

Supporting Statement for Paperwork Reduction Act Submission

Mineral Surveys, Mineral Patent Applications, Adverse Claims, Protests, and

Contests

Forms 3860-2 and 3860-5

43 CFR Part 3860 and 43 CFR Part 3870

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 a 3-year extension of the previously approved information collection requirements pertaining to mineral patent applications, and to challenges to such applications. A patent is an instrument by which the United States conveys legal title to a parcel of Federal land. The General Mining Law of 1872, as amended (30 U.S.C. 21 – 54), authorizes the issuance of mineral patents to persons, associations, and corporations. Regulations at 43 CFR Part 3860 authorize the information collections pertaining to mineral patents. Challenges to mineral patents are governed by 43 CFR Part 3870.

Three categories of mineral patents are authorized by the General Mining Law: vein or lode claim patents, placer claim patents, and patents for millsites that are attendant to vein or lode claims or placer claims. As a prerequisite to applying for a mineral patent, the claimant must “locate” the property under 30 U.S.C. 23 (vein or lode claims), 30 U.S.C. 35 (placer claims), and/or 30 U.S.C. 42 (millsites). "Location" is the act of taking or appropriating a parcel of land. The act of "location" includes posting a location notice on the mining claim or millsite, recording the location notice, and marking the mining claim or millsite boundaries on the ground.

A "vein or lode" claim is a location made upon a vein or lode of quartz or other "rock in place" bearing gold, silver, cinnabar, lead, tin, copper, or other valuable deposits. 30 U.S.C. 23. A "placer" claim is characterized by mineral deposits formed by sedimentary processes, and includes all forms of deposit except veins of quartz or other rock in place. 30 U.S.C. 35. A millsite is nonmineral land that is used or occupied by the proprietor of a lode or placer claim for mining, milling, or processing purposes. 30 U.S.C. 42.

The provisions of the General Mining Law that authorize the BLM to grant mining patents are 30 U.S.C. 29 (vein or lode claims), 35 (placer claims), and 42 (millsites). A mining claimant does not need to obtain a patent for a mining claim or millsite before beginning mining activities on the claim or site. However, a mineral patent gives the owner exclusive title to the locatable minerals, and it may give the owner title to the surface and other resources.

The following types of challenges to patent applications are authorized under 30 U.S.C. 29 and 30:

- In an adverse claim, rival mining claimants assert that they have mining claims covering part or all of the land applied for in the mineral patent application.
- Anyone may protest a patent application, at any time prior to the issuance of the patent, upon any ground tending to show that the applicant has failed to comply with relevant laws or regulations.
- A contest action is a proceeding brought to determine the validity or use of an unpatented mining claim or site.

The collections of information pertaining to mineral patents are authorized by regulations at:

- 43 CFR Subpart 3861 (applications for a mineral survey);
- 43 CFR Subpart 3862 ((applications for a vein or lode claim patent);
- 43 CFR Subpart 3863 (applications for a placer claim patent);
- 43 CFR Subpart 3864 (applications for a millsite patent); and
- 43 CFR Part 3870 (adverse claims, protests, and conflicts).

Congress has enacted a series of 1-year moratoria on spending appropriated funds for the acceptance or processing of new applications for patents for any mining or millsite claim. The first moratorium went into effect for fiscal year (FY) 1995, and the most recent moratorium went into effect for FY 2010. See Public Law No. 103-332, § 112 (the moratorium as originally enacted for FY 1995); Public Law No. 111-88, § 408 (the moratorium as enacted for FY 2010).

The BLM will not accept any new mineral patent applications while the moratorium is in effect. However, because the moratorium does not have retroactive effect, patent applications are grandfathered if they were filed on or before September 30, 1994, and received their “first-half final certificates” (FHFC) by that date. (The FHFC is given to patent applicants that are awaiting the mineral examiner's verification of the validity of the claim for final approval.)

