

**SUPPORTING STATEMENT FOR PAPERWORK REDUCTION ACT SUBMISSION
OMB CONTROL NUMBER 1004-0194**

Terms of Clearance: Upon the Agency's next submission for OMB approval, the Agency shall provide the names and phone numbers of several individuals from outside the Agency it has consulted with regarding the burden imposed by this information collection.

The terms of clearance are addressed in Question 8 of the supporting statement.

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 of information.**

The Bureau of Land Management (BLM) seeks approval for an extension of the information collection requirements contained at 43 CFR subpart 3809. These regulations govern locatable mineral exploration and development on public lands. Under the General Mining Law of 1872 (30 U.S.C. 26, *et seq.*, as amended), a citizen may enter public domain lands that are subject to the law to explore and develop valuable mineral deposits. The regulations at 43 CFR subpart 3809 implement the following sections of the Federal Land Policy and Management Act (FLPMA) of 1976 as they apply to the General Mining Law of 1872:

- Section 302 of FLPMA gives the Secretary of the Interior the authority to issue permits and other instruments regulating use, occupancy, and development of the public lands. It gives the Secretary authority to issue rules and impose terms or conditions necessary to regulate the use of the public lands.
- Section 302(b) instructs the Secretary to take any actions necessary to prevent the unnecessary or undue degradation of public lands when used for any purpose.
- Section 601(f) authorizes the Secretary to establish reasonable regulations for mining claims located within the California Desert Conservation Area and to apply the same regulations to patents issued for those claims.

- 2. Indicate how, by whom, and for what purpose the information is to be used. Except for a new collection, indicate the actual use the agency 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.]**

The BLM needs the required information to:

- (1) Ensure that only necessary and timely mining-related surface disturbing activities are conducted;
- (2) Determine if proposed exploration or mining would be able to meet the performance

standards;

- (3) Determine appropriate mitigation and reclamation measures for the site and the activity;
- (4) Comply with the National Environmental Policy Act (NEPA), the Endangered Species Act (ESA), and Section 106 of the National Historic Preservation Act (NHPA);
- (5) Monitor (conduct field inspections of) claimant or operator activities, especially reclamation activities, on mining claims;
- (6) Determine whether the claimant or operator plans reasonable measures to prevent or control on-site and off-site damage to Federal lands; and
- (7) Ensure compliance with the various environmental laws.

We do not require a specific form to collect the non-form information in the regulations at 43 CFR subpart 3809.

Sections 3809.21 and 3809.301; Notice Level Filings

The BLM requires that applicants file a notice with the appropriate BLM field office that includes:

- (1) Name and mailing address of claimant or operator;
- (2) Taxpayer identification number;
- (3) Serial numbers of any mining claims to disturb during surface activities;
- (4) Description and map of the proposed activities and location, together with a schedule of activities;
- (5) Access routes and the type of equipment used;
- (6) A reclamation plan describing how the surface disturbance will be reclaimed to the standards in 43 CFR 3809.420; and
- (7) An estimate (43 CFR 3809.552) of the cost to fully reclaim the disturbance.

The operator must also notify the BLM in writing within 30 calendar days after any:

- (1) Change of operator;
- (2) Change of corporate point of contact; or
- (3) Change of the mailing address of the operator or corporate point of contact.

Section 3809.311; Notice Level Review

If a notice is incomplete, the BLM will require the operator to submit necessary additional information under the regulations. The BLM will repeat this process until the notice is complete.

Section 3809.116; Mining Claimant or Operator Responsibilities for the Project Area

Transfer of a mining claim or operation does not relieve a mining claimant's or operator's responsibility under this subpart for obligations that accrued or conditions that were created while the mining claimant or operator was responsible for operations conducted on that mining claim or in the project area until:

- (1) The BLM receives documentation that a transferee accepts responsibility for the transferor's previously accrued obligations; and
- (2) The BLM accepts an adequate replacement financial guarantee adequate to cover such previously accrued obligations and the transferee's new obligations.

