

Supporting Statement for Paperwork Reduction Act Submission
OMB CONTROL NUMBER 1004-0025

Terms of Clearance: None.

A. Justification

1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection. Attach a copy of the appropriate section of each statute and regulation mandating or authorizing the collection.

The Bureau of Land Management (BLM) seeks an extension of the previously approved information collection requirements for the regulations at 43 CFR part 3860, which addresses the requirements for obtaining a mineral patent, and part 3870 provide the procedures for challenging a person's mineral patent application. These regulations implement those portions of the General Mining Law (30 U.S.C. 22-54) that provide for mineral patents. The essential components are obtaining an approved mineral survey (land survey of the mining claims/sites applied for), demonstrating clear title, removing any adverse claims (challenges by those with overlapping mining claims/sites), payment of the purchase price for the land, and demonstrating the existence of a commercially viable mineral deposit and proper use or occupation of the land for mining purposes.

2. Explain how, by whom, how frequently, and for what purpose the information is to be used. Except for a new collection, indicate the actual use BLM has made of the information received from the current collection. [Be specific. If this collection is a form or a questionnaire, every question needs to be justified].

(a). Information Collection Required and not Collected on a Form

(i). 43 CFR 3861. The application for a mineral survey (Form 3860-5) is filed by the owner(s) of a group of mining claims and/or mill sites who intend to apply for a mineral patent to those claims/sites. BLM will approve the application for survey after we review the information for completeness and deposit the required survey processing fees. We provide the applicant with a list of BLM licensed Deputy U. S. Mineral Surveyors. The BLM Cadastral Survey Officer then issues the formal order for survey of the land along with any special instructions to the Deputy U. S. Mineral Surveyor. The applicant is responsible directly to the surveyor for the actual costs of the survey and the surveyor's preparation of the field notes and plat of survey to submit to BLM for approval as an official survey of the public lands.

(ii). 43 CFR 3862, 3863, 3864. The General Mining Law of 1872, as amended (17 Stat. 91, 30 U.S.C. §§29, 35 and 42) requires that mining claimants seeking to patent their lode claim, placer claim, or mill site, must file certain documents and information with the BLM to demonstrate their compliance with the statute. A mineral patent application consists of statements, documentation, and proofs relative to each individual claim. Most of the documentation the applicant furnishes is in the form of a narrative statement.

The application consists of three main parts:

- The initial filings which the applicant must submit to constitute a preliminary application for patent;
- The subsequent filings which the applicant will furnish at the proper time during the application process; and
- The post publication filings which the applicant will submit after the 60-day legal publication period of the notice of intent to patent. If the applicant fails to provide the necessary information, BLM will reject the patent application.

The initial filing constitutes the applicant's:

- Chain-of-title to the mining claim or site in question;
- Documentation of the nature and extent of the mineral deposit claimed;
- Copies of the mineral survey if required;
- Proof of United States citizenship; and
- Other statutory statements, affidavits, and proofs of eligibility under 30 U.S.C.

§29.

Although no specific form is required to submit this information, we provide Form 3860-2, "Certificate of Title on Mining Claims" as a courtesy to the applicant.

Subsequent applicant filings are supplemental title documents showing that as of the date of filing with BLM, the applicant still held lawful possessory title to the mining claims and/or sites and evidence of the statutory expenditures for improvements upon the claim. An applicant must file with the BLM prior to the expiration of the statutory 60-day legal publication period of the notice of intent to apply for a patent under 30 U.S.C. §29.

Applicant filings under 30 U.S.C. §29 must file with BLM:

- Required statements of payments and expenditures;
- Affidavit of the newspaper publisher who published the required 60-day legal notice of intent to patent; and
- Payment of the purchase money.

(iii). 43 CFR 3871. The mining law states the information an adverse claimant must file with the BLM during the 60-day publication period to allow BLM to recognize his adverse claim. The adverse claimant must:

- file under oath (sworn affidavit) the adverse claim;
- clearly state the nature of the conflict;
- provide a survey of the boundaries of the claim(s) (if not located in conformance with the public land survey) and the mineral patent applicant's claim(s) as to the overlapped areas; and
- submit evidence of title to the mining claim so that the BLM can determine whether the adverse claimant is the current owner of the claim in conflict.

When BLM certifies the adverse claim, all mineral patent proceedings (except publication) are suspended. We direct the adverse claimant to proceed directly to Court to quiet the title within the statutory (30 U.S.C. § 30) 30-day period from filing the adverse claim. If the adverse claimant fails to commence suit in Court within the 30-day period, a statutory waiver of the adverse claim will result.

