

# LAND PITFALLS FOR EXPLORERS

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AMES – October 12, 2021



# LAND PITFALLS FOR EXPLORERS

Land Work:

Can I do it all myself?

When do I need to have a Landman's help?

When do I need to talk to an attorney?



# LAND PITFALLS FOR EXPLORERS

## Scenario 1: Dave the Prospector

He has been kicking the rocks around Podunk Corners for years.  
He knows the area well and believes it to be a major find.



Dave knows the locals pretty well. He frequents the local bar and grill whenever he's in the area. The locals give him all the latest information.





Home > Mines > North America > The United States

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## Mining In The United States

Overview 3.92M Total Claims	Map 	Gallery 	Updated 5 Claims	Geology 134K Mines
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The United States has 3,921,409 records of mining claims on public land managed by the Bureau of Land Management and 134,153 records of mines listed by the United States Geological Survey (USGS).

### Quick Facts

- 3,921,409 records of mining claims on public land managed by the Bureau of Land Management.
- 422,500 active mining claims
- 3,446 pending mining claims
- 3,495,463 closed mining claims
- 134,153 USGS records of mines in The United States.
- Gold, Silver, Copper, Lead, and Zinc mines located in The United States. [See All](#)

Top States by Active mining claims	Top States by Total Mines
Nevada (231,922 Active Claims)	California (25,673 Total Mines)
Arizona (51,591 Active Claims)	Nevada (11,885 Total Mines)
Wyoming (35,171 Active Claims)	Colorado (11,555 Total Mines)
Idaho (30,034 Active Claims)	Arizona (7,761 Total Mines)
California (29,498 Active Claims)	Montana (7,750 Total Mines)
Utah (27,093 Active Claims)	Utah (6,623 Total Mines)
Montana (19,381 Active Claims)	Idaho (6,345 Total Mines)
Colorado (14,282 Active Claims)	Oregon (4,462 Total Mines)
New Mexico (10,412 Active Claims)	New Mexico (3,320 Total Mines)
Oregon (8,930 Active Claims)	Wyoming (3,187 Total Mines)

**United States Mine Locations**  
 Click to open an interactive map.  
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Dave is interested in acquiring his area of interest. He has talked to a lot of people and hasn't seen any activity in the area.

And he checks his online resource which does not show any claims in the area; in fact it doesn't show any land ownership in the area at all. But Dave trusts this resource. After all they base their data after the BLM.

He feels confident that he can stake about 40 lode claims, do some preliminary work, then market the property to a mining company.



Since he already checked his favorite website, he would rather not waste time getting a landman to check out the land status or a good claim staker to stake the claims.

He decides to stake the claims with his buddy, Mark.

They spend a few of days, lay out their lines, site in their location monuments, and corner the claims a couple of weeks later.

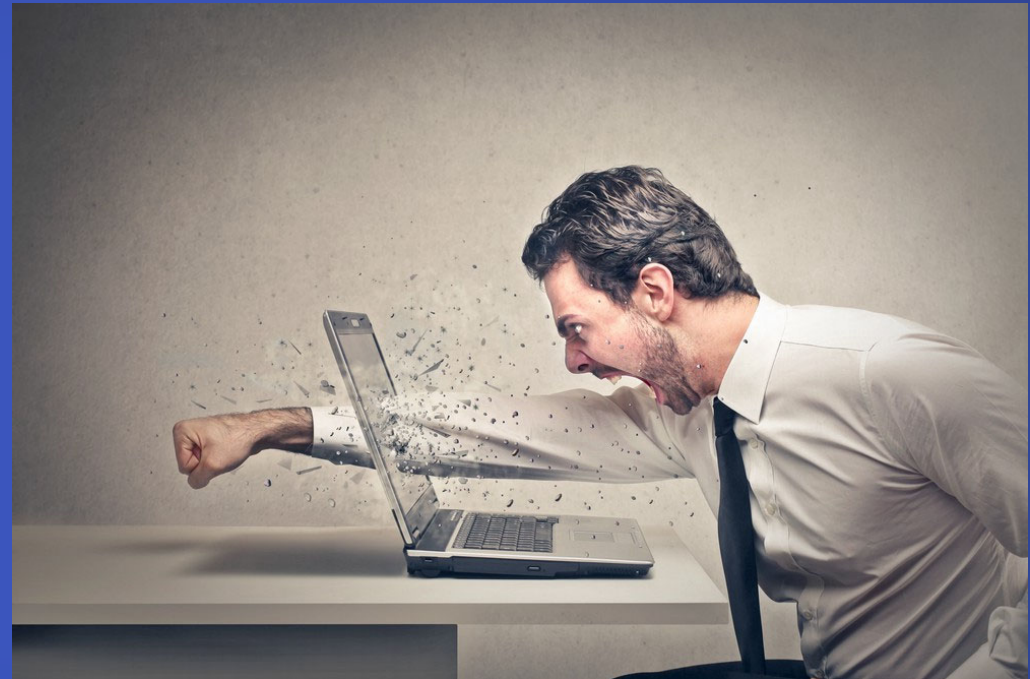
Armed with the location notices and maps, Dave puts together the certificates of location, and records the claims and map in the county.

