

# Supporting Statement A

## Color-of-Title Application (43 CFR Subparts 2540 and 2541)

OMB Control Number 1004-0029

**Terms of Clearance:** None.

### General Instructions

A completed Supporting Statement A must accompany each request for approval of a collection of information. The Supporting Statement must be prepared in the format described below, and must contain the information specified below. If an item is not applicable, provide a brief explanation. When the question "Does this ICR contain surveys, censuses, or employ statistical methods?" is checked "Yes," then a Supporting Statement B must be completed. OMB reserves the right to require the submission of additional information with respect to any request for approval.

### Specific Instructions

#### Justification

- 1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection.**

The Color-of-Title Act (43 U.S.C. 1068, 1068a, and 1068b) provides for the issuance of a land patent to a tract of public land of up to 160 acres, where the claimant shows peaceful, adverse possession of the tract in good faith for more than 20 years, as well as sufficient improvement or cultivation of the land. The information covered in this submission enables the Bureau of Land Management (BLM) to determine whether or not such a claimant has made a showing that is sufficient to obtain a land patent under the Act.

Regulations of the BLM (43 CFR 2541.2) provide that a color-of-title application may be submitted by any individual, group, or corporation authorized to hold title to land in the State. Any applicant who satisfies the statutory and regulatory requirements will receive a patent conveying clear title to the lands upon payment of the sale price of the lands. The BLM collects no similar information from the same universe of respondents.

The claims recognized by the Act are referred to in the regulations (43 CFR 2540.0-5) as class 1 claims and class 2 claims. A class 1 claim is one which has been held in good faith and peaceful, adverse possession by a claimant, his ancestors or grantors, under claim or color-of-title for a minimum of 20 years, on which valuable improvements have been placed, or on which some part of the land has been reduced to cultivation. A class 2 claim is one which has been held in good faith and peaceful, adverse possession by a claimant, his ancestors or grantors, under claim or

color-of-title for the period commencing not later than January 1, 1901, to the date of application. Almost all respondents file class 1 claims.

**2. Indicate how, by whom, and for what purpose the information is to be used. Except for a new collection, indicate the actual use the agency has made of the information received from the current collection. Be specific. If this collection is a form or a questionnaire, every question needs to be justified.**

The following forms comprise an application for a Color-of-Title claim: (a) 2540-1, Color-of-Title Application; (b) 2540-2, Conveyances Affecting Color or Claim of Title; and (c) 2540-3, Color-of-Title Tax Levy and Payment Record. A respondent must submit the forms at the same time (as one application), and the BLM must process the information contained on the forms at the same time (as one application) in order to determine if the respondent meets the requirements of the Color-of-Title Act and the regulations at 43 CFR Subparts 2540 and 2541. The BLM uses the information to determine if an applicant meets the pertinent statutory and regulatory requirements. Applicants must provide the information in order to obtain the benefit of clear title to the lands that are concerned. Failure to provide the necessary information will result in the rejection of the color-of-title application. The BLM collects and uses the information as follows:

**Form 2540-1 (Color-of-Title Application):** The BLM uses this information to identify the respondent (applicant); identify the lands being claimed by the applicant; identify the type of claim and circumstances under which the applicant came into possession of the lands being claimed; and the current structural and cultural characteristics of the lands being claimed.

**Serial Number:** The BLM is responsible for creating the serial number. Each form will be labeled with an identical serial number and placed in a single case file labeled with the serial number.

**Item #1:** Name of applicant (first, middle initial and last): The BLM collects this information to identify the applicant (individual, group, or corporation) making the claim.

**Item #2:** Address (include zip code): The BLM collects this information to transact business and communicate with the applicant by mail.

**Item #3:** Phone (include area code): The BLM collects this information to communicate with the applicant by phone.

**Item #4:** Legal description of lands claimed (township, range section subdivision, meridian, county, state, number of acres): The BLM collects this information to identify the exact location of the lands the applicant is claiming.

**Item #5:** Type of application (class I, class 2 or both): The BLM collects this information to determine the type of claim for which the applicant is applying.

**Item #6:** Are you the record title holder? The BLM collects this information to determine what interest the applicant has in the land.

Item #7: By what written instrument do you assert ownership? The BLM collects this information to determine what written document (deed, will, or court order) is the basis for the applicant's claim.

