

§ 1864.1

general, they are lands that have been gradually and imperceptibly formed along the banks of a body of water by deposition of water-borne soil.

(c) *Avulsed lands* have the meaning imparted to them by applicable law. In general, they are lands that have been uncovered by a relatively sudden change in alignment of the channel of a river, or by a comparable change in 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) *Relicted lands* have the meaning imparted that term by applicable law. In general, they are lands gradually uncovered when water recedes permanently.

(h) *State* means "the state and any of its creations including any governmental instrumentality within a state, including cities, counties, or other official local governmental entities."

[49 FR 35299, Sept. 6, 1984, as amended at 68 FR 502, Jan. 6, 2003]

§ 1864.1 Application for issuance of a document of disclaimer.

§ 1864.1-1 Filing of application.

(a) Any entity claiming title to lands may file an application to have a disclaimer of interest issued if there is reason to believe that a cloud exists on

43 CFR Ch. II (10-1-04 Edition)

the title to the lands as a result of a claim or potential claim of the United States and that such lands are not subject to any valid claim of the United States.

(b) Before you actually file an application you should meet with BLM to determine if the regulations in this subpart apply to you.

(c) You must file your application for a disclaimer of interest with the proper BLM office as listed in § 1821.10 of this title.

[68 FR 502, Jan. 6, 2003]

§ 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

Bureau of Land Management, Interior

§ 1864.2

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

(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) BLM will not approve an application, except for applications filed by a state, if more than 12 years have elapsed since the applicant knew, or should have known, of the claim of the United States.

(b) BLM will not approve an application if:

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

(2) The application pertains to trust or restricted Indian lands.

(c) BLM will, if the application meets the requirements for further processing, determine the amount of deposit we need to cover the administrative costs of processing the application and issuing a disclaimer.

(d) The applicant must submit a deposit in the amount BLM determines.

(e) If the application includes what may be omitted lands, BLM will process it in accordance with the applicable provisions of part 9180 of this title. If BLM determines the application involves omitted lands, BLM will notify the applicant in writing.

[68 FR 502, Jan. 6, 2003]

§ 1864.1-4 Consultation with other Federal agencies.

BLM will not issue a recordable disclaimer of interest over the valid objection of another land managing agency having administrative jurisdiction over the affected lands. A valid objection must present a sustainable rationale that the objecting agency claims United States title to the lands for which a recordable disclaimer is sought.

[68 FR 503, Jan. 6, 2003]

§ 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