

**SUPPORTING STATEMENT FOR PAPERWORK REDUCTION ACT SUBMISSION  
USE AND OCCUPANCY UNDER THE MINING LAWS, 43 CFR 3715  
OMB CONTROL NUMBER 1004-0169**

**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) uses the regulations at 43 CFR subpart 3715 to manage the use and occupancy of the public lands for the development of locatable mineral deposits by limiting such use or occupancy to that which is reasonably incident to mining. The BLM will prevent unnecessary degradation of the public lands while recognizing valid rights and uses under the Mining Law of 1872 (30 U.S.C. 22 *et seq.*) and related laws governing the public lands. The BLM will take appropriate action to eliminate invalid uses, including unauthorized residential occupancy of the public lands.

43 CFR subpart 3715 sets out the rights pertaining to and restrictions on use and occupancy of unpatented mining claims and mill sites on Federal lands and provides field managers with the tools necessary to identify, authorize, and manage legitimate use and occupancy. Also, the regulations define those activities that are related to prospecting, mining, or processing operations and uses reasonably incident thereto.

- 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 operator submits the information to the BLM only once. The respondents are mining claimants and operators of prospecting, exploration, mining, and processing operations. Under 43 CFR subpart 3715, at §§ 3715.3-4 through 3715.3-6, the BLM must concur in any proposed activity on public lands involving occupancy or fencing that excludes the public as reasonably related to mining before a claimant may initiate occupancy or fencing.

The regulations accomplish this by requiring claimants of existing and newly initiated occupancies to provide the BLM with certain types of information. The two sections of the regulations that address the filing requirements are 43 CFR subpart 3715.3-2 (newly initiated or proposed occupancies) and 43 CFR subpart 3715.4 (existing occupancies).

- 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 information we require is unique to both the site of the milling or mining operations and to the operator. The information is not available elsewhere. The BLM will keep the information on file to avoid repetitive future requests for information. Keeping the information on file minimizes the need to require additional filings.

The BLM will handle changes in actual, on-the-ground activities as a part of its surface management program. The changes will relate to the type, the intensity, or the location of the boundaries of a mineral activity. Once we approve occupancy, the need for the occupancy will likely continue throughout the changes. Continued maintenance of the information will eliminate the need for additional filings.

The responses to the information collection are in the form of statements, sketches, plans, drawings and maps, which are submitted manually. The BLM is considering the development of processes for remote filing and automated processing/storage of filings. The BLM is also considering the use of the Geographic Information System (GIS), which incorporates digitized data from the maps, plans, or sketches submitted by the respondent.

**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.**

Since circumstances vary with each exploration and mining operation, there is no other available information that we may use in lieu of that supplied as a part of each filing and the ensuing consultation. The information collected for use and occupancy of public lands under the authority of the Mining Law, the Surface Resources and Multiple Use Act (“Surface Resources Act”) of 1955 (PL. 167), and FLPMA, is not collected under any other program within the BLM. The Forest Service collects similar information for the management of surface disturbing activities within National Forest lands that are authorized by the mining law, and like the BLM the Forest Service uses the authority of the Surface Resources Act. The Forest Service’s rules are at 36 CFR 228.

**5. If the collection of information impacts small businesses or other small entities (Item 5 of OMB Form 83-I), describe any methods used to minimize burden.**

The information collection burden for collecting this information is the same, whether for an individual operator or a multi-national corporation. The provisions of the Mining Law and FLPMA, and the regulatory requirements, are the same whether the operator is an individual, a small mining company, or a multi-national corporation. Therefore, the BLM could not devise any special methods to minimize the information collection burden on small businesses or other small entities.

**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.**

Failure to collect the required information may result in:

- (1) occupancy not justified by prospecting, mining, or processing activities would proceed in violation of the law;
- (2) management of occupancies would not occur;
- (3) uses unrelated to mining that could be authorized by other regulations would not be regulated, and thus could result in the loss to the Federal Government of rental payments or lease payments;
- (4) reclamation may not occur, resulting in unnecessary or undue degradation of public land in violation of law; or
- (5) the party responsible for clean up, closure, or reclamation may not be available, and the burden may fall on the Federal Government to reclaim the area.

**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.**

The information collected is consistent with 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.**

On January 25, 2008, the BLM published the required 60-day notice in the **Federal Register** (73 FR 4621), and the comment period ended March 25, 2008. The BLM did not receive any public comments in response to publication of that notice. A copy of the notice is attached.