As long as the moratorium remains in effect, the information collection requirements outlined in the regulations at 43 CFR Subparts 3862 through 3864 (mineral patent applications), and Subpart 3871 (adverse claims) are relevant only to grandfathered patent applications. The information collections for mineral survey applications (43 Subpart 3861) and for protest and contest actions (43 CFR Subparts 3872 and 3873), are not barred by the moratorium.

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) Forms

Form 3860-2 (Certificate of Title on Mining Claims, 43 CFR Subpart 3862, 3863, and 3864). BLM provides Form 3860-2 as a means to summarize chain-of-title data in support of an application for a mineral patent. The form may be completed by a title company or title attorney on the applicant's behalf and is submitted with the mineral patent application. A title abstract may be submitted in lieu of Form 3860-2. (A title abstract is a condensed history, taken from public records and documents, of the ownership of a piece of land and all claims that could be made against it.)

Form 3860-2 requires the respondent to summarize the results of a title records search in the relevant County or Borough Recording Office, and provides for the respondent's convenience a list of 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 the respondent to disclose a description of the land containing the mining claims and/or millsites, and the name and address of the person or corporation that performed the title search.

Form 3860-5 (Application for Survey of Mining Claim, 43 CFR Subpart 3861). An application for a mineral survey (Form 3860-5) is filed by a claim holder who intends to apply for a patent. A claim holder would file this form with the BLM in order to meet the legal requirements for a plat (a type of map) and field notes of the claim, made under the direction of the BLM, showing accurately the boundaries of the claim. See 30 U.S.C. 29; 43 CFR Subpart 3861. The Congressional moratorium discussed in Item No. 1, above, does not refer to the mineral patent survey, nor has the BLM been directed to interrupt the mineral survey program. As a result, the BLM accepts and processes Form 3860-5, notwithstanding the moratorium.

The BLM uses Form 3860-5 to standardize the filing of the information necessary for the BLM's Chief Cadastral Surveyor to authorize a land survey of the affected mining claims and millsites. Only one submission of Form 3860-5 is required per mineral patent application. A successful applicant for a mineral survey receives a list of BLM licensed Deputy U. S. Mineral Surveyors, and the BLM Chief Cadastral Surveyor issues a 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. The mineral surveyor's duty to the case at hand ends when the estimate of expenditures and improvements, field notes, and a preliminary survey plat are submitted to the BLM for approval as an official survey of the public lands.

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 millsites, the local and BLM recordation information, and the BLM serial numbers assigned to the mining claims and millsites. The information collected on lines 1-3 will establish the ownership of the mining claims and millsites 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 millsites are situated so that BLM may consult its land records for status of the land and check the location of the mining claims and millsites 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 millsite location on the ground, and that the actual boundaries of the mining claim and millsite are prominently marked on the ground so that the mineral surveyor may readily find them.

(b) Non-Form Information Collections

Before filing a mineral patent application, a claimant must post a copy of the plat of survey in a conspicuous place upon the claim, together with notice of his/her intention to apply for a patent therefor, which notice will give the date of posting, the name of the claimant, the name of the claim, the number of the survey, the mining district and county, and the names of adjoining and conflicting claims as shown by the plat of survey. 30 U.S.C. 29; 43 CFR 3861.7-1. After posting the plat and notice upon the premises, the claimant will file with the proper manager two copies of such plat and the field notes of survey of the claim, accompanied by two copies of the statement of at least two credible witnesses that such plat and notice are posted conspicuously upon the claim, giving the date and place of such posting, and two copies of the notice so posted to be attached to and form a part of such statement. 43 CFR 3861.7-2.

Mineral Patent Applications — In General. The information that must be filed with the BLM by mining claimants seeking to patent a vein or lode claim, placer claim, or millsite is required by the General Mining Law and by regulations of the BLM. 30 U.S.C. 29, 35 and 42; 43 CFR Subparts 3862, 3863, and 3864. All applicants for mineral patents must pay a processing fee in accordance with 43 CFR 3860.1. See 43 CFR 3862.1-2, 3863.1(c), and 3864.1-5.

