

UNITED STATES  
DEPARTMENT OF THE INTERIOR  
Julius A. Krug, Secretary

Job No. 423

BUREAU OF LAND MANAGEMENT

Fred W. Johnson, Director

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MINERAL PATENTS

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INFORMATION RELATIVE TO THE PROCEDURE  
FOR OBTAINING PATENT TO A  
MINING CLAIM

November 1947

## MINERAL PATENTS

The development of the mineral resources of the public lands is an important part of the program of the Department of the Interior for conservation through wise use of our natural resources.

With a view to advising prospective applicants concerning the procedure for obtaining patent to a mining claim, the Bureau of Land Management presents this bulletin.

(Sgd) Fred W. Johnson,

Director.

November 1947.

## MINERAL PATENTS

Deposits of minerals, other than coal, oil, gas, oil shale, sodium, phosphate and potash (sulphur in Louisiana and New Mexico) in both surveyed and unsurveyed lands belonging to the United States are open to exploration and purchase under the mining laws of May 10, 1872. The lands in which the minerals are found are open to occupation and purchase by citizens of the United States or those who have declared their intentions to become citizens, under regulations prescribed by the Secretary of the Interior, and according to the local customs or rules of miners in the several mining districts, so far as they are applicable and not inconsistent with the laws of the United States. Certain minerals belonging to the United States (coal, oil, gas, oil shale, sodium, potash, phosphate, and in Louisiana and New Mexico, sulphur) may be acquired under what are known as the mineral leasing laws and are not subject to location and purchase under the mining laws. Information regarding the acquisition of any of these leasable minerals will be furnished upon request.

Under the provisions of the mining laws, the locator or owner of a valid mining location has the right to the exclusive possession for mining purposes of the land embraced in the location, and may continue to hold such possession so long as he performs labor or makes improvements of not less than \$100 in value on or for the benefit of the claim each assessment year. Upon failure to comply with the assessment work requirement during any year, the claim is open to relocation at any time prior to the resumption of work by the owner, or his heirs, legal representatives or assigns. Thus, while a valid mining claim may be held and mined under the location title, that title may be lost by failure to perform the required annual assessment work, and for this reason it is desirable to obtain a patent for the claim, after which annual assessment work is no longer required. Before a patent can be obtained, not less than \$500 must have been expended in labor or improvements in the development of the claim.

The procedure for obtaining patent to a mining claim is briefly set forth herein for the benefit of locators and owners of such claims.<sup>1/</sup>

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<sup>1/</sup> For information relating to prospecting, location of claims, and other work necessary before applying for patent, see Circular No. 1278, Information in Regard to Mining Claims on the Public Domain.

Applicants for mineral patents should proceed in the following order:

#### LODE CLAIMS

1. The claim must be surveyed. An application to have the survey made must be filed with the Public Survey Office.
2. Formal notice of the application must be given by posting a copy of the plat of survey and a notice of application for patent on the claim.
3. A proper application for patent must be filed in the district land office supported by the following papers:
  - (a) Copy of the field notes and plat of survey.
  - (b) Proof of posting the plat and notice on the claim.
  - (c) Abstract of title or proof of possessory right.
  - (d) Proof of citizenship.
  - (e) Payment of filing fee.
  - (f) Publisher's agreement.
  - (g) Notice for publication.
  - (h) Notice for posting in district land office.
4. Final proceedings.
  - (a) Proof of publication must be made.
  - (b) Proof of continuous posting of plat and notice on claim during full 60-day period of publication must be made.
  - (c) Affidavit that all fees and charges have been paid must be filed.
  - (d) An application to purchase accompanied by tender of purchase price must be filed.
  - (e) Diligence.

#### 1. Survey

Claimant must apply to the Public Survey Office for authority to survey the claim (list appended hereto). Form of application may be obtained from the Public Survey Office. Deposit of a sum estimated by that office as sufficient to cover cost of making plats and field notes must be made before survey will be authorized. Applicant will, by private contract, arrange with a United States mineral surveyor to make the survey. The applicant may obtain from the Public Survey Office a list of United States mineral surveyors from which he can select one to employ to survey his claim.

