

NOTICE OF INTENT TO LOCATE MINING CLAIMS ON STOCK RAISING HOMESTEAD ACT LANDS

Stock Raising Homestead Act Amendment of April 16, 1993, Public Law 103-23

The Act requires special procedures that must be complied with by claimants prior to locating mining claims on land where the surface is patented, and the minerals are reserved under the Stock Raising Homestead Act (SRHA) of December 29, 1916.

Claimants must file a Notice of Intent to Locate (NOITL) Mining Claims prior to entering SRHA land to explore for minerals, or to locate mining claims. Filing a NOITL segregates the land from all forms of appropriation for 90-days for the party filing the NOITL. A NOITL must contain the following information:

Statutory Information

A. The following statutory information must be present on the NOITL:

1. Surface owner name and address.
2. Claimant name and address.
3. Legal description of the lands covered by the NOITL. The legal description shall be based on the public land survey or other sufficient description so that the NOITL can be noted to the public land status records.
4. A map of the lands subject to mineral exploration.
5. Dates of when exploration and/or location of claims will begin and end.

The information above is mandatory, statutory information that is required before the segregation of the land becomes effective.

If any of the statutory information is missing the NOITL will not be posted to the land status records, or in the public room until all the information is received.

A Letter of Deficiency (LOD) will be issued to the claimant requesting missing statutory information. The claimant is given 30-days to submit the mandatory information. If the information is not received within the 30-day time frame the NOITL will be rejected.

If information is received within the 30-day time frame, the NOITL will be posted effective on the date all the statutory information is received.

If a complete NOITL is filed by someone else prior to the claimant correcting a NOITL missing statutory information, the complete NOITL will be accepted and posted. The incomplete NOITL will be rejected.

Regulatory Information

A. The NOITL must have the following regulatory information:

1. \$25.00 Service Fee
2. Proof of surface ownership. A copy of the county records showing who is paying the taxes on the property is sufficient proof of ownership. A certificate of title or proof of title insurance will also be accepted.
3. A copy of the certified mail receipt card proving the surface owner was served a copy of the NOITL.
4. The telephone number of the surface owner.
5. The telephone number of the claimant.
6. Total number of acres covered by the NOITL.
7. Brief description of proposed mineral activity.
8. Map showing access routes.

All of the regulatory information is required, but is curable if missing. The NOITL will be posted at the time received even if regulatory information is missing. Once the information is submitted a corrected NOITL will be attached to the original NOITL posted.

If any of the regulatory information is missing a LOD will be issued requesting the information. The claimant has the full 90-day segregation period to submit the missing regulatory information. If the regulatory information is not received within the 90-day segregation period, the NOITL will be rejected and any mining claims filed connected to the NOITL will be declared null and void ab initio.

Land covered by the NOITL

All land covered by the NOITL must be owned by the same person or group of people. In order for one NOITL to be accepted for multiple surface owners, all owners must jointly own the land described in the NOITL.

Each claimant is allowed 1280 acres covered by NOITLs per surface owner. The maximum acreage that may be covered by NOITLs for a single claimant is 6400 acres statewide.

Segregation Period

Serving the surface owner does not start the 90-day segregation period. The segregation is not effective until BLM accepts and posts the NOITL.

The 90-day segregation period ends on the 90th day even if it falls on a weekend or a holiday.

Exploration and Location of Mining Claims

The claimant must wait 30 days after the date the surface owner signs the certified card to begin exploration and staking claims. The claimant is not allowed to enter the land covered by the NOITL during this 30-day period. The claimant may explore and stake mining claims during the remainder of the segregation period, approximately 60 days.

Plan of Operation (Plan) and Bonding

After mining claims are staked, a mining claimant or operator may not conduct mineral activities (other than casual use) except under the following conditions:

- A. Written consent from the surface owner(s); OR
- B. An approved plan of operations from BLM.

A plan of operations will be filed in the appropriate BLM Field Office pursuant to the standards described at 43 CFR 3809. Within 60 days of its receipt, the BLM Field Office will approve the Plan, or notify the claimant/operator of any deficiencies in the Plan. The 60-day time frame to approve the plan may be extended for an unspecified amount of time if necessary to comply with other applicable requirements of law.

The State Office will be notified of a Plan if filed within the 90-day segregation period. The 90-day segregation period may be extended by at least 60 days if additional time is required to comply with other applicable requirements of law.

A reclamation bond shall be filed and maintained with the BLM State office, pending final reclamation of the project area.

The appropriate BLM Field Office will determine the bond amount, prepare the necessary environmental document and estimated reclamation costs for the Plan.

