed as a millsite is not mineral in character, which proof may, where the matter is

unquestioned, consist of the statement of two or more persons capable, from acquaintance with the land to testify understandingly.

**PART 3870—ADVERSE CLAIMS,  
PROTESTS AND CONFLICTS**

**Subpart 3871—Adverse Claims**

**Sec.**

- 3871.1 Filing of claim.
- 3871.2 Statement of claim.
- 3871.3 Action by authorized officer.
- 3871.4 Patent proceedings stayed when adverse claim is filed; exception.
- 3871.5 Termination of adverse suit.
- 3871.6 Certificate required when no suit commenced.

**Subpart 3872—Protests, Contests and Conflicts**

- 3872.1 Protest against mineral applications.
- 3872.2 Procedure in contest cases.
- 3872.3 Presumption as to land returned as mineral.
- 3872.4 Procedure to dispute record character of land.
- 3872.5 Testimony at hearings to determine character of lands.

**Subpart 3873—Segregation**

- 3873.1 Segregation of mineral from non-mineral land.
- 3873.2 Effect of decision that land is mineral.
- 3873.3 Non-mineral entry of residue of subdivisions invaded by mining claims.

**Subpart 3871—Adverse Claims**

**SOURCE:** 35 FR 9759, June 13, 1970, unless otherwise noted.

**§ 3871.1 Filing of claim.**

(a) An adverse claim must be filed with the authorized officer of the proper office where the application for patent is filed or with the manager of the district in which the land is situated at the time of filing the adverse claim. The claim may be filed by the adverse claimant, or by his duly authorized agent or attorney in fact cognizant of the facts stated.

(b) Where an agent or attorney in fact files the adverse claim he must furnish proof that he is such agent or attorney.

(c) The agent or attorney in fact must sign the statement of the adverse

claim within the land district where the claim is situated, stating that it was so signed.

(d) A fee of \$10 is payable by an adverse claimant at the time of filing his adverse claim. This charge is not refundable.

**§ 3871.2 Statement of claim.**

(a) The adverse claim must fully set forth the nature and extent of the interference or conflict; whether the adverse party claims as a purchaser for valuable consideration or as a locator. If the former, a certified copy of the original location, the original conveyance, a duly certified copy thereof, or an abstract of title from the office of the proper recorder should be furnished, or if the transaction was a merely verbal one he will narrate the circumstances attending the purchase, the date thereof, and the amount paid, which facts should be supported by the statement of one or more witnesses, if any were present at the time, and if he claims as a locator he must file a duly certified copy of the location from the office of the proper recorder.

(b) In order that the "boundaries" and "extent" of the claim may be shown, it will be incumbent upon the adverse claimant to file a plat showing his entire claim, its relative situation or position with the one against which he claims, and the extent of the conflict: *Provided, however,* That if the application for patent describes the claim by legal subdivisions, the adverse claimant, if also claiming by legal subdivisions, may describe his adverse claim in the same manner without further survey or plat. If the claim is not described by legal subdivisions it will generally be more satisfactory if the plat thereof is made from an actual survey by a mineral surveyor and its correctness officially certified thereon by him.

**§ 3871.3 Action by authorized officer.**

(a) Upon the adverse claim being filed within the 60-day period of publication, the authorized officer will immediately give notice in writing to the parties that such adverse claim has been filed, informing them that the

party who filed the adverse claim will be required within 30 days from the date of such filing to commence proceedings in a court of competent jurisdiction to determine the question of right of possession, and to prosecute the same with reasonable diligence to final judgment, and that should such adverse claimant fail to do so, his adverse claim will be considered waived and the application for patent be allowed to proceed upon its merits.

(b) The Act of September 21, 1961 (Pub. L. 87-260; 75 Stat. 541), amends the Act of June 7, 1910 (36 Stat. 459; 48 U.S.C. 386), and provides that adverse suits against mineral entries in Alaska shall be instituted within the 60-day time limit set forth in R.S. 2325 and 2326, (30 U.S.C. 29, 30). The act further provides that where a mineral patent application was filed prior to the effective date of the act, the time in which to file adverse suits is governed by the Act of June 7, 1910. Where a mineral patent application was filed prior to September 21, 1961, the entry will not be allowed until after the expiration of eight months following the publication period.

**§ 3871.4 Patent proceedings stayed when adverse claim is filed; exception.**

When an adverse claim is filed as aforesaid, the authorized officer will endorse upon the same the precise date of filing and preserve a record of the date of notifications issued thereon; and thereafter all proceedings on the application for patent will be stayed with the exception of the completion of the publication and posting of notices and plat and the filing of the necessary proof thereof, until the controversy shall have been finally adjudicated in court or the adverse claim waiver or withdrawn.

**§ 3871.5 Termination of adverse suit.**

(a) Where an adverse claim has been filed and suit thereon commenced within the statutory period and final judgment rendered determining the right of possession, it will not be sufficient to file with the authorized officer a certificate of the clerk of the court setting forth the facts as to such judgment, but the successful party must, before he is allowed to make

entry, file a certified copy of the judgment roll, together with the other evidence required by R.S. 2326 (30 U.S.C. 30), and a certificate of the clerk of the court under the seal of the court showing, in accord with the record facts of the case, that the judgment mentioned and described in the judgment roll aforesaid is a final judgment; that the time for appeal therefrom has, under the law, expired, and that no such appeal has been filed, or that the defeated party has waived his right to appeal. Other evidence showing such waiver or an abandonment of the litigation may be filed.

