

§ 3732.1

made by or under the authority of the United States, except where such damage, destruction, or loss results from the negligence of the United States, its permittees and licensees.

[35 FR 9736, June 13, 1970]

Subpart 3732—Withdrawals Other Than for Powersite Purposes

§ 3732.1 Act ineffective as to other withdrawals.

(a) The Act in section 2(c) provides as follows:

Nothing in this act shall affect the validity of withdrawals or reservations for purposes other than power development.

(b) If the power site lands are also affected by any other type of withdrawal which prevents mining location in whole or in part, the provisions of the Act apply only to the extent that the lands are otherwise open to location.

[35 FR 9737, June 13, 1970]

Subpart 3733—Risk of Operation

§ 3733.1 Financial risk of operation.

The Act in section 3 provides in part as follows:

Prospecting and exploration for and the development and utilization of mineral resources authorized in this act shall be entered into or continued at the financial risk of the individual party or parties undertaking such work.

[35 FR 9737, June 13, 1970]

§ 3733.2 Liability of United States.

The Act in section 3 provides in part as follows:

Provided, That the United States, its permittees and licensees shall not be responsible or held liable or incur any liability for the damage, destruction, or loss of any mining claim, mill site, facility installed or erected, income, or other property or investments resulting from the actual use of such lands or portions thereof for power development at any time where such power development is made by or under the authority of the United States, except where such damage, destruction, or loss results from the negligence of the United States, its permittees and licensees.

[35 FR 9737, June 13, 1970]

43 CFR Ch. II (10–1–06 Edition)

Subpart 3734—Location and Assessment Work

§ 3734.1 Owner of claim to file notice of location and assessment work.

(a) The owner of any unpatented mining claim, mill site, or tunnel site located on land described in § 3730.0-1 (a) and (b), shall file all notices or certificates of location, amended notices or certificates, and transfers of interest, with the proper State Office of the Bureau of Land Management pursuant to part 3833 of this chapter, and pay the applicable maintenance, location, and service fees required by part 3830 of this title. The notice, certificate, transfer, or amendment thereto shall be marked by the owner to indicate that it is being filed pursuant to the Act of August 11, 1955, the Act of April 8, 1948, or both, as required by part 3833. Failure to so mark the location certificate will delay the procedures to authorize mining under subpart 3736.

(b) Neither section 4 nor any other provision of the Act validates any mining location made prior to the act, which is invalid because made on lands after they were withdrawn or reserved for power purposes and before a favorable determination by the Federal Power Commission under section 24 of the Federal Power Act of June 10, 1920 (41 Stat. 1063; 1075), as amended (16 U.S.C. 792; 818) and the opening or restoration of the lands to location. Section 4 applies to unpatented locations for lands referred to in § 3730.0-3(a) only if:

(1) The location was made on or after August 11, 1955, or

(2) The location was made prior to August 11, 1955, and prior to the withdrawal or reservation of the lands for power purposes, or

(3) The location was made prior to August 11, 1955, on lands restored to location from a powersite reserve or withdrawal subject to section 24 of the Federal Power Act.

(c) The owner of any unpatented mining claim, mill site, or tunnel site located on land described in § 3730.0-1 of this chapter may either:

(1) Perform and record annual assessment work if the owner qualifies as a small miner under part 3835 of this chapter; or

Bureau of Land Management, Interior

§ 3736.2

(2) Pay an annual maintenance fee of \$100 per unpatented mining claim, mill site, or tunnel site in lieu of the annual assessment work or notice of intention to hold, under subpart 3834 of this chapter.

[35 FR 9737, June 13, 1970, as amended at 58 FR 38196, July 15, 1993; 59 FR 44856, Aug. 30, 1994; 68 FR 61064, Oct. 24, 2003]

Subpart 3735—Prior Existing Mining Locations

§ 3735.1 No limitation or restriction of rights under valid claims located prior to withdrawal.

(a) The Act in section 5 provides:

Nothing in this act contained shall be construed to limit or restrict the rights of the owner or owners of any valid mining claim located prior to the date of withdrawal or reservation: *Provided*, That nothing in this act shall be construed to limit or restrict the rights of the owner or owners of any mining claim who are diligently working to make a discovery of valuable minerals at the time any future withdrawal or reservation for power development is made.

(b) Although the Act does not limit or restrict the rights of owners of locations to which section 5 refers, such owners shall comply with section 4 by making the filings required either by paragraph (c) or (d) of §3734.1 whichever is applicable.

[35 FR 9737, June 13, 1970]

§ 3735.2 No limitation of rights where claimant in diligent prosecution of work when future withdrawals made.

(a) Under section 5 of the Act the rights to a location made prior to any future withdrawal or reservation for power development or one on which the locator was diligently working to make a discovery of valuable minerals are not limited or restricted.

[35 FR 9737, June 13, 1970]

Subpart 3736—Mining Operations

§ 3736.1 Placer locator to conduct no mining operations for 60 days.

(a) The Act in section 2(b) provides in part as follows:

The locator of a placer claim under this Act, however, shall conduct no mining oper-

ations for a period of sixty days after the filing of a notice of location pursuant to section 4 of this Act. If the Secretary of the Interior, within sixty days from the filing of the notice of location, notifies the locator by registered mail of the Secretary's intention to hold a public hearing to determine whether placer mining operations would substantially interfere with other uses of the land included within the placer claim, mining operations on that claim shall be further suspended until the Secretary has held the hearing and has issued an appropriate order. The order issued by the Secretary of the Interior shall provide for one of the following: (1) a complete prohibition of placer mining; (2) a permission to engage in placer mining upon the condition that the locator shall, following placer operations, restore the surface of the claim to the condition in which it was immediately prior to those operations; or (3) a general permission to engage in placer mining. No order by the Secretary with respect to such operations shall be valid unless a certified copy is filed in the same State or county office in which the locator's notice of location has been filed, in compliance with the United States mining laws.

(b) Upon receipt of a notice of location of a placer claim filed in accordance with §3734.1 for land subject to location under the act, a determination will be made by the authorized officer of the Bureau of Land Management as to whether placer mining operations on the land may substantially interfere with other uses thereof. If it is determined that placer operations may substantially interfere with other uses, a notice of intention to hold a hearing will be sent to each of the locators by registered or certified mail within 60 days from date of filing of the location notice.

[35 FR 9737, June 13, 1970]

§ 3736.2 Hearing; notice of protest.

(a) If a hearing is to be held, notice of the hearing will be delivered personally or by registered mail or certified mail to the locator of the placer claim. The notice will indicate the time and place of hearing. The procedures with respect to service of notice of hearing and conduct thereof shall follow the provisions of appeals and contests of the Department of the Interior (part 1850 of this title) in effect at the time the hearing is held. No publication of the notice will be required but a copy thereof shall be posted in the proper office of