The operator or mining claimant(s) shall post fees in amounts sufficient to cover tangible losses incurred by the surface owner during operations, and permanent losses that may result if the lands are not reclaimed to pre-mining agricultural production levels.

The State Office will receive, adjudicate, accept, and release financial guarantees (bonds), and collect on forfeitures.

An annual rental payment is required to be paid to the surface owner(s), based upon fair market rental conditions.

Mining Claims Recorded in Connection with a NOITL

- A. Only the person(s) or entity that filed the NOITL can locate claims.
- B. The legal description(s) on the location certificate(s) must be within the legal description given on the NOITL.

C. The location date of the claims must be 30 days after the surface owner signed the certified card, and before the 90-day segregation period expired.

Surface Owners of SRHA Land

The owner of patented surface affected by the Act are not required to file a NOITL. The only requirement of the surface owner is to provide proof of surface ownership. This can be accomplished by providing a copy of the tax records or title evidence documents.

Pre-Act Mining Claims (Non-Grandfathered)

Claims that were located and recorded with BLM on SRHA lands prior to the April 16, 1993, amendment were not completely "grandfathered".

- A. Pre-Act claims do not require BLM intervention if surface owner and claimant have an agreement on mining operations.
- B. Pre-Act operations with a BLM bond outstanding are subject to BLM review, but only if surface owner requests it.
- C. Pre-Act claims with no pre-act operations will need either surface owner consent filed with BLM, or to file a Plan of Operation (Plan) and go through the new approval process for use authorization of a Plan.

The claimant needs to submit a letter to BLM stating that he/she has the consent of the surface owner to operate and that no BLM intervention is necessary. This letter must be signed by the surface owner. BLM does not need to know the details of the agreement(s).

Questions and Answers

SRHA AMENDMENT:

- Q1. Does this amendment affect all minerals?
- A1. This amendment only affects the locatable minerals. The segregative effect of the NOITL is to locatable minerals and FLPMA mineral estate purchases only.
- Q2. Can a millsite be located under the NOITL?
- A2. The 1916 Act, by reserving the mineral estate, made all SRHA lands mineral-in-character, thereby disallowing any millsite locations. Also, a millsite is a "surface entry" only under the mining laws. Since the surface is already patented, no millsite entry is permissible.

SURFACE OWNER:

Q1. Is the surface owner required to file a NOITL?

A1. The surface owner is not required to follow the NOITL procedures. Surface owners may stake mining claims at any time if a NOITL isn't in effect and segregating the land.

NOTICE OF INTENT TO LOCATE (NOITL):

Q1. What is the filing fee for a NOITL?

A1. There is a \$25.00 service charge for filing a NOITL with BLM.

Q2. If a NOITL is missing information is it curable?

A2. Missing information is curable, however:

A. The segregation of the NOITL does not take place until all statutory information is received.

B. If the missing information is regulatory, the NOITL is posted right away and the segregation period begins as of posting.

Q3. What if the statutory requirements are not met?

A3. If the statutory requirements are not met, the NOITL will not be posted.

Q4. What if the regulatory requirements are not met?

A4. If the regulatory requirements are not met within the 90-day segregation period, the NOITL is void.

Q5. What is the official land record for posting the NOITL?

A5. The official public land record recognized by the DOI is the Master Title Plat and the Historical Index.

Q6. What happens if a company changes its name during the NOITL process?

A6. The claimant can amend the NOITL if the name of a company or person changes as long as it is the same individual or entity that was shown on the original NOITL. If the individual or entity is different because of a name change, the NOITL process must start over. A company or individual would have to provide the BLM with the name change or merger documents.

Q7. When are the lands segregated?

A7. The lands covered by a NOITL are segregated as of the date 9LM accepts and posts the NOITL.