## 2. Posting on Claim

After the survey, applicant will post a copy of the plat and a notice of intention to apply for a patent in a conspicuous place on the claim, or on one of a group of claims, where it can be readily seen by any interested party.

## 3. Application for Patent

The application must show that the applicant has the right of possession to the claim and applicant should state briefly but clearly the facts constituting the basis of his right to a patent, a full description of the vein or lode, whether ore has been extracted, and, if so, of what amount and value, and the precise place within the limits of each claim where the vein or lode is exposed.

In addition to the improvements mentioned in the field notes, it is proper that the claimant in his application for patent should describe in detail the shafts, cuts, tunnels, or other workings claimed as improvements, giving their dimensions, value, and the course and distance thereof to the nearest corner of the public surveys. This statement of the description and value of the improvements must be corroborated by the affidavits of two disinterested witnesses.

Application must be under oath and filed in duplicate and it and all supporting affidavits may be verified before any officer authorized to administer oaths within the land district where the claim is situated. Individual claimants must execute application, except that if claimant is absent from district, the application must be executed by an attorney in fact within the land district. Application by a corporation may be executed by its officers, or by an agent or attorney in fact who has been duly authorized. 2/

The application for patent will be filed in the district land office after plat and notice have been posted on the claim and must be supported by:

- (a) Copy of the field notes and plat of survey.
- (b) Proof of posting on claim.—The affidavit of two credible witnesses, not claimants or their attorneys in fact, giving date and place of posting, with copy of notice attached to the affidavit.

### 2/ Authority of attorney in fact.

- (a) Attorney for individual shown by original or certified copy of power of attorney.
- (b) Attorney for corporation shown by certified copy of resolution appointing or authorizing official to appoint, with original or certified copy of power of attorney in the latter case.

(c) Abstract of title.--The application for patent must be supported by a certified copy of each location notice and also by an abstract of title of each claim, brought down to a date reasonably near date of filing the application, and must be supplemented later to include date of filing of the application, and must be submitted in such form and by such Abstractor or title Company as may be satisfactory to the Director of the Bureau of Land Management.

Proof of possessory title.--As to old claims, where the records have been lost or destroyed and where all controversy over the claims has long since ceased, applicant may furnish a certified copy of the statute of limitations, applicable to mining claims in the State, with his affidavit, corroborated by disinterested persons, showing the facts as to the origin and maintenance of his title, the area of the claim, the kind and extent of mining improvements, whether his title has been disputed in court proceedings or otherwise, with details, as well as any other matters known to him which bear upon his right of possession. A certificate, under seal, by the clerk of the court having jurisdiction, that no action involving right of possession to the claim is pending and that there has been no litigation in the court affecting the title to the claim for the time fixed by the statute of limitations in the State other than has been decided in favor of the applicant for patent, must be filed.

(d) Proof of citizenship.--Affidavits of citizenship may be executed either within or without the land district.

- (1) Of a native-born citizen, by his affidavit of that fact.
- (2) Of one who has declared his intention to become a citizen, or has been naturalized, his affidavit showing date, place and the court before which he declared his intention or from which his naturalization papers issued, and the number of certificate if known.
- (3) Of an association, competent evidence as above of each member.
- (4) Of a corporation, by a certified copy of its charter, or certificate of incorporation.

(e) Payment of filing fee.

(f) Publisher's agreement.

(g) Notice for publication.--At the expense of applicant in a newspaper designated by the Manager; (a) in weekly paper, 9 consecutive insertions; (b) in daily paper, 9 consecutive Wednesday insertions. Sample form containing essential data appended.

(h) Notice for posting in district land office.

