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§ 2711.5 Conveyance documents.

§ 2711.5-1 Mineral reservation.

Patents and other conveyance documents issued under this part shall contain a reservation to the United States of all minerals. Such minerals shall be subject to the right to explore, prospect for, mine, and remove under applicable law and such regulations as the Secretary may prescribe. However, upon the filing of an application as provided in part 2720 of this title, the Secretary may convey the mineral interest if all requirements of the law are met. Where such application has been filed and meets the requirements for conveyance, the authorized officer may withhold issuance of a patent or other document of conveyance on lands sold under this part until processing of the mineral conveyance application is completed, at which time a single patent or document of conveyance for the entire estate or interest of the United States may be issued.

§ 2711.5-2 Terms, covenants, conditions, and reservations.

Patents or other conveyance documents issued under this part may contain such terms, covenants, conditions, and reservations as the authorized officer determines are necessary in the public interest to insure proper land use and protection of the public interest as authorized by section 208 of the Act.

§ 2711.5-3 Notice of conveyance.

The authorized officer shall immediately notify the Governor and the heads of local government of the issuance of conveyance documents for public lands within their respective jurisdiction.

[45 FR 39418, June 10, 1980, as amended at 49 FR 29016, July 17, 1984]

PART 2720—CONVEYANCE OF FEDERALLY-OWNED MINERAL INTERESTS

Subpart 2720—Conveyance of Federally-Owned Mineral Interests

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AUTHORITY: 43 U.S.C. 1719 and 1740.

SOURCE: 44 FR 1342, Jan. 4, 1979, unless otherwise noted.

Subpart 2720—Conveyance of Federally-Owned Mineral Interests

§ 2720.0-1 Purpose.

The purpose of these regulations is to establish procedures under section 209 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1719, for conveyance of mineral interests owned by the United States where the surface is or will be in non-Federal ownership.

§ 2720.0-2 Objectives.

The objective is to allow consolidation of surface and subsurface or mineral ownership where there are no known mineral values or in those instances where the reservation interferes with or precludes appropriate non-mineral development and such development is a more beneficial use of the land than the mineral development.

§ 2720.0-3 Authority.

(a) Section 209(b) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1719(b), authorizes the Secretary of the Interior to convey mineral interests owned by the United States where the surface is or will be in non-Federal ownership, if certain specific conditions are met.

(b) Section 310 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1740, authorizes the Secretary of the Interior to promulgate rules and regulations to carry out the purposes of the Act.

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§ 2720.0-5 Definitions.

As used in this subpart, the term:

(a) *Prospective record owner* means a person who has a contract or other agreement to purchase a tract of land that is in non-Federal ownership with a reservation of minerals in the United States, or a person who is purchasing a tract of land under the provisions of the Federal Land Policy and Management Act of 1976 or other laws authorizing the conveyance of Federal lands subject to the reservation of a mineral interest.

(b) *Known mineral values* means mineral rights in lands containing geologic formations that are valuable in the monetary sense for exploring, developing, or producing natural mineral deposits. The presence of such mineral deposits with potential for mineral development may be known because of previous exploration, or may be inferred based on geologic information.

(c) *Authorized officer* means any employee of the Bureau of Land Management to whom has been delegated the authority to perform the duties described in this part.

(d) Proof of ownership means evidence of title acceptable in local realty practice by attorneys and title examiners and may include a current title attorney's opinion, based on a current abstract of title prepared by a bonded title insurance or title abstract company doing business in the locale where the lands are located.

[44 FR 1342, Jan. 4, 1979, as amended at 51 FR 9657, Mar. 20, 1986; 60 FR 12711, Mar. 8, 1995]

§ 2720.0-6 Policy.

As required by the Federal Land Policy and Management Act, the Bureau of Land Management may convey a federally owned mineral interest only when the authorized officer determines that it has no known mineral value, or that the mineral reservation is interfering with or precluding appropriate nonmineral development of the lands and that nonmineral development is a more beneficial use than mineral development. Allegation, hypothesis or speculation that such conditions could or may exist at some future time shall not be sufficient basis for conveyance. Failure to establish by convincing fac-

tual evidence that the requisite conditions of interference or preclusion presently exist, and that nonmineral development is a more beneficial use, shall result in the rejection of an application.

[51 FR 9657, Mar. 20, 1986, as amended at 60 FR 12711, Mar. 8, 1995]

§ 2720.0-9 Information collection.

(a) The Office of Management and Budget has approved under 44 U.S.C. 3507 the information collection requirements contained in part 2720 and assigned clearance number 1004-0153. The Bureau of Land Management is collecting the information to permit the authorized officer to determine whether the Bureau of Land Management should dispose of Federally-owned mineral interests. The Bureau of Land Management will use the information collected to make these determinations. A response is required to obtain a benefit.

