

**Supporting Statement A for
Paperwork Reduction Act Submission**

OMB CONTROL NUMBER 1024-0064

**MINING AND MINING CLAIMS; NON-FEDERAL OIL AND GAS
OPERATIONS IN THE NATIONAL PARK SYSTEM
36 CFR PART 9, SUBPART A and 36 CFR PART 9, SUBPART B
September -- 2009**

Terms of Clearance: OMB approved this information collection on February 28, 2007 with the following terms of clearance: None

1. Explain the circumstances that make the collection of information necessary.

Congress, in the Organic Act of 1916, 16 U.S.C. §1 *et seq.*, authorized the Secretary of the Interior to develop regulations for the park units under the department's jurisdiction. In 1976, Congress passed the Mining in the Parks Act, 16 U.S.C. §1901 *et seq.*, which directed the Secretary of Interior to regulate all operations in park units in connection with the exercise of mineral rights on patented and unpatented mining claims.

9A Regulations

In accordance with Mining in the Parks Act of September 28, 1976, and the National Park Service (NPS) Organic Act, as amended, the NPS promulgated regulations at 36 CFR Part 9, Subpart A in 1977 to ensure that activities on valid mining claims in units of the National Park System are conducted in a manner consistent with preserving each unit in the system for the benefit of present and future generations. The regulations require claimants to submit specific information describing their future development plans including steps to mitigate the impacts of mining operations, and preclude claimants from conducting any operations until they have NPS approval. NPS uses the information to evaluate proposed operations, ensure that all necessary mitigation measures are employed to protect park resources and values, and ensure compliance with all applicable laws and regulations.

9B Regulations

In accordance with the National Park Service (NPS) Organic Act of August 25, 1916, as amended, 16 U.S.C. §1 *et seq.*, and individual park enabling statutes, the National Park Service (NPS) promulgated regulations at 36 CFR Part 9, Subpart B in 1978 to ensure that non-Federal oil and gas activities in units of the National Park System are conducted in a manner consistent with preserving each unit in the system for the benefit of present and future generations. The regulations require operators to submit specific information describing their future oil and gas development plans, including steps to mitigate impacts. NPS uses the information to evaluate proposed operations (new plans, supplements to plans, applications for exemption pursuant to §9.32(e)), ensure that all necessary mitigation measures are employed to protect park resources

and values, and ensure compliance with all applicable laws and regulations. Operators must have their operations approved by the NPS before they commence development inside a unit of the National Park System.

Copies of both 9A and 9B regulations and statutes are attached to this Supporting Statement.

2. **Indicate how, by whom, how frequently, and for what purpose the information is to be used. If the information collected will be disseminated to the public or used to support information that will be disseminated to the public, explain how the collection complies with all applicable Information Quality Guidelines.**

9A Regulations

The collection of information required by the NPS mining regulations identifies the claim, claimant, and operator (the claimant and operator are often the same) and details how the operator intends to access and develop the minerals associated with the claim. It also identifies the steps the operator intends to take to minimize any adverse impacts of the mining operations on park resource and values. No information, except claim ownership information, is submitted unless the claimant wishes to conduct mining operations.

The information will be used by the NPS to maintain files on the parties responsible for mineral development on mining claims in units of the National Park System, to evaluate proposed access and mining operations to ensure that the Service's Congressional mandates identified in item #1 are satisfied, to ensure that park resources and values are protected from possible damage due to mining operations, and to meet NPS responsibilities under the National Environmental Policy Act (NEPA), 42 U.S.C. §4321 *et seq.*, 40 CFR Parts 1500-1508, and the National Historic Preservation Act of 1966 (NHPA), as amended, 16 U.S.C. §470 *et seq.*, 36 CFR Part 800. The information is required to obtain approval from the NPS to conduct mining operations under 16 U.S.C. §1901 *et seq.* Without the requested information, the NPS cannot make defensible decisions regarding the conduct of mining operations on valid claims in units of the National Park System. Allowing mining operations to occur without collecting the information would violate several statutes, including the Mining in the Parks Act, the NPS Organic Act, the National Historic Preservation Act, the Endangered Species Act, and NEPA, and would result in unnecessary damage to park resources and values. The exact information submitted by any given operator depends on the immediate topography, configuration of the mineral deposit, available extraction technologies for the particular commodity, and the resources and values in the area. The potential environmental effects resulting from mining activity within units of the National Park System necessitate the collection and evaluation of such site-specific data.

Plans of operations are required before conducting mining activities on a claim pursuant to 36 CFR §§ 9.3, 9.7 and 9.9. In Alaska, 43 CFR Part 36 governs access to claims pursuant to 36 CFR §9.3, and form SF 299 - Application for Transportation or Utility System and Facilities on Federal Lands, OMB No. 1004-0060, must generally be submitted to obtain approval for access. Outside Alaska, claimants do not need to submit a request for access distinct from their plan of operations. To conduct mining

operations associated with claims in Alaska, operators must obtain NPS approval of a proposed plan of operations pursuant to 36 CFR §§9.7 and 9.9.

