

# Supporting Statement for Paperwork Reduction Act Submissions

OMB Control Number 1004-0153

**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 of information**

The Bureau of Land Management (BLM) needs to conduct the information collection to determine if private land owners are eligible to receive title to the Federally-owned minerals lying beneath their lands. Some of the minerals (subsurface estate) owned by the United States lie beneath lands (surface estate) that are privately owned. The United States will allow private land owners to consolidate the lands (surface estate) and minerals (subsurface estate) if certain specific conditions are met. When certain specific conditions have been met, the United States will convey legal title to the Federally-owned minerals to the private land owner. Section 209(b) of the Federal Land Policy and Management Act of 1976 (FLPMA), 43 U.S.C. 1719, authorizes the Secretary of the Interior to convey mineral interests owned by the United States to private land owners of the surface estate overlying the minerals. The regulations in 43 Code of Federal Regulations (CFR) Part 2720 establish guidelines and procedures for the orderly and timely processing of applications. We have attached a copy of FLPMA and the regulations.

**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.]**

We do not require an applicant to use a specific application form. The BLM uses the information to determine if an applicant meets the statutory requirements of the Act and regulations. An applicant who satisfies the requirement of the Act and regulations will be entitled to receive a conveyance for the mineral interest lying beneath their privately owned lands. The BLM collects the information from private land owners (surface estate) seeking to obtain ownership of the mineral interests (subsurface estate) lying beneath their lands. A private land owner may be an individual, partnership, corporation, association or other business entity and any Federal, State or local governmental entity including municipal corporations. Response to the information collection is required to obtain a benefit, i.e., title to the Federally owned mineral interests beneath a surface estate owned privately or by a state, local, or tribal government. If the information were not collected, the BLM would be unable to carry out the mandate of the Act or implement the regulations. We collect the following information from applicants:

(1) *The name, legal mailing address, and telephone number.* We use the information to identify and communicate with the applicant.

(2) *Proof of ownership of the land included in the application.* We use this information to determine if the applicant is the record title owner of the surface estate.

(3) *A certified copy of any patent or other instrument conveying the land included in the application.* We use this information to verify the surface estate owner, legal land description, and location of the lands included in the application.

(4) *The applicant must submit a statement concerning (i) the nature of the Federally owned or reserved mineral values in the land; (ii) the existing and proposed uses of the land; (iii) why the mineral reservation is interfering with or precluding appropriate non-mineral development of the land; (iv) how and why such development would be a more beneficial use than mineral development; and (v) a showing that the proposed use will comply with State and local zoning or planning requirements.* We use this information to evaluate the mineral interests in the land (subsurface estate); the applicant's current and proposed uses of the land; the impact of the Federal mineral reservation on the applicant's current use of the land; the impact of the Federal mineral reservation on the applicant's proposed development of the land; the benefit of land development over mineral development; and the compliance of the proposed land development with State and local zoning or planning laws.

**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 Government Paperwork Elimination Act (GPEA) requires Federal agencies, by October 21, 2003, to provide individuals or entities the option to submit information or transact with the agency electronically and to maintain records electronically when practicable. The GPEA specifically states that electronic records and their related electronic signatures are not to be denied legal effect, validity, or enforceability merely because they are in electronic form. It also encourages Federal government use of a range of electronic signature alternatives.

The BLM has issued a Federal Register notice that: “effective October 1, 2004, the BLM will accept as “properly filed” any form in electronic format that was previously available only in paper format. If you choose to file on-line, you must use the forms available from (<http://www.nc.blm.gov/blmforms/index.htm>). The BLM will not accept as “properly filed” the use of electronic forms in other formats or from other sources. In addition to using the form from the BLM Forms web site, the user must also have a Federal Bridge Trusted credential. . . . The public may continue to use, and the BLM will continue to accept, filings on paper forms. In many cases, our existing regulations require a written signature and filing of a paper form in a specific office. The GPEA supersedes these regulations. Our intention is to propose regulations to address the inconsistency and to clarify that digital signatures and on-line filing (when performed as described above) is an acceptable way to file applications and other documents.”

The eForms project is a cost containment and performance improvement measure. It is a web-based forms application which constitutes a part of the BLM's eAuthentication Project and supports the implementation of the GPEA. The goal of eForms is to replace paper-based processes with secured, auditable electronic records. Specifically, eForms will replace paper forms used within BLM with a common application that supports editing, submitting, and digitally signing forms. eForms is made up of three components: Individual Forms; Forms Central, a form repository that supports any number of form file formats; and Signature Server, a web application that provides a visual representation of a digital signature. Together these components provide an easy to use form system.