During the 3-year approval period, there is regular field office interaction with the operators during which time the BLM learns whether the operators are experiencing any difficulties in providing the nonform information to the BLM. Among the operators that BLM contacted for insight about their experience with this information collection only one reported difficulties with these nonform information requirements. One operator reported experiencing difficulties producing detailed mining site maps that met the BLM's requirements as well as justifying or proving occupancy to the BLM while the operator worked at a second job away from the site where the operator had a mining claim.

Operators who have submitted information:

Cliff Tracy  
2534 Holcomb Springs Rd.  
Gold Hill, OR 97525  
(541) 951-0585

Jan Alexander  
Eastern Oregon Mining Association  
P.O. Box 153  
Unity, OR 97884  
(541) 446-3413

William T. Johnson  
5024 Willow Vale Way  
Elk Grove, CA 95758

(916) 478-2733

Fred Nelson  
P.O. Box 2192  
Shingle Springs, CA 95682  
(530) 906-5038 or 919-1340

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

The BLM does 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.**

The respondent's confidentiality is protected to the extent consistent with the Freedom of Information Act (5 U.S.C. 552).

Under the privacy provisions of the E-Government Act of 2002, individuals/respondents were informed about providing the information is mandatory to obtain a benefit. The 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, or other matters that are commonly considered private. The justification should include the reason why the questions are necessary, the specific uses for the information, the explanation to be given to the respondents, and any steps taken to obtain their consent.**

Respondents are not required 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.**

Three years ago, the BLM conducted site inspections of both new and existing occupancies that required compliance with 43 CFR subpart 3715, at §§ 3715.3-4 through 3715.3-6, which were new regulations. At the time (during the previous information collection period), the BLM identified 150 occupancies for which a claimant or operator needed to submit an application to the BLM. Now that most of the outstanding cases have been resolved, the BLM estimates that approximately 30 applications to authorize their occupancy will be filed annually for a total of 60 burden hours. The total estimated time based on the requirements in the surface management justification is as follows:

Table 12-1

<b>Section of Reg.</b>	<b>Title</b>	<b>Est. No. of Responses</b>	<b>Est. Hrs. Per Response</b>	<b>Est. Total Hours</b>	<b>Total Compensation (\$19.56 x 1.4)*</b>	<b>Est. Annual Cost to the Public**</b>
43 CFR 3715.3-2	Newly initiated or proposed occupancies	25	2	50	\$27.38	\$1,400
43 CFR 3715.4	Existing occupancies	5	2	10	\$27.38	\$300
<b>TOTAL</b>	-----	30	-----	60	-----	\$1,700

\* **Source:** We selected the All Occupations hourly mean category from the National Cross-Industry estimates table from the Bureau of Labor Statistics' May 2007 Occupational Employment and Wage Estimates ([http://www.bls.gov/oes/oes\\_dl.htm#2003\\_m](http://www.bls.gov/oes/oes_dl.htm#2003_m)) to represent the range of potential mining claimants who might file a claim in any given year of this information collection period. The BLM derived the 1.4 ratio for benefits for this private sector category from another BLS source, the **EMPLOYER COSTS FOR EMPLOYEE COMPENSATION—SEPTEMBER 2007** ([http://www.bls.gov/news.release/archives/ecec\\_12112007.pdf](http://www.bls.gov/news.release/archives/ecec_12112007.pdf)), since the National Cross-Industry estimates table did not provide any information regarding benefits for the All Occupations category or any other category in that table.

\*\* We rounded the annual cost to the public to the nearest hundred dollars (e.g. \$1,369.00 for new occupancies becomes \$1,400).

Mining claimants can be of any profession or occupation. Therefore, the BLM estimates burden hour costs for this group based on a general All Occupations category from the Bureau of Labor Statistics.

Because the BLM has resolved most of the outstanding cases from the previous collection period, the BLM estimates that for the next information collection period the BLM will receive five applications per year to authorize existing occupancies and 25 applications to authorize new occupancies. While there are separate regulations that apply to new versus existing occupancies,

the BLM estimates that it takes a claimant the same amount of time (about two hours) to file an application whether it is for a new occupancy or to modify an existing occupancy. This is the first request for renewal of this information collection since the introduction of the ROCIS database, and therefore the BLM is now able to track and report the number of annual applications for new or proposed occupancies and existing occupancies as separate Information Collections (ICs) within the Information Collection Request 1004-0169 in the database.

**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.**

Respondents are not required to purchase additional computer hardware or software to comply with these information requirements. There is no filing or processing fee associated with this information collection.