36 CFR §9.5 requires recordation of unpatented mining claims with the Bureau of Land Management (BLM) in accordance with 43 U.S.C. §1744 and 43 CFR §3833. This section of the NPS regulations serves simply to notify claimants that they must comply with BLM regulations and information collection requirements, which have been assigned OMB clearance number 1004-0114. This section of the NPS regulations has been modified by legislation stemming back to 1992 when Congress first directed that unpatented mining claimants pay an annual maintenance fee instead of performing annual assessment work to keep their claims. BLM implementing regulations are located at 43 CFR Parts 3700 and 3800.

36 CFR §9.6 requires claimants to notify the NPS of any changes in claim ownership. There is no particular form for submitting this information to the Service. This information is needed to identify and communicate with persons legally responsible for ensuring that all activities on a claim are conducted in compliance with applicable laws and regulations.

36 CFR §9.9 requires an approved plan of operations prior to conducting any mining operations in a unit of the National Park System. It also requires claimants to adhere to the requirements in their plans of operations as approved. The information that must be included in a plan of operations is specified in this section along with additional requirements in 36 CFR §§ 9.7, 9.8, 9.11 and 9.13. An approved mining plan of operations is in effect a legally binding contract between the operator and the NPS to conduct operations only in the manner as stated and approved, with penalties for noncompliance. Thus, the plan must be detailed, clearly understood, and accurate. The NPS has prepared several publications to assist mining claimants in preparing plans of operations, and understanding and complying with these requirements.

The collection of information required by 36 CFR §9.9(b) is discussed in detail below.

Names and legal addresses are needed to identify the claim, claimant, and operator. The map(s), descriptions of the mode of transport and major equipment, proposed operations with development timeframes, and the nature and extent of the known deposit are needed to enable the NPS and any interested public reviewers to evaluate the proposed operations. The NPS also needs information sufficiently specific to enable the Service to perform detailed engineering and environmental analyses necessary to meet the requirements of the laws mentioned above. The NPS will use the information to ensure that the operator will be able to conduct safe and environmentally acceptable mining operations within the confines of the mining claims.

Because the NPS cannot approve an operation that violates any law or regulations, documentation of compliance with applicable Federal, State and local laws and regulations is also required (this can be satisfied by supplying copies of permits, licenses, etc.). The reclamation plan is needed to ensure that the claim is left in a safe and environmentally sound condition during and after mining operations. The environmental report and the discussion of the park's planning documents and mitigation measures demonstrate that the operator has considered and has some

understanding of the nationally significant resources and values in which he/she plans to conduct mining operations. This information is also necessary to facilitate preparation of NPS documents in compliance with NEPA.

36 CFR §9.10(e) requires a determination by the NPS Regional Director prior to approval of a plan of operations whether the proposed operations may have an effect on certain cultural resources, in compliance with the National Historic Preservation Act of 1966. Prospective operators must also comply with the requirements of the Archeological Resources Protection Act (ARPA), 16 U.S.C. §§470aa-mm, and 43 CFR Part 7. Although 36 CFR §9.10(e)(3) places the burden on the operator to obtain the information necessary for these determinations, in practice, the NPS has normally provided the expertise to completely satisfy this requirement to avoid duplication of effort with the claimant, due to NPS's own responsibilities under the cultural resource laws. This section also requires the operator to notify the park Superintendent if any cultural and/or scientific resource is discovered during the course of operations that may be altered or destroyed by the operation.

36 CFR §9.12 allows for supplementing or revising an approved plan of operations at the initiation of either the operator or NPS. To initiate a revision, the operator must submit a written statement for NPS consideration and approval describing and justifying the proposal. There is no standard form for this statement.

To enable the NPS to complete the reclamation requirements in the approved plan of operations in the event the claimant defaults on his/her commitment, 36 CFR §9.13 requires a performance bond or security deposit before operations may begin. No standard form exists for filing a bond or security deposit.

36 CFR §9.14 allows claimants to file formal written grievances with the NPS Regional Director if they believe that erroneous decisions have been made regarding their requests for approval to conduct mining operations. No standard form exists for submitting an appeal.

36 CFR §9.15 requires registration of all commercial vehicles with the park Superintendent, and payment of a registration fee. The type and number of vehicles to be used in the mining operations must be listed in the plan operations.

No information submitted for this collection will be disseminated to the public or used to support information that will be disseminated to the public. Neither is any information shared or disseminated to any organizations inside or outside of the National Park Service. The only time any information would be disseminated to the public or other organizations is when such a request is properly submitted pursuant to the Freedom of Information Act (FOIA).

9B Regulations

The collection of information required by the NPS non-Federal oil and gas regulations identifies the owner and operator (the owner and operator are often the same) and details how the operator intends to access and develop the oil and gas right. It also identifies the steps the operator intends to take to minimize any adverse impacts on

park resources and values. No information is submitted unless the owner wishes to conduct oil and gas operations.

