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**Subpart 3863—Placer Mining Claim Patent Applications**

- 3863.1 Placer mining claim patent applications: General.
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- 3864.1 Millsite patents: General.
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- 3864.1-3 Millsites for quartz mills or reduction works.
- 3864.1-4 Proof of nonmineral character.

AUTHORITY: 5 U.S.C. 552; 30 U.S.C. 22 *et seq.*

**Subpart 3861—Surveys and Plats**

SOURCE: 35 FR 9754, June 13, 1970, unless otherwise noted.

**§ 3861.1 Surveys of mining claims.****§ 3861.1-1 Application for survey.**

The claimant is required, in the first place, to have a correct survey of his claim made under authority of the proper cadastral engineer, such survey to show with accuracy the exterior surface boundaries of the claim, which boundaries are required to be distinctly marked by monuments on the ground. He is required to have a correct survey

where patent is applied for and where the mining claim is in vein or lode formation, or covers lands not surveyed in accordance with the U.S. system of rectangular surveys, or where the mining claim fails to conform with the legal subdivisions of the federal surveys. Application for authorization of survey should be made to the appropriate land office (see § 1821.2-1 of this chapter).

[Circ. 2220, 31 FR 16785, Dec. 31, 1966]

**§ 3861.1-2 Survey must be made subsequent to recording notice of location.**

The survey and plat of mineral claims required to be filed in the proper office with application for patent must be made subsequent to the recording of the location of the claim (if the laws of the State or the regulations of the mining district require the notice of location to be recorded), and when the original location is made by survey of a mineral surveyor such location survey cannot be substituted for that required by the statute, as above indicated. All matters relating to the duties of mineral surveyors, and to the field and office procedure to be observed in the execution of mineral surveys, are set forth in Chapter X of the Manual of Instructions for the Survey of the Public Lands of the United States, 1947.

**§ 3861.1-3 Plats and field notes of mineral surveys.**

When the patent is issued, one copy of the plat and field notes shall accompany the patent and be delivered to the patentee.

**§ 3861.2 Surveys: Specific.****§ 3861.2-1 Particulars to be observed in mineral surveys.**

(a) The following particulars should be observed in the survey of every mining claim:

(1) The exterior boundaries of the claim, the number of feet claimed along the vein, and, as nearly as can be ascertained, the direction of the vein, and the number of feet claimed on the vein in each direction from the point of discovery or other well-defined place on the claim should be represented on

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the plat of survey and in the field notes.

(2) The intersection of the lines of the survey with the lines of conflicting prior surveys should be noted in the field notes and represented upon the plat.

(3) Conflicts with unsurveyed claims, where the applicant for survey does not claim the area in conflict, should be shown by actual survey.

(4) The total area of the claim embraced by the exterior boundaries should be stated, and also the area in conflict with each intersecting survey, substantially as follows:

	Acres
Total area of claim .....	10.50
Area in conflict with survey No. 302 .....	1.56
Area in conflict with survey No. 948 .....	2.33
Area in conflict with Mountain Maid lode mining claim, unsurveyed .....	1.48

(b) It does not follow that because mining surveys are required to exhibit all conflicts with prior surveys the area of conflict with prior surveys the area of conflict are to be excluded. The field notes and plat are made a part of the application for patent, and care should be taken that the description does not inadvertently exclude portions intended to be retained. The application for patent should state the portions to be excluded in express terms.

**§ 3861.2-2 Certificate of expenditures and improvements.**

(a) The claimant at the time of filing the application for patent, or at any time within the 60 days of publication, is required to file with the authorized officer a certificate of the office cadastral engineer that not less than \$500 worth of labor has been expended or improvements made, by the applicant or his grantors, upon each location embraced in the application, or if the application embraces several contiguous locations held in common, that an amount equal to \$500 for each location has been so expended upon, and for the benefit of, the entire group; that the plat filed by the claimant is correct; that the field notes of the survey, as filed, furnish such an accurate description of the claim as will, if incorporation in a patent, serve to identify the

premises fully, and that such reference is made therein to natural objects or permanent monuments as will perpetuate and fix the locus thereof.

(b) In case of a lode and mill-site claim in the same survey the expenditure of \$500 must be shown upon the lode claim.

**§ 3861.2-3 Mineral surveyor's report of expenditures and improvements.**

(a) In the mineral surveyor's report of the value of the improvements all actual expenditures and mining improvements made by the claimant or his grantors, having a direct relation to the development of the claim, must be included in the estimate.

(b) The expenditures required may be made from the surface or in running a tunnel, drifts, or crosscuts for the development of the claim. Expenditures for drill holes for the purpose of prospecting and securing data upon which further development of a group of lode mining claims held in common may be based are available toward meeting the statutory provision requiring an expenditure of \$500 as a basis for patent as to all of the claims of the group situated in close proximity to such common improvement. Improvements of any other character, such as buildings, machinery, or roadways, must be excluded from the estimate, unless it is shown clearly that they are associated with actual excavations, such as cuts, tunnels, shafts, etc., are essential to the practical development of and actually facilitate the extraction of mineral from the claim.

(c) Improvements made by a former locator who has abandoned his claim cannot be included in the estimate, but should be described and located in the notes and plat.

**§ 3861.2-4 Supplemental proof of expenditures and improvements.**

If the value of the labor and improvements upon a mineral claim is less than \$500 at the time of survey the mineral surveyor may file with the cadastral engineer supplemental proof showing \$500 expenditure made prior to the expiration of the period of publication.