

Bureau of Land Management, Interior

§ 3832.11

pay the outstanding service charges as described in § 3830.94.

§ 3830.97 What if I pay only part of the service charges for a notice of intent to locate mining claims on SRHA lands?

For notices of intent to locate mining claims (NOITL) under the Stockraising Homestead Act (see part 3838 of this chapter for information regarding the Stockraising Homestead Act and NOITLs), BLM will not accept a NOITL unless we receive your payment of the required service charges. BLM will return the NOITL to you without taking any further action. See § 3830.21 of this part for the amount of the service charge for a NOITL.

Subpart F—Appeals

§ 3830.100 How do I appeal a final decision by BLM?

If you are adversely affected by a BLM decision under parts 3830–3839, you may appeal the decision in accordance with parts 4 and 1840 of this title.

PART 3831—MINERAL LANDS AVAILABLE FOR LOCATING MINING CLAIMS OR SITES [RESERVED]

PART 3832—LOCATING MINING CLAIMS OR SITES

Subpart A—Locating Mining Claims or Sites

Sec.

3832.1 What does it mean to locate mining claims or sites?

3832.10 Procedures for locating mining claims or sites.

3832.11 How do I locate mining claims or sites?

3832.12 When I record a mining claim or site, how do I describe the lands I have claimed?

Subpart B—Types of Mining Claims

3832.20 Lode and placer mining claims.

3832.21 How do I locate a lode or placer mining claim?

3832.22 How much land may I include in my mining claim?

Subpart C—Mill Sites

3832.30 Mill sites.

3832.31 What is a mill site?

3832.32 How much land may I include in my mill site?

3832.33 How do I locate a mill site?

3832.34 How may I use my mill site?

Subpart D—Tunnel Sites

3832.40 Tunnel sites.

3832.41 What is a tunnel site?

3832.42 How do I locate a tunnel site?

3832.43 How may I use a tunnel site?

3832.44 What rights do I have to minerals within my tunnel site?

3832.45 How do I obtain any minerals that I discover within my tunnel site?

Subpart E—Defective Locations

3832.90 Defects in the location of mining claims and sites.

3832.91 How do I amend a mining claim or site location if it exceeds the size limitations?

AUTHORITY: 30 U.S.C. 22 *et seq.*; 43 U.S.C. 2, 1201, 1457, 1740, 1744.

SOURCE: 68 FR 61069, Oct. 24, 2003, unless otherwise noted.

Subpart A—Locating Mining Claims or Sites

§ 3832.1 What does it mean to locate mining claims or sites?

(a) Locating a mining claim or site means:

(1) Establishing the exterior lines of a mining claim or site on lands open to mineral entry to identify the exact land claimed; and

(2) Recording a notice or certificate of location as required by state and Federal law and by this part.

(b) You will find—

(1) Location requirements in this part;

(2) Recording requirements in part 3833 of this chapter;

(3) Requirements for transferring an interest in a mining claim or site in § 3833.30 of this chapter; and

(4) Annual fee requirements for mining claims and sites in parts 3834, 3835, and 3836 of this chapter.

§ 3832.10 Procedures for locating mining claims or sites.

§ 3832.11 How do I locate mining claims or sites?

(a) You must follow both state and Federal law.

(b) Your lode or placer claim is not valid until you make a discovery within the boundaries of the claim.

(c) To locate a claim or site, you must—

(1) Make certain that the land on which you are locating the claim or site is Federal land that is open to mineral entry

(2) Stake and monument the corners of a mining claim or site which meets applicable state monumenting requirements and the size limitations described in §3832.22 for lode and placer claims, §3832.32 for mill sites, and §3832.42 for tunnel sites;

(3) Post the notice of location in a conspicuous place on the claim or site. The notice must include:

(i) The name or names of the locators;

(ii) The date of the location; and

(iii) A description of the claim or site;

(iv) The name or number of the claim or site, or both, if the claim or site has both;

(4) Record the notice or certificate of location in the local recording office and the BLM State Office with jurisdiction according to the procedures in part 3833;

(5) Follow all other relevant state law requirements; and

(6) Comply with the specific requirements for lode claims, placer claims, mill sites, or tunnel sites in this part.