**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. Agencies also may aggregate cost estimates from Items 12, 13, and 14 in a single table.**

The annualized cost to the Federal Government for this information collection is based on the total hourly compensation per employee involved in collecting or processing the information, which is multiplied by the amount of time each employee dedicates per occupancy times the total number of applications per year of the collection. We estimate that it will take the Federal Government six hours to process any and use application regardless of whether it is existing or new in a given year of the information collection period. We assume that the bulk of the work (80 percent) will be performed by the geologist (technician), who is responsible for making site visits before the BLM can approve [an occupancy] on BLM-managed public land. The rest of the work will be divided up among a Field Office Manager (15 percent) and a clerical worker (5 percent).

**Table 14-1**

<b>Position</b>	<b>A Grade</b>	<b>B Hourly pay rate*</b>	<b>C Hourly rate including benefits (1.5 x hourly rate)**</b>	<b>D Percent of time spent on collectio n</b>	<b>E Number of person- hours per application</b>	<b>F Number of applications per year</b>	<b>G Federal agency person- hours per year by employee [E x F] D</b>	<b>H Total Annual Federal Agency Cost [G x C for each employee] ***</b>
Clerical, unskilled	GS-5, Step 5	\$14.26	\$21.39	5%	New: 6 Old: 6	New: 25 Old: 5	New: 7.5 Old: 1.5	New: \$200 Old: \$30
Technician (geologist)	GS-11, Step 5	\$26.15	\$39.23	80%	New: 6 Old: 6	New: 25 Old: 5	New: 120 Old: 24	New: \$4,700 Old: \$900
Field Office Manager	GS-13, Step 5	\$37.27	\$55.91	15%	New: 6 Old: 6	New: 25 Old: 5	New: 22.5 Old: 4.5	New: \$1,300 Old: \$300
<b>TOTAL</b>	-----	-----	-----	<b>100%</b>	-----	<b>30</b>	<b>180</b>	<b>\$7,400</b>

\* Source: The BLM obtained Federal salary information from OPM's 2008 General Schedule (base) listed at the hourly rate and incorporating the 2.50% General Schedule Increase effective January 2008 ([http://www.opm.gov/oca/08tables/pdf/gs\\_h.pdf](http://www.opm.gov/oca/08tables/pdf/gs_h.pdf)).

\*\*Source: The BLM derived this multiplier (1.5) from the ratio between wages and benefits for state and local government workers in the U.S. Bureau of Labor Statistics: EMPLOYER COSTS FOR EMPLOYEE COMPENSATION—SEPTEMBER 2007 ([http://www.bls.gov/news.release/archives/ecec\\_12112007.pdf](http://www.bls.gov/news.release/archives/ecec_12112007.pdf)). Currently, the Bureau of Labor Statistics does not provide such a ratio for Federal workers, but in order to estimate Federal government worker costs for this collection we assumed that the ratio would be the same for Federal workers.

\*\*\*We rounded the Total Annual Federal Agency Cost to the nearest hundred dollars (e.g. \$160.43 for new applications processed by clerical workers becomes \$200).

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



<b>Burden</b>	<b>Previous Collection</b>	<b>This Collection</b>	<b>Change</b>
Responses	150	30	-120
Burden Hours	300	60	-240
Annual Burden Hour Cost (to Respondents)	\$9,300	\$1,700	-\$7,600
Annual Non-Burden Hour Cost (to Respondents)	\$0	\$0	\$0

**Adjustments in estimates:** The BLM estimates 120 fewer responses (applications filed) than it did in the previous collection period because it has steadily been resolving (conducting site visits and processing applications for) the initial 150 cases that it identified three years ago as being subject to new regulations under 43 CFR subpart 3715, at §§ 3715.3-4 through 3715.3-6. The BLM expects this decline in annual responses to continue over the next few years. As a result of this decline in annual responses, the BLM's annual estimate for burden hours for all respondents has also decreased (from 300 to 60). The BLM continues to estimate that it will take a respondent two hours to file an application (for either a new occupancy or a modification to an existing occupancy).

This is the first request for renewal of this information collection since the introduction of the ROCIS database and the first time that the BLM has chosen to split the ICR into separate Information Collections for newly initiated or proposed occupancies and amendments to existing occupancies. Each IC now contains the burden hours and cost estimates associated with information requirements for either new or modifications to existing occupancies. The BLM anticipates that there will be fewer and fewer unresolved cases concerning existing occupancies, and therefore may reconsider the need for separate ICs under ICR 1004-1069 in the ROCIS database during future collection periods.

**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 will not publish the results of 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.**

Because this is a nonform collection, display of the expiration date is not applicable.

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

There are no exceptions to the certification statement.