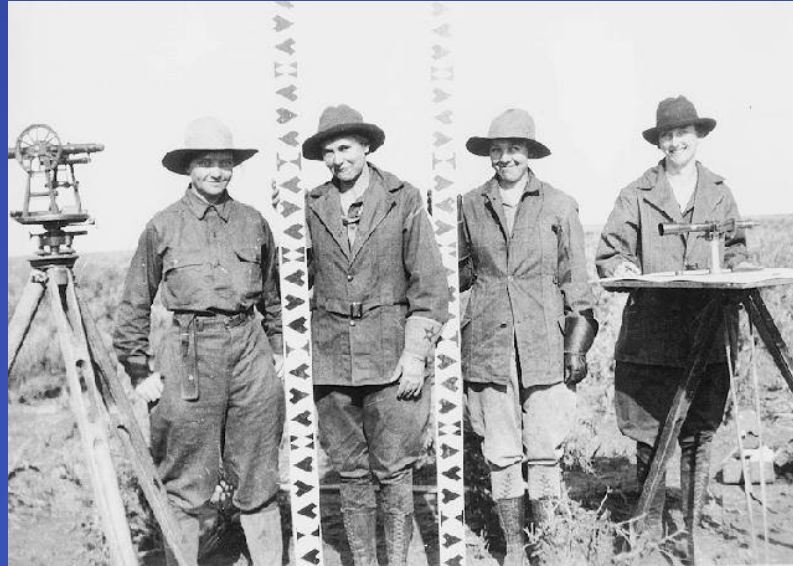


Mark says he will file the claims with the BLM online, but after days of frustration trying to figure out the new system, Mark takes the documents to the BLM and lets them file the claims and pay the claim fees.

Cost: BLM ( $\$225 \times 40 = \$9000$ );  
County: ( $\$47 \times 40 = 1880 + 12 =$   
 $\$1892$ )

Total: \$10,892





Over next few months, Dave receives three letters in the mail from the BLM that his location certificates have been rejected.

- Letter 1 says that some of the claims he staked were on land withdrawn for power development.
- Letter 2 says that some of his claims were staked claims on SRHA lands.
- Letter 3 says that he has located some of his claims on fee land.

**Outcome: No valid claims**

Cost: Total: \$10,892 plus his time and Mark's time.



# LAND PITFALLS FOR EXPLORERS

## Scenario 2:

### Dave the Prospector

He had been out kicking the rocks in Podunk Corners for years. He knows the area well and believe it to be a major find. He knows the locals pretty well and stops in at the local bar and grill whenever he's in the area. They give him all the latest information.

Dave is interested in acquiring his area of interest. He has talked to a lot of people and hasn't seen any activity in the area. And he has checked his online resource that does not show any claims in the area; in fact it doesn't show any land ownership in the area.

