

## § 3836.24

(2) The land over which you are seeking a right-of-way by legal subdivision if the land is surveyed;

(3) Why present use of the right-of-way is denied or prevented;

(4) The steps you have taken to acquire the right to cross the lands; and

(5) Whether any other right-of-way is available and if so, why it is not feasible to use that right-of-way.

(c) If you are submitting the petition because of other legal impediments to your access to the claim, you must describe the legal impediments and submit copies of any documents you have that evidence the legal impediments.

(d) You must record in the local recording office a notice that you are petitioning BLM for a deferment of assessment work.

(e) You must attach a copy of the notice required by paragraph (d) of this section to the petition you submit to BLM.

(f) At least one of the claimants of each of the mining claims for which you request a deferment must sign:

(1) The petition you submit to BLM; and

(2) The original notice you record with the local recording office.

(g) You must pay a processing fee with each petition. (See the table of service charges and fees in § 3830.21 of this chapter.)

[68 FR 61077, Oct. 24, 2003, as amended at 70 FR 58879, Oct. 7, 2005]

### **§ 3836.24 If BLM approves my petition, what else must I do to obtain a deferment of assessment work?**

You must record a copy of BLM's decision regarding your petition in the local recording office.

### **§ 3836.25 What if BLM denies my petition for deferment of assessment work?**

If BLM denies your petition for deferment of assessment work, and the assessment year has ended, BLM will give you 60 days from the date you receive the BLM decision denying the petition in which to pay the maintenance fee to maintain your claim.

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### **§ 3836.26 How long may a deferment of assessment work last?**

(a) BLM may grant a deferment for up to one assessment year. However, the deferment ends automatically if the reason for the deferment ends.

(b) The deferment period will begin on the date you request in the petition unless BLM's approval sets a different date.

(c) You may petition to renew the deferment for one additional assessment year if a valid reason for a deferment continues. BLM cannot renew your deferment of assessment work more than once.

### **§ 3836.27 When must I complete my deferred assessment work?**

(a) You may begin the deferred assessment work any time after the deferment ends. However, you must complete it before the end of the following assessment year. For example, if your deferment ends on July 15, 2008, you must complete all the deferred assessment work by September 1, 2009, in addition to completing the regular assessment work due on that date.

(b) You may also choose to pay the annual maintenance fees for the years deferred instead of performing the deferred assessment work.

## **PART 3837—ACQUIRING A DELINQUENT CO-CLAIMANT'S INTERESTS IN A MINING CLAIM OR SITE**

### **Subpart A—Conditions for Acquiring a Delinquent Co-Claimant's Interests in a Mining Claim or Site**

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3837.23 How do I notify BLM that I have acquired a delinquent co-claimant's interests in a mining claim or site?

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### 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.

AUTHORITY: 43 U.S.C. 2, 1201, 1457; 50 U.S.C. App. 501, 565; 30 U.S.C. 28.

SOURCE: 68 FR 61078, Oct. 24, 2003, unless otherwise noted.

### Subpart A—Conditions for Acquiring a Delinquent Co-Claimant's Interests in a Mining Claim or Site

§ 3837.10 Conditions for acquiring a delinquent co-claimant's interests.

§ 3837.11 When may I acquire a delinquent co-claimant's interests in a mining claim or site?

(a) You may acquire a co-claimant's interest in a mining claim or site under the following circumstances:

(1) You are a co-claimant who has performed the assessment work, made improvements, or paid the maintenance fees required under parts 3834 and 3836 of this chapter;

(2) Your co-claimant fails to contribute a proportionate share of the assessment work, expenditures, or maintenance fees by the end of the assessment year concerned;

(3) You notify the delinquent co-claimant of the alleged delinquency as provided in § 3837.21; and

(4) If, within 90 days following the date the delinquent co-claimant received the notice provided for under § 3837.21 or 90 days following the end of the publication period described in § 3837.21, the delinquent co-claimant fails or refuses to contribute a proportionate share of the assessment work, expenditures, or maintenance fees, the remaining co-claimants acquire the delinquent co-claimant's share in the mining claim or site.

(b) You may not acquire a co-claimant's interest in a mining claim or site

if the co-claimant is on active military duty.

## Subpart B—Acquisition Procedures

### § 3837.20 Acquisition.

§ 3837.21 How do I notify the delinquent co-claimant that I want to acquire his or her interests?

(a) You must give the delinquent co-claimant written notice by mail using registered or certified mail, return receipt requested, or by personal service; or

(b) If, after diligent search, you cannot locate the delinquent co-claimant, you must publish notification in a newspaper nearest the location of the claims or sites at least once a week for 90 days.

§ 3837.22 How long does a delinquent co-claimant have after notification to contribute a proportionate share of the assessment work, expenditures, or maintenance fees?

The delinquent co-claimant must contribute a proportionate share of the assessment work, expenditures, or maintenance fees within 90 days after the date on which—

(a) The co-claimant received written notice by mail or personal service; or

(b) The 90-day newspaper publication period ended.

§ 3837.23 How do I notify BLM that I have acquired a delinquent co-claimant's interests in a mining claim or site?

If you acquire a delinquent co-claimant's interests in a mining claim or site, you must submit—

(a) Evidence that you properly notified the delinquent co-claimant;

(b) An originally signed and dated statement by all the compliant co-claimants that the delinquent co-claimant failed to contribute the proper proportion of assessment work, expenditures, or maintenance fees within the period fixed by the statute; and

(c) A non-refundable service charge for a transfer of interest, as found in the table of fees in § 3830.21 of this chapter.

**§ 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.

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

**Subpart A—General Provisions**

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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.

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**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.*

SOURCE: 68 FR 61079, Oct. 24, 2003, unless otherwise noted.

**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.