- Q8. What is the effect of the 90-day segregation period?
- A8. When a segregation of the land occurs, the land is withdrawn from application by the surface owner for acquisition of the mineral estate pursuant to section 209 of FLPMA, and prevents anyone else from submitting a NOITL for a period of 90 days.
- Q9. Does the claimant have to serve the NOITL on the surface owner?
- A9. Service of the surface owner is statutory. The claimant must serve a copy of the NOITL on the surface owner by Registered or Certified mail--Return Receipt Requested. A copy of the certified card must be sent to BLM during the 90-day segregation period.
- Q10. What if the surface owner refuses service of a NOITL?
- A10. If the surface owner refuses service of a NOITL, the claimant must provide proof that service was attempted. The envelope the NOITL was mailed in or the certified card marked "refused" or "undeliverable" by the post office must be submitted to BLM. Service was made as of the date of the post office notation on the card, or as of the date of its return to the sender, whichever is earlier. In accordance with 43 CFR 1810.2(h) refusal of service results in constructive service.
- Q11. When can a claimant enter the land?
- A11. The claimant must wait 30-days before they may enter the land to explore for minerals, and locate mining claims. The 30-day period starts on the date the surface owner signs the certified card showing proof of service from the claimant of the NOITL.
- Q12. Who may locate mining claims on land covered by a NOITL?
- A12. The person who files a NOITL is the only person who can locate mining claims. The NOITL must list all parties that intend to locate the claims.
- Q13. When can the mining claims be located?
- A13. The claimant must wait 30-days after serving the surface owner to locate the mining claims. The mining claims must be located within the 90-day segregation period. The mining claims do not need to be recorded with BLM within the 90-day period, but the location date of the claims must fall within the 90-day segregation period.
- Q14. Is surface owner consent required to enter the land to stake claims?
- A14. Surface owner consent is not required to re-enter the land to stake mining claims. The statute (both old and new) make that a non-discretionary right of the party filing the NOITL.

- Q15. What if the surface owner will not grant access so that the mining claimant may locate their claims?
- A15. If the surface owner will not grant access to the mining claimant, it becomes a civil matter that must be decided in court of competent jurisdiction. The BLM can not force the surface owner to grant access.
- Q16. Can someone file a NOITL during the 90-day segregation period of a NOITL already approved and posted?
- A16. No, the 90-day segregation period prevents others including the surface owner from filing a NOITL or claims. After the 90-day segregation period expires a new NOITL would be accepted on the 91't day.
- Q17. What happens if the location date of mining claims located under a NOITL is not within the 90-day segregation period?
- A17. The claims are declared null and void ab initio because they were not located during the 90-day segregation period.
- Q18. What if the surface owner will not grant access to mining claims that have been located?
- A18. After location of the claims, further surface entry requires either surface owner consent or an approved plan or operation.

PLAN OF OPERATION:

- Q1. What if a claimant wants to go beyond casual use of a mining claim located under a NOITL?
- A1. To go beyond casual use, the mining claimant would need written consent of the surface owner or would need to file a Plan of operation with BLM.
- Q2. Do all surface owners have to be served with a copy of the plan of operations when there are multiple owners?
- A2. All surface owners must be served within the same period of time, unless one owner is a designated agent acting on behalf of the other co-owners.

BONDING AND SURFACE USE FEES:

- Q1. What are the bond and surface use fee discussed in Section 1(e) and 1(g) of Public Law 103-23?
- A1. The surface use fee is for compensation for losses to the surface owner during mining operations, and the bond is to assure reclamation and compensation for permanent damages as a result of mining, i.e., not being able to restore the land to the full production level of pre-mining.

- Q2. Is the BLM responsible for determining the amount of the surface use fee?
- A2. The BLM is responsible for determining the amount of the surface use fee. The fee is based upon the current uses of the lands and it is not to exceed fair market rental value of the lands.
- Q3. The claimant/operator is required to submit procedures for payment of the surface use fee with the plan of operations. Does this imply that there needs to be coordination between the BLM, the surface owner, and the claimant/operator for surface use fee calculation prior to officially submitting the plan?
- A3. BLM sets the surface use fee, based upon real estate style analysis. The surface use fee is on an annual basis, amortized over the life of the Plan. As with the current SRHA procedures, surface owner is served with notice of proposed annual surface use fee, and has 30 days to object or appeal the value of appraisal.
- Q4. May a 3809 bond be used for a 3814 NOITL?
- A4. Bonding for 3814 NOITL is separate from 3809 bonding. The State Office will process and maintain the bonds for 3814. The bonds included in Memorandums of Understanding (MOUs) with the states can not be used for 3814 bonding.
- Q5. If there is no loss because grazing is not occurring nor are crops being raised, can the bond include loss of property value (tangible loss?) because there are mining claims and the potential for mining?
- A5. Loss to actual improvements, buildings, access, etc. due to mining is compensable. Loss of property value is not. The surface owner does not own the minerals, and therefore, is not entitled to claim compensation for loss of property values due to mineral estate being exercised by the owner of the estate (the United States).
- Q6. What can happen if the claimant fails to comply with the surface agreement, the Plan or bonding requirements?
- A6. The surface owner can sue the claimant for triple the damages they have caused from exploration or locating the mining claims.