Section 3809.330; Notice Modification

An operator may submit a notice modification at any time during operations under a notice. The BLM will review the notice modification the same way it reviewed the initial notice under sections 3809.311 and 3809.313.

Section 3809.333; Notice Extension

An operator may conduct operations for 2 additional years after the expiration date of the notice. The operator must notify the BLM in writing on or before the expiration date and meet the financial guarantee requirements of Sec. 3809.503. The notice may be extended more than once.

Sections 3809.11 and 3809.401; Plan of Operations Filing

The BLM requires that applicants file a plan of operations that includes:

- (1) Name and mailing address of the operator (If the operator is a corporation, the applicant must identify an individual as the corporate point of contact. The applicant must also provide notice in writing within 30 days after any changes in operator or corporate contact.).
- (2) Serial numbers of any mining claims where the surface disturbance would occur.
- (3) A description of the proposed operations at a level of detail sufficient for BLM to determine if the plan would prevent unnecessary or undue degradation.
- (4) A description of the equipment, devices, or practices used during operations.
- (5) Maps and drawing, including preliminary or conceptual designs and operating plans for mining areas, processing facilities, and waste disposal.
- (6) Proposed and existing routes of access, aircraft landing areas, and other means of access.
- (7) Water management plans, waste rock handling plans, quality assurance plans, and spill contingency plans.
- (8) A description of how the operator will conduct the types of operations proposed and a general schedule of activities and reclamation. It must discuss the measures taken to prevent unnecessary or undue degradation and a plan to reclaim areas mining operations disturb.
- (9) Plans for monitoring the effect of the operations and interim management plans for maintaining the project area in a clean and safe condition during periods of non-operation.

(10) Operational and baseline environmental information that the BLM needs to analyze the potential environmental impacts as required by NEPA.

(11) An estimate of the cost to reclaim the surface disturbance. Operators proposing surface mining must also provide information on the feasibility of pit backfilling that details economic, environmental and safety concerns.

The BLM will review the plan of operations the operator submits and will notify the operator within 30 days if BLM requires any additional information.

Section 3809.431; Plan Modification

Activities conducted under a plan of operations may undergo changes that require modification of the originally filed plan of operations. This will prompt the claimant or the operator to initiate a new submission of information. Most mining operations undergo changes that require modifications. The BLM uses this information to:

- (1) Contact and identify the claimant or operator;
- (2) Determine whether the proposed operation will prevent unnecessary or undue degradation;
- (3) Identify unnecessary or undue degradation and develop mitigating measures to prevent such degradation; and
- (4) Establish the appropriate amount for the financial guarantee BLM needs to ensure reclamation performance.

Section 3809.420; Performance Standards for Notices and Plans of Operations

The BLM requires applicants to submit information that addresses:

- (1) Active operations and their access routes;
- (2) Handling and disposal of mine waste;
- (3) Reclamation of disturbed areas;
- (4) Use of measures to prevent or control on-site and off-site damage to resources on the Federal lands; and
- (5) Reclamation that includes:
 - (a) Reshaping the disturbed areas and re-applying saved topsoil;
 - (b) Revegetating where reasonably practicable;
 - (c) Rehabilitating fisheries and wildlife habitat;
 - (d) Controlling erosion, landslides, and water runoff, and isolating, removing, or controlling toxic materials; and
 - (e) Complying with a generalized and non-exclusive listing of Federal and state environmental laws addressing air, water, and solid waste management.

Section 3809.411: Plan of Operations Review

This section addresses the process for review and approval of the plans of operations and modifications to existing plans of operations that the applicants submit to the BLM. The BLM requires compliance with these additional statutes during the review process: NEPA, ESA, the Magnuson-Stevens Fishery Conservation and Management Act, and the NHPA. The BLM may require the operator to consult with the state regulatory agencies, Native American tribes, other surface managing agencies, and the private surface owner in the case where a non-Federal entity owns the surface. The BLM requires the information in order to help us in preparing a NEPA document required by 43 CFR 3809.411(a)(3)(ii). This requirement will have a substantial impact on the amount and type of pre- and post-filing information that applicants must submit to the BLM on a project. Before the BLM can approve a plan of operations, compliance with both NEPA and Section 106 of NHPA is required by the implementing regulations promulgated by the Council on Environmental Quality (CEQ) and the Advisory Council on Historic Preservation (ACHP).