The information will be used by the NPS to evaluate proposed access and oil and gas operations to ensure that the Service's statutory mandates identified in item #1 are satisfied, to ensure that park resources and values are protected from possible damage due to oil and gas operations, and to meet NPS responsibilities under the National Environmental Policy Act (NEPA), 42 U.S.C. §4321 *et seq.*, 40 CFR Parts 1500-1508, and the National Historic Preservation Act of 1966 (NHPA), as amended, 16 U.S.C. §470 *et seq.*, 36 CFR Part 800. Operators must submit the information to obtain approval from the NPS to conduct oil and gas operations under 16 U.S.C. §1 and §3, and individual park enabling acts. Without the requested information, the NPS cannot make defensible decisions regarding the conduct of oil and gas operations in units of the National Park System. Allowing oil and gas operations to occur without collecting the information would violate several statutes, including the NPS Organic Act, the National Historic Preservation Act, the Endangered Species Act, and NEPA, and would result in unnecessary damage to park resources and values. The exact information submitted by any given operator depends on the immediate environment, configuration of the deposit, available extraction technologies, the resources in the area, and the operator's commercial interests. The potential effects resulting from oil and gas activity within units of the National Park System necessitates the collection and use of such site-specific data.

Approved plans of operations are required before conducting oil and gas activities pursuant to 36 CFR §§ 9.32 and 9.36. One plan may cover, and usually does cover, more than one operation. Under the current regulations, some operations in park units qualify for an exemption from the plan of operations requirement if the operation existed on the effective date of the regulations or an operator can obtain access to the outstanding oil and gas right inside a park unit without crossing federally owned or controlled lands or waters. Because adverse impacts to park resources and visitor safety result from these exemptions, the NPS intends to eliminate the regulatory exemptions in the near-term.

36 CFR §9.32 requires an approved plan of operations prior to conducting any oil and gas operations in a unit of the National Park System. It also requires operators to adhere to the requirements in their plan of operations as approved. An approved oil and gas plan of operations is in effect a legally binding contract between the operator and the NPS to conduct operations only in the manner stated and approved, with penalties for noncompliance. Thus, the plan must be detailed, clearly understood and accurate. The NPS has prepared several documents to assist oil and gas operators in preparing plans of operations, and understanding and complying with these requirements.

The collection of information requirements of 36 CFR §9.36 (b) is discussed in detail below.

Names and legal addresses are needed to identify the owner, lessee and operator. The map(s), descriptions of the mode of transport and major equipment, proposed operations with a development timetable, and the nature and extent of the known

deposit are needed to enable the NPS and any interested public reviewers to evaluate the proposed operations. The information must be sufficiently specific to enable the NPS to perform detailed engineering and environmental analyses necessary to meet the requirements of the laws mentioned above. The NPS will use the information to ensure that the operator will conduct a safe and environmentally acceptable operation within the confines of the property right interest.

Because the NPS cannot approve an operation that violates any law or regulation, an affidavit of compliance with applicable Federal, State, and local laws and regulations is also required (this can be satisfied by supplying copies of permits, licenses, etc.). The reclamation plan is needed to ensure that the site of operations is left in a safe and environmentally sound condition during and after operations. The operator's environmental report and the discussion of the park's planning documents and mitigation measures demonstrate that the operator has considered and has some understanding of the nationally significant resources and values present where he/she plans to conduct operations. This information is also necessary to facilitate preparation of NPS documents in compliance with NEPA.

In compliance with the National Historic Preservation Act of 1966, 36 CFR §9.37 (e) requires the NPS Regional Director to determine whether a proposed operation may have an effect on certain cultural resources. Although the burden is on the operator to obtain the information necessary for this determination, in practice, the NPS has normally provided the expertise to completely satisfy this requirement to avoid duplication of effort with the operator, due to the NPS's own responsibilities under the cultural resource laws. Prospective operators must also comply with the requirements of the Archeological Resources Protection Act (ARPA), 16 U.S.C. §470aa-mm and 43 CFR Part 7.

36 CFR §9.47 (e) requires the operator to notify the park Superintendent if any cultural and/or scientific resource is discovered during the course of operations that may be altered or destroyed by the operation.

36 CFR §9.40 allows for supplementing or revising an approved plan of operations at the initiation of either the operator or NPS. To initiate a revision, the operator must submit a written statement for NPS consideration and approval describing and justifying the proposal. There is no standard form for this statement.

To enable the NPS to complete the reclamation requirements in the approved plan of operations in the event the operator defaults on his commitment, 36 CFR §9.48 requires a performance bond or security deposit before operations may begin. No standard form exists for filing a bond or security deposit.

36 CFR §9.49 allows operators to file formal written grievances with the NPS Regional Director if they believe that erroneous decisions have been made regarding their requests for approval to conduct oil and gas operations. No standard form exists for submitting an appeal.

