

**§ 3837.24**

**§ 3837.24 What kind of evidence must I submit to BLM to show I have properly notified the delinquent co-claimant?**

(a) If you gave written notice to the delinquent co-claimant by personal service, you must sign and submit a notarized affidavit explaining how and when you delivered the written notice to the delinquent co-claimant.

(b) If you gave written notice to the delinquent co-claimant by mail, you must submit:

(1) A copy of the notice you mailed to the delinquent co-claimant; and

(2) A copy of the signed U.S. Postal Service return receipt from the registered or certified envelope in which you sent the notice to the delinquent co-claimant.

(c) If you published the notice in a newspaper, you must submit:

(1) A statement from the newspaper publisher or the publisher's authorized representative describing the publication, including the beginning and ending dates of publication;

(2) A printed copy of the published notice; and

(3) A notarized affidavit attesting that you conducted a diligent search for the delinquent co-claimant, you could not locate the delinquent co-claimant, and therefore notification by publication was necessary.

**Subpart C—Resolving Co-Claimant Disputes About Acquiring a Delinquent Co-Claimant's Interests**

**§ 3837.30 Disputes about acquiring a delinquent co-claimant's interests.**

If co-claimants are engaged in a dispute regarding the acquisition of a delinquent co-claimant's interests—

(a) The co-claimants must resolve the dispute, without BLM involvement, in a court of competent jurisdiction or proceeding as permitted within the state where the disputed claims are located.

(b) The co-claimants must file with BLM a certified copy of the judgment, decree, or settlement agreement resolving the dispute before BLM will update its records.

**43 CFR Ch. II (10–1–15 Edition)**

**PART 3838—SPECIAL PROCEDURES FOR LOCATING AND RECORDING MINING CLAIMS AND TUNNEL SITES ON STOCKRAISING HOMESTEAD ACT (SRHA) LANDS**

**Subpart A—General Provisions**

Sec.

3838.1 What are SRHA lands?

3838.2 How are SRHA lands different from other Federal lands?

3838.3 What rules must I follow to explore for minerals and locate mining claims on SRHA lands?

**Subpart B—Locating and Recording Mining Claims and Tunnel Sites on SRHA Lands**

3838.10 Procedures for locating and recording a mining claim or tunnel site on SRHA lands.

3838.11 How do I locate and record mining claims or tunnel sites on SRHA lands?

3838.12 What must I include in a NOITL on SRHA lands?

3838.13 What restrictions are there on submitting a NOITL on SRHA lands?

3838.14 What will BLM do when I submit a NOITL for SRHA lands?

3838.15 How do I benefit from properly submitting a NOITL on SRHA lands?

3838.16 What happens if the surface owner of the SRHA lands changes?

3838.17 How do I locate mining claims or tunnel sites after I follow the NOITL Procedures?

**Subpart C—Compliance Problems**

3838.90 Failure to comply with this part.

3838.91 What if I fail to comply with this part?

AUTHORITY: 43 U.S.C. 299(b), 1201, 1457, 1740, 1744; 30 U.S.C. 22 *et seq.*

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**Subpart A—General Provisions**

**§ 3838.1 What are SRHA lands?**

SRHA lands are lands that were—

(a) Patented under the Stockraising Homestead Act of 1916, as amended (30 U.S.C. 54 and 43 U.S.C. 299); or

(b) Originally entered under the Homestead Act of 1862, as amended, and patented under the SRHA after December 29, 1916.

**§ 3838.2 How are SRHA lands different from other Federal lands?**

SRHA lands are different from other Federal lands in that the United States owns the mineral estate of SRHA lands, but not the surface estate. Patents issued under the SRHA, and Homestead Act entries patented under the SRHA, reserved the mineral estate to the United States along with the right to enter, mine, and remove any reserved minerals that may be present in the mineral estate.

**§ 3838.3 What rules must I follow to explore for minerals and locate mining claims on SRHA lands?**

(a) The regulations in this part describe how to notify the surface owner before exploring for minerals or locating a mining claim on the mineral estate of SRHA lands.

(b) If you own the surface estate of SRHA lands and want to explore for minerals or locate a mining claim on the Federally-reserved mineral estate, you do not need to follow the requirements in this part, but you must follow the requirements in parts 3832, 3833, 3834 and 3835 of this chapter.

**Subpart B—Locating and Recording Mining Claims and Tunnel Sites on SRHA Lands****§ 3838.10 Procedures for locating and recording a mining claim or tunnel site on SRHA lands.****§ 3838.11 How do I locate and record mining claims or tunnel sites on SRHA lands?**

(a) You must—

(1) Submit a notice of intent to locate mining claims form (NOITL), which you may obtain from BLM, with the proper BLM State Office and submit a non-refundable service charge for processing the NOITL (see the table of fees in § 3830.21 of this chapter);

(2) Serve a copy of the NOITL on the surface owner(s) of record, by registered or certified mail, return receipt requested; and

(3) Submit proof to BLM that you served a copy of the NOITL on the surface owner(s) to complete submission of a NOITL with BLM.