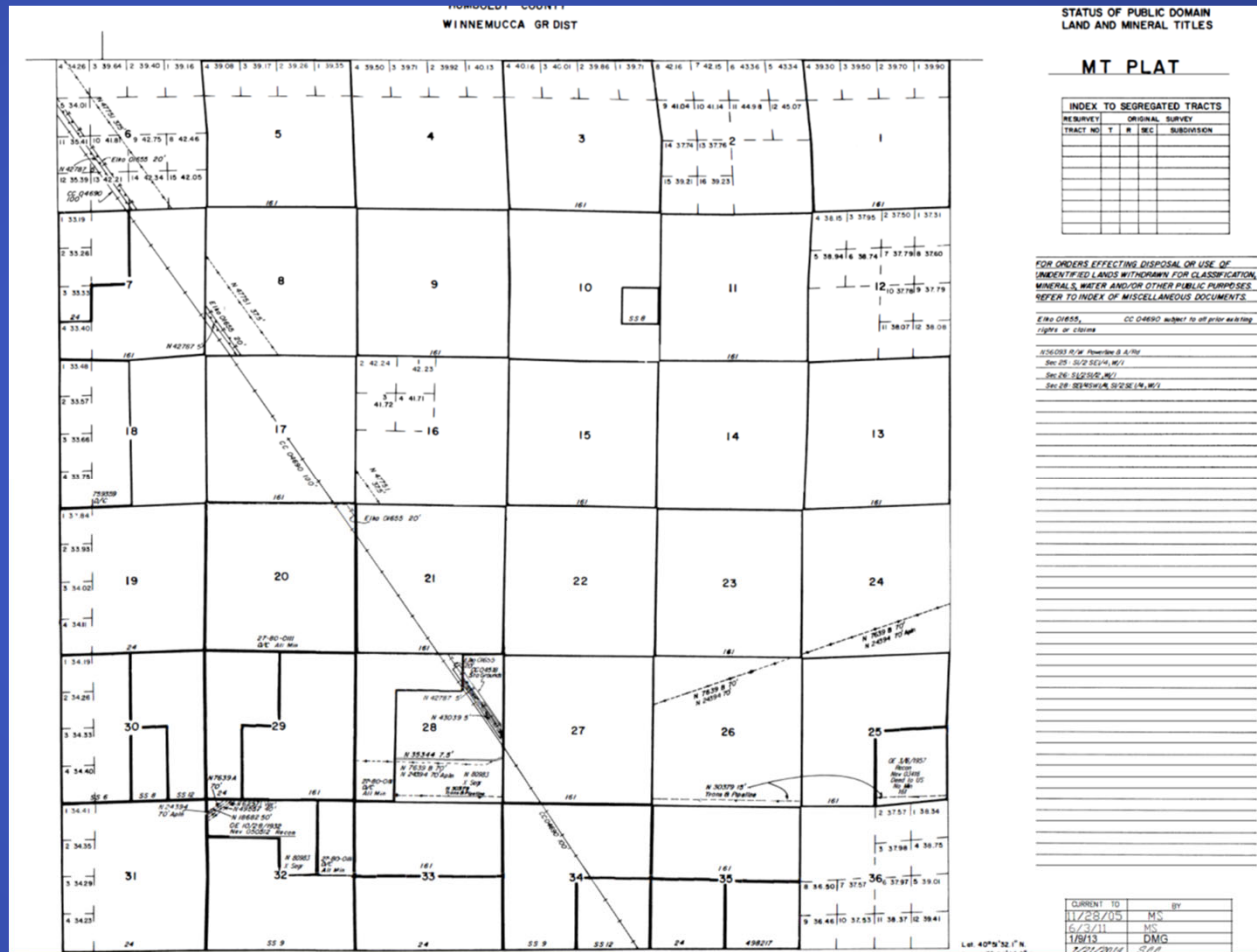
He feels confident that he can stake about 40 lode claims, do some preliminary work, then market the property to a mining company.

**But, even though he thinks he knows the land and the locals, he decides to call his favorite landman, Roger, and asks him to check out whether the land is open to location.**



Roger begins his review by looking at the BLM Master Title Plats and Historical Index. He identifies 4 different land types:

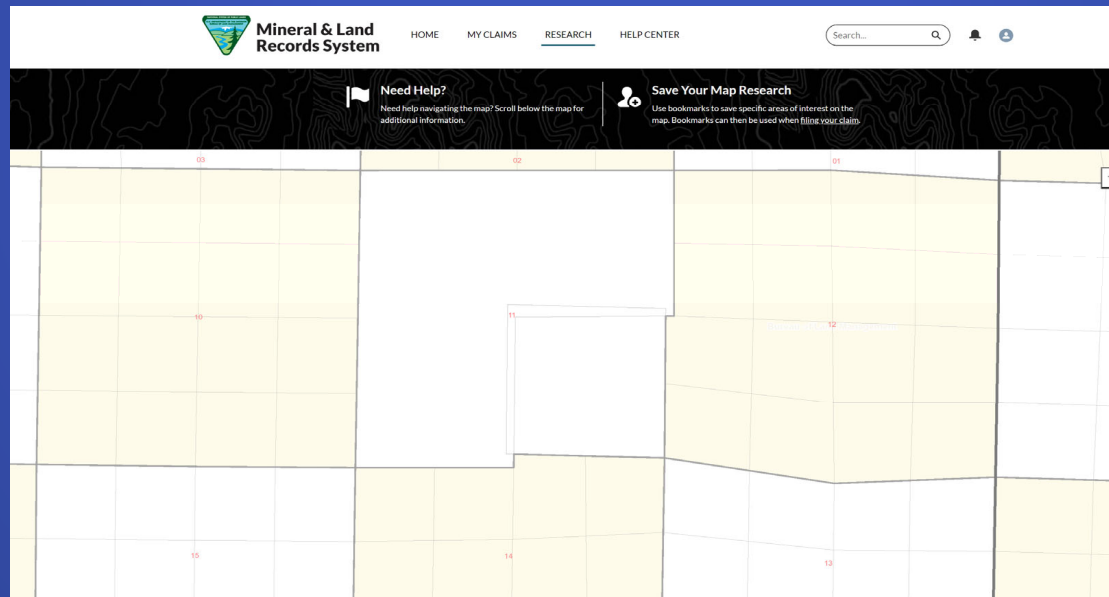
- He immediately finds a small parcel of fee land. (Fee Land)
- He also finds that some of the area has been withdrawn for powersite development. (PW Land)
- He also finds that some of the area is Stock Raising Homestead Act land. (SRHA Land)
- And he also finds lands that are open to location. (BLM Land)