36 CFR §9.50 requires registration of all commercial vehicles with the park Superintendent, and payment of a registration fee. The type and number of vehicles to be used in the oil and gas operations must be listed in the plan of operations.

No information submitted for this collection will be disseminated to the public or used to support information that will be disseminated to the public. Neither is any information shared or disseminated to any organizations inside or outside of the National Park Service. The only time any information would be disseminated to the public or other organizations is when such a request is properly submitted pursuant to the Freedom of Information Act (FOIA).

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 required information is unique to each specific site, operator, and operation. There is no information collection burden unless the claimant or operator initiates a request to conduct mining operations or non-federal oil and gas operations (except for the requirement to notify NPS of a change in claim ownership). The nature of the data does not lend itself to the use of "improved information technology" as a way to reduce the burden on claimants. Claimants may, however, submit information to the NPS electronically and 25 % of respondents typically submit their information via email or other electronic means. The data is technical and must be reviewed by subject matter experts in a variety of fields. The information is vital to park resource protection and management, and is kept on file. The results of the information collection will not be made available to the public over the internet.

4. **Describe efforts to identify duplication.**

No similar information is collected by the NPS or other agencies. Federal requirements take precedence over any State and local requirements for information of this sort. Because the information requested is specific to the claim, operator, and operations, duplication of effort and information is not possible.

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

The information burden of a claimant depends upon the nature of the proposed operation. The size of business makes no difference. The information required is the minimum necessary to allow the NPS to make decisions on approving or disapproving proposed plans of operations while meeting NPS's responsibilities under the laws and regulations listed above to ensure protection of park resources and values. The NPS encourages claimants and operators to contact appropriate NPS staff for assistance in designing environmentally sound development strategies. NPS provides guidance on how to prepare an acceptable plan of operations and other required documents. The NPS has publications available to assist claimants in meeting these requirements.

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

If the NPS did not require operators to submit proposed plans of operations for review and approval prior to commencing development, the NPS would fail to carry out its statutory mandates and mining and non-federal oil and gas operations would degrade park resources and jeopardize visitor safety. Over the course of an operation, the NPS only requires a one-time submittal of a complete plan of operations. Thus, collection frequency cannot be reduced.

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.**

None. There are no circumstances that require the information be collected in a manner inconsistent with OMB guidelines.

18. **Provide 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 (or in response to a PRA statement) and describe actions taken by the agency in response to these comments.**

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.]

74 FR 24871 – 24872 (May 26, 2009). The NPS received no comments in response to the *Federal Register* Notice (see attachment). The comment period ended on July 27, 2009.

The paperwork burden on the affected regulated public (i.e., 9A and 9B operators) reported by the NPS encompasses the following 2 parts: an estimate for the number of responses, and an estimate on the amount of time individual respondents spend complying with the Service's regulatory requirements. It is important to keep in mind that the number of operators subject to this regulatory requirement is extremely limited, i.e., an estimated 4 responses per year for mining claimants, and 20 for non-federal oil and gas operators. In determining the number of responses that fall within the scope of the regulations the NPS uses the actual number of regulatory actions submitted in prior years adjusted up or down depending on external factors like the price of gold and oil and gas. As the price for commodities increases, interest in developing marginal deposits or plays increases, making it more likely that the NPS will witness more applications from prospective operators. With respect to the second element making up the Service's estimate of the paperwork burden, the NPS uses a range to account for the breadth of actions operators may seek to undertake in parks to develop their private mining rights or oil and gas rights. These individual actions may also vary in complexity.

Contact with persons outside the agency

The following demonstrates the NPS's effort to comply with the requirement of consultation with persons outside the agency.

9A Regulations

Currently, 1321 mining claims exist in 18 units of the National Park System. The majority of the claims exist in two units: Mojave National Preserve in California with 511 claims, and Wrangell-St. Elias National Park and Preserve in Alaska with 324 claims. Mojave National Preserve was added to the National Park System in 1994 via the California Desert Protection Act.¹

Prior to 1985, numerous mining operations on claims occurred in parks, especially in 3 units in Alaska. However, in 1985, a coalition of environmental groups successfully sued the NPS in Federal District Court in Alaska over the agency's failure to properly implement its regulations at 36 CFR Part 9, Subpart A and the National Environmental Policy Act at three NPS-managed units in Alaska. The case was appealed to the 9th Circuit Court of Appeals, which upheld the lower court's ruling.

In the aftermath of the litigation, interest in mining on mining claims in units of the National Park System dramatically dropped off. Only a few operations have since been approved by the NPS. The last approval occurred in 2003 for a proposed mining

¹ The statute added Mojave National Preserve and expanded the acreage and number of claims at Death Valley National Park and Joshua Tree National Park.

operation at Wrangell-St. Elias National Park & Preserve. At present only 2 mining operations on mining claims exist in the National Park System, the aforementioned operation and the Billy Mine at Death Valley National Park, which was approved back in the late 1970s/early 1980s.

