

## Bureau of Land Management, Interior

## § 3833.5

oil placer mining claim, a noncompetitive oil and gas lease consistent with the provisions of section 17(e) of the Mineral Leasing Act (30 U.S.C. 226(e)) to be effective from the statutory date the claim was conclusively abandoned. The conditions and requirements for issuance of such leases are contained in §3108.2-4 of this title.

[44 FR 9723, Feb. 14, 1979, as amended at 47 FR 56307, Dec. 15, 1982; 48 FR 7179, Feb. 18, 1983; 49 FR 30450, July 30, 1984; 53 FR 48882, Dec. 2, 1988; 55 FR 17754, Apr. 27, 1990; 58 FR 38201, July 15, 1993; 59 FR 44862, Aug. 30, 1994; 64 FR 47022, Aug. 27, 1999]

### § 3833.4-1 Curing defective waivers.

(a) If BLM finds a defect in a waiver request, BLM will send a notice to the claimant by certified mail—return receipt requested, to the address given on the waiver request.

(b) The claimant must cure the defective waiver or pay the annual maintenance fees within 60 days of receiving BLM notification of the defects. Otherwise the claims covered by the defective waiver are forfeited.

[64 FR 47022, Aug. 27, 1999]

### § 3833.5 Effect of recording and filing.

(a) Recordation or application involving an unpatented mining claim, mill site, or tunnel site by itself shall not render valid any claim which would not be otherwise valid under applicable law and does not give the owner any rights he is not otherwise entitled to by law.

(b) Compliance with the requirements of this subpart shall be in addition to and not a substitute for compliance with the other requirements of Groups 3700 and 3800 of this title, and with laws and regulations issued by any State or other authority relating to locating, recording, and maintenance of mining claims, mill sites, and tunnel sites located, held, and maintained upon the public lands of the United States.

(c) Filing of instruments pertaining to mining claims under other Federal law with the BLM or other Federal agency shall not excuse the filings required by this subpart and filings under this subpart shall not excuse the filing of instruments pertaining to mining claims under any other Federal law,

except that filing a notice or certificate of location or an affidavit of annual assessment work under this subpart which is marked by the owner as also being filed under the Act of April 8, 1948 (62 Stat. 162) or the Act of August 11, 1955 (30 U.S.C. 621-625), will satisfy the recording requirement for O & C lands under 43 CFR subpart 3821 and Pub. L. 359 lands under 43 CFR part 3730, or as provided in §3833.2 of this title.

(d) In the case of any action or contest initiated by the United States affecting an unpatented mining claim, mill, or tunnel site, only those owners who have recorded their claim or site pursuant to §3833.1-2 and filed a notice of transfer of interest pursuant to §3833.3 shall be considered by the United States as parties whose rights are affected by such action or contest and shall be personally notified and served by certified mail sent to their last address of record. As provided in subpart 1810 of this title, all owners of record with the Bureau of Land Management shall be personally notified and served by certified mail, return receipt requested, sent to their last address of record. Such owners shall be deemed to have been served if the certified mail was delivered to that address of record, regardless of whether the certified mail was in fact received by them. The provisions of this subpart shall not be applicable to procedures for public notice required under part 3860 of this title with respect to mineral patent applications.

(e) Actual notice of an unpatented mining claim or mill or tunnel site by any employee or officer of the United States shall not exempt the claim or site from the requirements of this subpart.

(f) Failure of the government to notify an owner upon his filing or recording of a claim or site under this subpart that such claim or site is located on lands not subject to location or otherwise void for failure to comply with Federal or State law or regulations shall not prevent the government from later challenging the validity of or declaring void such claim or site in accordance with due process of law.

(g) Any person who files an instrument required by these regulations

knowing the same to contain any false, fictitious or fraudulent statement or entry, may be subject to criminal penalties under 18 U.S.C. 1001.

(h) Any party adversely affected by a decision of the authorized officer made pursuant to the provisions of this subpart shall have a right of appeal pursuant to part 4 of this title.

[42 FR 5200, Jan. 27, 1977, as amended at 44 FR 9723, Feb. 14, 1979; 47 FR 56307, Dec. 15, 1982; 53 FR 48882, Dec. 2, 1988; 55 FR 17754, Apr. 27, 1990; 58 FR 38201, July 15, 1993]

## PART 3840—NATURE AND CLASSES OF MINING CLAIMS

### Subpart 3840—Types of Claims

Sec.

3840.1 Classes of mining claims.

#### Subpart 3841—Lode Claims

3841.1 Lodes located previous to May 10, 1872.

3841.2 Lodes must not have been adversely claimed.

3841.3 Discovery.

3841.3-1 Discovery required before location.

3841.3-2 Discovery work.

3841.4 Describing locations.

3841.4-1 Length of lode claims.

3841.4-2 Width of lode claims.

3841.4-3 Extent of surface ground.

3841.4-4 Defining of locations.

3841.4-5 Location notice; monumenting.

3841.4-6 Recording of location notice.

#### Subpart 3842—Placer Claims

3842.1 Placer claims: General.

3842.1-1 Discovery.

3842.1-2 Maximum allowable acreage.

3842.1-3 Locations authorized in 10-acre units.

3842.1-4 Manner of describing 10-acre units.

3842.1-5 Conformity of placer claims to the public land surveys.

3842.2 Building-stone placers.

3842.3 Saline placers.

3842.4 Petroleum placers.

#### Subpart 3843—Tunnel Sites

3843.1 Possessory right of tunnel proprietor.

3843.2 Location of tunnel claims.

3843.3 Recording of notices.

#### Subpart 3844—Millsites

3844.0-3 Authority.

3844.1 Required use.

### Subpart 3840—Types of Claims

#### § 3840.1 Classes of mining claims.

Mining claims are of two distinct classes: lode claims and placers.

[35 FR 9750, June 13, 1970]

### Subpart 3841—Lode Claims

SOURCE: 35 FR 9750, June 13, 1970, unless otherwise noted.

#### § 3841.1 Lodes located previous to May 10, 1872.

The status of lode claims located or patented previous to May 10, 1872, is not changed with regard to their extent along the lode or width of surface; but the claim is enlarged by 2322 and 2328, R.S. (30 U.S.C. 26, 33), by investing the locator, his heirs or assigns, with the right to follow, upon the conditions stated therein, all veins, lodes, or ledges, the top or apex of which lies inside of the surface lines of his claim.

#### § 3841.2 Lodes must not have been adversely claimed.

It is to be distinctly understood that the law limits the possessory right to veins, lodes, or ledges, other than the one named in the original location, to such as were not adversely claimed on May 10, 1872, and that where such other vein or ledge was so adversely claimed at that date the right of the party so adversely claiming is in no way impaired by the act of that date.

#### § 3841.3 Discovery.

##### § 3841.3-1 Discovery required before location.

No lode claim shall be located until after the discovery of a vein or lode within the limits of the claim, the object of which provision is evidently to prevent the appropriation of presumed mineral ground for speculative purposes, to the exclusion of bona fide prospectors, before sufficient work has been done to determine whether a vein or lode really exists.

##### § 3841.3-2 Discovery work.

The claimant should, therefore, prior to locating his claim, unless the vein can be traced upon the surface, sink a