(b) Where such suit has been dismissed, a certificate of the clerk of the court to that effect or a certified copy of the order of dismissal will be sufficient.

(c) After an adverse claim has been filed and suit commenced, a relinquishment or other evidence of abandonment of the adverse claim will not be accepted, but the case must be terminated and proof thereof furnished as required by the last two paragraphs.

**§ 3871.6 Certificate required when no suit commenced.**

Where an adverse claim has been filed but no suit commenced against the applicant for patent within the statutory period, a certificate to that effect by the clerk of the State court having jurisdiction in the case, and also by the clerk of the district court of the United States for the district in which the claim is situated, will be required.

**Subpart 3872—Protests, Contests and Conflicts**

SOURCE: 35 FR 9760, June 13, 1970, unless otherwise noted.

**§ 3872.1 Protest against mineral applications.**

(a) At any time prior to the issuance of patent, protest may be filed against the patenting of the claim as applied for, upon any ground tending to show that the applicant has failed to comply with the law in any matter essential to a valid entry under the



patent proceedings. Such protest cannot, however, be made the means of preserving a surface conflict lost by failure to adverse or lost by the judgment of the court in an adverse suit. One holding a present joint interest in a mineral location included in an application for patent who is excluded from the application, so that his interest would not be protected by the issue of patent thereon, may protest against the issuance of a patent as applied for, setting forth in such protest the nature and extent of his interest in such location, and such a protestant will be deemed a party in interest entitled to appeal. This results from the holding that a co-owner excluded from an application for patent does not have an "adverse" claim within the meaning of R.S. 2325 and 2326 (30 U.S.C. 29, 30). (See *Turner v. Sawyer*, 150 U.S. 578-586, 37 L. ed. 1189-1191.)

(b) Such protest filed by any party, other than a Federal agency, must be accompanied by a \$10 nonrefundable service charge.

#### § 3872.2 Procedure in contest cases.

Parts 1840 and 1850 of this chapter, in cases before the United States, the Bureau of Land Management, and the Department of the Interior will, so far as applicable, govern in all cases and proceedings arising in contests and hearings to determine the character of lands.

#### § 3872.3 Presumption as to land returned as mineral.

Public land returned upon the survey records as mineral shall be withheld from entry as agricultural land until the presumption arising from such a return shall be overcome.

#### § 3872.4 Procedure to dispute record character of land.

(a) When lands returned as mineral are sought to be entered as agricultural under laws which require the submission of final proof after due notice by publication and posting, the filing of the proper nonmineral statement in the absence of allegations that the land is mineral will be deemed sufficient as a preliminary requirement. A satisfactory showing as to character of

land must be made when final proof is submitted.

(b) In case of application to enter, locate, or select such lands as agricultural, under laws in which the submission of final proof after due publication and posting is not required, notice thereof must first be given by publication for 60 days and posting in the local office during the same period, and affirmative proof as to the character of the land submitted. In the absence of allegations that the land is mineral, and upon compliance with this requirement, the entry location, or selection will be allowed, if otherwise regular.

(c) Where as against the claimed right to enter such lands as agricultural it is alleged that the same are mineral, or are applied for as mineral lands, the proceedings in this class of cases will be in the nature of a contest, and the practice will be governed by the rules in force in contest cases.

#### § 3872.5 Testimony at hearings to determine character of lands.

(a) At hearings to determine the character of lands the claimants and witnesses will be thoroughly examined with regard to the character of the land; whether the same has been thoroughly prospected; whether or not there exists within the tract or tracts claimed any lode or vein of quartz or other rock in place bearing gold, silver, cinnabar, lead, tin, copper, or other valuable deposit which has ever been claimed, located, recorded, or worked; whether such work is entirely abandoned, or whether occasionally resumed; if such lode does exist, by whom claimed, under what designation, and in which subdivision of the land it lies; whether any placer mine or mines exist upon the land; if so, what is the character thereof, whether of the shallow-surface description, or of the deep cement, blue lead, or gravel deposits; to what extent mining is carried on when water can be obtained, and what the facilities are for obtaining water for mining purposes; upon what particular 10-acre subdivisions mining has been done, and at what time the land was abandoned for mining purposes, if abandoned at all.

In every case, where practicable, an adequate quantity or number of representative samples of the alleged mineral-bearing matter or material should be offered in evidence, with proper identification, to be considered in connection with the record, with which they will be transmitted upon each appeal that may be taken. Testimony may be submitted as to the geological formation and development of mineral on adjoining or adjacent lands and their relevancy.

(b) The testimony should also show the agricultural capacities of the land, what kind of crops are raised thereon, the value thereof; the number of acres actually cultivated for crops of cereals or vegetables, and within which particular 10-acre subdivision such crops are raised; also which of these subdivisions embrace the improvements, giving in detail the extent and value of the improvements, such as house, barn, vineyard, orchard, fencing, etc., and mining improvements.

(c) The testimony should be as full and complete as possible; and in addition to the leading points indicated above, where an attempt is made to prove the mineral character of lands which have been entered under the agricultural laws, it should show at what date, if at all, valuable deposits of minerals were first known to exist on the lands.

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