Form 3830-3

(January 2000) UNITED STATES

(supersedes 3814-4) DEPARTMENT OF THE INTERIOR

BUREAU OF LAND MANAGEMENT

NOTICE OF INTENT TO LOCATE A LODE OR PLACER MINING CLAIM(S) AND/OR A TUNNEL SITE(S) ON LANDS PATENTED UNDER THE STOCK RAISING HOMESTEAD ACT OF 1916, AS AMENDED BY THE ACT OF APRIL 16, 1993

FORM APPROVED OMB NO. 1004-0114 Expires: December 31, 2002

Homestead Patent Number

TO ALL WHOM IT MAY CONCERN:

This notice is filed under Public Law 103-23 of April 16, 1993 (107 Stat. 60), entitled "An Act to amend the Stock Raising Homestead Act to resolve certain problems regarding subsurface estates, and for other purposes."

The undersigned places all interested parties on notice that, within 90 days of filing this notice with the BLM and after 30 days from the date of receipt of a copy of this notice by the surface owner(s) of record, the undersigned intends to enter the lands described below to explore for a discovery of a valuable mineral deposit(s) and to locate a mining claim(s), and/or tunnel site(s), as provided under the mining laws of the United States (30 U.S.C. 22, et seq.). The area covered by this notice and all other notices filed by the undersigned and any affiliate(s) of the the undersigned, and which continue to be in effect on the date of this filing does not exceed 6,400 acres of such land in any one State and 1,280 acres of such land for a single entity. This notice, for a single State and surface ownership, covers the following lands:

1/4 SECTION TOWNSHIP RANGE MERIDIAN

in

Total acres under this notice

Name and mailing address of affected surface owner(s):

County, State of

Name and mailing address of person filing this notice:

Brief description of the proposed casual use exploration activities (i.e., activities that cause no more than a minimal disturbance to the surface resources and do not involve the use of mechanized earth-moving equipment, explosives, the construction of access roads, drill pads, or the use of toxic or hazardous materials):

Date(s) on which such activities will take place:

(Continued on reverse)

Attached is a map showing the existing access routes proposed to be used for casual use exploration purposes, primary areas of interest, and types of activities to be conducted.

The above described activities will be managed by:

Name

Mailing Address

Phone Number (include area code)

Dated this day of '19

Signature of:

(Person) (Affiliate)

RECORDER'S STAMP

NOTICE

AUTHORITY: 30 U.S.C. 22 et seq. and 43 U.S.C. 299 (b); 43 CFR 3814 and 3830.

PRINCIPLE PURPOSE: This information is to be used to verify that the mining claimant has complied with the prelocation notice of intent to locate requirements of Public Law 103-23, now codified at 43 U.S.C. 299 (b), and is therefore qualified to locate and record mining claims on lands patented under the Stockraising Homestead Act of 1916, as amended.

ROUTINE USE: (1) Verification that the mining claimant has properly noticed the surface owner of the land previously patented under the Stockraising Homestead Act of 1916, as amended by the Act of April 16, 1993 (43 U.S.C. 299 [b]). (2) Disclosure may be made to appropriate Federal agencies when location is made within the agency's geographic area of responsibility. (3) Information from the record and/or the record will be transferred to the appropriate Federal, State, or local agency, or a member of the public in response to a specific request for pertinent information. (4) Information may also be provided to the Department of Justice or in a proceeding before a court or adjudicative body; or to Federal, State, local or foreign agencies when needed for enforcement of civil or criminal codes or applicable regulations concerning title rights upon the public land.

EFFECT OF NOT PROVIDING INFORMATION: Disclosure of this information is required by the Act of April 16, 1993 (Public Law 103-23; 43 U.S.C. 299 [b]) and 43 CFR 3814 and 3830 for those mining claimants who desire to locate mining claims upon lands previously patented under the Stockraising Homestead Act of 1916, as amended. Failure to supply the information required in this form to show the mining claimant's compliance with the terms of the above statute will result in the rejection and/or cancellation of any mining claims located upon such lands by the mining claimant.

The Paperwork Reduction Act of 1995 requires us to tell you that: This information is being collected to allow the BLM to determine if you are qualified to locate mining claims upon lands previously patented under the Stockraising Homestead Act of 1916, as amended, as required by the Act of April 16, 1993 (Public Law 103-23) and the implementing regulations at 43 CFR 3814 and 3830. A response to this request is required in accordance with the statute (Public Law 103-23) to retain your benefit.

BLM would like you to know that you do not have to respond to this, or any other, Federal agency -sponsored information collection unless it displays a currently valid OMB control number.

Public reporting burden for this form is estimated to average 8 minutes per response, including the time for reviewing instructions, gathering and maintaining data, and completing and reviewing the form. Direct comments regarding the burden estimate or any other aspect of this form to U.S. Department of the Interior, Bureau of Land Management (1004-0114), Bureau Clearance Officer (WO-630), Mail Stop 401 LS, 1849 C St., N.W., Washington, D.C. 20240.