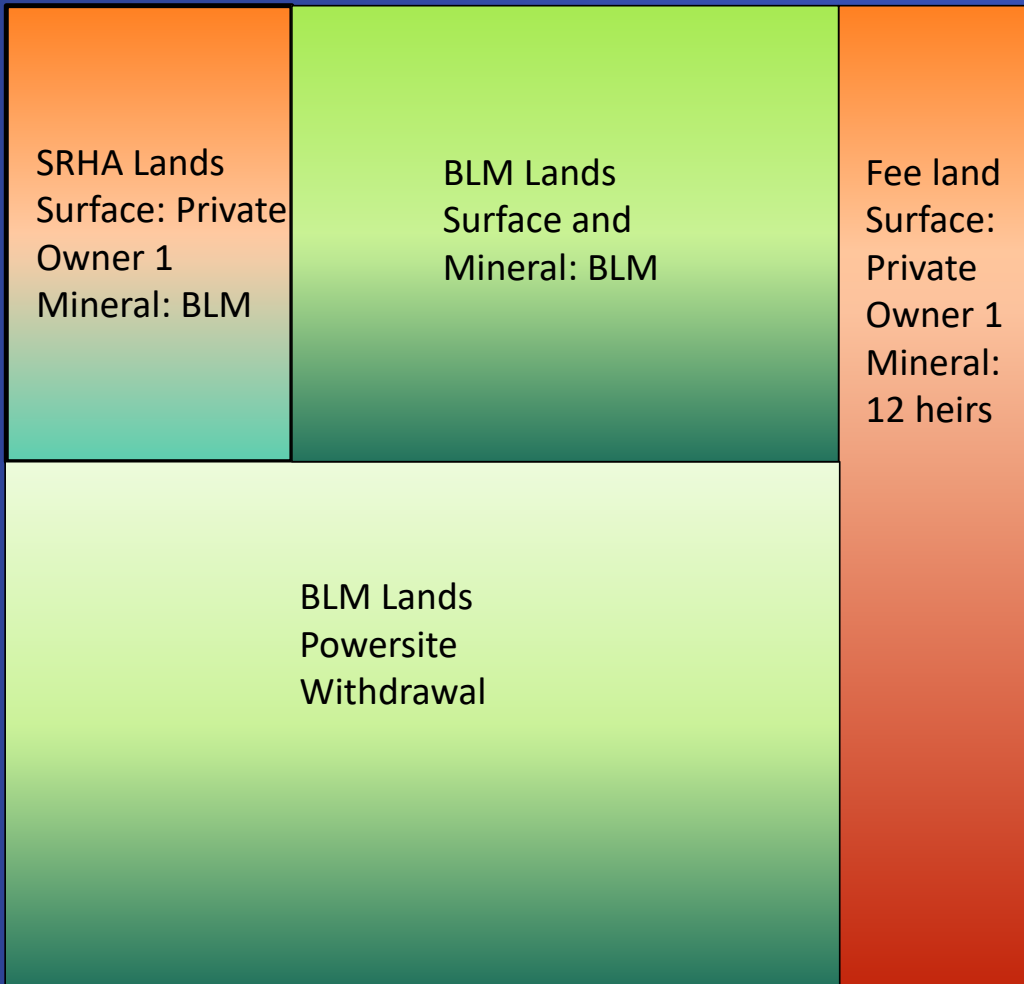


Finally, Roger checks the BLM's MLRS Reporting system and sees that there are no filed or active claims in the area. He calls the BLM to determine if anyone had recently filed a Notice of Intent to Locate claims on the SRHA lands. As expected, no one had. Finally, he looks at the county recorder's website to see if there are any recent claims staked in the area. Again, he doesn't find anything.

BUT the fee land and split estate lands need further research.

Roger calls Dave and tells him what he initially discovered and suggests that he needs to dig a bit deeper in the county and BLM records. Dave agrees.





Roger does a bit of digging in the county and BLM records. He finds the following:

**Fee Land Tract:** After a search of the land from the original date of patent forward, he finds that the surface rights were severed from the mineral rights back in the 1950's. The surface rights are truly owned by what the county assessor records show, but the mineral rights were portioned out to the original mineral owners' descendants. Of the 12 descendants, he can only find 6 of them.

**SRHA land:** Since Roger had to run title on the fee land, he also runs title on the other properties as well. He finds the owners of the surface rights to the SRHA parcel are the same surface owners of the fee land.

**Tract of land covered by the powersite withdrawal:** Roger, in his title search, confirms the powersite withdrawal by reviewing the BLM's website and discussion with the BLM personnel. .



So, the next day, Roger calls Dave and tells him what he has found. He also tells him that, aside from the severed mineral interest on the fee land, all of these issues can be remedied with a little extra paperwork. Dave agrees to move ahead.

**For the SRHA lands**, Roger prepares a Notice of Intent to Locate Claims (NOITL) for the BLM. He also contacts the surface owner who also owns both the surface rights for the fee land. He secures a surface agreement with them. After complying with the time frames of the NOITL, Dave has the claims for all three areas (the SRHA land, the PW land and the BLM land) carefully staked by M&M Staking, who also prepares the location notices and the maps.

**For the PW lands**, Roger prepares the certificates of location and knows that for the claims staked on PW land, he must add the note "Filed under PL 359". PL 359 was enacted in 1955 to allow for claim staking on powersite withdrawal areas. Claims are then reviewed by Federal Energy Regulatory Commission. If FERC doesn't have an active site where claims are staked, the claims are approved and deemed valid.

At Dave's request, Roger continues his search for the heirs of the mineral rights on the fee land portion. He negotiates with the heirs that he could find. With assistance from the family, he is able to find and secure a mineral lease for the mineral rights.

<p>SRHA Lands Surface: Private Owner 1 Mineral: BLM <i>NOITL Required</i></p>	<p>BLM Lands Surface and Mineral: BLM <b><i>Open to Location</i></b></p>	<p>Fee land Surface: Private Owner 1 Mineral: 12 heirs <b><i>Surface Lease Mineral Lease</i></b></p>
<p>BLM Lands Powersite Withdrawal <b><i>Locatable "Filed under PL 359"</i></b></p>		

## Scenario 2: “I’ve got help”

### **Cost:**

Claims: BLM and County filing/recording fees: \$10,892.00

Mineral Lease: \$5,000/yr for first 5 years

Surface Lease: \$2,000/yr

M&M Staking fee

Roger’s fee

### **Outcome:**

40 valid claims

Mineral Lease on adjoining fee land

Surface Lease on fee land and the SRHA lands.