#### 4. Final Proceedings

(a) Proof of publication.--The sworn statement of the publisher that the notice was published for the stated period, giving the first and last dates of the publication.

(b) Proof of continuous posting.—The affidavit of the applicant or his duly authorized attorney in fact that the plat and notice remained conspicuously posted on the claim during the entire period of publication, giving dates.

(c) Proof of fees and charges paid.—Affidavit of claimant or attorney in fact that all fees and charges have been paid, itemizing them.

(d) Payment of purchase price.—The purchase price for lode claims of \$5 for each acre or fraction thereof must be paid.

(e) Diligence.—Application must be completed within a reasonable time and failure to do so will result in its rejection.

The cost of obtaining a patent will vary in every case and includes the deposit with the Public Survey Office to cover office work in connection with the survey, the amount agreed upon by the applicant and the mineral surveyor for surveying the claim, a filing fee of \$10 to be paid to the Manager when the application for patent is filed, the cost of furnishing an abstract of title of the claims applied for, the charge of the newspaper for publishing the notice of application, and the payment of the purchase price for the land to the Manager when the proofs are completed and the application to purchase the claim is made. There will also be some incidental expense for payment of the officials administering oaths to the applicant and his witnesses and in many cases the applicant will employ an attorney to look after the patent proceedings whose fee must be considered in determining the cost of obtaining patent for claim.

The applicant should consult the officials in the district land office and the Public Survey Office concerning any matters about which he may not be fully informed.

#### PLACER CLAIMS

1. A mineral survey must be made of placer claims on unsurveyed lands or surveyed lands when the land cannot be described in terms of the public land survey.
2. Formal notice of the application must be given by posting a notice of intention to apply for a patent on the claim, and, if a mineral survey has been made, a copy of the plat must also be posted.
3. A proper application for patent must be filed in the district land office supported by the following papers.
  - (a) Copy of the field notes and plat of survey.
  - (b) Proof of posting the plat and notice on the claim.
  - (c) Abstract of title or proof of possessory rights.
  - (d) Proof of citizenship.
  - (e) Payment of filing fee.
  - (f) Publisher's agreement.
  - (g) Notice for publication.
  - (h) Notice for posting in district land office.

## 4. Final proceedings.

- (a) Proof of publication must be made
- (b) Proof of continuous posting of plat and notice on claim during full 60-day period of publication must be made.
- (c) Affidavit that all fees and charges have been paid must be filed.
- (d) An application to purchase accompanied by tender of purchase price must be filed.
- (e) Diligence.

## 1. Survey

When applying for patent to placer claims on unsurveyed lands or on surveyed lands when the land applied for cannot be described in terms of the public land survey, it will be necessary to have a mineral survey made of the claims. 3/ Claimant must apply to the Public Survey Office for authority to survey the claim (list appended). Form of application may be obtained from that Office. Deposit of a sum estimated by that Office sufficient to cover cost of making plats and field notes must be made before survey will be authorized. Applicant will, by private contract, arrange with a United States mineral surveyor to make the survey. The applicant may obtain from the Public Survey Office a list of United States mineral surveyors from which he can select one to employ to survey his claim.

## 2. Posting on Claim

Applicant will post notice of intention to apply for a patent on the claim, and, if a mineral survey has been made, a copy of the plat must also be posted.

## 3. Application for Patent

The application must show that applicant has the right of possession to the claim and applicant should state briefly but clearly the facts constituting the basis of his right to a patent and such data as will support the claim that the land applied for is placer ground containing valuable deposits not in vein or lode formation and that title is sought, not to control water courses or to obtain valuable

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3/ Where placer claims are upon surveyed lands and conform to legal subdivisions, no further survey or plat is required.

timber, but in good faith because of the mineral therein. This statement, of course, must depend upon the character of the deposit and the natural features of the ground, but the following details should be covered as fully as possible: If the claim is for a deposit of placer gold, there must be stated the yield per pan, or cubic yard, as shown by prospecting and development work, distance to bedrock, formation and extent of the deposit, and all other facts upon which he bases his allegation that the claim is valuable for its deposits of placer gold. If it is a building stone or deposit other than gold claimed under the placer laws, he must describe fully the amount, nature and extent of the deposits, stating the reasons he regards it as valuable mineral claim. He will also be required to describe fully the natural features of the claim; streams, if any, must be fully described as to their course, amount of water carried, and fall within the claim; and he must state kind and amount of timber and other vegetation thereon and adaptability to mining or other uses.