(b) You can submit the NOITL to BLM and serve a copy of the NOITL on the surface owner(s) at the same time.

(c) If you want to explore parcels of land that are owned by different people, you must submit a separate NOITL for each parcel of land.

(d) You must—

(1) Wait 30 days after you serve the surface owner(s) with the NOITL before entering the lands to explore for minerals or locate a mining claim or tunnel site; and

(2) Follow procedures for locating mining claims and tunnel sites in part 3832, recording mining claim and tunnel sites in part 3833, and annual maintenance of mining claims in parts 3834 and 3835 of this chapter.

**§ 3838.12 What must I include in a NOITL on SRHA lands?**

A NOITL must include:

(a) The names, mailing address, and telephone numbers of everyone who is filing the NOITL. An agent may file the NOITL on behalf of others as long as the NOITL is accompanied with proof that the agent is authorized to act on behalf of the others.

(b) Information about the surface owners, including:

(1) The names, mailing addresses, and telephone numbers of all known surface owners of the parcel of land you want to enter;

(2) Evidence of surface ownership of all parcels covered by the NOITL obtained from the tax records of the local government. The evidence must show the name of the persons paying the taxes, and must contain a legal description of the taxed parcel.

(3) A description of the lands covered by the NOITL, including:

(i) The total number of acres to the nearest whole acre; and

(ii) A map and legal land description to the nearest 5-acre subdivision or lot based on a U.S. Public Land Survey of the lands covered by the NOITL, including access routes; and

(4) A brief description of the proposed mineral activities, including:

(i) The name, mailing address, and telephone number of the person who will be managing the activities, and

(ii) A list of the dates on which the activities will take place.

**§ 3838.13**

**§ 3838.13 What restrictions are there on submitting a NOITL on SRHA lands?**

(a) At any one time, you or your affiliates may not hold NOITLs for more than 1,280 acres of land owned by a single surface owner in any one state.

(b) At any one time, you or your affiliates may not hold NOITLs for more than 6,400 acres of land in any one state.

(c) Your NOITL will expire 90 days after you submit it with BLM, unless you submit to BLM a plan of operations that complies with part 3809 of this chapter within the 90-day period.

(d) After your NOITL expires, you are not allowed to submit another NOITL for the same lands until 30 days after the expiration of the previously-filed NOITL.

(e) Only those persons whose names are listed on the properly-submitted NOITL, or their agents, will be allowed to explore for minerals or locate mining claims or tunnel sites on the lands covered by the NOITL.

(f) For purposes of this section, the term “affiliates” means, with respect to any person, any other person which controls, is controlled by, or is under common control with, such person.

**§ 3838.14 What will BLM do when I submit a NOITL for SRHA lands?**

When BLM accepts a properly completed and executed NOITL, we will note the official land status records. The 90-day segregation period begins the day we receive a complete NOITL.

**§ 3838.15 How do I benefit from properly submitting a NOITL on SRHA lands?**

(a) For a 90-day period after you submit a NOITL with BLM and 30 days after you give notice to the surface owner:

(1) You may enter the lands covered by the NOITL to explore for minerals and locate mining claims (see § 3838.10 for location procedures);

(2) You may cause only minimal disturbance of the surface resources on the lands covered by the NOITL;

(3) You must not use mechanized earthmoving equipment, explosives, or toxic or hazardous materials; and

**43 CFR Ch. II (10–1–15 Edition)**

(4) You must not construct roads or drill pads.

(b) For 90 days after BLM accepts your NOITL, no other person, including the surface owner, may—

(1) Submit a NOITL for any lands included in your NOITL;

(2) Explore for minerals or locate a mining claim on the lands included in your NOITL; or

(3) File an application to acquire any interest under section 209 of FLPMA and part 2720 of this chapter in the lands included in your NOITL.

(c) If you file a plan of operations under subpart 3809 of this chapter with BLM, as provided in Section 1 of the Act of April 16, 1993, 43 U.S.C. 299(b), within the 90-day period, BLM will extend the effects of the 90-day period until BLM approves or denies the plan of operations under subpart 3809.

(d) Before you conduct mineral activities, you must post a bond or other financial guarantee to cover completion of reclamation (see subpart 3809 of this chapter), compensation to the surface owner for permanent damages to the surface and loss or impairment of the surface, and to cover permanent loss of income due to reduction in the owner’s use of the land.

**§ 3838.16 What happens if the surface owner of the SRHA lands changes?**

If the surface owner transfers all or part of the surface to a new owner after you have recorded a NOITL and served it on the surface owner, you do not have to serve a copy of the NOITL on the new surface owners.

**Subpart C—Compliance Problems**

**§ 3838.90 Failure to comply with this part.**

**§ 3838.91 What if I fail to comply with this part?**

If you fail to comply with the requirements in this part, the NOITL is void. Mining claims or tunnel sites located under a void NOITL are null and void from the beginning and we will cancel them.

**PART 3839—SPECIAL LAWS, IN ADDITION TO FLPMA, THAT REQUIRE**