Item # 8: On what date did you first learn that you did not have clear title? The BLM collects this information to determine if the applicant held the land in good faith. Under the provisions of the Act, the land is not held in good faith where held with the knowledge that the land is owned by the United States. The date the applicant first learned they did not have clear title to the land and the source the applicant obtained the information from is essential in determining the good faith requirements of the Act.

Item #9: From what source did you obtain this information? The BLM collects this information to determine if the applicant held the land in good faith. Under the provisions of the Act, the land is not held in good faith where held with the knowledge that the land is owned by the United States. The date the applicant first learned they did not have clear title to the land and the source the applicant obtained the information from is essential in determining the good faith requirements of the Act.

Item #10 a, b, c, d, e: Have you had title to the land searched, Yes or No? If yes, please complete the following information about the examiner (name, address, area code and phone number, and date of examination). The BLM collects this information to communicate with the examiner who searched the title for the applicant, compare the examiner's information with the United States, and resolve any discrepancies in the title information that may exist.

Item #11a: Total purchase price paid by you for the above-described property? The BLM collects this information to determine the final purchase price of the lands being claimed.

Item #11b: Estimate value of structural and cultural improvements on date of purchase. The BLM collects this information to determine the final purchase price payable by the applicant to the United States. The land applied for will be appraised on the basis of its fair market value at the time of the appraisal. The value resulting from improvements or development by the applicant or his predecessors will be deducted from the appraised price and consideration will be given to the equities of the applicant.

Item #11c: Estimate value of existing structural and cultural improvement added since purchase. The BLM collects this information to determine the final purchase price payable by the applicant to the United States. The land applied for will be appraised on the basis of its fair market value at the time of the appraisal. The value resulting from improvements or development by the applicant or his predecessors will be deducted from the appraised price and consideration will be given to the equities of the applicant.

Item #11d: Amount received for forest products sold since purchase. The BLM collects this information to determine the final purchase price payable by the applicant to the United States. The amount of any revenue generated from the sale of forest products since purchase will be included in the final purchase price.

Item #12a: Is the land currently under cultivation, Yes or No? The BLM uses this information to determine if the applicant meets the requirements of a class 1 claim.

Item #13a: Specify which calendar years cultivated. The BLM uses this information to determine if the applicant meets the requirements of a class 1 claim.

Item #13b: Acres cultivated. The BLM uses this information to determine if the applicant meets the requirements of a class 1 claim.

Item #14: List any improvements to property. The land applied for will be appraised on the basis of its fair market value at the time of the appraisal. The value resulting from improvements or development by the applicant or his predecessors will be deducted from the appraised price and consideration will be given to the equities of the applicant.

Item #15: If claim originated before January 1, 1901, are you also applying for the mineral estate, Yes, No, or Not applicable? The BLM uses this information to determine if the applicant is requesting title to the minerals. Conveyance of the federally owned-minerals underlying the lands claimed by the applicant cannot be made unless the BLM prepares a mineral report to evaluate the minerals.

Item #16a: Enclose the filing fee of \$10. The applicant is required by 43 CFR 2541.2(a)(2) to file an application fee of \$10.

Item #16b: Enclose Form 2540-2 showing all conveyances affecting title to the lands. The applicant is required by regulation 43 CFR 2541.2(c)(1) to furnish itemized data relating to all record and non-record title conveyances. The BLM uses this information to determine if any irregularities in the chain of title exist.

Item #16c: Enclose Form 2540-3 showing levy and payment of taxes for each year of claim (Required of Class 2 claims only). The applicant is required by 43 CFR 2541.2(c)(2) to furnish itemized information relating to tax levies and payments on the lands claimed. The BLM uses this information to determine taxes levied and paid on the lands claimed.

I Certify. The applicant must certify the statement by signing and dating the application. The certification begins the process of examining the respondent's eligibility to acquire clear title to the lands claimed under the Color-of-Title Act, 43 CFR 2542.2(a)(3).

**Form 2540-2 (Conveyances Affecting Color or Claim of Title):** The BLM uses this information to trace the chain of title to the lands being claimed by the respondent (applicant).

Applicant's name. The BLM collects this information to identify the applicant making the claim and uses this to link the forms submitted by the applicant.

Legal description of lands claimed (township, range, section, subdivision, meridian, county, and state). The legal description must be listed as recorded in public records of the county concerned

as required by 43 CFR 2541.2(c)(1). The BLM collects this information to identify the exact location of the lands the applicant is claiming.

