

§ 3832.90

Subpart E—Defective Locations

§ 3832.90 Defects in the location of mining claims and sites.

§ 3832.91 How do I amend a mining claim or site location if it exceeds the size limitations?

(a) You may correct defects in your location of a mining claim, mill site, or tunnel site by filing an amended notice of location (see § 3833.20 of this chapter on conditions allowing amendments and how to record them.)

(b) For placer claims or mill sites that you located using an irregular survey or lotting of irregular sections, you may use the “Rule of Approximation” to determine allowable acreage. The Rule of Approximation applies only to surveyed public lands. It was developed to determine maximum allowable acreage for land entries (placer claims in this part) where the excess acreage is less than the difference would be if the smallest legal subdivision is excluded from the location or entry. In no case may you use the rule to obtain more acreage than allowed under the applicable law. (See *Henry C. Tingley*, 8 Pub. Lands Dec. 205 (1889)).

PART 3833—RECORDING MINING CLAIMS AND SITES

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Subpart A—Recording Process

§ 3833.1 Why must I record mining claims and sites?

FLPMA requires you to record all mining claims and sites with BLM and the local recording office in order to maintain a mining claim or site under the General Mining Law.

(a) If you fail to record a mining claim or site with the BLM and the local recording office by the 90th day after the date of location, it is abandoned and void by operation of law.

(b) Recording a mining claim or site, filing any other documents with BLM, or paying fees or service charges, as this part requires, does not make a claim or site valid if it not otherwise valid under applicable law.

§ 3833.10 Procedures for recording mining claims and sites.

§ 3833.11 How do I record mining claims and sites?

(a) You must record in the proper BLM State Office a copy of the notice of certificate of location that you recorded or will record in the local recording office by the 90th day after the date of location. If there is no recording requirement under state law (as in Arkansas), you still must record a document with BLM and the local recording office that contains the information required by this part.

(b) Your notice or certificate of location must include:

(1) The name or number, or both, of the claim or site;

(2) The names and current mailing addresses of the locators of the claim;

(3) The type of claim or site;

(4) The date of location; and

(5) A complete description of the lands you have claimed as required in part 3832 of this chapter.

(c) When you record a notice or certificate of location, you must pay a processing fee, location fee, and initial maintenance fee as provided in §3830.21 of this chapter.

(d) When you record a mining claim or site under this part, you still must comply with any other separate recording requirements existing under other Federal law. However, notices or certificates of location that you mark as being recorded under the Act of April 8, 1948, or the Act of August 11, 1955, satisfy the additional filing requirements of those Acts under subpart 3821 of this chapter for Oregon and California Revested Wagon Road Grant Lands (O & C Lands) and part 3730 of this chapter for Powersite Withdrawals.

[68 FR 61071, Oct. 24, 2003, as amended at 70 FR 58879, Oct. 7, 2005]

Subpart B—Amending Mining Claims and Sites

§ 3833.20 Amending mining claims and sites.

§ 3833.21 When may I amend a notice or certificate of location?

(a) You may amend a notice or certificate of location if—

(1) BLM recognizes the original location as a properly recorded and maintained mining claim or site; and

(2) There are omissions or other defects in the original notice or certificate of location that you need to correct or clarify; or

(3) You need to correct the legal land description of the claim or site, the mining claim name, or accurately describe the position of discovery or boundary monuments or similar items; or

(4) You need to reposition the sidelines of your lode claim so that they are parallel to the discovered lode, ledge, or vein, if there are no intervening rights to the land; or

(5) You are reducing the size of the mining claim or site.

(b) You may not amend a notice or certificate of location to—

(1) Transfer any interest or add owners;

(2) Relocate or re-establish mining claims or sites you previously forfeited or BLM declared void for any reason;

(3) Change the type of claim or site; or

(4) Enlarge the size of the mining claim or site.

(c) You may not amend legal descriptions of mining claims or sites after the land is closed to mineral entry, unless—

(1) You are reducing the size of the mining claim or site;

(2) You need to correct or clarify defects or omissions in the original notice or certificate of location;

(3) You need to correct the legal land description of the claim or site, the mining claim name; or

(4) You need to submit an accurate description of the position of discovery or boundary monuments or similar items.