**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.**

There is no duplication between this information collection and other collections. The information is unique to each application and is unsuitable for other uses. We are not able to use or modify existing information collections to process new applications because the applicant's responses are distinct, unrelated, and specific to their individual proposed project.

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

The BLM does not collect information on whether the respondents are small businesses or small entities. There are no special methods used to minimize the burden because the information collection methods are uniform throughout the BLM regardless of the size of the entity. The information collected is limited to only the information required for an applicant to meet the statutory requirements of the Act and regulations. Applicants responding to this information collection include individuals, businesses, and state, local, and tribal governments.

***Table 5-1 – Affected Public:*** For purposes of this information collection request, we assume that the 9 applicants annually who are individuals (See Table 12-1) qualify as small businesses or small entities:

<u>Table 5-1</u>	
<u>Affected Public by Industry</u>	<u>Annual Responses</u>
(a) Businesses	9
(b) Individuals	9
(c) State, Local, and Tribal Governments	3
(d) Total	21

**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 we do not collect the information, we cannot meet the requirements of FLPMA and 43 CFR Part 2720. Less frequent collection would mean no collection at all. The information we collect is limited to only the information required for the applicant and proposed project to meet the statutory requirements of FLPMA and the regulations. Reducing the burden will prevent the collection of sufficient information to determine if the applicant and the proposed project meet the requirements of FLPMA and 43 CFR Part 2720.

**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 that require collection to be conducted 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.**

**Federal Register Notice:** No comments were received in response to the 60-day Federal Register notice published on September 23 (73 FR 54849). The formal public comment period closed on November 24, 2008. A copy of the notice is attached. The BLM's constant interaction and feedback with applicants during the preapplication activity and application processing phase allows the applicant to fully discuss and describe their proposal in detail, provides an opportunity for the BLM to provide a full explanation of the processing requirements accurately, and identify the time required to respond to the information.

**Applicants Consulted:** An applicant representing each category of applicants was consulted.

(1) Businesses: Chad Fretz, Manager, Environment, Land, & Water (520) 648-8700, Freeport-McMoran Copper and Gold Inc., P.O. Box 527, Green Valley, Arizona 85622.

(2) Individuals: Dan Schrive, Applicant, (217)-964-2205, 2427 875<sup>th</sup>, Street, Ursa, Illinois 62376.

(3) State, Local, and Tribal Governments: Barbara Stoll, Acquisition Specialists, (661) 286-4046 City of Santa Clarita, 23920 Valencia Blvd. # 300, Santa Clarita, California 91355.

**Consultation Results:** The applicants indicated that the data required for the application was obtained without a great deal of difficulty; one application was required; instructions on the application were clear; and the cost and hour burden are fairly accurate. (See Table 12-2)

**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 respondents.

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

We protect the applicant's confidentiality to the extent consistent with the Freedom of Information Act (5 U.S.C. 552).

**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 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.**

***Affected Public:*** Applicants responding to the information collections in this request are surface-estate owners (i.e., individuals, businesses, or state, local, or tribal governments) who apply for underlying Federally-owned mineral estates.

***Table 12-1 – Hourly Cost Calculations:***

<u>Affected Public</u>	<u>Mean Hourly Wage</u>	<u>Benefits Multiplier<sup>1</sup></u>	<u>Total Mean Hourly Wage (including benefits)</u>
(a) Businesses	\$35.32 <sup>2</sup>	1.4	\$49.45
(b) Individuals	\$29.27 <sup>3</sup>	1.4	\$40.98
(c) State, Local, and Tribal Governments	\$32.85 <sup>4</sup>	1.5	\$49.28

***Table 12-2 – Estimates of Hour and Costs Burden:*** The burden estimates are based on the average number of applications received within a three-year collection period from Fiscal Year (FY) 2006 through FY-2008 (10/01/2005 through 09/30/2008). The hour and cost burden is based on information obtained from the applicants and the BLM's experience with the

<sup>1</sup> The benefits multipliers are based on data on page 4, Chart A of the Bureau of Labor Statistics News Release 09-0247 (“Employer Costs for Employee Compensation – December 2008” (dated March 12, 2009), at [www.bls.gov/news.release/ecec.nr0.htm](http://www.bls.gov/news.release/ecec.nr0.htm).