Grantor. Property in the form of land must have a recorded owner. The names of the grantor and the grantee for the conveyance should be provided as required by law. The BLM uses this information to trace the land title back to the original or current land owners.

Grantee. Property in the form of land must have a recorded owner. The names of the grantor and the grantee for the conveyance should be provided as required by law. The BLM uses this information to trace the land title back to the original or current land owners.

Date. The BLM uses this information to determine when the transfer of title occurred between the grantor and grantee. The information is vital in determining if the applicant meets the eligibility requirements of a class 1 claim.

Volume. The BLM uses this information to verify that each conveyance of record is recorded in the county records.

Page. The BLM uses this information to verify each conveyance of record is recorded in the county records.

Reservations, restrictions, type of conveyance (mortgage, lease, fee, etc.). The BLM uses this information to identify rights reserved in the conveyance (i.e., oil and gas, all minerals, right-of-way, etc.), and the type of conveyance document (i.e., quitclaim deed, warranty deed, will, tax sale) used to transfer title to the lands from the grantor to the grantee.

I Certify. The public official administering the county tax records or a certified abstractor gives the certification of recorded information. The official signature, address, title (of official), and date of certification are required by law to determine encumbrances and conveyances affecting the validity of the application for public lands as required by 43 CFR 2541.2(c)(1).

**Form 2540-3 (Color-of-Title Tax Levy and Payment Record):** The BLM uses this information to determine if there is a break in the chain of title to the lands being claimed.

Name of applicant. The BLM collects this information to identify the applicant (individual, group, or corporation) making the claim.

Legal description. The location of the claimed Federal land, also known as the Township, Range, Section, Subdivision, Meridian, County, and State must be described as provided in 43 CFR 2541.2(b). The legal description must be listed as recorded in public records of the county concerned as required by 43 CFR 2541.2(c)(1).

Tax year. The certification of the tax year, payor of the tax, amount of tax (includes levy of tax, and payment), is necessary information to legally qualify the applicant to receive a property right from the Federal government according to the regulation 43 CFR 2541.2(c)(2).

Payor. The certification of the tax year, payor of the tax, amount of tax (includes levy of tax, and payment), is necessary information to legally qualify the applicant to receive a property right from the Federal government according to the regulation 43 CFR 2541.2(c)(2).

Amount of Tax (Levy). The certification of the tax year, payor of the tax, amount of tax (includes levy of tax, and payment), is necessary information to legally qualify the applicant to receive a property right from the Federal government according to the regulation 43 CFR 2541.2(c)(2).

Amount of Tax (Payment). The certification of the tax year, payor of the tax, amount of tax (includes levy of tax, and payment), is necessary information to legally qualify the applicant to receive a property right from the Federal government according to the regulation 43 CFR 2541.2(c)(2).

Certification. The public official administering the county tax records or a certified abstracter gives the certification of recorded information. The official signature, address, title (of official), and date of certification are required by law to determine encumbrances and conveyances affecting the validity of the application for public lands as required by 43 CFR 2541.2(c)(1).

- 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.**

Forms 2540-1 2540-2, and 2540-3 are electronically available to the public in printable format on BLM's Forms Web site at <http://www.blm.gov/noc/st/en/business/eForms.html>. A respondent may choose to submit any or all of the forms electronically by scanning and then emailing them to the appropriate BLM office. The requested information is unique to each respondent.

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

The information collection is unique to the Color-of-Title Act and the regulations at 43 CFR Part 2540. The BLM is the only agency collecting this information. The BLM is unable to use or modify existing information collections to process new applications because each application is distinct and specific to the lands in question.

Both Forms 2540-1 and 2540-2 require legal land description information. The legal land description information on Form 2540-1 is needed for BLM to identify the exact location of lands the applicant is claiming, and uses this information to trace the chain of title to the lands being claimed by the respondent (applicant). The legal land description information on Form 2540-2 is recorded in public records of the county concerned. Although the legal land

description information is repeated on each form. This information helps the BLM maintain accountability of the specific lands that the applicant is requesting for the land patent.

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

Respondents are individuals, groups, or corporations. The BLM assumes that some of the groups and corporations who respond to this information collection may qualify as small businesses or other small entities. There are no special methods used to minimize the burden because the information collection methods are uniform throughout the BLM regardless of the size of the entity. The information collected by the BLM is limited to the information required for an applicant to meet the pertinent statutory and regulatory 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.**

The BLM is the only agency with the delegated authority of the Secretary of the Interior under the Color-of-Title Act. Less frequent collection would mean no collection at all. Reducing the burden would preclude the collection of sufficient information to determine if each applicant meets the pertinent statutory and regulatory requirements.