A mineral patent application consists of statements, documentation, and proofs relative to each claim that is included in the application. The information in the application enables the BLM to meet its two primary responsibilities with respect to such applications — adjudication and mineral examination. A staff of land law examiners in each BLM State Office adjudicates applications for completeness and compliance with the relevant statutory and regulatory provisions. Once the application has successfully passed through the adjudication process, the case is assigned to a BLM field office for a formal mineral examination to verify the discovery of a valuable mineral deposit on the mining claims and proper use or occupancy for any millsites.

Two copies of the application must be filed with the BLM State Office having adjudicative responsibility over the mineral estate, whether or not the surface is Federally owned. In applying for a patent embracing land lying within land under the jurisdiction of more than one State Office, a full set of papers must be filed in each office, except that one abstract of title and one proof of patent expenditures will be sufficient. Only one newspaper publication and one posting on the claim will be required, but proof thereof must be filed in both offices. 43 CFR 3862.1-1.

Applications for mineral patents must be executed in the land district where the claim is located.

Any documents submitted with the application that are marked proprietary or confidential are removed from the file and hand carried to the mineral adjudicator. The authorities for such protection include 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.

Subpart 3862 — Mineral Patent Applications — Vein or Lode Claim. A mineral patent application for a vein or lode claim must show that the claimant has the possessory right to the claim by virtue of compliance with the mining rules, regulations, and customs of the mining district or State in which the claim lies, and with Federal mining laws. Under 43 CFR 3862.1-1, an application must:

- Describe fully the kind and character of the vein or lode;
- State whether ore has been extracted from the vein or lode and if so, in what amount and of what value;
- Show the precise place within the limits of each of the locations embraced in the application where the vein or lode has been exposed or discovered and the width thereof, in detail sufficient to enable the Government to confirm the same by examination in the field and also enable the BLM to determine whether a valuable deposit of mineral actually exists within the limits of each of the locations embraced in the application; and
- States whether the claimant has or has not had any part in the development of the atomic bomb project and if so, sets forth in detail the exact nature of the claimant's participation and states whether as a result of such participation he has acquired any confidential, official information as to the existence of deposits of uranium, thorium, or other fissionable source materials in the land covered by his application (note: this requirement applies to mining claims located after August 1, 1946).

Each patent application must be supported by evidence of title that satisfies the criteria described at 43 CFR 3862.1-3. This evidence may consist of a certificate of title or an abstract of title certified by the legal custodian of the records of locations and transfers of mining claims or by an abstracter of titles, accompanied by single copies of the certificate or notice of the original location of each claim, and of the certificates of amended or supplemental locations thereof, certified by the legal custodian of the record of mining locations. The certificate of title must conform substantially to Form 3860-2, but nonform data may meet the criteria of section 3862.1-3.

Each application must also be supported by evidence relating to destroyed or lost records, in the event of the mining records in any case having been destroyed by fire or otherwise lost (43 CFR 3862.1-4).

For lands in Alaska, the application must be supported by a duly corroborated statement showing that no portion of the land applied for is occupied or reserved by the United States, so as to prevent its acquisition (43 CFR 3862.1-5).

Proof of citizenship is also required, as follows:

- Corporation — a certified copy of the corporate charter or certificate of incorporation (43 CFR 3862.2-1);
- Association acting through an agent — a statement of the duly authorized agent, made upon his/her own knowledge or upon information and belief, setting forth the residence of each person forming such association, accompanied by a power of attorney from the parties forming such association, authorizing the person who makes the citizenship showing to act for them in the matter of their application for a patent (43 CFR 3862.2-1); or
- Individual or association of individuals who do not appear by their duly authorized agent — a statement of each applicant, showing whether or not he/she is a native or naturalized citizen, when and where born, and residence (43 CFR 3862.2-2(a)); or, in case an applicant has declared an intention to become a citizen or has been naturalized, a statement showing the date, place, and the court before which he/she declared the intention, or from which the certificate of citizenship was issued, and present residence (43 CFR 3862.2(b)).