§ 3832.12 When I record a mining claim or site, how do I describe the lands I have claimed?

(a) *General requirements.* (1) All claims and sites. You must describe the land by state, meridian, township, range, section and by aliquot part to the quarter section. To obtain the land description, you must use an official survey plat or other U.S. Government map that is based on the surveyed or protracted U.S. Public Land Survey System. If you cannot describe the land by aliquot part (*e.g.*, the land is unsurveyed), you must provide a metes and bounds description that fixes the position of the claim corners with respect to a specified claim corner, discovery monument, or official survey monument. In all cases, your description of the land must be as compact

and regular in form as reasonably possible and should conform to the U.S. Public Land Survey System and its rectangular subdivisions as much as possible; and

(2)(i) You must file either—

(A) A topographical map published by the U.S. Geological Survey with a depiction of the claim or site; or

(B) A narrative or sketch describing the claim or site and tying the description to a natural object, permanent monument or topographic, hydrographic, or man-made feature.

(ii) You must show on a map or sketch the boundaries and position of the individual claim or site by aliquot part within the quarter section accurately enough for BLM to identify the mining claims or sites on the ground.

(iii) You may show more than one claim or site on a single map or describe more than one claim or site in a single sketch—

(A) If they are located in the same general area; and

(B) If the individual mining claims or sites are clearly identified.

(iv) You are not required to employ a professional surveyor or engineer to establish the location's position on the ground.

(b) *Lode claims.* You must describe lode claims by metes and bounds beginning at the discovery point on the claim and include a tie to natural objects or permanent monuments including:

(1) Township and section survey monuments;

(2) Official U.S. mineral survey monuments;

(3) Monuments of the National Geodetic Reference System;

(4) The confluence of streams or point of intersection of well-known gulches, ravines, or roads, prominent buttes, and hills; or

(5) Adjoining claims or sites.

(c) *Placer claims.* (1) You must describe placer claims by aliquot part and complete lots using the U.S. Public Land Survey System and its rectangular subdivisions except when placer claims are—

(i) On unsurveyed Federal lands;

(ii) Gulch or bench placer claims; or

(iii) Bounded by other mining claims or nonmineral lands.

(2) For placer mining claims that are on unsurveyed Federal lands or are gulch or bench placer claims:

(i) You must describe the lands by protracted survey if the BLM has a protracted survey of record; or

(ii) You may describe the lands by metes and bounds, if a protracted survey is not available or if the land is not amenable to protraction.

(3) If you are describing an association placer claim by metes and bounds, you must meet the following requirements, according to the number of persons in your association, as described in *Snow Flake Fraction Placer*, 37 Pub. Lands Dec. 250 (1908), in order to keep your claim in compact form and not split Federal lands into narrow, long or irregular shapes:

(i) A location by 1 or 2 persons must fit within the exterior boundaries of a square 40-acre parcel;

(ii) A location by 3 or 4 persons must fit within the exterior boundaries of 2 square 40-acre contiguous parcels;

(iii) A location by 5 or 6 persons must fit within the exterior boundaries of 3 square contiguous 40-acre parcels; and

(iv) A location by 7 or 8 persons must fit within the exterior boundaries of 4 square contiguous 40-acre parcels.

Subpart B—Types of Mining Claims

§ 3832.20 Lode and placer mining claims.

§ 3832.21 How do I locate a lode or placer mining claim?

(a) *Lode claims.* (1) Your lode claim is not valid until you have made a discovery.

