

§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

any unit unless authorized in writing by the Regional Director. The Regional Director shall not approve a plan of operations requiring the use of water from such source unless the right to the water has been perfected under applicable State law, has a priority date prior to the establishment of the unit and there has been a continued beneficial use of that water right.

(b) If an operator whose operations will require the use of water from a point of diversion within the boundaries of the unit can show that he has a perfected State water right junior to the reserved water right of the United States and can demonstrate that the exercise of that State water right will not diminish the Federal right, which is that amount of water necessary for the purposes for which the unit was established, he will be authorized to use water from that source for operations, if he has complied with all other provisions of these regulations.

§9.9 Plan of operations.

(a) No operations shall be conducted within any unit until a plan of operations has been submitted by the operator to the Superintendent and approved by the Regional Director. All operations within any unit shall be conducted in accordance with an approved plan of operations.

(b) The proposed plan of operations shall relate, as appropriate, to the proposed operations (e.g. exploratory, developmental or extraction work) and shall include but is not limited to:

(1) The names and legal addresses of the following persons: The operator, the claimant if he is not the operator, and any lessee, assignee, or designee thereof;

(2) A map or maps showing the proposed area of operations; existing roads or proposed routes to and from the area of operations; areas of proposed mining; location and description of surface facilities, including dumps;

(3) A description of the mode of transport and major equipment to be used in the operations;

(4) A description of the proposed operations and an estimated timetable for each phase of operations and the completion of operations;

(5) The nature and extent of the known deposit to be mined. When the claim is located in a National Monument in Alaska and is unpatented, a completed Supplemental Claim Information Statement shall be submitted describing the quantity, quality, and any previous production of the deposit;

(6) A mining reclamation plan demonstrating compliance with the requirements of §9.11;

(7) All steps taken to comply with any applicable Federal, State, and local laws or regulations, including the applicable regulations in 36 CFR, chapter I;

(8) In units subject to the surface disturbance moratorium of section 4 of the Act and §9.4, proof satisfactory to the Regional Director that the surface of the area on which the operation is to occur was significantly disturbed for purposes of mineral extraction prior to February 29, 1976, or if the area was not so disturbed, proof, including production records for the years 1973, 1974, and 1975, that new disturbance is necessary to maintain an average annual rate of production not to exceed that of the years 1973, 1974, and 1975;

(9) An environmental report analyzing the following:

(i) The environment to be affected by the operations,

(ii) The impacts of the operations on the unit's environment,

(iii) Steps to be taken to insure minimum surface disturbance,

(iv) Methods for disposal of all rubbish and other solid and liquid wastes,

(v) Alternative methods of extraction and the environmental effects of each,

(vi) The impacts of the steps to be taken to comply with the reclamation plan, and

(10) Any additional information that is required to enable the Regional Director to effectively analyze the effects that the operations will have on the preservation, management and public use of the unit, and to make a decision regarding approval or disapproval of the plan of operations and issuance or denial of the access permit.

(c) In all cases the plan must consider and discuss the unit's Statement for Management and other planning documents, and activities to control,