

## §9.5

## 36 CFR Ch. I (7-1-04 Edition)

### §9.5 Recordation.

(a) Any unpatented mining claim in a unit in existence on September 28, 1976, which was not recorded on or before September 28, 1977, in accordance with the Notice of October 20, 1976 (41 FR 46357) or 36 CFR 9.5 as promulgated on January 26, 1977, is, pursuant to section 8 of the Act, conclusively presumed to be abandoned and shall be void.

(b) Any unpatented mining claim in a unit established after September 28, 1976, or in an area added to an existing unit after that date, shall be recorded with the Bureau of Land Management in accordance with the provisions of section 314 of the Federal Land Policy and Management Act (FLPMA), 90 Stat. 2769, 43 U.S.C. 1744, and regulations implementing it (43 CFR 3833.1).

(c) A claimant of an unpatented mining claim in any unit must file annually with the Bureau of Land Management a notice of intention to hold a claim or evidence of annual assessment work required by section 314 of FLPMA, as implemented by 43 CFR 3833.2. A copy of each such filing will be provided to the Superintendent of the appropriate unit by the Bureau of Land Management.

(d) The effect of failure to file the instruments required by paragraphs (b) and (c) of this section shall be controlled by 43 CFR 3833.4. Recordation or filing under this section shall not render any claim valid which would not otherwise be valid under applicable law and shall not give the claimant any rights to which he is not otherwise entitled by law.

(Act of September 28, 1976 (16 U.S.C. 1901 *et seq.*), Act of August 25, 1916 (16 U.S.C. 1 and 2-4) and 245 DM (42 FR 12931), as amended)

[44 FR 20427, Apr. 5, 1979]

### §9.6 Transfers of interest.

(a) Whenever a claimant who has recorded his unpatented claim(s) with the Superintendent pursuant to the requirements of §9.5 sells, assigns, bequeaths, or otherwise conveys all or any part of his interest in his claim(s), the Superintendent shall be notified within 60 days after completion of the transfer of: The name of the claim(s) involved; the name and legal address of the person to whom an interest has

been sold, assigned, bequeathed, or otherwise transferred; and a description of the interest conveyed or received. Copies of the transfer documents will be provided by the Superintendent to the Bureau of Land Management. Failure to so notify the Superintendent shall render any existing access permit void.

(b) If the transfer occurs within the period of 12 months from the effective date of the Act and the prior owner has not recorded the unpatented claim with the Superintendent in accordance with these regulations, the holder by transfer shall have the remainder of the 12-month period to record the unpatented claim. Failure to record shall be governed by the provisions of §9.5(c).

### §9.7 Assessment work.

(a) An access permit and approved plan of operations must be obtained by a claimant prior to the performance of any assessment work required by Revised Statute 2324 (30 U.S.C. 28) on a claim in a unit.

(b) Permits will be issued in accordance with the following:

(1) In units subject to the surface disturbance moratorium of section 4 of the Act and §9.4, no access permits will be granted for the purpose of performing assessment work.

(2) It has been determined that in all other units the Secretary will not challenge the validity of any unpatented claim within a unit for the failure to do assessment work during or after the assessment year commencing September 1, 1976. The Secretary expressly reserves, however, the existing right to contest claims for failure to do such work in the past. No access permits will be granted solely for the purpose of performing assessment work in these units except where claimant establishes the legal necessity for such permit in order to perform work necessary to take the claim to patent, and has filed and had approved a plan of operations as provided by these regulations. (For exploratory or development type work, see §9.9.)

### §9.8 Use of water.

(a) No operator may use for operations any water from a point of diversion which is within the boundaries of