(b) The Bureau of Land Management estimates the public reporting burden for this information to average 8 hours per response, including the time for reviewing regulations, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to the Information Collection Clearance Officer (783), Bureau of Land Management, Washington, D.C. 20240, and the Office of Management and Budget, Paperwork Reduction Project, 1004-0153, Washington, D.C. 20503.

[60 FR 12711, Mar. 8, 1995]

§ 2720.1 Application to purchase federally-owned mineral interests.

§ 2720.1-1 Filing of application.

(a) Any existing or prospective record owner of the surface of land in which mineral interests are reserved or otherwise owned by the United States may file an application to purchase such mineral interests if—

(1) He has reason to believe that there are no known mineral values in the land, or

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(2) The reservation of ownership of the mineral interests in the United States interferes with or precludes appropriate non-mineral development of the land and such development would be a more beneficial use of the land than its mineral development.

(b) Publication in the FEDERAL REGISTER of a notice of the filing of an application under this part shall segregate the mineral interests owned by the United States in the public lands covered by the application to the extent that they will not be subject to appropriation under the public land laws, including the mining laws. The segregative effect of the application shall terminate either upon issuance of a patent or other document of conveyance to such mineral interests, upon final rejection of the application or 2 years from the date of filing of the application which ever occurs first.

[44 FR 1342, Jan. 4, 1979, as amended at 51 FR 9657, Mar. 20, 1986]

§ 2720.1-2 Form of application.

(a) An application shall be filed with the proper BLM Office as listed in § 1821.2-1(d) of this title.

(b) No specific form is required.

(c) A non-refundable fee of \$50 shall accompany the application.

(d) Each application shall include:

(1) The name, legal mailing address, and telephone number of the existing or prospective record owner of the land included in the application;

(2) Proof of ownership of the land included in the application, and in the case of a prospective record owner, a copy of the contract of conveyance or a statement describing the method by which he will become the owner of record;

(3) In the case of non-Federal ownership of the surface, a certified copy of any patent or other instrument conveying the land included in the application and a showing of ownership in the applicant, with supporting survey evidence acceptable to the authorized officer, which may consist of a metes and bounds survey prepared and certified by a civil engineer or land surveyor licensed under the laws of the State in which the lands are located; and

(4) As complete a statement as possible concerning (i) the nature of federally-reserved or owned mineral values in the land, including explanatory information, (ii) the existing and proposed uses of the land, (iii) why the reservation of the mineral interests in the United States is interfering with or precluding appropriate non-mineral development of the land covered by the application (iv) how and why such development would be a more beneficial use of the land than its mineral development, and (v) a showing that the proposed use complies or will comply with State and local zoning and/or planning requirements.

[44 FR 1342, Jan. 4, 1979, as amended at 51 FR 9658, Mar. 20, 1986]

§ 2720.1-3 Action on application.

(a) Within 90 days of receipt of an application to purchase federally-owned mineral interests, the authorized officer shall, if the application meets the requirements for further processing, determine the amount of deposit required and so inform the applicant.

(b) No application filed under this subpart shall be processed until the applicant has either—

(1) Deposited with the authorized officer an amount of money that the authorized officer estimates is needed to cover administrative costs of processing, including, but not limited to, costs of conducting an exploratory program, if one is required, to determine the character of the mineral deposits in the land, evaluating the existing data [or the data obtained under an approved exploratory program] to aid in determining the fair market value of the mineral interests to be conveyed, and preparing and issuing the documents of conveyance, or

(2) Has obtained the consent of the authorized officer to conduct an exploratory program, such program to be conducted only under a plan of operations approved by the authorized officer and deposited with the authorized officer an amount of money the authorized officer estimates is needed to cover administrative costs of processing, including, but not limited to, costs of evaluating existing data and data submitted from an approved exploratory program to determine the

fair market value of the mineral interests to be conveyed and preparing and issuing the documents of conveyance.

The authorized officer, in reaching a determination as to whether there are any known mineral values in the land and, if so, the estimated costs of an exploratory program, if one is needed, will rely upon reports on minerals prepared by or reviewed and approved by the Bureau of Land Management.

(c) The authorized officer shall inform the applicant of his determination as to the need for an exploratory program, and where appropriate, the estimated cost of such a program. The applicant may request that the exploratory program be arranged by the authorized officer or request the consent of the authorized officer to accomplish any required exploratory program by other means, at his own expense, under a plan of operations approved by the authorized officer and to provide the results to the authorized officer for his use and approval. The applicant shall, within 60 days of receipt of such notice, or any extension thereof, respond to the authorized officer's notice, stating whether he wishes to have the authorized officer arrange to have conducted the required exploratory program or requests the consent of the authorized officer to accomplish any required exploratory program by other means. Failure to respond to said notice shall void the application.

(d) If the applicant requests that any required exploratory program be arranged by the authorized officer, he shall submit the sum of money required under paragraph (b) of this section and the authorized officer shall have the exploratory program accomplished so as to aid in determining the fair market value of the Federal mineral interests covered by the application.

