

On all conveyances made under FLPMA, with the exception of section 206 exchanges and 209(b) sales, all minerals including the locatable minerals are reserved to the United States, together with the right to prospect for, mine and remove the minerals. However, mining claim locations cannot be made until the Bureau of Land Management has published rulemaking that would allow location and development. The leasing act minerals may be developed under existing regulations.

#### **IV. Forest Service Land Disposal Authority**

The Act of January 12, 1983 (Public Law 97-465; 16 USC 521), authorizes the Secretary of Agriculture "to sell, exchange, or interchange by quitclaim deed, all right, title, and interest, including the mineral estate, of the United States in and to National Forest System lands..." Section 3 of the Act requires that such lands meet very specific disposal criteria, including (1) a value of not more than \$150,000, (2) less than forty acres, and (3) only isolated tracts. Considerations for such lands may come in the form of interests in lands, and/or cash payments, which is at least equal in value to the Federal lands, including the mineral estate.

### **ALASKA LAND DISPOSAL**

#### **I. Homestead Laws**

A number of land disposal laws apply only to Alaska. However, the homestead laws were extended to Alaska by the Act of May 14, 1898 (30 Stat. 409; 43 USC 270), which was amended by the Acts of March 3, 1903 (32 Stat. 1028; 43 USC 270), July 8, 1916 (39 Stat. 352; 43 USC 270), June 28, 1918 (40 Stat. 632; 43 USC 270), April 13, 1926 (44 Stat. 243; 43 USC 270), and July 11, 1956 (70 Stat. 528; 43 USC 270). In general it was required that such lands be surveyed and nonmineral in character. A patent for such lands would include all mineral rights unless specifically reserved.

#### **Homesite Act of 1927**

The Act of March 3, 1927 (44 Stat. 1364; 43 USC 687a), as amended, authorized the sale of homesites not to exceed 5 acres in size. The lands must be nonmineral in character except that lands valuable for coal, oil, or gas deposits are subject to disposition under the provisions of the Act of March 8, 1922 (42 Stat. 415; 43 USC 270).

#### **Act of May 17, 1906**

The Act of May 17, 1906 (34 Stat. 197), as amended August 2, 1956 (43 USC 270), authorizes disposal of 160 acre tracts of unappropriated, unreserved, nonmineral land. Such disposals are subject to the Act of March 8, 1922 which allows the specific reservation of oil, gas or coal.

## **Trade and Manufacturing Sites Authorized by Act of 1898**

The Act of May 14, 1898 (30 Stat. 413), as amended August 23, 1958 (72 Stat. 730; 43 USC 687a) authorizes the sale of tracts not to exceed 80 acres for trade and manufacturing sites. The lands must be nonmineral in character. However, if the lands are valuable for coal, oil, or gas, such deposits may be reserved under the Act of March 8, 1922 (42 Stat. 415; 43 USC 376).

## **Reclamation Homesteads**

Reclamation Homesteads are authorized by the Act of February 18, 1911 (36 Stat. 917), as amended by the Act of August 13, 1914 (38 Stat. 689; 43 USC 436). To qualify for a reclamation withdrawal, lands must be nonmineral in character. However valuable leasable minerals may be specifically reserved in a patent pursuant to 30 USC 121-123. *See Avery S. Hobson*, A30332 (June 24, 1965); *Vincent Barnard*, 66 IBLA 100, 105 (1982).

## **Alaska Native Claims Settlement Act**

The Alaska Native Claims Settlement Act (43 USC 1601) was passed by Congress on December 18, 1971. This Act was designed to settle aboriginal claims of the Alaska natives by providing compensation of \$962.5 million and 40 million acres of land. See 43 CFR subpart 2650.

## **Regional Corporations**

Alaska was divided into 12 geographic regions or regional corporations (43 USC 1606) which are incorporated under Alaska State law. Within each region, the Act provided for Village Corporations to be established. The Alaskan natives own and control the Regional and Village Corporations. The subsurface or mineral rights were conveyed to each Regional Corporation with the exception of the Melaktla Reservation and the Tlingit and Haida Indians.

## **Village Corporations**

The Village Corporations receive title to the surface estate which they in turn may convey to a private individual (43 USC 1613). The receipt of the selection application for filing by the Bureau of Land Management shall operate to segregate the lands. 43 CFR 265 1.1 (b) (7). The Act provides that the rights to explore, develop, or remove minerals from the subsurface estate in the lands within the boundaries of any native village are subject to the consent of the Village Corporation.

## **Mining Claims**

Mining claims may be included in lands selected under ANCSA; however such selections are subject to valid existing rights. An acceptable mineral patent application must be filed with the Bureau of Land Management by December 18, 1976, for claims situated on lands conveyed to Village or Regional Corporations. 43 CFR 2650.3-2(b).

## **Valid Existing Rights Reserved in Patents**

Any conveyance issued for surface and subsurface rights under ANCSA will be subject to any lease, contract, permit, right-of-way, or easement. 43 CFR 2650.4. After issuance of the patent, the patentee becomes entitled to all interest of the lessor, contractor, permitter or grantor.

## **III. Indian Allotments**

Indian allotments are authorized by section 4 of the General Allotment Act of February 8, 1887 (24 Stat. 389; 25 USC 334), as amended by the Act of February 28, 1891 (26 Stat. 794) and section 17 of the Act of June 25, 1910 (36 Stat. 859; 25 USC 336). These allotments cannot exceed 40 acres of irrigable land, or 80 acres of nonirrigable agricultural land, or 160 acres of nonirrigable grazing land to any one Indian. For an allotment to be approved, the lands must be nonmineral in character. However, deposits of coal, oil and gas may be reserved in the patent.

## **COLOR OF TITLE**

### **Land Held Under Color of Title**

If a tract of public land has been held in good faith and in peaceful, adverse, possession by a claimant or his grantors under claim or color title, the claimant may qualify for patent under one of two circumstances: (1) such possession has been maintained for more than 20 years and valuable improvements have been placed on the land or a portion of the land has been cultivated; (2) or such possession has been initiated not later than January 1, 1901, to the date of application. Patents are limited to 160 acres at the rate of \$1.25 per acre. Act of December 22, 1928; 45 Stat. 1069. The Act also provides that "coal and all other minerals contained therein are hereby reserved to the United States; that said coal and other minerals shall be subject to sale or disposal by the United States under applicable leasing and mineral land laws, and permittees, lessees, or grantees of the United States shall have the right to enter upon said lands for the purpose of prospecting for and mining such deposits." 43 USC 1068 (1976).

### **Mineral Reservation**

A claimant may request that the patent issued not contain a mineral reservation. This is only possible if the right of the claimant or his predecessors have initiated possession before January 1, 1901 to the date of the application. However, a mineral reservation will be made at the time of patent, if the lands are subject to an outstanding mineral lease. 43 USC 1068b; Act of December 22, 1928, as amended by the Act of July 28, 1953 (67 Stat. 228). Patents issued under the Act will have the following reservation (43 CFR 2542.4(b)):

Excepting and reserving, however, to the United States, the coal and all other minerals in the land so patented, together with the right of the United States or its permittees, lessees, or grantees, to enter upon said lands for the purpose of prospecting for and mining such deposits as provided for under the act of February 23, 1932 (47 Stat. 53).