**7. Explain any special circumstances that would cause an information collection to be conducted in a manner:**

- \* requiring respondents to report information to the agency more often than quarterly;
- \* requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it;
- \* requiring respondents to submit more than an original and two copies of any document;
- \* requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records, for more than three years;
- \* in connection with a statistical survey that is not designed to produce valid and reliable results that can be generalized to the universe of study;
- \* requiring the use of a statistical data classification that has not been reviewed and approved by OMB;
- \* that includes a pledge of confidentiality that is not supported by authority established in statute or regulation, that is not supported by disclosure and data security policies that are consistent with the pledge, or which unnecessarily impedes sharing of data with other agencies for compatible confidential use; or
- \* requiring respondents to submit proprietary trade secrets, or other confidential information, unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.

There are no special circumstances that require the collection to be conducted in a manner inconsistent with the guidelines. We do not exceed the guidelines in 5 CFR 1320.5.

- 8. If applicable, provide a copy and identify the date and page number of publication in the Federal Register of the agency's notice, required by 5 CFR 1320.8(d), soliciting comments on the information collection prior to submission to OMB. Summarize public comments received in response to that notice and in response to the PRA statement associated with the collection over the past three years, and describe actions taken by the agency in response to these comments. Specifically address comments received on cost and hour burden.**

**Describe efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.**

**Consultation with representatives of those from whom information is to be obtained or those who must compile records should occur at least once every three years — even if the collection of information activity is the same as in prior periods. There may be circumstances that may preclude consultation in a specific situation. These circumstances should be explained.**

On June 16, 2015, the BLM published the required 60-day notice in the Federal Register (80 FR 34453), and the comment period ended August 17, 2015. The BLM received no comments.

The BLM has consulted with the following respondents to obtain their views on the availability of data; frequency of collection; the clarity of instructions; the recordkeeping, disclosure, and reporting formats; and on the data elements to be recorded, disclosed, or reported:

**Charles (Tom) Henderson;**

**Charles A. Kranz, Johnson, Kranz & McDaniel; and**

**Ronald B. Moll, Zick, Voss & Polite.**

All three respondents stated the process to receive a land patent under the Color-of-Title Act is long. The first respondent did not have any problems with the actual application forms; and the third respondent stated that the forms were long, but straightforward. The second respondent stated that, in addition to the process taking a long time, he needed assistance from BLM staff to complete it. He did not have any opinion on how to improve the process or form.

The collection of information was not modified in response to these comments.

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

The applicant receives no payments or gifts

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

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

**11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private. This justification should include the reasons why the agency considers the questions necessary, the specific uses to be made of the information, the explanation to be given to persons from whom the information is requested, and any steps to be taken to obtain their consent.**

The applicant is not required to answer questions of a sensitive nature.

**12. Provide estimates of the hour burden of the collection of information. The statement should:**

- \* **Indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated. Unless directed to do so, agencies should not conduct special surveys to obtain information on which to base hour burden estimates. Consultation with a sample (fewer than 10) of potential respondents is desirable. If the hour burden on respondents is expected to vary widely because of differences in activity, size, or complexity, show the range of estimated hour burden, and explain the reasons for the variance. Generally, estimates should not include burden hours for customary and usual business practices.**
- \* **If this request for approval covers more than one form, provide separate hour burden estimates for each form and aggregate the hour burdens.**
- \* **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.**

Each color-of-title application consists of three forms. Because the forms are submitted concurrently, we have no data that would enable us to estimate separate hour and cost burdens for each form.

Table 12-1, below, shows our estimate of the hourly cost burdens for respondents. The mean hourly wages for Table 12-1 were determined using national Bureau of Labor Statistics data at: [http://www.bls.gov/oes/current/oes\\_nat.htm](http://www.bls.gov/oes/current/oes_nat.htm).

The benefits multiplier of 1.4 is supported by information at <http://www.bls.gov/news.release/ecec.nr0.htm>.