If the claim is all placer ground, that fact must be stated in the application and corroborated by accompanying proofs; if of mixed placer and lode, it should be so set out, with a description of all known lodes situated within the boundaries of the claim. A specific declaration must be furnished for each lode intended to be claimed. In all cases, whether the lode is claimed or excluded, it must be surveyed and marked upon the plat, the field notes and plat giving the area of the lode claim or claims and the area of the placer separately. All other known lodes are, by the silence of the applicant, excluded by law from all claim by him, of whatsoever nature, possessory or otherwise.

Although in cases of placers taken by special survey, the mineral surveyors are required to make full examination of all placer claims at the time of survey and file with the field notes a descriptive report, it is proper that the application for patent contain this information under oath. Since no examination and report by a mineral surveyor is available in cases of claims taken by legal subdivisions, the claimant, in his application, should describe in detail the shafts, cuts, tunnels, or other workings claimed as improvements, giving their dimensions, value and the course and distance thereof to the nearest corner of the public surveys in addition to the data above required. This statement of the description and value of the improvements must be corroborated by the affidavits of two disinterested witnesses.

The application for patent must be under oath and filed in duplicate and it and all supporting affidavits may be verified before an officer authorized to administer oaths within the land district where the claim is situated. Individual claimants must execute the application except that if claimant is absent from the district, the application must be executed

by an attorney in fact within the land district. Application by a corporation may be executed by its officers, or by an agent or attorney in fact, who has been duly authorized.

The application must be filed in the district land office after notice of application for patent, together with a copy of the plat if a mineral survey has been made, has been posted on the claim, and must be supported by:

- (a) Copy of the field notes and plat of survey.
- (b) Proof of posting on claim.—The affidavits of two credible witnesses, not claimants or their attorneys in fact, giving date and place of posting, with copy of notice attached to the affidavit.
- (c) Abstract of title.—The application for patent must be supported by a certified copy of each location notice and also by an abstract of title of each claim, brought down to a date reasonably near date of filing the application, and must be supplemented later to include date of filing of application, and must be submitted in such form and by such Abstractor or title Company as may be satisfactory to the Director of the Bureau of Land Management.

Proof of possessory title.—As to old claims, where the records have been lost or destroyed, and where all controversy over the claim has long since ceased, applicant may furnish a certified copy of the statute of limitations applicable to mining claims in the State, with his affidavit, corroborated by disinterested persons, showing the facts as to the origin and maintenance of his title, the area of the claim, the amount and extent of mining improvements, whether his title has been disputed in court proceedings or otherwise, with details, as well as any other matters known to him which bear upon his right of possession. A certificate, under seal, by the clerk of the court having jurisdiction, that no action involving right of possession to the claim is pending and that there has been no litigation in the court affecting the title to the claim for the time fixed by the statute of limitations in the State other than has been decided in favor of the applicant for patent, must be filed.

(d) Proof of citizenship.—Affidavits of citizenship may be executed either within or without the land district.

- (1) Of a native-born citizen, by his affidavit of that fact.
- (2) Of one who has declared his intention to become a citizen, or has been naturalized, his affidavit showing date, place,

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4/ Authority of attorney in fact.

- (a) Attorney for individual shown by original or certified copy of power of attorney.
- (b) Attorney for corporation shown by certified copy of resolution appointing or authorizing official to appoint, with original or certified copy of power of attorney in the latter case.

and, the court which he declared his intention, or from which his naturalization papers issued, and the number of certificate, if known. Of an association, competent evidence as above of each member.