(2) *Locating a lode claim.* You may locate a lode claim for a mineral that:

(i) Occurs as veins, lodes, ledges, or other rock in place;

(ii) Contains base and precious metals, gems and semi-precious stones, and certain industrial minerals, including but not limited to gold, silver, cinnabar, lead, tin, copper, zinc, fluorite, barite, or other valuable deposits; and

(iii) Does not occur as bedded rock (stratiform deposits such as gypsum or limestone) or is not a deposit of placer, alluvial (deposited by water), eluvial

(deposited by wind), colluvial (deposited by gravity), or aqueous origin.

(3) *Establishing extralateral rights.* If the minerals are contained within a vein, lode, or ledge and the vein, lode, or ledge extends through the endlines of your lode claim, you have extra-lateral rights to pursue the down-dip extension of the vein, lode, or ledge to the point where the vein, lode, or ledge intersects a vertical plain projected parallel to the end lines and outside the sideline boundaries of your lode claim if—

(i) The top or apex of the vein, lode, or ledge lies on or under the surface within the interior boundaries of the lode claim; and

(ii) The long axis, and therefore the side lines, of the lode claim are substantially parallel to the course of the vein, lode, or ledge.

(4) *Preserving extralateral rights.* In order to preserve your extralateral rights, you should determine, if possible, the general course of the vein in either direction from the point of discovery in order to mark the correct boundaries of the claim. You should expose the vein, lode, or ledge by—

(i) Tracing the vein or lode on the surface; or

(ii) Drilling a hole, sinking a shaft, or running a tunnel or drift to a sufficient depth.

(b) *Placer claims.* (1) Your placer claim is not valid until you have made a discovery.

(2) Each 10-acre aliquot part of your placer claim must be mineral-in-character.

(3) You may locate a placer claim for minerals that are—

(i) River sands or gravels bearing gold or valuable detrital minerals;

(ii) Hosted in soils, alluvium (deposited by water), eluvium (deposited by wind), colluvium (deposited by gravity), talus, or other rock not in its original place;

(iii) Bedded gypsum, limestone, cinders, pumice, and similar mineral deposits; or

(iv) Mineral-bearing brine (water saturated or strongly impregnated with salts and containing ancillary locatable minerals) not subject to the mineral leasing acts where a mineral subject to the General Mining Law can

§ 3832.22

be extracted as the primary valuable mineral.

(4) Building stone deposits must by law be located as placer mining claims (30 U.S.C. 161). If you have located a building stone placer claim, the lands on which you located the claim must be chiefly valuable for mining building stone.

§ 3832.22 How much land may I include in my mining claim?

(a) *Lode claims.* Lode claims must not exceed 1,500 by 600 feet. If there is a vein, lode, or ledge, each lode claim is limited to a maximum of 1,500 feet along the course of the vein, lode, or ledge and a maximum of 300 feet in width on each side of the middle of the vein, lode, or ledge.

(b) *Placer claims.* (1) An individual placer claim may not exceed 20 acres in size.

(2) An association placer claim may not exceed 160 acres. Within the association, each person or business entity may locate up to 20 acres. To obtain the full 160 acres, the association must consist of at least eight co-locators. You may locate smaller association claims. Thus, three co-locators may jointly locate an association placer claim no larger than 60 acres. You may not use the names of other persons as dummy locators (fictitious locators) to locate an association placer claim for your own benefit.

Subpart C—Mill Sites

§ 3832.30 Mill sites.

§ 3832.31 What is a mill site?

A mill site is a location of nonmineral land not contiguous to a vein or lode that you can use for activities reasonably incident to mineral development on, or production from, the unpatented or patented lode or placer claim with which it is associated.

(a) A dependent mill site is used for activities that support a particular patented or unpatented lode or placer mining claim or group of mining claims.

(b) An independent or custom mill site—

(1) Is not dependent on a particular mining claim but provides milling or

43 CFR Ch. II (10–1–23 Edition)

reduction processing for nearby lode mines or a lode mining district;

(2) Is used to mill, process, and reduce either—

(i) Ores for other miners on a contractual basis; or

(ii) Ores that are purchased by the independent or custom mill site owner.