**Table 12-1 – Hourly Cost Calculation**

<b>A. Position</b>	<b>B. Mean Hourly Wage</b>	<b>C. Hourly Rate with Benefits (Column B x 1.4)</b>	<b>D. Percent of Collection Time Completed by Each Occupation</b>	<b>E. Weighted Average Hourly Cost (Column C x Column D)</b>
Title Examiners, Abstractors, and Searchers 23-2093	\$23.17	\$32.44	70%	\$22.71
Office and Administrative Support Occupations 43-0000	\$17.08	\$23.91	30%	\$7.17
Totals			100%	\$29.88

Table 12-2, below, shows our estimates of the annual hour and hour-related cost burdens. The estimated hourly wage was calculated as shown in Table 12-1. Based on informal discussions with the respondents listed under Question 8, we estimate it will take respondents approximately 7 burden hours to complete the Color of Title Application Forms.

**Table 12-2 - Estimates of Annual Hour and Cost Burdens**

<b>A. Type of Response</b>	<b>B. Number of Responses</b>	<b>C. Hours Per Response</b>	<b>D. Total Hours (Column B x Column C)</b>	<b>E. Annual Cost (Column D x \$29.88)</b>
Color-of-Title Application / Individuals	5	3	15	\$448.20
Color-of-Title Application / Groups	1	3	3	\$89.68
Color-of-Title Application / Corporations	1	3	3	\$89.64
Totals	7		21	\$627.52

- 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 already reflected in item 12.)**
- \* **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 for form processing). 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.**

Applicants incur no annual capital or start-up costs, and no recurring annual costs to prepare or respond to the information collection. Applicants are not required to purchase any computer software or hardware to comply with this information collection

Pursuant to 43 CFR 2541.2, each application must be accompanied by a nonrefundable filing fee of \$10. Our total estimated non-hour cost estimate is \$70 (7 applications annually x \$10 per application).

- 14. Provide estimates of annualized cost to the Federal government. Also, provide a description of the method used to estimate cost, which should include quantification of hours, operational expenses (such as equipment, overhead, printing, and support staff), and any other expense that would not have been incurred without this collection of information.**

The estimated hourly cost to the Federal Government, shown in Table 14-1, is based on the U.S. Office of Personnel Management Salary Table 2015-RUS at [http://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/15Tables/html/RUS\\_h.aspx](http://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/15Tables/html/RUS_h.aspx). The benefits multiplier of 1.5 is implied by information at <http://www.bls.gov/news.release/ecec.nr0.htm>.

**Table 14-1 – Hourly Cost Calculation**

<b>A. Position and Pay Grade</b>	<b>B. Hourly Pay Rate (\$/hour)</b>	<b>C. Hourly Rate with Benefits (Column B x 1.5)</b>	<b>D. Percent of the Information Collection Completed by Each Occupation</b>	<b>E. Weighted Avg. (\$/hour) (Column C x Column D)</b>
Clerical GS-7, Step 1	\$18.96	\$28.44	10%	\$2.84
Technical GS-11, Step 1	\$28.06	\$42.09	80%	\$33.67
Managerial GS-13, Step 1	\$39.99	\$59.99	10%	\$5.99
Totals			100%	\$42.50

Table 14-2, below, shows the annualized Federal costs for each aspect of the collection. The estimated processing time is based on the BLM's experience and includes conducting field inspections; on-the ground environmental analyses, which include monitoring endangered species sites and archeological sites; conducting archeological surveys; and determining reclamation measures. The estimated hourly wage with benefits is shown at Table 14-1, above.

**Table 14-2 — Estimated Annual Cost to the Government**

<b>A. Type of Response</b>	<b>B. Number of Responses</b>	<b>C. Hours Per Response</b>	<b>D. Total Hours (Column B x Column C)</b>	<b>E. Total Wage Cost (Column D x \$42.50)</b>
Color-of-Title Application / Individuals	5	10	50	\$2,125.00
Color-of-Title Application / Groups	1	10	10	\$425.00
Color-of-Title Application / Corporations	1	10	10	\$425.00
Totals	7		70	\$2,975.00

**15. Explain the reasons for any program changes or adjustments in hour or cost burden.**

There are no program changes. Based on program experience from the past three years, the BLM program has reduced the number of respondents.

**16. For collections of information whose results will be published, outline plans for tabulation and publication. Address any complex analytical techniques that will be**

**used. Provide the time schedule for the entire project, including beginning and ending dates of the collection of information, completion of report, publication dates, and other actions.**

We have no plans to publish this information collection.

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

We are not requesting approval to not display the expiration date.

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

There are no exceptions to the certification statement.