Section 3809.500; Financial Guarantee Requirements

This section addresses bonding to ensure reclamation of surface disturbance conducted under a notice or plan of operations. The operator must estimate the actual cost to reclaim the operations as if the BLM was to hire a third-party contractor to perform reclamation after the project area has been vacated. The estimated cost of stabilizing and reclaiming the disturbed area includes the BLM administrative costs and any costs associated with long-term treatment or maintenance. The BLM requires that a bonding document (form) or other instrument be used for the reclamation amount (or changes in operator/liability) submitted for adjudication. The BLM developed these forms as a result of the interaction of field offices and operators. The BLM uses these in order to meet the financial guarantee requirements.

- (1) Form 3809-1, Surface Management Surety Bond Form.
- (2) Form 3809-2, Surface Management Personal Bond Form.
- (3) Form 3809-4, Generalized Bond Rider Form.
- (4) Form 3809-4a, Surface Management Personal Bond Rider.
- (5) Form 3809-5, Notification of Change of Operator and Assumption of Past Liability.

Section 3809.805; State Director Review of an Adverse Decision

If the BLM issues an adverse decision, the operator may request the State Director to review the decision. The operator must provide a single package that includes a brief written statement explaining why the BLM should change its decision and any documents in support of the written statement.

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

this collection meets GPEA requirements.]

The requested non-form information is unique and in the form of statements, sketches, maps, plans, and drawings, which are not presently amendable to electronic submission by the claimant or operator or receipt by the BLM. While many corporate operators routinely use drafting programs to prepare these documents, few small scale operators have been willing to invest either the capital or the time needed to acquire and develop expertise in the use of these programs.

In accordance with the Government Paperwork Elimination Act (GPEA), the public can fill out and download the forms; however, they cannot submit electronically at this time.

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

The BLM and units of state government have similar information requirements based on their respective enabling legislation and regulations, such as plans of operation and financial guarantee requirements. In managing surface resources, the BLM generally does not seek information, *per se*, from the states. Where possible, the BLM and the states enter into formal agreements to create joint programs and to reduce administrative overlaps. The regulations at 43 CFR 3809.200 provide for Federal-state agreements to reduce duplication.

5. If the collection of information impacts small businesses or other small entities, describe any methods used to minimize burden.

There are no small businesses or small entities affected by this collection of information. The BLM limits the required information to the minimum necessary to maintain a complete and accurate record of who conducts mining operations on public lands.

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.

If the BLM does not collect the information associated with this information collection, the following could happen:

- (1) Mining activities would proceed according to the General Mining Law of 1872, but in potential violation of the FLPMA mandate to prevent unnecessary or undue degradation of public lands;
- (2) Reclamation activities might not occur and would cause degradation of the land; or
- (3) BLM might not be able to locate the responsible party for reclamation, and the Federal Government would bear the burden of reclaiming surface disturbance.

Most of the information submitted to the BLM concerns operations for exploration activities.

Many of these activities are single events that do not recur. Those activities that result in good mining prospects will likely result in either new notices or plans of operations, as exploration continues and the operator decides the opportunities are worth pursuing. Each successful phase will result in the submission of a larger scale plan of operations to the BLM. For a successful mine there will be a long history of notices and plan of operations submitted to the BLM.

For these reasons, the BLM cannot collect the information less frequently. An operator, when considering development of a mineral deposit, given the variability in natural resource endowments and exploration, would find it nearly impossible to develop a single submission that would cover all of the possible permutations found in the path to developing a mine.