(3) Of a corporation, by a certified copy of its charter, or certificate of incorporation.

(e) Payment of filing fee.

(f) Publisher's agreement.

(g) Notice for publication.—At the expense of applicant in a newspaper designated by the Manager; (a) in weekly paper, 9 consecutive insertions; (b) in daily paper, 9 consecutive Wednesday insertions. Sample form containing essential data appended.

(h) Notice for posting in district land office.

#### 4. Final Proceedings

(a) Proof of publication.—The sworn statement of the publisher that the notice was published for the stated period, giving the first and last dates of the publication.

(b) Proof of continuous posting.—The affidavit of the applicant or his duly authorized attorney in fact that the plat and notice remained continuously posted on the claim during the entire period of publication, giving dates.

(c) Proof of fees and charges paid.—Affidavit of claimant or attorney in fact that all fees and charges have been paid, itemizing them.

(d) Payment of purchase price.—The purchase price for placer claims of \$2.50 for each or fraction thereof must be paid.

(e) Diligence.—Applications must be completed within a reasonable time and failure to do so will result in their rejection.

The cost of obtaining a patent will vary in every case and includes the deposit with the Public Survey Office to cover office work in connection with the survey, the amount agreed upon by the applicant and the mineral surveyor for surveying the claim, a filing fee of \$10 to be paid to the Manager when the application for patent is filed, the cost of furnishing an abstract of title of the claims applied for, the charge of the newspaper for publishing the notice of application, and the payment of the purchase price for the land to the Manager when the proofs are completed and the application to purchase the claim is made. There will also be some incidental expense for payment of the officials administering oaths to the applicant and his witnesses and in many cases the applicant will employ an attorney to look after the patent proceedings whose fee must be considered in determining the cost of obtaining patent for a claim.

The applicant should consult the officials in the district land office and the Public Survey Office concerning any matters about which he may not be fully informed.

#### ADVERSE CLAIMS

Adverse claims must be filed within the 60-day period of publication. (In Alaska, eight months' additional time is allowed beyond the 60-day period). The claims must be verified by claimant or attorney in fact (with proof of authority) within the land district, must set forth the nature and extent of the conflict, and the interest of the adverse claimant with certified copy of location certificate. Abstract of title prepared by an authorized abstractor and other necessary papers must be filed. Unless the claim is described by legal subdivisions, a plat showing the extent and boundaries of the claim and the conflict must be filed.

Suit must be commenced in a court of competent jurisdiction to determine the right of possession, within 30 days (in Alaska within 60 days) from the date of filing of the adverse claim, and it must be diligently prosecuted to final judgment.

Upon the filing of an adverse claim and commencement of suit, all proceedings in the land office will be stayed until the controversy shall be settled or the adverse claim waived.

A copy of the judgment roll, certified by the clerk of court or his certificate that suit has been dismissed or withdrawn is required as proof of termination of suit.

SAMPLE FORM OF NOTICE FOR PUBLICATION

It is expected that notices shall not be so abbreviated as to curtail the description essential to a perfect notice, and on the other hand that they shall not be of unnecessary length. The printed matter must be set solid without paragraphing or any display in the heading and shall be in the usual body type used in legal notices. If other type is used, no allowance will be made for additional space on that account. The number of solid lines only used in advertising by actual count will be allowed. All abbreviations and copy must be strictly followed. The following is a sample of advertisement set up in accordance with Government requirements and contains all the essential data necessary for publication:

