

List of Exceptions, Reservations & "SUBJECT TO"

A. Excepting and Reserving to the United States - BLM Handbook H-1860-1, IV, D, outlines those situations where a patent reservation is appropriate. Two major categories of reservations include rights-of-way to Federal agencies (Federal Aid Highways appear as third party rights in patents) and mineral reservations. Requests for patent should include the following information for each of these major types:

1. Rights-of-Way

- a. Type of right-of-way.
- b. Act authorizing right-of-way.
- c. Name of grantee.
- d. Legal description of affected lands, when right-of-way does not cover all land in patent.
- e. Serial number.

2. Mineral Reservations

- a. All minerals.
- b. Oil and gas.
- c. Oil, gas, coal, and geothermal.
- d. Other _____.

B. Third party Rights Transferred "SUBJECT TO" in the patent. The following, information for each of the common types of third party rights needs to be included with the patent request:

1. Rights-of-Way

- a. Type of right-of-way.
- b. Act authorizing right-of-way.
- c. Name of grantee.

- d. Legal description of affected lands, if the right-of-way affects only a portion of the land to be conveyed. Note: Extra care needs to be exercised in describing lands affected by a right-of-way. Inadvertently deleting a portion of the right-of-way from a patent can have disastrous long-term impacts. This potential problem is more prevalent when the right-of-way is located along aliquot part boundaries and when the right-of-way was granted without a formal survey.
 - e. Serial number.
2. R.S. 2477 Reservations for County Roads - Name of County Board of Supervisors.

R.S. 2477 reservations pose particularly difficult problems. All R.S. 2477 issues need to be resolved in the environmental document and for those instances where there are still unsolved questions, the case file will be returned to the field for resolution before a patent is issued. Under State Law R.S. 2477 roads should be recorded with BLM. If not, the case file should contain other evidence of the status of the road. Please note that BLM is still operating under the January 1997 Secretarial policy for acknowledging any new R.S. 2477 claims. This policy states that a county must make a claim which shows an immediate and compelling need. This claim must be concurred in at all levels of the Bureau and up to and including the Secretary's Office.
 3. Existing Oil and Gas Leases - Serial numbers of all existing leases affecting Federal lands to be transferred need to be identified in the patent request.
 4. Grazing Lease/Permit Reservation - Patent request should provide the name of lessee/permittee, lease identification number, expiration date, and the case file should contain a copy of any notification letter with evidence of service, evidence of service of NORA, or original Sec. 402(a) waiver.
 5. Floodplain Reservation - The patent request should clearly identify the need for flood plain reservations, and you should reference those uses that are restricted under identified Federal, State, or local floodplain regulations. (See BLM Handbook H-1860-1, Chapter III H. for actual wording.)

Case File Review Points

1. Verify that all documents (**originals**), are filed chronologically in the case file and extraneous materials (including duplicate copies of documents), are removed. Remember it is extremely important that the case file contain an accurate, complete historical record of the case, including plats and LR2000 serial register pages. Complete records include telephone confirmations, faxes, and e-mail messages where case related information is discussed and decisions are made. The case file documents are what the Solicitor relies upon to defend the BLM when faced with legal challenges. Case information is to be kept in the original, brown, pre-numbered, letter size case files. The correct case type code must be written on the file. When there is more material than will fit into one file, additional subparts should be made. Write the serial number and case type on the additional files, and also indicate that the file is, for example, (Part 2 of 2 cases). Currently, many offices are using computer printed labels to mark case files. This is fine for the short-term, however, over time these labels dry out and fall off the files. Therefore, it is important to write the information on the outside of the files.
2. Verify that all of the required newspaper/Federal Register publications and their associated proof of publications, mineral reports, environmental site assessments, grazing notifications and/or waivers, cultural and T&E clearances, and environmental documents are in the case file. (Please note that there may be other documents required for certain case types, i.e., exchanges and R&PP-s)
3. If an adjoining landowner(s) was the designated preference bidder(s), check for evidence of adjoining land ownership. Verify that the Certificate of Ownership Form (Form WY-2710-3), contains all necessary information, and that the form has been signed by the adjoining landowner(s).
4. Check the accounting advices (soon to be receipts from CBS), to ensure that all monies have been received for the purchase of the land. If this is an exchange action, ensure that all equalization payment monies have been received.
5. If you are transmitting an R&PP case for patent issuance, make a complete copy of the case file for future field monitoring and compliance work prior to sending the file to the State Office.
6. Ensure that the LR2000 data entry is current prior to submitting the request for patent issuance.
7. For R&PP patent requests, ensure that the development and management plans are included in the case file and that they satisfactorily describe a definitely proposed project with a reasonable timetable for development. Identify in the transmittal memorandum the dates of these approved plans and any subsequent amendments for inclusion in the patent.