(iv). 43 CFR 3872.

(1). Any person may file a protest to a mineral patent application on the grounds that the BLM or the applicant did not comply with the mining law or the regulations in the mineral patent application process. A protester must file with the BLM a statement clearly identifying the noncompliance and submit the information upon which the protester bases the allegation of noncompliance. If the protester fails to submit the information, BLM will dismiss the protest. The protester may file for an appeal under 43 CFR part 4. A properly documented protest will cause BLM to suspend the mineral patent application until the BLM addresses the issues raised in the protest and issues its decision. The decision may either confirm the issues raised in the protest, which will then cause BLM to re-adjudicate the application, or dismiss the protest.

(2). If BLM or an underlying claimant initiates a contest complaint, it requires that the claimant serves a response to the applicant within 30 days. If the applicant fails to respond to the charges, BLM considers it an admission to the charges in the contest complaint. At this point, we will cancel or forfeit the application and claims/sites. The response is usually in the form of a legal brief prepared by the claimant. The response generally denies the charges in the response and sets the stage for the actual hearing before an Administrative Law Judge of the Department's Office of Hearings and Appeals under 43 CFR part 4, Subpart E.

(b). Forms

(i) *Form 3860-2.* BLM provides optional Form 3860-2 for an application to summarize the chain of title to the mining claims and mill sites applied for. The form is actually completed by a title company or title attorney on the applicant's behalf and is submitted with the mineral patent application. In lieu of Form 3860-2, a title abstract may be submitted. Only one title certification is required per application, which can cover multiple contiguous claims. If the applicant chooses to submit a title abstract, it might be necessary to include one for each claim when an application covers multiple claims, depending on the title history in question.

The form provides for the summary of a title records search in the County or Borough Recording Office, and recites the standard language listing known and possible unknown conditions that may affect the title: paramount title in the United States; tax or assessment liens; the possibility that evidence of annual assessment work may be inadequate; and the possibility of adverse rights due to overlapping claim boundaries. It also requires a description of the land containing the mining claims and mill sites, and the name and address of the person or corporation that performed the title search.

(ii). *Form 3860-5.* BLM uses Form 3860-5 to standardize the filing of the information necessary for BLM's Chief Cadastral Surveyor to authorize a land survey of the

affected mining claims and mill sites. Only one submission is required per mineral patent application. We require the following information on Form 3860-5:

Lines 1 and 2 require the name and address of the person(s) requesting the survey and the group name given to the claim or site block, if any. Line 3 is where the owners list the names of the mining claims and mill sites, the local and BLM recordation information, and the BLM serial numbers assigned to the mining claims and mill sites. The information collected on lines 1-3 will establish the ownership of the mining claims and mill sites and allow BLM to determine whether the persons applying for survey are the actual owners of the claims/sites. We also ensure that all current fees and assessments are up-to-date. Line 4 provides space for the applicant to identify the State, County, Township(s), Range(s), and section(s) where the mining claims and mill sites are situated so that BLM may consult its land records for status of the land and check the location of the mining claims and mill sites with regard to any previous land surveys in the same area.

Lines 5a and 5b recite the statutory requirement to submit a certified copy of the original location certificate. The applicant must confirm that the location certificate accurately describes the mining claim and mill site location on the ground, and that the actual boundaries of the mining claim and mill site are prominently marked on the ground so that the mineral surveyor may readily find them.

3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological techniques or other forms of information technology, e.g., permitting electronic submission of responses, and the basis for the decision adopting this means of collection. Also describe any consideration to the use of improved information technology to reduce burden [and specifically how this condition meets GPEA requirements].

We use the Legacy Rehost 2000 case file system and the Combined Billing System to collect the processing and cost reimbursement fees. We have an electronic system that brings together the application for mineral survey, the mining claim records, and the mineral patent application, when filed.

In accordance with the Government Paperwork Elimination Act (GPEA), the public can fill out and download forms; however, they cannot submit electronically at this time. In addition, the electronic submission of forms 3860-2 and 3860-5 is not practicable due to statutory conditions. Form 3860-2 must be accompanied by the legal documents that establish the mineral patent applicant's title to the mining claim or mill site. Form 3860-5 must be accompanied by certified copies, certified by the county recorder's office, of the location documents and any amendments before BLM may accept a request for mineral survey. The application for patent is required by statute to be notarized as a sworn statement when filed with BLM for processing.

4. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for the purposes described in Item 2 above.

There is no duplication between this information collection and other collections. The information is unique to each owner and is unsuitable for other uses. The information is unique

to the physical site of the land the mining claim or mill site encompasses. The chain-of-title information required for patent is unique to the ownership history of the mining claim or mill site. In addition, State laws require filing in the county or borough offices documents that attest that the claimants comply with the Federal requirements in order to maintain their mining claims or sites.

5. If the collection will have a significant impact on small entities such as small business (Item 5 of OMB Form 83-I), describe any methods used to minimize burden.

The statutes make no distinction between types of entities required to comply with their provisions. All parties must submit the same information to establish the physical location of their mining claims and mill sites prior to applying for a mineral patent. The title information is unique to each owner(s) of the mining claims and mill sites applied for. Therefore, we use no special methods to minimize the information collection burden on small business or other small entities. The collection procedures are the same whether the owner is an individual, a partnership, or a multi-national corporation. We have adjusted our processing fee schedule so that persons applying to patent 10 or fewer mining claims or sites in a single application pay a lower processing fee. In many cases, the persons applying for 10 or fewer mining claims and mill sites would meet the definition of a Small Business.

6. Describe the consequence to Federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.

The General Mining Law permits the owner(s) of mining claims and mill sites to obtain title to the public land within the boundaries applied for after satisfying certain statutory requirements (30 U.S.C. 29 and 30). The Department may become a defendant in Federal litigation if we refuse to allow the filing of mineral surveys and mineral patent applications. If the program is discontinued by Congress, there will be no significant impact on the BLM. The program personnel will be assigned to other program areas within the Mining Law Administration program.

The application for a mineral survey is filed once by the owner(s) of a group of mining claims and mill sites. A mineral survey must be completed and approved prior to the submission of a mineral patent application (30 U.S.C. 29). A mineral patent application is submitted only once. The mineral survey and plat approval by the Chief Cadastral Surveyor are completely cost-reimbursable. BLM receives a processing fee for adjudicating the applicant's title documents and for processing any adverse claims or protests that may be lodged against the application. If an administrative hearing is required to resolve questions of fact, BLM incurs those costs in the presentation of its case-in-chief and any further legal proceedings. Less frequent collection would mean no collection at all.

7. Explain any special circumstances that require the collection to be conducted in a manner inconsistent with the guidelines.

***requiring respondents to report information to the agency more often than quarterly;**
***requiring respondents to prepare a written response to a collection of information in**

fewer than 30 days after receipt of it;

- *requiring respondents to submit more than an original and two copies of any document;
- *requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records, for more than three years;
- *in connection with a statistical survey, that is not designed to produce valid and reliable results that can be generalized to the universe of study;
- *requiring the use of a statistical data classification that has not been reviewed and approved by OMB;
- *that includes a pledge of confidentiality that is not supported by authority established in statute or regulation, that is not supported by disclosure and data security policies that are consistent with the pledge, or which unnecessarily impedes sharing of data with other agencies for compatible confidential use; or
- *requiring respondents to submit proprietary trade secrets, or other confidential information unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.

There are no special circumstances that require us to collect the information in a manner inconsistent with the guidelines. We do not exceed the guidelines in 5 CFR 1320.5.

8. If applicable, provide a copy and identify the date and page number of publication in the Federal Register of the agency's notice, required by 5 CFR 1320.8(d), soliciting comments on the information collection prior to submission to OMB. Summarize public comments received in response to that notice [and in response to the PRA statement associated with the collection over the past three years] and describe actions taken by the agency in response to these comments. Specifically address comments received on cost and hour burden.

Describe efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported. [Please list the names, titles, addresses, and phone numbers of persons contacted.]

Consultation with representatives of those from whom information is to be obtained or those who must compile records should occur at least once every 3 years — even if the collection of information activity is the same as in prior periods. There may be circumstances that may preclude consultation in a specific situation. These circumstances should be explained.

As required in 5 CFR 1320.8(d), the BLM published the required 60-day notice in the Federal Register on April 8, 2005, (70 FR 18042) soliciting comments from the public and other interested parties. The comment period closed on June 7, 2005. We did not receive any comments. A copy of the notice is attached.

In the last three years, only one application for a mineral survey has been filed. Due to the mineral patent appropriations moratorium, no applications for mineral patent have been

permitted, and therefore there has been no use of Form 3860-2. Interviewing members of the mining community under these circumstances will not provide any further information that is not already of record with the BLM. The number of respondents has been one (1) and we expect no more than three (3) in the next three years.