While the level of activity and interest by potential respondents under the 36 CFR Part 9A regulations has nearly ceased, the NPS nonetheless has included an estimated average of 4 respondents and 4 plans per year because NPS has a legal obligation to maintain an active paperwork budget for these regulations given that outstanding mining claims exist in parks and market forces could change to renew interest in conducting mining operations on such claims. Because of the lack of a robust regulated community in parks under these regulations (1 data point in over 10 years), it was not practicable to directly contact mining operators for feedback as to the reasonableness of the NPS estimate of the incremental time involved to comply with Service's 9A regulatory requirements.

9B Regulations

Three persons outside the agency were contacted to obtain their views on the availability of data, frequency of collection, the clarity of instruction and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported for the 9B regulations.

Contact 1: Contact Made: 09/22/09

Tanya Matherne, President
Dixie Environmental Services, L.P.
26902 Nichols Sawmill
Magnolia, Texas 77355
(281) 252-9799

Dixie Environmental Services, L.P. (DESCO) is an environmental services company specializing in environmental planning, natural and cultural resource management, regulatory permitting and compliance, water/wetland resource management, and GIS mapping. DESCO has worked on behalf of 9B operators, primarily operators at the Big Thicket National Preserve, to pull together a variety of plans of operations, ranging from new well drills to 3D seismic proposals. Ms. Matherne stated that her company had access and used the NPS's guidance documents, including the NPS's 9B Operator Handbook. She said that initially they found those guidance documents very helpful in putting together information for 9B plans of operation. After they had completed a number of plans, the approved plans became models used to prepare subsequent plans. DESCO also frequently consults with park staff to help guide them through preparation of the 9B plan of operations and has found park staff very helpful. Ms. Matherne expressed her view on the NPS's estimate of an average time of 176 hours (160 hours + 10 %) to obtain and produce information for a 9B plan of operation. Ms. Matherne said that is reasonable as some of the seismic plans can come in well below that average, but other plans, like some of the more complicated new wells came near or above that estimate.

Contact 2: Contact Made: 09/23/09

Marc Kainer, Senior Project Manager
Michael Green, Senior Project Manager
Blanton & Associates, Inc.
5 Lakeway Center Ct., Suite 200
Austin, Texas 78734
(512) 264-1095 X19

Blanton & Associates, Inc. is a contractor hired by oil and gas companies to develop NPS 9B plans of operations and handle the necessary compliance work to obtain plan approval for the operator. Mr. Kainer and Mr. Green have worked on approximately 10 different 9B plans of operations, mostly for operators at Big Thicket National Preserve, Beaumont, TX. Both Mr. Kainer and Mr. Green use the NPS's Operator's Handbook and have found that the guidance document helps them to reduce time and paperwork in preparing plans for oil and gas companies. As with other consulting firms, once plans have been developed, the plans serve as models and the Handbook is used less, but both gentlemen expressed that there is guidance in the Handbook that they refer to often and both stated that this is a good tool for reducing time to gather and process information in a plan. Both Mr. Kainer and Mr. Green also frequently call park staff and regional office staff with expertise in the 9B regulations to seek guidance in preparing plans. They stated that NPS staff assistance is invaluable in reducing their preparation time and, in turn, the paperwork burden. Mr. Kainer and Mr. Green expressed their views that the NPS's estimate of an average time of 176 hours (160 hours + 10 %) to obtain and produce information for a 9B plan of operation was a reasonable estimate, given the wide range of plans that are proposed by operators. Mr. Green's experience with certain plans lead him to state that the average hours might be higher, but then said that considering the variety of plans they could deal with, the NPS's estimate is most likely accurate.

Contact 3: Contact Made: 09/23/09

Matt Egnotovitch, Member
M & M Royalty, LLC
5377 Lauby Road NW
North Canton, Ohio 44720
(330) 497-4343

M & M Royalty is an oil and gas operator that was approved by the NPS in 2009 for four separate gas wells in Cuyahoga National Park. Mr. Egnotovitch a member of M & M Royalty and was responsible for putting M & M's plan together and obtaining approval from the NPS. Park staff at Cuyahoga NP provided Mr. Egnotovitch with the NPS's Operator's Handbook and Mr. Egnotovitch found the informational checklists and guidance to be useful in preparing his plan. Mr. Egnotovitch also worked closely with the park's oil and gas manager to obtain additional information and to clarify informational requirement. He found the assistance provided by park staff to be beneficial. Mr. Egnotovitch expressed his view that the NPS's estimate of an average time of 176 hours (160 hours + 10 %) to obtain and produce information for a 9B plan of operation is a reasonable estimate. He stated that although it is very dependent

upon the type of operation proposed, the NPS's average was within a time frame that he could gather all the necessary information for a plan.