(e) If the applicant requests the consent of the authorized officer to accomplish any required exploratory program by other means, at his own expense, he shall at the time of making his request for such consent, file a plan of operations to carry out any required exploratory program for approval by the authorized officer. Such plan of operations shall be sufficient to provide the resource and economic data needed to

aid in determining the fair market value of the Federal mineral interests to be conveyed. Said resource and economic data shall include, where appropriate, but not be limited to, geologic maps, geologic cross-sections, tables and descriptive information encompassing lithologic, geochemical, and geophysical data, assays of samples, drill logs and outcrop sections, which aid in establishing the location, nature, quantity, and grade, and which aid in determining the fair market value of the Federal mineral interests in the land covered by the application. The plan of operations shall conform to the laws, regulations and ordinances of all governmental bodies having jurisdiction over the lands covered by the application. The authorized officer shall decide within 90 days of receipt of said request whether he shall or shall not give his consent. The authorized officer shall not give his consent if he determines that the plan of operations is not adequate to supply the resource and economic data needed to aid him in determining the fair market value of the Federal mineral interests to be conveyed. If the authorized officer, in his discretion, approves the applicant's plan of operations, the applicant may proceed to execute the plan of operations, subject to the supervision of the authorized officer. If the authorized officer does not give his consent to the applicant's request, the applicant may, within 60 days of such refusal, avail himself of the provisions of paragraph (d) of this section. Failure to deposit the required sum within the 60 day period shall void the application. All resource and economic data obtained from the approved exploratory program shall be supplied the authorized officer. The authorized officer shall supply that data needed for determination of the economic value of mineral resources to the Bureau of Land Management. The authorized officer relying upon those determinations shall determine the fair market value of the Federal mineral interests in the land covered by the application. If the authorized officer determines that the resource and economic data supplied from an approved exploratory program is not adequate to aid in determining the fair market value of the Federal

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mineral interests to be conveyed, he shall so notify the applicant and state what additional data is needed.

(f) Notwithstanding the provisions of the preceding paragraphs of this section, an application may be rejected without the applicant meeting the requirements of paragraph (b) of this section if the authorized officer determines from an examination of the application or of data readily available to him relating to the land concerned that the application does not meet the requirements of the Act.

[44 FR 1342, Jan. 4, 1979, as amended at 51 FR 9658, Mar. 20, 1986; 60 FR 12711, Mar. 8, 1995]

§ 2720.2 Determination that an exploratory program is not required.

(a) In instances where available data indicate that there are no known mineral values in the land covered by the application, an exploratory program shall not be required.

(b) The authorized officer will not require an exploratory program to ascertain the presence of mineral values where the authorized officer determines that a reasonable person would not make exploration expenditures with expectations of deriving economic gain from the mineral production.

(c) The authorized officer will not require an exploratory program if the authorized officer determines that, for the mineral interests covered by the application, sufficient information is available to determine their fair market value.

[44 FR 1342, Jan. 4, 1979, as amended at 60 FR 12711, Mar. 8, 1995]

§ 2720.3 Action upon determination of the fair market value of the mineral interests.

(a) Upon the authorized officer's determination that all of the requirements of the Act for conveyance of mineral interests have been met by the applicant and all actions necessary to determine the fair market value of the Federal mineral interests in land covered by the application have been completed, the authorized officer shall notify the applicant in writing of the fair market value of the Federal mineral interests, including the administrative costs involved in development of and issuance of conveyance documents, and

give a full and complete statement of the costs 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 of determining the fair market value of the Federal mineral interests exceed the amount of the deposit required of the applicant under this subpart, he will be informed that he is required to pay the difference between the actual costs and the deposit. If the deposit exceeds the administrative costs of determining the fair market value of the Federal mineral interests, the applicant will be informed that he is entitled to a credit for or a refund of the excess. The notice must require the applicant to pay both the fair market value of the Federal mineral interests and the remaining administrative costs owed within 90 days after the date the authorized officer mails the notice. Failure to pay the required amount within the allotted time shall constitute a withdrawal of the application and the application will be dismissed and the case closed.

(b) The Bureau of Land Management will convey mineral rights on lands for which this part does not require an exploratory program upon payment by the applicant of fair market value for those mineral interests and all administrative costs of processing the application to acquire the mineral rights.

[44 FR 1342, Jan. 4, 1979, as amended at 60 FR 12711, Mar. 8, 1995]

§ 2720.4 Issuance of document of conveyance.

Upon receipt of the payment required by § 2720.3 of this subpart, if any is required, the authorized officer shall issue the necessary document conveying to the applicant the mineral interests of the United States in the land covered by the application.

§ 2720.5 Appeals.

An applicant adversely affected by a decision of the authorized officer made pursuant to the provisions of this subpart shall have a right of appeal pursuant to part 4 of this title. Decisions of the authorized officer under this subpart shall be subject to reversal only if found to be arbitrary, capricious, and