Anyone applying for a patent as a trustee must provide full disclosure of the nature of the trust and the name of the “cestui que trust” (i.e., the person entitled to the equitable estate), satisfactory proof of citizenship for the trustee and beneficiaries, and the names of beneficiaries and trustee (43 CFR 3862.2-3).

Upon receiving any mineral patent application and accompanying paperwork, the BLM will arrange for publication of a notice of such application for a period of 60 days in the newspaper published nearest to the claim. 43 CFR 3862.2-4-1. The applicant is responsible for this cost of publication. After the 60-day period of newspaper publication has expired, the applicant will furnish to the BLM a sworn statement from the newspaper that the notice was published for the required amount of time. The applicant is also required to provide his/her own statement showing that the plat and notice remained conspicuously posted upon the claim during the 60-day publication period. 43 CFR 3862.4-5.

Subpart 3863 — Placer Mining Claim Patent Applications

Applications to patent placer mining claims usually must contain the same recitals necessary for applications to patent vein or lode mining claims, but where a placer claim is upon surveyed lands, and conforms to legal subdivisions, no further survey or plat will be required. 30 U.S.C. 35; 43 CFR 3863.1.

In addition to the requirements that apply when seeking to patent vein or lode claims, applications to patent placer claims must include proof of improvements made that are worth at

least \$400, and that they were made by the applicant or his grantors. This proof should consist of the statement of two or more disinterested witnesses. 43 CFR 3863.1-2.

Applications must also be supported by such data as will support the claim that the land applied for is placer ground containing valuable mineral deposits not in vein or lode formation, and that title is sought not to control water courses or to obtain valuable timber but in good faith because of the mineral therein. The following details should be covered as fully as possible:

- If the claim is for a deposit of placer gold, the yield per pan, or cubic yard, as shown by prospecting and development work, distance to bedrock, formation and extent of the deposit, and all other facts upon which the applicant bases the allegation that the claim is valuable for its deposits of placer gold.
- If the claim is for a deposit other than placer gold (e.g., building stone), the kind, nature, and extent of the deposit, including why the deposit is regarded as a valuable mineral claim; the natural features of the claim; a full description of streams, if any, including their course and amount of water carried; what kind and amount of timber and other vegetation; and adaptability to mining or other uses.

43 CFR 3863.1-3(a).

If the claim is for all placer ground, that fact must be stated in the application and corroborated by accompanying proofs. If the claim is for mixed placers and lodes, that fact must be stated in the application, along with a description of all known lodes within the boundaries of the claim. A specific declaration, such as is required by 30 U.S.C. 37, must be furnished as to each lode intended to be so claimed. All other known lodes are, by silence of the applicant, excluded by law from all claim by him/her. 43 CFR 3863.1-3(b).

Subpart 3864 — Millsite Patents

Holders of vein or lode claims may apply for millsite patents if they hold a possessory right, for mining or milling purposes, to nonmineral land that is not contiguous to the vein or lode. These applications are subject to the same requirements as to survey and notice that are applicable to vein or lodes. Owners of quartz mill or reduction works, not owning a mine in connection therewith, may also receive a patent for their millsite. 43 U.S.C. 42(a).

A placer claimant may include a millsite patent application, covering nonmineral land, in an application for a placer claim patent by showing that:

- The proprietor of the of the claim needs the land for mining, milling, processing, beneficiation, or other operations in connection with the placer claim, and
- The land is used or occupied by the proprietor for such purposes.

43 U.S.C. 42.

Subpart 3871 – Adverse Claims

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 an 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 inform the party who files the adverse claim that, within 30 days from the date of such filing, proceedings must be commenced in a court of competent jurisdiction to determine the question of the right of possession. See 30 U.S.C. 30; 43 CFR 3871.3(a). If the adverse claimant fails to commence suit in court within the 30-day period, a statutory waiver of the adverse claim will result. Based on our experience, we anticipate no adverse claims until the Congressional moratorium is lifted.

43 CFR Subpart 3872 – Protests, Contests, and Conflicts

Protests: 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. Based on our experience, we anticipate no more than one protest annually against grandfathered patent applications.