Summary

All persons contacted responded favorably regarding the guidance provided in NPS's Operator's Handbook. All persons contacted also responded favorably to the assistance, guidance and expertise in the NPS at the park, regional and WASO level to help operators understand and comply with the 9B Regulations. All stated that the written and verbal guidance helped them reduce the time and paperwork necessary to comply with the regulatory requirements. All persons contacted also agreed that the NPS's estimate of 176 hours (160 hours + 10%) to obtain and produce information for a 9B plan of operations was a reasonable estimate, considering that time spent gathering information is very dependent on the type of operation proposed and that some documents and information that need to be included in a plan may already be completed and available, while in other instances that same information may need field work to be developed.

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

None

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

9A Regulations

Under the regulations, where appropriate, confidentiality may be provided for some of the submitted information in accordance with 43 CFR Part 2.

9B Regulations

Section 9.52 of the regulations provides for confidentiality of appropriate information. This section further notes that the availability of records under the regulations is governed by the rules and regulations at 43 CFR Part 2.

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.**

All information requirements are directly related to the status of a mining claim, proposed mining operation, or non-federal oil and gas operation. There is no requirement to submit any personal information of a sensitive nature.

12. **Provide estimates of the hour burden of the collection of information.**

Although the estimated burden of the 9A and 9B regulatory programs has not changed, we have made a change to the manner of calculating the cost estimates in accordance

with OMB's current requirements under this section. In the 2006 report we reported a range of average hourly and annual cost burdens. For this report we have averaged the range in order to reach a single numerical amount. Therefore although the numbers are updated to reflect increases in labor costs, they are lower than the highest range of our previous responses.

9A Regulations

The estimated annual burden of the collection of information requirement is 704 hours. This estimate has not changed from the previous burden reported in 2006. The estimated annual burden is based on the following estimates:

- i. The NPS estimates that between 3 and 5 respondents will submit plans annually with 1 response per respondent. This averages about 4 respondents and 4 plans per year. Also, it is important to note that a plan may cover, and usually does cover, more than one operation.
- ii. Depending on the level of complexity of the proposed operation, a complete plan could consist of 10 pages of text *plus* 2-10 pages of illustrations inclusive of location maps, site plans and cross-sections to 100 pages of text *plus* several volumes of supporting material. The latter type of plan for hardrock mining is a rarity in the NPS. The time to prepare a plan could range from 24 hours to 6 months for a very complicated plan. For example, preparation time might be higher if an operator would need to submit any additional information to the NPS, e.g., future supplementation of a plan, or notification to NPS of transfer of interest. Because the content of each plan is specific to the operation and site, and each operation and site present a unique set of circumstances, it is difficult to identify an "average" plan on which to base an estimate of preparation time. The NPS thus chose to use 160 hours (4 weeks) for purposes of this analysis. When applied to the range of anticipated plans, the total estimated time to prepare such plans ranges from 480 to 800 hours. Using the average of 4 complete plans per year, the estimated total amount of time involved to prepare plans of operations is 640 hours.
- iii. The NPS added ten percent (i.e., 64 hours) to the total time to prepare complete plans of operations to account for the time consumed by minor correspondence and other unplanned information exchange.

The annualized estimated cost to all the respondents' is \$105,952.00. This was determined as follows:

- i. Nationwide, 4 plans of operations and associated information are expected annually from different operators;
- ii. Using an estimate of 160 hours to prepare documents for a plan complete with attachments at an average cost of \$150.50 per hour the cost to prepare a plan results in an average cost of \$24,080 per plan. Plans consist of materials that are both clerical in nature (e.g., photocopies of

lease documents, other permits) and professional in nature (e.g. surveyed location plats, engineering design). Thus, labor costs can range depending on the level of expertise. The vast majority of Respondents hire environmental and technical consulting firms to prepare plans of operations. To determine the hourly labor cost, the NPS contacted a top environmental consulting firm which does work for operators who propose mineral activities in NPS units. Depending on the specifics of the plan, the labor will be conducted by either an entry level consultant earning \$60.00 per hour, a top level consultant earning \$155.00 per hour, or a midlevel at an hourly wage somewhere in between. Therefore, the NPS has used an average of \$107.50 for this analysis. The NPS then added a ratio of 1.4² for benefits resulting in an hourly cost of \$150.50.

- iii. The NPS added ten percent (i.e., \$2,408.00) of the cost to prepare a plan of operations to account for administrative costs associated with changes in claim ownership, etc.

Many of the information requirements of the regulations should be compiled by a responsible operator as part of normal business activities to minimize liabilities, maintain business records for tax and other purposes, obtain financial backing, and ensure a safe, efficient, and well-planned operation. Under the regulations, information may be submitted in the manner which it is customarily maintained in the industry. The reclamation plan and environmental report requirements, 36 CFR §§9.9(b)(6) and (9), respectively, comprise the bulk of the information collection burden associated with these regulations. There is no standard form for submitting information. The NPS makes pertinent environmental information in park files available to prospective operators to aid in the preparation of proposed plans of operations.