(3) You may not have a custom or independent mill site for processing materials from placer mining claims.

§ 3832.32 How much land may I include in my mill site?

The maximum size of an individual mill site is 5 acres. You may locate more than one mill site per mining claim if you use each site for at least one of the purposes described in § 3832.34 of this part. You may locate only that amount of mill site acreage that is reasonably necessary to be used or occupied for efficient and reasonably compact mining or milling operations.

§ 3832.33 How do I locate a mill site?

(a) You may locate a mill site in the same manner as a lode or placer mining claim, except that—

(1) It must be on land that is not mineral-in-character; and

(2) You must use or occupy each two and a half acre portion of a mill site in order for that portion of the mill site to be valid.

(b) If the United States does not own the surface estate of a particular parcel of land, you may not locate a mill site on that land under the General Mining Law or the Stockraising Homestead Act (see part 3838 of this chapter).

§ 3832.34 How may I use my mill site?

(a) Upon obtaining authorization under the surface management regulations of the surface managing agency, you may use and occupy dependent mill sites for:

(1) Placement of grinding, crushing, or milling facilities (such as rod and ball mills, cone crushers, and floatation cells) and reduction facilities (such as smelting, electro-winning, roasters, autoclaves, and leachate recovery);

(2) Mine administrative and support buildings, warehouses and maintenance buildings, electrical plants and substations;

Bureau of Land Management, Interior

§ 3832.45

- (3) Tailings ponds and leach pads;
- (4) Rock and soil dumps;
- (5) Water and process treatment plants; and
- (6) Any other use that is reasonably incident to mine development and operation, except for uses exclusively supporting reclamation or mine closure.

(b) Upon obtaining authorization under the surface management regulations of the surface managing agency, you may use and occupy independent mill sites for processing metallic minerals from lode claims using:

- (1) Quartz or stamp mills; or
- (2) Reduction works, including placement of grinding, crushing, or milling facilities (such as rod and ball mills, cone crushers, and floatation cells), reduction facilities (such as smelting, electro-winning, roasters, autoclaves, and leachate recovery), tailings ponds, and leach pads.

Subpart D—Tunnel Sites

§ 3832.40 Tunnel sites.

§ 3832.41 What is a tunnel site?

A tunnel site is a subsurface right-of-way under Federal land open to mineral entry. It is used for access to lode mining claims or to explore for blind or undiscovered veins, lodes, or ledges not currently claimed or known to exist on the surface.

§ 3832.42 How do I locate a tunnel site?

You may locate a tunnel site by:

- (a) Erecting a substantial post, board, or monument at the face of the tunnel, which is the point where the tunnel enters cover;
- (b) Placing a location notice or certificate on the post, board, or monument that includes:
 - (1) The names of the claimants;
 - (2) The actual or proposed course or direction of the tunnel;
 - (3) The height and width of the tunnel; and
 - (4) The course and distance from the face or starting point to some permanent well-known natural objects or permanent monuments, in the same manner as required to describe a lode claim (see § 3832.12(a) and (b)); and

- (c) Placing stakes or monuments on the surface along the boundary lines of the tunnel at proper intervals as required under state law from the face of the tunnel for 3,000 feet or to the end of the tunnel, whichever is shorter.

[68 FR 61064, Oct. 24, 2003; 68 FR 74197, Dec. 23, 2003]

§ 3832.43 How may I use a tunnel site?

You may use the tunnel site for subsurface access to a lode claim or to explore for and acquire previously unknown lodes, veins, or ledges within the confines of the tunnel site.

§ 3832.44 What rights do I have to minerals within my tunnel site?

- (a) If you located your tunnel site in good faith, you may acquire the right to any blind veins, ledges, or lodes cut, discovered, or intersected by your tunnel, by locating a lode claim, if they—

- (1) Are located within a radius of 1,500 feet from the tunnel axis; and
- (2) Were not previously known to exist on the surface and within the limits of your tunnel.

