The proof showing must be made in duplicate. See 51 L.D. 265 and 52 L.D. 190.

(f) Applications awaiting entry, whether published or not, must be made to conform to this part, with respect to proof as to the character of the land. Entries already made will be suspended for such additional proofs as may be deemed necessary in each case.

§ 3863.1–4 Applications for placers containing known lodes.

Applicants for patent to a placer claim, who are also in possession of a known vein or lode included therein, must state in their application that the placer includes such vein or lode. The published and posted notices must also include such statement. If veins or lodes lying within placer locations are owned by other parties, the fact should be distinctly stated in the application for patent and in all the notices. But 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. An application which omits to claim such known vein or lode must be construed as a conclusive declaration that the applicant has no right of possession to the vein or lode. Where there is no known lode or vein, the fact must appear by the statement of two or more witnesses.

Subpart 3864—Millsite Patents

SOURCE: 35 FR 9758, June 13, 1970, unless otherwise noted.

§ 3864.1 Millsite patents: General.

§ 3864.1–1 Application for patent.

(a) Land entered as a millsite must be shown to be nonmineral. Millsites are simply auxiliary to the working of mineral claims. R.S. 2337 (30 U.S.C. 42) provides for the patenting of millsites.

(b) To availing themselves of this provision of law, parties holding the possessory right to a vein or lode claim, and to a piece of nonmineral land not contiguous thereto for mining or milling purposes, not exceeding the quantity allowed for such purpose by R.S. 2337, or prior laws, under which the land was appropriated, the proprietors of such vein or lode may file in the proper office their application for a patent, which application, together with the plat and field notes, may include, embrace, and describe, in addition to the vein or lode claim, such noncontiguous millsite, and after due proceedings as to notice, etc., a patent will be issued conveying the same as one claim. The owner of a patented lode may, by an independent application, secure a millsite, if good faith is manifest in its use or occupation in connection with the lode and no adverse claim exists.

(c) The Act of March 18, 1960 (74 Stat. 7; 43 U.S.C. 42(b)), amends R.S. 2337 to allow the holders of possessory right in a placer claim to hold nonmineral land for mining, milling, processing, beneficiation, or other operations in connection with the placer claim. Applications for patent for such millsites are subject to the same requirements as to survey and notice as one applicable to placer mining claims. No one millsite may exceed five acres and payment will be $2.50 per acre or fraction thereof.

§ 3864.1–2 Millsites applied for in conjunction with a lode claim.

Where the original survey includes a lode claim and also a millsite the lode claim should be described in the plat and field notes as “Sur. No. 37, A.” and the millsite as “Sur. No. 37, B,” or whatever may be its appropriate numerical designation; the course and distance from a corner of the millsite to a corner of the lode claim to be invariably given in such plat and field notes, and a copy of the plat and notice of application for patent must be conspicuously posted upon the millsite as well as upon the vein or lode claim for the statutory period of 60 days. In making the entry no separate receipt or certificate need be issued for the millsite, but the whole area of both lode and millsite will be embraced in one entry, the price being $5 for each acre and fractional part of an acre embraced by such lode and millsite claim.

§ 3864.1–3 Millsites for quartz mills or reduction works.

In case the owner of a quartz mill or reduction works is not the owner or
claimant of a vein or lode claim the law permits him to make application therefor in the same manner prescribed for mining claims, and after due notice and proceedings, in the absence of a valid adverse filing, to enter and receive a patent for his millsite at the price named in the preceding section.

§ 3864.1–4 Proof of nonmineral character.

In every case there must be satisfactory proof that the land claimed as a millsite is not mineral in character, which proof may, where the matter is unquestioned, consist of the statement of two or more persons capable, from acquaintance with the land to testify understandingly.

§ 3864.1–5 Fees.

An applicant for a millsite patent must pay fees as described in § 3860.1.

[70 FR 58880, Oct. 7, 2005]

PART 3870—ADVERSE CLAIMS, PROTESTS AND CONFLICTS

Subpart 3871—Adverse Claims

Sec.
3871.1 Filing of claim.
3871.2 Statement of claim.
3871.3 Action by authorized officer.
3871.4 Patent proceedings stayed when adverse claim is filed; exception.
3871.5 Termination of adverse suit.
3871.6 Certificate required when no suit commenced.

Subpart 3872—Protests, Contests and Conflicts

3872.1 Protest against mineral applications.
3872.2 Procedure in contest cases.
3872.3 Presumption as to land returned as mineral.
3872.4 Procedure to dispute record character of land.
3872.5 Testimony at hearings to determine character of lands.

Subpart 3873—Segregation

3873.1 Segregation of mineral from non-mineral land.
3873.2 Effect of decision that land is mineral.
3873.3 Non-mineral entry of residue of subdivisions invaded by mining claims.