§ 3833.22 How do I amend my location?

(a) You must record an amended location certificate or notice with BLM within 90 days after you record the amended notice or certificate in the local recording office. BLM will not recognize any amendment to your mining claim until you file it properly.

(b) You must pay a processing fee for each claim or site you amend. See the table of fees and service charges in §3830.21 of this chapter.

(c) An amended location notice or certificate relates back to the original location date. The amendment takes effect when you record it with the local recording office under state law or such other time as provided by state law.

[68 FR 61071, Oct. 24, 2003, as amended at 70 FR 58879, Oct. 7, 2005]

Subpart C—Filing Transfers of Interest

§ 3833.30 Filing transfers of interest in mining claims or sites.

§ 3833.31 What is a transfer of interest?

A transfer of interest is a sale, assignment, transfer through inheritance, or conveyance of total or partial ownership or legal interest in a mining claim or site.

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§ 3833.32 How do I transfer a mining claim or site?

(a) State law governs transferring mining claims or sites. A transfer is effective in the manner and on the date provided by state law, not the date you file it with BLM.

(b) You must file in the BLM State Office a notice of the transfer that includes:

(1) The name and, if available, the serial number BLM assigned to the claim or site when the notice or certificate of location was originally recorded (the person who transferred you ownership or legal interest should have this number);

(2) Your name and current mailing address; and

(3) A copy of the legal instrument or document that you used to transfer the interest in the claim or site under state law.

(c) For each mining claim or site transferred, each transferee must pay the full processing fee specified in the table of service charges and fees in § 3830.21 of this chapter.

(d) BLM will notify the claimant of record with BLM of any action it takes regarding a mining claim or site. If BLM is required by law to give a claimant notice of any new legal requirements, BLM has properly given notice by sending the notice to the claimant of record with BLM.

[68 FR 61071, Oct. 24, 2003, as amended at 70 FR 58879, Oct. 7, 2005]

§ 3833.33 How may I transfer, sell, or otherwise convey an association placer mining claim?

You may transfer, sell, or otherwise convey an association placer mining claim at any time to an equal or greater number of mining claimants. If you want to transfer an association placer claim to an individual or an association that is smaller in number than the association that located the claim, you—

(a) Must have discovered a valuable mineral deposit before the transfer; or

(b) Upon notice from BLM, you must reduce the acreage of the claim, if necessary, so that you meet the 20-acre per locator limit.

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Subpart D—Defective Filings

§ 3833.90 Defects in recordings or filings for mining claims and sites.

§ 3833.91 What defects cannot be cured under this part?

Defects or other problems that cannot be cured and therefore result in forfeiture of your mining claims or sites are:

(a) Failing to record a mining claim or site within 90 days after you locate it;

(b) Failing to pay the location fee or initial maintenance fee within 90 days after you locate it; and

(c) Locating a mining claim or site on lands withdrawn from mineral entry at the time you locate it.

§ 3833.92 What happens if I do not file a transfer of interest?

Even if you record your transfer or amendment with the local recording office, BLM will not recognize the interest you acquire, or send you notice of any BLM action, decision, or contest, regarding the mining claim or site until you file the transfer with BLM (see § 1810.2 of this chapter). The Department will treat the last owner of record as the responsible party for maintaining the mining claim or site until you file a transfer notice. You cannot claim that BLM failed to give you notice of any BLM action, decision, or contest regarding a mining claim or site if you failed to file a transfer notice showing that you have an interest in the mining claim or site, before BLM took the action, made the decision, or issued a contest complaint.

PART 3834—REQUIRED FEES FOR MINING CLAIMS OR SITES

Subpart A—Fee Payment

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3834.10 Paying maintenance, location, and oil shale fees.

3834.11 Which fees must I pay to maintain a mining claim or site and when do I pay them?

3834.12 How will BLM know for which mining claims or sites I am paying the fees?

3834.13 Will BLM prorate annual maintenance or oil shale fees?

3834.14 May I obtain a waiver from these fees?