## Scenario 2: “I’ve got help”

- So what did Dave do right:
  - He still valued talking with the locals and getting information from online sources, but he didn’t rely solely on them.
  - He got help from people who specialize in land acquisition
  - As a result, he got a good, clean land package for further exploration, development and/or marketing to another mining company.



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## Morale of the story:

Hire the right professional for the right results.

Remember, if you don't have the land, you will not have a mine.



# LAND PITFALLS FOR EXPLORERS

When do I need to talk to an attorney?

1. If the other party's attorney contacts you.  
Don't represent yourself.

2. Matters which may require court action or federal adjudication

Quiet title action

Claim validity dispute



# LAND PITFALLS FOR EXPLORERS

Self representation can:

- Take much, much longer to resolve;
- Cost much more than it would have if you had used an attorney;
- May not give the results desired;
- Potentially get you into more trouble than you want.



# BLM – MLRS: Friend or Foe

- What is the MLRS?
  - Mineral & Land Records System
  - Replaces the old LR2000 system
- Why?
  - The BLM states that they created a “customer-centric, geospatially enabled land information system”



# BLM – MLRS: Friend or Foe

What can the MLRS do for you? BLM website states that:

- File and manage new claims
- Pay your maintenance fees online
- Initiate IBLA appeals
- Eliminates most visits to the public room

**Important point:**

**All requirements for staking and administering your claims remain the same.**





From BLM MLRS website:

## BLM Disclaimer:

- “as is” and might contain errors or omissions
- “dynamic and may change over time”
- “data might not have accuracy, . . . timeliness
- Data is not legal

### Disclaimer

These data are provided by Bureau of Land Management (BLM) “as is” and might contain errors or omissions. The User assumes the entire risk associated with its use of these data and bears all responsibility in determining whether these data are fit for the User’s intended use. The information contained in these data is dynamic and may change over time. The data are not better than the sources from which they were derived, and both scale and accuracy may vary across the data set. These data might not have the accuracy, resolution, completeness, timeliness, or other characteristics appropriate for applications that potential users of the data may contemplate. The User is encouraged to carefully consider the content of the metadata file associated with these data. These data are neither legal documents nor land surveys, and must not be used as such. Official records may be referenced at most BLM offices. Please report any errors in the data to the BLM office from which it was obtained. The BLM should be cited as the data source in any products derived from these data. Any Users wishing to modify the data should describe the types of modifications they have performed. The User should not misrepresent the data, nor imply that changes made were approved or endorsed by BLM. This data may be updated by the BLM without notification.

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**Public Land Survey System (PLSS)**  
 NV MOUNT DIADLO T35N R43E  
 SEC 28 ALIQU NWSE  
 Link to: Patent | Survey | LSR | CDI

1 of 23

Let's take a look at the map that the BLM has on the MLRS website.

The pale yellow areas indicate BLM lands, the pink hashed areas are the quarter sections that contain some claims. The white area is private or unknown.

To get information on those claims in the pink area, I clicked on the "information" symbol. I then clicked on the area that I was interested in, as indicated in the dark yellow and green. The information about these areas is displayed in the lower left corner. Note that there are 23 different areas displayed, which would include private lands (noted in white), and the claims shown in the pink hashed areas. Also note the Links given (in blue in the pop up box).

# BLM – MLRS: Friend or Foe

- Drawbacks:
  - New systems are almost always riddled with “issues”.
  - Steep learning curve for both BLM staff and users. Also the system is really slow.
  - New BLM serial numbers which are very cumbersome; still need old BLM serial number
  - Great for those who are comfortable with online formats; not great for those who aren't. It is not very intuitive.
  - “Research” function isn't all that useful; still need to obtain claim maps from BLM leadfile or the county. Poor to no interface between other BLM systems (i.e. General Land Office records; MLRS Reports)
  - At this time, data is not entirely accurate – be wary and verify



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## Conclusion:

- Use the right professional for the right job
- Use the online resources wisely. Never assume they are accurate. Remember all online resources are in a state of change.
- Be sure to verify any data obtained from outside data management sites.

**THANK YOU!**