- 7. Explain any special circumstances that would cause an information collection to be conducted in a manner:**
- * 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 requiring the collection to be conducted in a manner inconsistent with OMB 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.**

As required in 5 CFR 1320.8(d), the BLM published a 60-day notice in the Federal Register on March 6, 2006 (71 FR 11224), soliciting comments from the public and other interested parties. The comment period closed on May 5, 2006. We did not receive any comments from the public in response to this notice or unsolicited comments from respondents covered under these regulations.

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.

During the approval period, we consulted with the following respondents to solicit comments on the burden hour and cost estimates, availability of data, frequency of collection, and clarity of instructions. The burden estimates in Question 12 reflect the input from these consultations.

Form 3809-1 “Surface Management Surety Bond”				
Operator	Address	Telephone	Time Required	Costs (\$)
Hycroft Resources & Development Inc.	American Home Assurance Co. 1700 Market St. Ste. 1800 Philadelphia, PA 19103	303-820-2626 Michael Hermann JC Harmon & Associates 10	Left message – no response	No response
Teck Cominco American, Inc.	Safeco Ins. Co. of America 18400 NE Union Hill Rd. (MC3) Redmond, WA 98052	206-749-4887 Tiffany Hawkins	5 hours	Postage
Form 3809-2 “Surface Management Personal Bond”				
Operator	Address	Telephone	Time Required	Costs (\$)
Tonkin Springs LLC	675 Sierra Rose Dr., Ste. 116 Reno, NV 89511	775-825-8932 Ann Carpenter	Left messages – no response	No response
Toquima Minerals, US Inc. (208)-	1E. Liberty St. Ste. 424 Reno NV 89454	775-331-4032 Bob Thomas	15 min. for forms, but 2 hours to get a cashier’s check	\$200

543-6602 30				
25 + certified mail				

Form 3809-4 "Bond Rider Extending Coverage of Bond to Assume Liabilities for..."				
Operator	Address	Telephone	Time Required	Costs (\$)
Potter Mining Co. Inc.	4107 Christine St. Boise, ID 83704	208-375-2055 Richard W. Potter	1 week	\$10-\$15
Round Mountain Gold, Inc.	6100 Neil Rd. St. 500 Reno, NV 89511	775-377-3205 Gina Meyers 415-743-8146 Eric Nieto	1 Hour	\$50 time \$20 postage
Oklahoma Technology, Inc.	400 Tolas #22 Fallon, NV 89406	775-423-1260 Lyman Harman	7-8 Hours	\$350-\$400 for time
Form 3809-4a "Surface Management Personal Bond Rider"				
Operator	Address	Telephone	Time Required	Costs (\$)
Newmont MC on behalf of Newmont USA	1700 Lincoln St. Denver, CO 80203	303-837-6019 Phyllis Dietzler	5 hours	Misc costs and Postage and Time
Pacific Ridge Exploration, Inc.	1205-675 West Hastings St. Vancouver, BC V6B 1N2	604-687-4951 George Norman	5 hours	Money costs \$300 – Time and postage
Cortez Gold Mine	HC66 Box 1250 Crescent Valley, NC 89821	775-468-4406 George Fennemore	5 hours	Time and Postage
Form 3809-5 "Notification of Change of Operator and Assumption of Past Liability"				
Operator	Address	Telephone	Time Required	Costs (\$)
New Sleeper Gold LLC/X-Cal	700 Smithridge Dr. 101A Reno, NV 89502	775-827-5300 Jim Smithson	10 minutes for forms/2 hours to gather info	Less than \$100
New West/	1658 Cole Blvd.	775-856-3339	10 minutes for	\$200

Western States Minerals	Bld.6 Ste. 210 Lakewood, CO 80401	X 14 Rick Fiddler	forms/2 hours to gather info	includes time and postage
Noble Aquisitions LLC dba Noble Perlite/Noble Materials	225 City Line Ave. Ste. 14 Bala Cynwyd, PA 19004	530-335-5451 x102 Rocky Torgrimson 610-660-8803	10 minutes for forms/2 hours to gather info	\$200 includes time and postage

*Based on the consultation with the above respondents, we will amend our estimate that it will take 8 hours to gather and prepare the information, notarize the forms that need it, and submit these forms to the BLM.