M. A. No. 053715, District Land Office, Los Angeles, California, February 15, 1940. Notice is hereby given that Mary L. Murray, whose address is 6920 Hollywood Blvd., Los Angeles, California, has made application for mineral patent to the Alexander, Two Pagans, Mary L., Sterling and Little Jim Lode Mining Claims, and Numbers One, Two, Three and Four Mill Sites, all under Mineral Survey No. 6043 A. & B., for lands described as follows, to-wit: Mining Claims: Commencing at Cor. No. 1 of the Sterling Lode Mining Claim, U. S. Mineral Survey No. 6043 A and B., whence the S.  $1/4$  Cor. Sec. 28, T. 3 N., R. 14 W., S.B.M. bears S.  $20^{\circ}44'$  W., 778.0 ft.; thence N.  $29^{\circ}36'$  W. 1094.3 ft.; thence N.  $1^{\circ}19'$  E. 446.3 ft.; thence N.  $60^{\circ}24'$  E. 360.4 ft.; thence N.  $11^{\circ}31'$  W., 1100.0 ft.; thence N.  $10^{\circ}41'$  W., 1500.0 ft.; thence N.  $60^{\circ}24'$  E. 16.2 ft.; thence N.  $25^{\circ}13'$  W. 1047.9 ft.; thence N.  $60^{\circ}24'$  E. 525.0 ft.; thence S.  $29^{\circ}25'$  E. 1044.9 ft.; thence N.  $60^{\circ}24'$  E. 16.2 ft.; thence S.  $10^{\circ}41'$  E. 1500.0 ft.; thence S.  $9^{\circ}51'$  E. 1111.0 ft.; thence S.  $29^{\circ}13'$  E. 1494.4 ft.; thence S.  $60^{\circ}24'$  W. 1190.0 ft. to the place of beginning. Exclusive of conflict with Rice & McAnany No. 2 and Rice & McAnany No. 3 lodes of Survey No. 5490. Mill Sites: Commencing at Cor. No. 1 of Number Two Millsite, U. S. Mineral Survey No. 6043 A. & B., whence the S.  $1/4$  Cor. Sec. 28, T. 3 N., R. 14 W., S. B. M. bears S.  $23^{\circ}54'$  W. 628.3 ft.; thence N.  $33^{\circ}10'$  E. 600 ft.; thence S.  $56^{\circ}50'$  E. 1452.0 ft.; thence S.  $33^{\circ}10'$  W. 342.3 ft.; thence N.  $39^{\circ}53'$  W., 472.5 ft.; thence N.  $56^{\circ}50'$  W., 1055.9 ft. to the place of beginning. Location notices are recorded as follows—all "Official Records" of Los Angeles County, California, except

as otherwise noted: Alexander, Book 1318, p. 98; amended location, Book 7436, p. 94; Two Pagans, Book 1328, p. 80; amended location, Book 7453, p. 35; Mary L., Book 1328, p. 80; amended location, Book 8893, p. 390; Sterling, Book 49, p. 215 of Mining locations, amended location, Book 7446, p. 85; Little Jim, Book 1328, p. 79; amended location, Book 5174, p. 310; Mill Sites as follows: No. 1, Book 5807, p. 113; No. 2, Book 5731, p. 366; No. 3, Book 5731, p. 367; No. 4, Book 5609, p. 135. Conflicting claims in addition to those mentioned above: Red Cloud No. 2 Lode, Survey No. 5822, and Little Jim Lode, Survey No. 5866. No other adjoining claims. Paul B. Witmer, Manager.

LIST OF PUBLIC SURVEY OFFICES

Territorial Bldg.,  
Juneau, Alaska.

Post Office Bldg.,  
Santa Fe, New Mexico

U. S. Court House,  
Phoenix, Arizona.

Post Office Bldg.,  
Portland, Oregon

Post Office Bldg.,  
Glendale, California.

Post Office Bldg.,  
Salt Lake City, Utah.

New Custom House,  
Denver, Colorado.

Post Office Bldg.,  
Reno, Nevada.

Federal Bldg.,  
Cheyenne, Wyoming.

Post Office Bldg.,  
Boise, Idaho.

Post Office Bldg.,  
Olympia, Washington

Post Office Bldg.,  
Helena, Montana.