9. Explain any decision to provide any payment or gift to respondents, other than re-enumeration of contractors or grantees.

We do not provide payments or gifts to respondents.

10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy.

Information may be received concerning the mineral deposit and its economic value that we consider to be confidential if so designated by the applicant. We protect this information under the Trade Secrets Act (18 U.S.C. 1905), Departmental regulations at 43 CFR Part 2, and BLM regulations at 43 CFR 3862.5, concerning access to Departmental records. We physically separate such information from the application package and keep it in a secure location along with other proprietary and confidential information under the Mineral Leasing Acts and the Indian Minerals Trust Lands Act.

Under the privacy provisions of the E-Government Act of 2002, individuals/respondents were informed as to whether or not providing the information is mandatory to obtain a benefit. BLM has firewalls to protect website access, strong security and password protection of the information in the database, and other security measures to protect electronic information.

11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private. The justification should include the reasons why the agency considers the questions necessary, the specific uses to be made of the information, the explanation to be given to persons from whom the information is requested, and any steps to be taken to obtain their consent.

We do not require respondents to answer questions of a sensitive nature.

12. Provide estimates of the hour burden of the collection of information. The statement should:

Indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated. Unless directed to do so, agencies should not conduct special surveys to obtain information on which to base hour burden estimates. Consultation with a sample (fewer than 10) of potential respondents is desirable. If the hour burden on respondents is expected to vary widely because of differences in activity, size, or complexity, show the range of estimated hour burden, and explain the reasons for the variance. Generally, estimates should not include burden hours for customary and usual business practices.

If this request for approval covers more than one form, provide separate hour burden estimates for each form and aggregate the hour burdens in Item 13 of OMB Form 83-I.

Provide estimates of annualized cost to respondents for the hour burdens for collections of information, identifying and using appropriate wage rate categories. The cost of contracting out or paying outside parties for information collection activities should not be included here. Instead, this cost should be included in Item 14.

This analysis presumes that Congress will lift the moratorium and that no changes will be made to the existing mining law.

Certificate of Title – Mineral Patent Application

Form 3860-2 – Estimates of the hour burden of the collection of information

(a) Number of estimated responses	300
(b) Frequency of response	On occasion
(c) Annual number of responses (a ÷ 3)	100
(d) Response time per respondent	4 hours
(e) Annual hourly response time for this collection (c x d)	400 hours

Annualized Cost to the Respondents for the Hour Burden for the collection

(f) Hourly cost per respondent	\$25
(g) Annual cost per respondent (d x f)	\$100
(h) Annualized cost to respondents for this collection (c x g)	\$10,000

Application for Mineral Survey

Form 3860-5 – Estimates of the hour burden of the collection of information

(a) Number of estimated responses	75
(b) Frequency of response	On occasion
(c) Annual number of responses	25
(d) Response time per respondent	1 hour
(e) Annual hourly response time for this collection (c x d)	25 hour

Annualized Cost to the Respondents for the Hour Burden for the collection

(f) Hourly cost per respondent	\$25
(g) Annual cost per respondent (d x f)	\$25
(h) Annualized cost to respondents for this collection (c x g)	\$625

Mineral Patent Application – Preparation and Filing

Estimates of the hour burden of the collection of information

(a) Number of estimated responses	300
(b) Frequency of response	On occasion
(c) Annual number of responses (a ÷ 3)	100
(d) Response time per respondent	80 hours
(e) Annual hourly response time for this collection (c x d)	8,000 hours

Annualized Cost to the Respondents for the Hour Burden for the collection

(f) Hourly cost per respondent	\$25
(g) Annual cost per respondent (d x f)	\$2,000
(h) Annualized cost to respondents for this collection (c x g)	\$200,000

Adverse Claims and Protests

Estimates of the hour burden of the collection of information

(a) Number of estimated responses	45
(b) Frequency of response	On occasion
(c) Annual number of responses (a ÷ 3)	15
(d) Response time per respondent	8 hours
(e) Annual hourly response time for this collection (c x d)	120 hours

Annualized Cost to the Respondents for the Hour Burden for the collection

(f) Hourly cost per respondent	\$25
(g) Annual cost per respondent (d x f)	\$200
(h) Annualized cost to respondents for this collection (c x g)	\$3,000

Therefore, we estimate 240 annual responses and 8,545 burden hours.