- (b) Your site is protected from other parties making locations of lodes within the sidelines of the tunnel and within the 3,000-foot length of the tunnel, unless such lodes appear upon the surface or were previously known to exist.

- (c) You must diligently work on the tunnel site. If you cease working on it for more than 6 consecutive months, you will lose your right to possess all unknown, undiscovered veins, lodes, or ledges that your tunnel may intersect.

§ 3832.45 How do I obtain any minerals that I discover within my tunnel site?

- (a) Even if you have located the tunnel site, you must separately locate a lode claim to acquire the possessory right to a blind vein, lode, or ledge you have discovered within the boundaries of the tunnel site sidelines.

- (b) The date of location of your lode claim is retroactive to the date of location of your tunnel site.

Subpart E—Defective Locations

§ 3832.90 Defects in the location of mining claims and sites.

§ 3832.91 How do I amend a mining claim or site location if it exceeds the size limitations?

(a) You may correct defects in your location of a mining claim, mill site, or tunnel site by filing an amended notice of location (see § 3833.20 of this chapter on conditions allowing amendments and how to record them.)

(b) For placer claims or mill sites that you located using an irregular survey or lotting of irregular sections, you may use the “Rule of Approximation” to determine allowable acreage. The Rule of Approximation applies only to surveyed public lands. It was developed to determine maximum allowable acreage for land entries (placer claims in this part) where the excess acreage is less than the difference would be if the smallest legal subdivision is excluded from the location or entry. In no case may you use the rule to obtain more acreage than allowed under the applicable law. (See *Henry C. Tingley*, 8 Pub. Lands Dec. 205 (1889)).

PART 3833—RECORDING MINING CLAIMS AND SITES

Subpart A—Recording Process

Sec.

3833.1 Why must I record mining claims and sites?

3833.10 Procedures for recording mining claims and sites.

3833.11 How do I record mining claims and sites?

Subpart B—Amending Mining Claims and Sites

3833.20 Amending mining claims and sites.

3833.21 When may I amend a notice or certificate of location?

3833.22 How do I amend my location?

Subpart C—Filing Transfers of Interest

3833.30 Filing transfers of interest in mining claims or sites.

3833.31 What is a transfer of interest?

3833.32 How do I transfer a mining claim or site?

3833.33 How may I transfer, sell, or otherwise convey an association placer mining claim?

Subpart D—Defective Filings

3833.90 Defects in recordings or filings for mining claims and sites.

3833.91 What defects cannot be cured under this part?

3833.92 What happens if I do not file a transfer of interest?

AUTHORITY: 30 U.S.C. 22 *et seq.*, 621–625; 43 U.S.C. 2, 1201, 1457, 1701 *et seq.*; 62 Stat. 162; 115 Stat. 414.

SOURCE: 68 FR 61071, Oct. 24, 2003, unless otherwise noted.

Subpart A—Recording Process

§ 3833.1 Why must I record mining claims and sites?

FLPMA requires you to record all mining claims and sites with BLM and the local recording office in order to maintain a mining claim or site under the General Mining Law.

(a) If you fail to record a mining claim or site with the BLM and the local recording office by the 90th day after the date of location, it is abandoned and void by operation of law.

(b) Recording a mining claim or site, filing any other documents with BLM, or paying fees or service charges, as this part requires, does not make a claim or site valid if it not otherwise valid under applicable law.

§ 3833.10 Procedures for recording mining claims and sites.

§ 3833.11 How do I record mining claims and sites?

(a) You must record in the proper BLM State Office a copy of the notice of certificate of location that you recorded or will record in the local recording office by the 90th day after the date of location. If there is no recording requirement under state law (as in Arkansas), you still must record a document with BLM and the local recording office that contains the information required by this part.

(b) Your notice or certificate of location must include:

- (1) The name or number, or both, of the claim or site;
- (2) The names and current mailing addresses of the locators of the claim;
- (3) The type of claim or site;
- (4) The date of location; and