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 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 set out in the protest, which will then cause BLM to re-adjudicate the application, or dismiss the protest.

Contests: If the BLM or an underlying claimant initiates a contest complaint, the claimant must serve 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 a hearing before an Administrative Law Judge of the Department's Office of Hearings and Appeals under 43 CFR Part 4, Subpart E.

Conflicts: The regulations do not clearly specify what form of challenge is meant by the term "conflicts," and a supervisory attorney within the Department's Office of the Solicitor advised us that "conflicts" is not a term of art at present.

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].

The forms used in this submission are available online in a fillable format. Respondents may submit completed forms electronically via email.

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 mining claim and prospective mineral patent owner and is unsuitable for other uses. The information is unique to the physical site of the land the mining claim or millsite encompasses. The chain-of-title information required for patent is unique to the ownership history of the mining claim or millsite. 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 businesses (Item 5 of OMB Form 83-I), describe any methods used to minimize burden.

The pertinent 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 millsites prior to applying for a mineral patent. The title information is unique to the owner(s) of the mining claims and millsites applied for. Therefore, we use no special methods to minimize the information collection burden on small businesses or other small entities. The collection procedures are the same whether the owner is an individual, a partnership, or a corporation. We collect only the minimum information necessary.

BLM adjusts the 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. As of October 1, 2009, mineral patent applicants are charged a fee of \$ 2,820 fee for the adjudication of more than 10 claims. Applicants with 10 or fewer claims are charged a fee of \$1,410. The majority of mining claimants are either individuals or small companies that would be considered small businesses.

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 vests in the owner(s) of mining claims and millsites the right 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 scope of the information to be filed with the BLM is specified in the General Mining Law, and the BLM lacks discretion to change it.

The application for a mineral survey is filed once by the owner(s) of a group of mining claims or millsites. 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 of this information is impossible and would mean no collection at all, and the BLM lacks discretion to collect no information 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.

The required 60-day notice was published in the Federal Register on June 3, 2009, (74 FR 26726). The public comment period closed on August 3, 2009. We did not receive any comments.

In the last 3 years, only two new applications for a mineral survey have been filed. Due to the mineral patent appropriations moratorium, no new 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.

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 required 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.**

Based on the data in the tables below, we estimate that the total number of annual responses is 7, the total annual hour burden is 256, and the dollar value of the burden hours is \$12,018.17. For collections subject to the congressional moratorium, we have included one annual response as a placeholder for the information collection requirements contained in our regulations. Based on our experience, we estimate there will be no more than one response per year for each of the remaining information collections as long as the moratorium remains in effect. The frequency of response for all the information collections in this submission is “on occasion.”

The hourly pay rates are estimated using national Bureau of Labor Statistics (BLS) data at: http://www.bls.gov/oes/current/oes_nat.htm. The benefits multiplier of 1.4 is implied by information on page 4 of USDL 09-1098, September 10, 2009, at <http://www.bls.gov/news.release/pdf/ecec.pdf>. Although anyone may apply for mineral patents or challenge an application, most respondents have a professional complete the necessary

paperwork because of technical requirements. Because of the moratorium, we are estimating only one response per information collection requirement. Therefore, we have estimated the dollar value of the burden hours on those most likely to complete the necessary paperwork (see tables 12-2 through 12.6).

Table 12-1 - Consolidated Burden

Activity	No. of Respondents	No. of Responses	Completion Time Per Response	Total Annual Burden Hours	Dollar Value of Burden Hours*
Form 3860-2/Title Abstract	1	1	4	4	\$ 113.36
Form 3860-5 - Mineral Survey Application	1	1	1	1	32.84
Patent Application - Lode Claim	1	1	80	80	3,649.80
Patent Application - Placer Claim	1	1	80	80	3,649.80
Patent Application - Millsite Claim	1	1	80	80	3,649.80
Adverse Claims	1	1	3	3	251.61
Protests, Contents, and Conflicts	1	1	8	8	670.96
Total	7	7		256	\$12,018.17

*rounded.