<sup>2</sup> The mean hourly wage information for businesses is based on data for full-time, private-industry “management, professional, and related” workers in Table 11 of the news release cited in foot note 1.

<sup>3</sup> The mean hourly wage information for individuals is based on data for part-time, private-industry “management, professional, and related” workers in Table 11 of the news release cited in footnote 1.

<sup>4</sup> The mean hourly wage for state, local and tribal governments is based on data for “management, professional, and related” state and local government workers on page 10, Table 4 of the news release cited in footnote 1.

information collection. The hour and costs burden includes the time it takes an applicant to read instructions, gather information, and answer questions. The BLM does not maintain a record of the number of applications included in each industry; therefore, the number of applications included in each industry is based on the BLM's best estimates.

The 10-hour response time per applicant is the same for each category of applicants in this collection. The information collected on the application is derived from the personal knowledge of the applicant and records (i.e., patents, survey plats, master title plats) on file in the BLM. The information provided by each applicant is unique to each applicant. The BLM collects and uses the applicant's information once. The information collection methods are uniform regardless of the size or type of applicant.

<u>Table 12-2</u>	
<u>Statement of Questions</u>	<u>Burden</u>
(a) Applications for collection	21 applications
(b) Applications per industry (1) Businesses (2) Individuals (3) State, Local, and Tribal Governments	9 applications 9 3
(c) Frequency of application (1) Businesses (2) Individuals (3) State, Local, and Tribal Governments	1 application 1 1
(d) Response time (hours)per applicant (1) Businesses (2) Individuals (3) State, Local, and Tribal Governments	10 hours 10 10
(e) Response time for collection (10 hours x 21 applications)	210 hours
(f) Response time per industry (1) Businesses (9 applications x 10 hours.) (2) Individuals (9 applications x 10 hours) (3) State, Local, and Tribal Governments (3 applications x 10 hours)	90 hours 90 30
(g) Hourly costs per applicant by type of applicant (1) Businesses (2) Individuals (3) State, Local, and Tribal Governments	\$49.45 \$40.98 \$49.28
(h) Average hourly cost for collection $(\$49.45 + \$40.98 + \$49.28) \div 3$	\$46.57
(i) Costs per applicant by type of applicant (1) Businesses $(\$49.45 \times 10 \text{ hrs})$ (2) Individuals $(\$40.98 \times 10 \text{ hours})$ (3) State, Local, and Tribal Governments $(\$49.28 \times 10 \text{ hours})$	\$494.50 \$409.80 \$492.80
(j) Cost by applicant type (1) Businesses $(\$494.50 \times 9 \text{ applications})$ (2) Individuals $(\$409.80 \times 9 \text{ applications})$ (3) State, Local and Tribal Governments $(\$492.80 \times 3 \text{ applications})$	\$4450.50 \$3688.20 \$1478.40
(k) Costs to applicants for collection [sum of (j1), (j2), & (j3)]	\$9611.60
(l) Average cost to applicants for collection $(\$9611.60) \div 21 \text{ applications}$	\$457.70

**13. Provide an estimate of the total annual 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.

***Table 13-1 – Annual Cost Burden to Respondents or Recordkeepers:*** The burden estimates are based on the average number of applications received within a three-year collection period from Fiscal Year (FY) 2006 through FY-2008 (10/01/2005 through 09/30/2008). Respondents incur no annual capital or start-up costs to prepare for or respond to the information collection. Respondents do not need to purchase any computer software or hardware to comply with this information collection.

<u>Table 13-1</u>	
<u>Statement of Questions</u>	<u>Burden</u>
(a) Total capital and start-up cost	\$0
(b) Total operation/maintenance and purchase services	\$0

***Table 13-2 – Application Filing Fee:*** The estimates are based on the average number of applications received within a three-year collection period from Fiscal Year (FY) 2006 through FY-2008 (10/01/2005 through 09/30/2008). Pursuant to 43 CFR 2720.1-2(c) a nonrefundable filing fee of \$50 accompanies each application.

