

PITFALLS FOR LANDMEN

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Overview:

- Landslides: Client relations
- Adits: All rights are not equal
- Sink holes: Foibles in government records
- Deep, dark shafts: Other uses of public lands
- Rocks, holes and other trip-ups



Landslides: Client Relations

Scenario #1:

Your new client asks you to take a quick look at a piece of property. She wants to know who the owner is so that she can contact them about acquiring their property.

What is the first thing you say to her?

Landslides: Client Relations

1. Tell your potential new client that she will need to sign your **Consulting Services Agreement**. It protects you and them. This means you need to find out a bit more about your client.
2. Find out how much she knows about land management in the US, and particularly in the area she is interested in. **You may need to “educate” her a bit.**
3. **Set expectations:** Help your client understand that there could be issues related to the land which may take more time to research, i.e. severed mineral interests, etc. Expectations does not necessarily mean a set price or set timeframe. But it does mean giving the client an understanding of what it is going to take to achieve her goal. This may mean asking yourself a hard question: Can I, with my current resources, do the job that my client wants?

Remember, you need to show your client – whether you are a company landman or independent landman - that you want to provide only the very best land service you can to the client. Your “sales job” is to tell them that the time you spend doing quality research will pay off in the end.



Adits: All rights are not equal

- Severed interests:
 - Severed minerals from surface rights
 - Railroad Lands
 - Deed reservations/exclusions
 - Mineral reservations by federal government
 - Types of severed mineral reservations
 - Oil and gas
 - Specific minerals such as “precious metals”, “gold”, “lithium” etc.
 - Geothermal
 - Several specific mineral reservations



Adits: All rights are not equal

- Deed restrictions for surface rights
 - Federal lands: retains rights to build roads, ditches and canals
 - Previous Owner retains right to place solar arrays/wind turbines on surface
 - Previous Owner restricts type of mining (i.e. underground versus open pit)

Question

Do past deed reservations/restrictions affect the land today?

If they are in the deed, and there is no other deed or document removing them, then the answer is
YES.



Adits: All rights are not equal

- Be familiar with state laws and regulations for each state you are working in.
 - Ex: Geothermal rights in various states
 - Nevada: Mineral right: Mineral owner owns geothermal rights. But, geothermal rights also involve groundwater, there are specific regulations relating to groundwater that must be complied with when developing your geothermal interest.
 - Some western states: Water right, owned by the state.
 - Other western states, geothermal rights are considered a “hybrid” right – neither mineral, nor water.
 - Also remember that whether the project is on federal, state or private ground, in almost all cases, the state will be involved in the permitting process.
 - Dormant mineral interest laws
 - Technically, mineral right usage supercedes surface right usage in most states. But in some states this is not always the case. There seems to be a movement towards surface right owners asserting their rights as dominant over mineral rights.
- Be aware that each BLM state or district or even field offices handle things differently from others. Get to know both the state office personnel and the district office personnel of the area that you are working in. They can be a great resource. This is an absolute necessity if you are involved in any kind of permitting on federal lands.

Sink holes: Foibles in government records

- BLM – MLRS – What's in a name?

Mineral & Land Records System

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

Important point:

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



Sink holes: Foibles in government records

But what about research?

Can you find unpatented claims and their exact location?

No. You still need to get the claim map from either the BLM leadfile in the state office, or from the county.

What about General Land Office information (i.e. Master Title Plats, Historical Indexes, Patent information?)

Yes. The BLM wants the MLRS to be a one-stop shop, but it can be difficult to manipulate the system to find what you are looking for.

What about other BLM permits, etc. on your area of interest?

Yes, but again it can be difficult to work your way through the layers to find what you need.

Also remember that this data may be inaccurate, incomplete, and is always changing.

Sink holes: Foibles in government records

- Nevada Department of Minerals Open Site Data

- Excellent source for land data:

<https://data-ndom.opendata.arcgis.com/pages/mining-claims>

But, like all online resources, and since they base much of their land status information off of the BLM MLRS, the data has many of the same drawbacks.

Sink holes: Foibles in government records

- What about County records?
 - Online Resources
 - Scanned by not indexed
 - Indexed by not scanned
 - Only some documents scanned and indexed
 - Only documents of wide public interest are scanned and indexed (i.e. marriage, death, UCC records).

So can you rely entirely on online resources?

No; you still need to go to the county and run the records

Sink holes: Foibles in government records

Morale:

Verify all information obtained from online resources.

It may mean that you also have to do “the old-fashioned” way.

Deep, dark shafts: SRHA Lands

- Stock Raising Homestead Lands (SRHA)
 - Surface was patented to private individual; mineral retained by USA.
 - Minerals may be available for unpatented claim location or annual geothermal nomination (or possible oil & gas nomination??)
 - How to acquire the right to stake claims on SRHA lands:
 1. Prepare a Notice of Intent to Locate Claims (NOITL – available on BLM website) accompanied with the processing fee.