Table 12-2 - Form 3860-2/Title Abstract

Occupational Category	Mean Hourly Wage	Hourly Wage Including Benefits	Hours Per Response	Dollar Value Of Burden Hours
Title Examiners, Abstractors, and Searchers	\$20.24	\$28.34	4	\$113.36

Table 12-3 - Form 3860-5 - Mineral Survey Application

Occupational Category	Mean Hourly Wage	Hourly Wage Including Benefits	Hours Per Response	Dollar Value Of Burden Hours
Paralegals and Legal Assistants	\$23.46	\$32.84	1	\$ 32.84

Table 12-4 - Patent Applications (Lode Claim, Placer Claim, and Millsite Claim)

Occupational Category	Mean Hourly Wage	Hourly Wage Including Benefits	Hours Per Response	Dollar Value Of Burden Hours
Paralegals and Legal Assistants	\$23.46	\$32.84	60	\$1,970.40
Lawyers	59.98	83.87	20	1,679.40
Total				\$3,649.80

Table 12-5 - Adverse Claims

Occupational Category	Mean Hourly Wage	Hourly Wage Including Benefits	Hours Per Response	Dollar Value Of Burden Hours
Lawyers	59.98	83.87	3	\$ 251.61

Table 12-6 - Protests, Contests, and Conflicts

Occupational Category	Mean Hourly Wage	Hourly Wage	Hours Per	Dollar Value Of Burden

	Wage	Including Benefits	Response	Hours
Lawyers	59.98	83.87	8	\$ 670.96

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.

We estimate that the total nonhour burden cost is \$86,605. As explained below, that total includes \$6,505 in fixed fees, \$600 in publication costs, and \$79,500 for validity examinations.

There are no capital and startup costs.

The following costs are included in Table 13, below:

- Fixed document-processing fees for mineral patent applications, adverse claims, and protests, contests, and conflicts;
- Case-by-case costs of a validity examination and report by a BLM Certified Mineral Examiner; and , to be determined on a case-by-case basis for each mineral patent application under regulations that went into effect on November 7, 2005, see 30 U.S.C. 39; 43 CFR 3000.1 and 3860.1(b); and

- The cost of publishing a notice of each mineral patent application for a period of 60 days in the newspaper published nearest to the claim (43 CFR 3862.2-4-1), estimated to be \$200 per application.

The fixed document-processing fees are authorized by regulations (43 CFR 3000.12, and 3860.1) that went into effect on November 7, 2005, and have been updated annually, see 70 FR 58853 (Oct. 7, 2005) (as updated at 72 FR 50882 (Sept. 5, 2007); 73 FR 54717 (Sept. 23, 2008); and 74 FR 49334 (Sept. 28, 2009)). These regulations were promulgated in accordance with Section 304 of the Federal Land Policy and Management Act (43 U.S.C. 1734), the Independent Offices Appropriation Act (31 U.S.C. 9701), and OMB Circular No. A-25 (“User Charges”). In the most recent adjustment, the fee for mineral patent applications was set at \$2,820 for an application covering more than ten claims, and \$1,410 for an application covering ten or fewer claims. The median between these two amounts is \$2,115; that is the amount for all mineral patent applications shown in Table 13, below.

The criteria for determining case-by-case fees, including the fees for validity examinations associated with mineral patent applications, were also promulgated in the 2005 rulemaking, and are codified at 43 CFR 3000.11. Because of the Congressional moratorium, we have not reached the stage of validity examinations for any mineral patent applications under the 2005 regulations, so our estimate of \$26,500 is based on our experience with validity examinations in the context of other types of mineral applications.

A single response for each information collection is assumed, in view of the Congressional moratorium described in Item 1, above. In Table 13, below, the notation “N/A” means that there is no fixed processing fee for that particular information collection, no estimated publication costs, and/or no estimated case-by-case fee for a validity examination.