<u>Statement of Questions</u>	<u>Businesses</u>	<u>Individuals</u>	<u>State, Local, and Tribal Govts.</u>	<u>Totals</u>
(a) Applications	9	9	3	21
(b) Application filing fee by applicant type	\$50	\$50	\$50	\$50
(c) Application filing fee by applicant type (a x b)	\$450	\$450	\$150	\$1,050

**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.**

***Table 14-1 – Hourly Cost to Federal Government Per Position:*** The hourly cost to the Federal Government is based on the U.S. Office of Personnel Management 2008 General Pay Schedule. The benefits multiplier (1.5) is based on the BLS data published in the National Compensation Survey: Occupational Earnings in the U.S., 2007.

<u>Position</u>	<u>Grade (Step1)</u>	<u>Hourly Wage</u>	<u>Benefit Multiplier</u>	<u>Hourly Wage (including benefits)</u>
(a) Clerical	GS-7	\$15.59	1.5	\$23.38
(b) Technical	GS-11	\$23.07	1.5	\$34.60
(c) Manager	GS-13	\$32.88	1.5	\$49.42

***Table 14-2 – Federal Government Cost and Time for All Respondents:*** Time spent to process an application is based on the BLM's experience with the information collection. The hourly cost to the Federal Government is based on the U.S. Office of Personnel Management 2008 General Pay Schedule. The cost and time to the Federal Government is uniform regardless of the size or type of applicant.

<u>Position</u>	<u>(a) Hourly Wage (including benefits)</u>	<u>(b) Time to Process one application (hours)</u>	<u>(c) Cost (a x b)</u>
(1) Clerical	\$23.38	8	\$187.04
(2) Technical	\$34.60	32	\$1,107.20
(3) Managers	\$49.42	1	\$49.42
(4) Total Time and Cost for One Application		41 hours	\$1,343.66

**Table 14-3 – Federal Government Cost and Time for All Respondents:** This table includes Businesses, Individuals, and State, Local, and Tribal Governments.

<u>Table 14-3</u>			
<u>Statement of Questions</u>	<u>Businesses</u>	<u>Individuals</u>	<u>State, Local, and Tribal Governments</u>
(a) Estimate of annual applications	9	9	3
(b) Time to process one application	41 hours	41 hours	41 hours
(c) Cost to process one application	\$1,343.66	\$1,343.66	\$1,343.66
(d) Time to process applications (a x b)	369 hours	369 hours	123 hours
(e) Cost to Federal Government (a x c)	\$12,092.94	\$12,092.94	\$4,030.98
(f) Total Cost for All Respondents	\$28,216.86		

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

**Table 15-1 – Program Changes and/or Adjustments:**

<u>Table 15-1</u>				
<u>Statement Question (For Collection)</u>	<u>Previous Collection</u>	<u>This Collection</u>	<u>Difference</u>	<u>Reason</u>
(a) Annual applications	12 applications	21 applications	+9 applications	Adjustment
(b) Applicants' burden hours	120 hours	210 hours	+90 hours	Adjustment
(c) Applicants' burden costs	\$2,400	\$9,612	+\$7,212	Adjustment
(d) Cost to Applicants	\$2,400	\$9,612	+\$7,212	Adjustment
(e) Cost to Federal Govt.	\$1,200	\$28,216	+27,016	Adjustment

**Explanation for Changes and/or Adjustments:**

Table 15-1(a) – Annual Applications: The increase in the number of annual applications received by the BLM during the collection period is an adjustment due to an increase in the number of applicants.

Table 15-1(b) – Applicants' Burden Hours: The increase in burden hours is an adjustment due to an increase in the number of applications received during this collection period, which resulted in the increase in the number of burden hours.

Table 15-1(c) – Applicants' Burden Costs: The increase in burden costs is an adjustment. due to: (1) an increase in the number of applications received for this collection; and (2) the use of Bureau of Labor Statistics (BLS) data to calculate the cost. The BLM did not use BLS data to calculate the cost for the previous collection.

Table 15-1(d) – Cost to Applicants: The increase in the cost to applicants is an adjustment due to: (1) an increase in the number of applications received for this collection; and (2) the use of BLS data to calculate the cost. The BLM did not use BLS data to calculate the cost for the previous collection.

Table 15-1(e) – Cost to Federal Government: The increase in the cost to the Federal Government is an adjustment due to: (1) an increase in the number of applications received for this collection; (2) the use of data from the Office of Personnel Management to calculate the cost; and (3) increases in Federal Government hourly wages and benefits since the previous collection.

**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 this information 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 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 Submissions," of OMB Form 83-I.**

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