

§ 1864.1

some other body of water, or that remain as uplands following such a change, or that are located in the bed of the new channel.

(d) *Actual shoreline* means the line which is washed by the water wherever it covers the bed of a body of water at its mean high water level.

(e) *Lands* means lands and interests in lands now or formerly forming a part of the reserved or unreserved public lands of the contiguous 48 States and Alaska and as to any coastal State, includes submerged lands inside of the seaward boundary of the State.

(f) *Meander line* means a survey line established for the purpose of representing the location of the actual shoreline of a permanent natural body of water, without showing all the details of its windings and irregularities. A meander line rarely runs straight for any substantial distance. It is established not as a boundary line but in order to permit calculation of the quantity of lands in the fractional sections remaining after segregation of the water area.

(g) *Relict lands* have the meaning imparted that term by applicable law. In general, they are lands gradually uncovered when water recedes permanently.

§ 1864.1 Application for issuance of a document of disclaimer.

§ 1864.1-1 Filing of application.

(a) Any present owner of record may file an application to have a disclaimer of interest issued if there is reason to believe that a cloud exists on the title to the lands as a result of a claim or potential claim by the United States and that such lands are not subject to any valid claim of the United States.

(b) Prior to the acceptance for filing of an application under this subpart, the authorized officer should discuss the proposal with the proposed applicant to determine if the regulations in this subpart apply.

(c) An application shall be filed in writing with the proper Bureau of Land Management office as listed in § 1821.2-1(d) of this title.

43 CFR Ch. II (10-1-02 Edition)

§ 1864.1-2 Form of application.

(a) No specific form of application is required.

(b) A nonrefundable fee of \$100 shall accompany the application.

(c) Each application shall include:

(1) A legal description of the lands for which a disclaimer is sought. The legal description shall be based on either an official United States public land survey or, in the absence of or inappropriateness (irregularly shaped tracts) of an official public land survey, a metes and bounds survey (whenever practicable, tied to the nearest corner of an official public land survey), duly certified in accordance with State law, by the licensed civil engineer or surveyor who executed or supervised the execution of the metes and bounds survey. A true copy of the field notes and plat of survey shall be attached to and made a part of the application. If reliance is placed in whole or in part on an official United States public land survey, such survey shall be adequately identified for record retrieval purposes;

(2) The applicant's name, mailing address, and telephone number and the names addresses and telephone numbers of others known or believed to have or claim an interest in the lands;

(3) All documents which show to the satisfaction of the authorized officer the applicant's title to the lands;

(4) As complete a statement as possible concerning:

(i) The nature and extent of the cloud on the title, and

(ii) The reasons the applicant believes:

(A) The record title interest of the United States in the lands included in the application has terminated by operation of law or is otherwise invalid, including a copy or legal citation of relevant provisions of law; or

(B) The lands between the meander line shown on the plat of survey approved by the Bureau of Land Management or its predecessors and the actual shoreline of a body of water are not lands of the United States, including as documentation an official plat of survey or a reference to a date of filing or approval and, if the applicant elects, any non-Federal survey plats related to the issue; or

Bureau of Land Management, Interior

§ 1864.2

(C) The lands are accreted, relicted or avulsed and are no longer lands of the United States, including submission for the uplands portion of the body of water affected a copy of an official plat of survey or a reference to it by date of filing or approval and, if the applicant elects, any non-Federal survey plats related to the issue;

(5) Any available documents or title evidence, such as historical and current maps, photographs, and water movement data, that support the application;

(6) The name, mailing address, and telephone number of any known adverse claimant or occupant of the lands included in the application;

(7) Any request the applicant may have that the disclaimer be issued in a particular form suitable for use in the jurisdiction in which it will be recorded; and

(d) Based on prior discussions with the applicant, the authorized officer may waive any or all of the aforementioned items if in his/her opinion they are not needed to properly adjudicate that application.

§ 1864.1-3 Action on application.

(a) An application shall be denied by the authorized officer if:

(1) More than 12 years have elapsed since the owner knew or should have known of the alleged claim attributed to the United States;

(2) The application pertains to a security interest or water rights; or

(3) The application pertains to trust or restricted Indian lands;

(b) The authorized officer shall, if the application meets the requirements for further processing, determine the amount of deposit needed to cover the administrative costs of processing the application and issuing a disclaimer.

(c) The applicant shall submit a deposit in an amount determined by authorized officer.

(d) If the application is concerned with what may be omitted lands, it shall be processed in accordance with the applicable provisions of part 9180 of this title. If the application is determined by the authorized officer to involve omitted lands, the applicant shall be so notified in writing.

§ 1864.1-4 Consultation with other Federal agencies.

If the lands included in the application are under the administrative jurisdiction of a Federal agency other than the Department of the Interior or if the issuance of a disclaimer for the lands would, to the Bureau of Land Management's knowledge, directly affect another Federal agency, the authorized officer shall refer the application to that Federal agency for comment.

§ 1864.2 Decision on application.

(a) The authorized officer shall notify the applicant and any party adverse to the application, in writing, on the determination of the authorized officer on whether or not to issue a disclaimer. Prior to such notification, the authorized officer shall issue to the applicant a billing that includes a full and complete statement of the cost incurred in reaching such determination, including any sum due the United States or that may be unexpended from the deposit made by the applicant. If the administrative costs exceed the amount of the deposit required of the applicant under this subpart, the applicant shall be informed that a payment is required for the difference between the actual costs and the deposit. The notification shall also require that payment be made within 120 days from the date of mailing of the notice. If the deposit exceeds the administrative costs of issuing the disclaimer, the applicant shall be informed that a credit for or a refund of the excess will be made. Failure to pay the required amount within the allotted time shall constitute grounds for rejection of the application. Before the authorized officer makes a determination to issue a disclaimer, he/she shall publish notice of the application, including the grounds supporting it, in the FEDERAL REGISTER. Publication in the FEDERAL REGISTER shall be made at least 90 days preceding the issuance of a decision on the disclaimer. Notice shall be published in a newspaper located in the vicinity of the lands covered by the application once a week for 3 consecutive weeks during the 90-day period set out herein. Neither publication shall be made until the applicant has paid the administrative costs.