9B Regulations

The estimated burden of the collection of information requirement is 3520 hours. This estimate has not changed from the previous burden reported in 2006. The estimated annual burden is based on:

- i. The NPS estimates that between 15 and 25 respondents will submit plans annually with 1 response per respondent. This averages about 20 respondents and 20 plans per year. Also, it is important to note that a plan may cover more than one operation.
- ii. Depending on the complexity of the proposed operation, an acceptable plan could consist of 10 pages of text *plus* 2-10 pages of illustrations inclusive of location maps, site plans and cross-sections to 100 pages of text plus several volumes of supporting material. The estimated time to prepare a plan ranges from 24 hours to 6 months for a very complicated plan, where little preexisting environmental data is available. For example, preparation time might be higher if an operator would need to submit any additional information to the NPS, e.g., future supplementation of a plan, or notification to NPS of transfer of interest. The content of each plan is

² For an explanation of how we arrived at benefits calculation, please see Table 1.

specific to the operation and site, and each operation and site present a unique set of circumstances. Therefore, the determination of how much time will be involved to prepare a given plan is difficult to assess. For purposes of this analysis, the NPS used 160 hours (4 weeks) for the representative plan preparation time. When applied to the range of anticipated plans, the total estimated time to prepare such plans ranges from 2400 hours to 4000 hours. Using the average of 20 complete plans per year, the estimated total amount of time involved to prepare plans of operations is 3200 hours.

- iii. The NPS added ten percent (i.e., 320 hours) to the total time to prepare complete plans of operations to account for the time consumed by minor correspondence and other unplanned information exchange.

The total annualized cost for all respondents to comply with the paperwork requirements under the 9B regulations is \$529,760.00. This was determined as follows:

- i. Nationwide, 20 plans of operations and associated information are expected annually from different operators.
- ii. Using an estimate of 160 hours to prepare documents for a plan complete with attachments at an average cost of \$150.50 per hour the cost to prepare a plan results in an average cost of \$24,080.00 per plan. Plans consist of materials that are both clerical in nature (e.g., photocopies of lease documents, other permits) and professional in nature (e.g. surveyed location plats, engineering design). Thus, labor costs can range depending on the level of expertise. The vast majority of Respondents hire environmental and technical consulting firms to prepare plans of operations. To determine the hourly labor cost, the NPS contacted a top environmental consulting firm which frequently prepares such plans. Depending on the specifics of the plan, the labor will be conducted by either an entry level consultant earning \$60.00 per hour, a top level consultant earning \$155.00 per hour, or a midlevel at an hourly wage somewhere in between. Therefore, the NPS has used an average of \$107.50 for this analysis. The NPS then added a ratio of 1.4 for benefits to the hourly wage resulting in an hourly cost of \$150.50
- iii. The NPS added ten percent (i.e., \$2,408.00) of the cost to prepare a plan of operations to account for administrative costs associated with changes in claim ownership, etc.

The average reflects the differences in types and numbers of operations that may be included in a single plan and the wide variations in the environmental settings in which non-Federal oil and gas development occurs in parks, and the availability of pre-existing environmental data from parks. Much of the information required by 36 CFR §9.36 should be compiled by a responsible operator as part of his/her normal business activities, to minimize liabilities, maintain business records for tax and other purposes, obtain financial backing, and ensure a safe, efficient, and well-planned operation. The

information may be submitted in the manner in which it is customarily maintained in the industry. The NPS does not require conformance with a standardized format. The reclamation plan and environmental report requirements, 36 CFR §9.36(a)(12) and (16), respectively, comprise the bulk of the information collection burden associated with these regulations. The NPS makes pertinent environmental information in park files available to prospective operators to aid in the preparation of proposed plans of operations.

Total Estimated Hour Burden of the Collection of Information for the 9A and 9B Regulations

9A Regulations: 704

9B Regulations: +3520

TOTAL: 4224 Hours

Table 1 – Annual Burden Estimates

Activity	Annual Number of Respondents	Total Number of Responses	Completion Time Per Response	Total Annual Burden Hrs	Additional 10% for minor correspondence	Total Burden Cost to Public*
9A Regulations	4	4	160 hrs	640	640 + 64 = 704 Hrs	\$105,952.00
9B Regulations	20	20	160 hrs	3200	3200 + 320 = 3520 Hrs	\$529,760.00
Total	24	24	320 hrs	3840	4224 Hrs	\$635,712.00

*See Tables 2 and 3 for calculation of the dollar value of the annual burden hours.

Household/individuals were not analyzed because the percentage of Respondents which would be individuals is either extremely low or non-existent. Similarly, state, local and tribal mineral owners do not develop their oil, gas, and minerals with their own personnel, they lease their minerals to private sector operators. Therefore, we have only taken into account the rate for private sector respondents. To obtain the rate for private sector we contacted a frequently used environmental consulting firm as described above. To account for benefits, we multiplied the hourly rate by a ratio of 1.4. We calculated the benefits in accordance with BLS news release USDL 09-1098, September 10, 2009.