Table 13 – Nonhour Costs Associated with These Information Collections

(a) Type of Response	(b) Amount of Fixed Document-Processing Fee	(c) Estimated Publication Cost	(d) Estimated Case-by-Case Fee for Validity Examination	(e) Total Estimated Nonhour Costs
Form 3860-2, Certificate of Title on Mining Claims, or Title Abstract (43 CFR Subpart 3862)	N/A	N/A	N/A	N/A
Form 3860-5, Applications for Mineral	N/A	N/A	N/A	N/A

Survey (43 CFR Subpart 3861)				
Lode Mining Claim Patent Applications (43 CFR Subpart 3862)	\$2,115.00	\$200.00	\$26,500.00	\$28,815.00
Placer Mining Claim Patent Applications (43 CFR Subpart 3863)	\$2,115.00	\$200.00	\$26,500.00	\$28,815.00
Millsite Patents (43 CFR Subpart 3864)	\$2,115.00	\$200.00	\$26,500.00	\$28,815.00
Adverse Claims (43 CFR Subpart 3871)	\$100.00	N/A	N/A	\$100.00
Protests, Contests, and Conflicts (43 CFR Subpart 3872)	\$60.00	N/A	N/A	\$60.00
Totals	\$6,505.00	\$600.00	\$79,500.00	\$86,605.00

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 that the total annual cost to the Federal Government is \$16,492 (\$47.12 per hour X 350 hours).

Federal staff at offices across the United States will spend approximately 350 hours annually reviewing and processing documents associated with these information collections. We estimate a weighted average of \$47.12 per hour (see Table 14-1). The hourly cost to the Federal Government is based on the U.S. Office of Personnel Management 2009 General Pay Schedule located at <http://www.opm.gov/oca/09tables/indexGS.asp>. We multiplied the hourly wage by 1.5 to account for benefits, as implied by information on page 4 of USDL 09-1098, September 10, 2009, at <http://www.bls.gov/news.release/pdf/ecec.pdf>.

Table 14-1 — Weighted Average Federal Wage Cost Associated With These Information Collections

Position	Pay Grade	Hourly Pay Rate (\$/hour)	Hourly Rate with Benefits (x 1.5)	Percent of time spent on these collections	Weighted Avg. (\$/hour)
Clerical	GS-5/5	\$16.71	\$25.07	30%	\$ 7.52
Mining Engineer	GS-12/5	\$36.72	\$55.08	60%	\$33.05
Supr. Mining Engineer	GS-13/5	\$43.66	\$65.49	10%	\$ 6.55
Weighted Average Hourly Pay Rate (\$/hour)					\$47.12

Table 14-2 — Estimated Annual Cost to the Government

(a) Type of Response	(b) Number of Responses	(c) Hours Per Response	(d) Total Hours (b x c)	(e) Total Wage Cost (d x \$47.12)
Form 3860-2, Certificate of Title on Mining Claims, or Title Abstract (43 CFR Subpart 3862)	1	4	4	\$188.48
Form 3860-5, Applications for Mineral Survey (43 Subpart 3861)	1	1	1	\$47.12
Lode Mining Claim Patent Applications (43	1	110	110	\$5,183.20

Subpart 3862)				
Placer Mining Claim Patent Applications (Subpart 3863)	1	110	110	\$5,183.20
Millsite Patents (43 Subpart 3872)	1	90	90	\$4,240.80
Adverse Claims (43 CFR Subpart 3871)	1	3	3	\$141.36
Protests, Contests, and Conflicts (43 CFR subpart 3872)	1	32	32	\$1,507.84

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

We are requesting 7 responses and 256 annual burden hours, which is a decrease of 233 responses and 8,289 burden hours from our previous submission. This downward adjustment reflects the limited activity related to these information collections because of the congressional moratorium on accepting and processing applications for mineral patents. The change in the estimated nonhour cost (from \$150 in the previous submission to \$86,605 in this submission) accurately reflects the fees and costs associated with the information collection requirements.

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.

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 “Certification for Paperwork Reduction Act Submission.”

We are not seeking any exception to this certification.