Print

Clear

Form 3830-3
(January 2017)

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

FORM APPROVED
OMB NO. 1004-0114
Expires: January 31, 2020

**NOTICE OF INTENT TO LOCATE A LODE OR PLACER MINING CLAIM(S)
AND/OR A TUNNEL SITE(S)
ON LANDS PATENTED UNDER THE STOCK RAISING HOMESTEAD ACT OF 1916,
AS AMENDED BY THE ACT OF APRIL 16, 1993**

Homestead Patent Number _____

TO ALL WHOM IT MAY CONCERN:

This notice is filed under Public Law No. 103-23 of April 16, 1993 (107 Stat. 60), entitled "An Act to amend the Stock Raising Homestead Act to resolve certain problems regarding subsurface estates, and for other purposes." The undersigned place(s) all interested parties on notice that, within 90 days of filing this notice with the Bureau of Land Management (BLM) and after 30 days from the date of receipt of a copy of this notice by the surface owner(s) of a record, the undersigned intend(s) to enter the lands described below to explore for a valuable mineral deposit(s) and to locate a mining claim(s), and/or tunnel site(s), as provided under the mining laws of the United States (30 U.S.C. 22, et seq.). The area covered by this notice and all other notices filed by the undersigned and any affiliate(s) of the undersigned, and which continue to be in effect on the date of this filing does not exceed 6,400 acres of such land in any one State and 1,280 acres of such land for a single entity. This notice, for a single State and surface of ownership, covers the following lands:

1/4	SECTION	TOWNSHIP	RANGE	MERIDIAN

in _____ County, State of _____.

Total acres under this notice _____.

Name(s), telephone number(s), and mailing address(es) of affected surface owner(s): Name(s), telephone number(s), and mailing address(es) of person(s) filing this notice:

_____	_____
_____	_____
_____	_____

Brief description of the proposed casual use exploration activities (i.e., activities that cause no more than a minimal disturbance to the surface resources and do not involve the use of mechanized earth-moving equipment, explosives, the construction of access roads, drill pads, or the use of toxic or hazardous materials):

Date(s) on which such activities will take place: _____

(Continued on page 2)

SRHA Process for mining claims

- The NOITL segregates the land for 90 days
 - No one else, including the surface owner, may file a NOITL or enter the land to explore for minerals, stake claims, etc.
 - The applicant provides written notice of the NOITL to surface owner by registered or certified mail (sometimes the BLM does this)
 - First 30 days: the applicant is NOT allowed on the property
 - Following 60 days (or longer): the applicant may explore & stake claims.



SRHA Process for Geothermal

- Applicant includes SRHA land in Annual Nomination Process.
- During BLM review, the BLM notifies the surface owner requesting comment.
- If the applicant wins the lease, applicant must comply with all requirements and obtain surface lease from surface owner.
- This may be the same for oil and gas or other leaseable minerals.

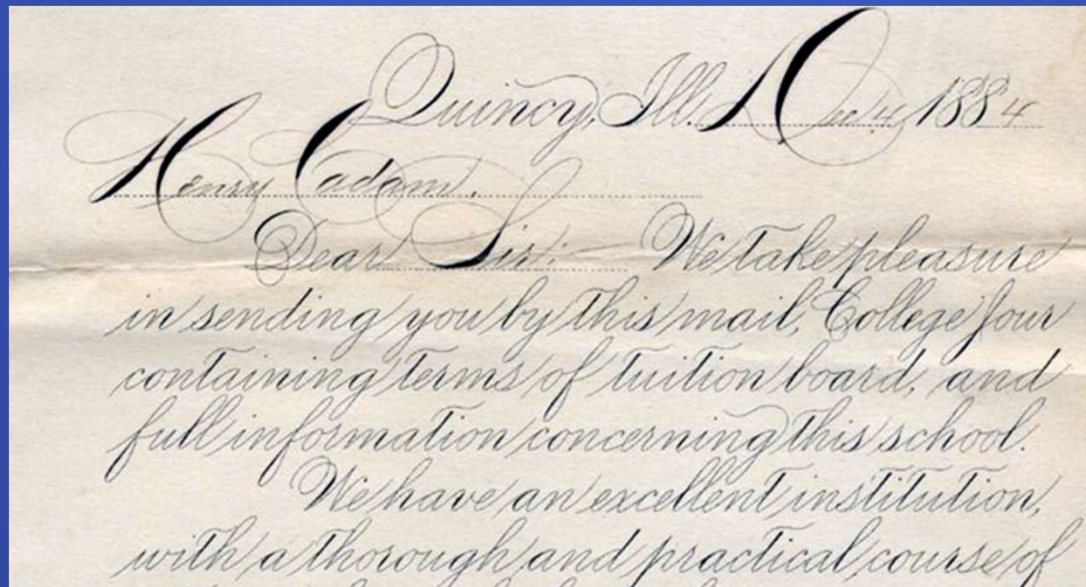


Deep, dark shafts: Powersite withdrawals

- What is a powersite withdrawal and why does it matter? Can I stake claims in a powersite withdrawal area?
- Public Law 359 allows for mining on public lands withdrawn or reserved for power development.
- Unpatented claims can be staked on powersite withdrawal areas; locations certificates must have “Filed under PL 359” on them.
- BLM then notifies the Federal Energy Regulatory Commission to see if they have any active projects. If FERC has an active project in conflict, the claims is declared null and void.

Rocks, holes and other trip-ups

- Become well versed in public lands issues.
- Refresh your memory of Spencerian writing.



Conclusions

- Set realistic expectations with your client/company.
- As you are doing your research, be sure to look for those hidden interests and deed exclusions/restrictions.
- Utilize the online resources available to you, but make sure that you verify them.
- Be on lookout for other, less well-known public land designations. Don't assume that minerals are always excluded.
- Stay informed about state and federal issues in your area and current public lands issues.
- Make sure you have the tools necessary to do the research needed.

Conclusions

Many people believe that land work is simple. And it is . . . In simplistic situations. Just like it takes geologists, engineers, metallurgists, equipment suppliers, equipment operators, etc. to make a mining operations . . . It takes the landman to acquire that property.

Remember:

You are a highly educated, highly skilled professional!

No land . . .
No Mine!