13. Provide an estimate of the total annual [non-hour] cost burden to respondents or recordkeepers resulting from the collection of information. (Do not include the cost of any hour burden shown in Items 12 and 14).

The cost estimate should be split into two components: (a) a total capital and start-up cost component (annualized over its expected useful life) and (b) a total operation and maintenance and purchase of services component. The estimates should take into account costs associated with generating, maintaining, and disclosing or providing the information [including filing fees paid]. Include descriptions of methods used to estimate major cost factors including system and technology acquisition, expected useful life of capital equipment, the discount rate(s), and the time period over which costs will be incurred. Capital and start-up costs include, among other items, preparations for collecting information such as purchasing computers and software; monitoring, sampling, drilling and testing equipment; and record storage facilities.

If cost estimates are expected to vary widely, agencies should present ranges of cost burdens and explain the reasons for the variance. The cost of purchasing or contracting out information collection services should be a part of this cost burden estimate. In

developing cost burden estimates, agencies may consult with a sample of respondents (fewer than 10), utilize the 60-day pre-OMB submission public comment process and use existing economic or regulatory impact analysis associated with the rulemaking containing the information collection, as appropriate.

Generally, estimates should not include purchases of equipment or services, or portions thereof, made: (1) prior to October 1, 1995, (2) to achieve regulatory compliance with requirements not associated with the information collection, (3) for reasons other than to provide information or keep records for the government, or (4) as part of customary and usual business or private practices.

There is a \$10 filing fee when filing adverse claims, protests, and conflicts for a total of \$150.

14. Provide estimates of annualized cost to the Federal Government. Also, provide a description of the method used to estimate costs, which should include quantification of hours, operational expenses (such as equipment, overhead, printing, and support staff), and any other expense that would not have been incurred without the collection of this information. Agencies may also aggregate cost estimates from Items 12, 13, and 14 in a single table.

We estimate our current non-reimbursable costs at \$300,000 per year for processing of the applications grandfathered under the moratorium. This includes all field and office work.

15. Explain the reasons for any program changes or adjustments reported in Items 13 or 14 of the OMB 83-I.

We assume Congress will lift the moratorium and there are no changes to the existing law. These are adjustments because of a more detailed estimation of the collection that was not reported previously. Also, we are reporting as if there is no moratorium in place. Therefore, the burden calculations in ROCIS may appear as an increase.

16. For collections of information whose results will be published, outline plans for tabulation and publication. Address any complex analytical techniques that will be used. Provide the time schedule for the entire project, including beginning and ending dates of the collection of information, completion of the report, publication dates, and other actions.

The data we collect as a result of this information collection will not be published for statistical use.

17. If seeking approval not to display the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.

We are not requesting approval to not display the expiration date.

18. Explain each exception to the certification statement identified in Item 19, Certification for Paperwork Reduction Act Submission, of OMB Form 83-I.

There are no exceptions identified in Item 19 of the OMB 83-I Form.

B. Collections of Information Employing Statistical Methods

1. Describe (including a numerical estimate) the potential respondent universe and any sampling or other respondent selection method to be used. Data on the number of entities (e.g., establishments, State and local government units, households, or persons) in the universe covered by the collection and in the corresponding sample are to be provided in tabular form for the universe as a whole and for each of the strata in the proposed sample. Indicate expected response rates for the collection as a whole. If the collection had been conducted previously, include the actual response rate achieved during the last collection.

2. Describe the procedures for the collection of information including:

- *Statistical methodology for stratification and sample selection,**
- *Estimation procedure,**
- *Degree of accuracy needed for the purpose described in the justification,**
- *Unusual problems requiring specialized sampling procedures, and**
- *Any use of periodic (less frequent than annual) data collection cycles to reduce burden.**

3. Describe methods to maximize response rates and to deal with issues of non-response. The accuracy and reliability of information collected must be shown to be adequate for intended uses. For collections based on sampling, a special justification must be provided for any collection that will not yield "reliable" data that can be generalized to the universe studied.

4. Describe any tests of procedures or methods to be undertaken. Testing is encouraged as an effective means of refining collections of information to minimize burden and improve utility. Tests must be approved if they call for answers to identical questions from 10 or more respondents. A proposed test or set of tests may be submitted for approval separately or in combination with the main collection of information.

5. Provide the name and telephone number of individuals consulted on statistical aspects of the design and the name of the agency unit, contractor(s), grantee(s), or other person(s) who will actually collect and/or analyze the information for the agency.

This information collection does not employ statistical methods.