Table 2 – Dollar Value of Labor Costs for 9A Regulations

9A Regulations	Annual Responses	Completion Time per Response (Hrs)	Annual Burden Hours	Hourly Labor Costs	Hourly Labor Costs including Benefits	Dollar Value of Annual Burden Hours	Total (Including 10% for Administrative Costs)
Private Sector	4	160	640	\$107.50	\$150.50	\$96,320.00	\$105,952.00

Table 3 – Dollar Value of Labor Costs for 9B Regulations

9B Regulations	Annual Responses	Completion Time per Response (Hrs)	Annual Burden Hours	Hourly Labor Costs	Hourly Labor Costs including Benefits	Dollar Value of Annual Burden Hours	Total (Including 10% for Administrative Costs)
Private Sector	20	160	3200	\$107.50	\$150.50	\$481,600.00	\$529,760.00

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

No costs beyond the hours to prepare the requisite information exist. The NPS has neither fees nor forms associated with these regulations.

114. Provide estimates of annualized cost to the Federal government.
2

3 Although the estimated burden of the 9A and 9B regulatory programs has not changed since the previous reporting in 2006, the NPS has altered the method of calculating the cost to the Federal government for this report in accordance with OMB's current requirements under this section. Therefore, the NPS is reporting higher cost estimates than in 2006 resulting from increased Federal employee salaries and more accurate reflection of the employee's GS levels utilized in this information collection.

4

59A Regulations

The annualized cost to the Federal Government to process the projected number of plans of operations is estimated to be \$76,824.00 per year. The hourly cost to the Federal Government to process the projected number of plans of operations is estimated to be \$80.03 per hour. These figures were determined as follows:

- i. As an average, the NPS used salary costs to process the required information based on a GS-13/step 5 Denver locality salary (\$97,662 or \$46.80 per hour) plus a factor of 1.5 for benefits (as indicated by the BLS) (Total = \$70.20/hr). NPS also used salary costs of a GS 14/5 Denver locality salary (\$115,407/yr or \$55.30/hr) plus a factor of 1.5 for benefits (Total = \$82.95/hr). In reality, actual time spent processing a plan of operations entails 80% staff time at the GS 13/5 level and 20% at the GS 14/5.
- ii. Nationwide, an average of 4 plans of operations are expected annually, with approximately 30 person days necessary to evaluate each plan, perform the necessary environmental compliance, and prepare the administrative record and letters. This equates to 120 person days annually or 960 person hours annually.
- iii. The NPS added ten percent (i.e., approximately \$7.28/hr or \$6,984/yr) of the salary cost for equipment and incidental expenses.

9B Regulations

The annualized cost to the Federal Government to process plans of operations is estimated to be \$384,120.00. The hourly cost to the Federal Government to process plans of operation is estimated to be \$80.03 per hour. These figures were determined as follows:

- i. As an average, the NPS used salary costs to process the required information based on a GS-13/step 5 Denver locality salary (\$97,662 or \$46.80 per hour) plus a factor of 1.5 for benefits (as indicated by the BLS) (Total = \$70.20/hr). NPS also used salary costs of a GS 14/5 Denver locality salary (\$115,407/yr or \$55.30/hr) plus a factor of 1.5 for benefits (Total = \$82.95/hr). In reality, actual time spent processing a plan of operations entails 80% staff time at the GS 13/5 level and 20% at the GS 14/5.
- ii. Nationwide, the Service expects to receive 20 complete plans of operations annually with approximately 30 person days necessary to review each plan, including NEPA compliance. This translates into 600 person days or 4800 person hours annually.
- iii. Ten percent (i.e., approximately \$7.28/hr, \$34,920/yr) of the salary cost was added for equipment and other incidental expenses.

Table 4 - Total Cost Burden to Federal Government

	Grade/ Step	Total Annual Hours	Hourly Rate	Hourly Rate Including Benefits (1.5 x hourly rate)	Percent of time spent on collection	Weighted Average (\$/hr)	Total Annual (\$/YR)	Total w/ 10% added for equipment and incidental expenses
9A Regulations								
Specialist Management	GS-13/5 GS-14/5	960	\$46.80 \$55.30	\$70.20 \$82.95	80% 20%	\$56.16 \$16.59	\$69,840.00	\$80.03/hr \$76,824.00/yr
Weighted Average						\$72.75		
9B Regulations								
2 Specialists Management	GS-13/5 GS-14/5	4800	\$46.80 \$55.30	\$70.20 \$82.95	80% 20%	\$56.16 \$16.59	\$349,200.00	\$80.03/hr \$384,120.00/ yr
Weighted Average						\$72.75		

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

There have been no changes, nor adjustments in the 36 CFR Part 9, Subpart A or Subpart B programs.

16. **For collections of information whose results will be published, outline plans for tabulation and publication.**

The required information will not be published for statistical use.

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.**

There is no standard form for submitting information.

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

No exceptions are reported.