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

We do not provide payments or gifts to the respondents.

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

The BLM handles any proprietary data submitted in response to the data requests in these regulations according to the provisions of 43 CFR part 2, setting forth how the BLM will determine what specific information can be withheld from public inspection.

The surface management regulations address the question of proprietary data at 43 CFR 3809.111 and state that information or data under this subpart that an operator submits that is believed to be exempt from disclosure must be marked on each page clearly "CONFIDENTIAL INFORMATION." Further, the data must also be submitted separately from the other materials. The BLM will keep information marked in this manner confidential to the extent required by 43 CFR part 2. Material not so marked will not be withheld from disclosure to the public.

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. The BLM provides no promises that the application is protected under the Privacy Act.

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. This 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 the applicants 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.**

43 CFR Citation	Subpart	Forms	Number of Responses	Hours/\$	Burden Hrs	Burden (\$)
Non-Forms						
3809.21/.301	Notice Level		386	32 hr @ 75	12,352	926,400
3809.330	Notice Level Modification		108	32 hr @ 75	3,456	259,200
3809.333	Notice Extension		169	30 minutes @ 75	85	6,253
3809.11/.401	Plan of Operations		54	245 hr @ 90	13,230	1,190,700
	EIS		6	4960 hr @205	29,760	6,100,800
	EA - Standard		16	890 hr @ 90	14,240	1,281,600
	EA- Exploration / Simple		35	320 hr @ 70	11,200	784,000
3809.430	Plan Modification		96	245 hr @ 90	23,520	2,116,800
	EIS		2	4960 hr @ 205	9,920	2,033,600

	EA – Standard		29	890 hr @ 90	25,810	2,322,900
	EA- Exploration / Simple		62	320 hr @ 70	19,840	1,388,800
Forms						
3809.500	Financial Guarantee	3809-1	67	8 hours @ 40	536	21,440
		3809-2	270	8 hours @ 40	2,160	86,400
		3809-4	13	8 hours @ 40	104	4,160
		3809-4a	10	8 hours @ 40	80	3,200
3809.116	Operator Change	3809-5	46	8 hours @ 40	368	14,720
Total			1,369		166,661	18,537,273

13. Provide an estimate of the total annual [non-hour] cost burden to respondents or record keepers resulting from the collection of information.

- **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.**

There is no filing fee associated with supplying the information in this collection. However, there is a fee to notarize Form 3809-2 and Form 3809-4a. The total notary fees are \$5,600. We estimate \$20 to notarize each form. Claimants and operators will not need to purchase any new computer hardware or software to comply with the information request.

Total Annual [non-hour] Cost Burden to Respondents or Recordkeepers for Collection

(a) Total capital and start-up cost	0
(b) Total operation/maintenance and purchase of services cost	0

Application Filing Fee for Collection

(c) Annual number of responses	1,369
(d) Non-refundable application fee per respondent	\$0
(e) Annual non-refundable application filing fee for this collection	\$0

14. Provide estimates of annualized cost to the Federal government. Also, provide a description of the method used to estimate cost, 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 this collection of information.

We estimated the average annualized cost to the Federal Government for this information collection from FY 2003 to 2006 is \$12.3 million (absent inspections of exploration and mining sites). We obtained this information from the BLM's Management Information System (MIS).

15. Explain the reasons for any program changes or adjustments.

Burden	Previous Collection	This Collection	Change
Responses	1,552	1,369	-183
Burden Hours	144,598	166,661	+22,063

The decrease in responses and increase in burden hours are an adjustment based on a more detailed burden hour estimate and filings recorded in the case recordation system averaged out over FY 2003 through 2006.

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 report, publication dates, and other actions.

We have no plans to publish the information in this collection.

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

We will display the expiration date of the OMB approval.

18. Explain each exception to the certification statement identified in "Certification for Paperwork Reduction Act Submissions."

There are no exceptions to the certification statement.