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Cave Creek ^{Honto}

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JUL 7 1969

REGION 3
RECREATION & LANDS

July 2, 1969

United States of America, : Contest No. A-251,
 : Involving the RACKENSACK Nos. 1,
Contestant : 2 and 3 Lode Mining Claims,
 : Embraced within Secs. 4 and 33,
v. : T. 6 N. and 7 N., R. 5 E., GSRM,
 : Maricopa County, Arizona
 :
Glen Martin, :
Milton A. Edgar, :
Contestees :

MOTION TO DISMISS GRANTED
CASE CLOSED

The United States Forest Service, Department of Agriculture, initiated adverse proceedings against the mining claims identified above and the claimants thereof charging and alleging as follows:

- a. That a valid mineral discovery as required by the mining laws of the United States does not exist within the limits of the Rackensack Nos. 1, 2 and 3 lode mining claims.
- b. That the land embraced within said lode mining claims is nonmineral in character within the meaning of the mining laws.

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JUL 12 1969
CAVE CREEK

Immediately after the opening of the hearing, the parties entered into a stipulation wherein the contestant agreed that if certain buildings on the claims were removed by the contestees within a specified time, the contestant would move to dismiss the contest action.

On July 1, 1969, the contestant filed a motion to dismiss in which it is stated that the buildings have been removed and that there is no present need to continue the contest.

The motion to dismiss is therefore granted and the contest proceedings against the claims are dismissed without prejudice and the case is closed.

Paul A. Shepard
Hearing Examiner

	Action tion	Ini- tials
EH	✓	
JAP	✓	
A		
D		
T		
F		
I		
i		

Distribution:

Thomas P. Riordan, Attorney at Law, 810 Luhrs Tower, Phoenix, Arizona
85003

Glen Martin and Cecelia Martin, 3614 W. Ocotillo, Phoenix, Arizona
85019

Milton A. Edgar, 1409 W. Cheryl Drive, Phoenix, Arizona 85021

George Edeline, 701 North 7th Street, Phoenix, Arizona

Mabel Steinegger, 701 North 7th Street, Phoenix, Arizona

Richard L. Fowler, Attorney, Office of the General Counsel, U. S. Dept.
of Agriculture, 517 Gold Avenue, S. W., Albuquerque, New Mexico

Standard Distribution

UNITED STATES
DEPARTMENT OF THE INTERIOR
Bureau of Land Management
Office of the Hearing Examiners
P. O. Box 21-4215
Sacramento, California 95821

UNITED STATES OF AMERICA,

Contestant

v.

GLEN MARTIN
MILTON A. EDGAR,

Contestees

: Contest No. A-251,

:
: Involving Rackensack Nos. 1-3
: lode mining claims
:
:
:
:
:
:

CONTESTANT'S MOTION TO DISMISS

COMES NOW the Contestant and moves that this contest be dismissed without prejudice for the following reasons:

1. At the time and place for the hearing on October 18, 1968, the parties entered into a stipulation regarding removal of buildings from the contested claims. The buildings were removed from the claims within the time allowed.

2. In view of the fact that the Contestees have terminated a non-mining use, there is no present need to continue this contest. The Forest Service does not object to proper use of the land by the Contestees under the mining laws.

Respectfully submitted on this 26th day of June, 1969.

RICHARD L. FOWLER

Richard L. Fowler
Attorney in Charge
Office of the General Counsel
U. S. Department of Agriculture
Albuquerque, New Mexico 87101

Form 1850-1
(January 1965)
(formerly 4-133)

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

FEB 13 1967

REGION 3

TRANSMITTAL OF CONTEST OR OTHER PROCEEDING FOR REVISION & LANDS

TO:

Hearing Examiner

4209 Federal Building, Salt Lake City, Utah 84111

(City and State)

The proceeding identified herein and in the accompanying official records is transmitted to you for hearing and decision, pursuant to the rules of practice (43 CFR, Part 1850) and/or other governing authority.

1. Parties *

Contestant(s) or Proponent(s)

United States through BLM
for Forest Service

vs. Contestee(s) or Respondent(s)

Milton A. Edgar, et al.,
c/o Thomas P. Riordan, Attorney for Contestees,
810 Luhrs Tower, Phoenix, Arizona 85003

2. Kind of proceeding *

Contest of mining claims
not under patent application.

3. Contest or other number(s)

State

Arizona

Number(s)

Contest A-251

4. Date proceeding commenced *

Answer timely filed November 10, 1966

5. Number claims, entries, or leases involved *

3 lode mining claims

6. Lands involved are

In the County of Maricopa, Arizona
Near - - , Alaska

7. Suggested place for hearing

☒ County seat Phoenix, Arizona
☐ Other (explain in Remarks)

8. Date for hearing *

As your work schedule permits.

9. Filing of motion by Government, if a party, for prehearing conference

☐ Is anticipated
☒ Is not anticipated

10. Costs to BLM (applies only to BLM contests)

☐ Are reimbursable
☐ Are not reimbursable

11. Reporter's fees (private contests only)

☐ Action has been taken to transfer to the FAO
the \$20 deposit required of the Contestant(s)
(43 CFR 1852.1-4(d))

12. Remarks

To be notified of any action taken:

Mr. Richard L. Fowler, Attorney in Charge, Office of
the General Counsel, USDA, Room 2017 Federal Building,
517 Gold Avenue, SW, Albuquerque, New Mexico 87101.

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MAR 14 1967

CAVE CREEK

Date

February 10, 1967

Signature of Land Office Manager

/S/ GLENDON E. COLLINS

Copy to: Director (704)

Regional Forester

Richard L. Fowler

Thomas P. Riordan

Attachments: Related Official Files *

Contest A-251

* See Instructions on reverse

UNITED STATES
DEPARTMENT OF AGRICULTURE
FOREST SERVICE
Southwestern Region

2810-TONTO

Edgar, Milton; and Martin, Glen

MINERAL REPORT
(For Administrative Use Only)

Gilbert J. Matthews
Mineral Examiner

November 29, 30; December 1, 2, 1965,
March 15, 16, 1966
Date of Examination
July 15, 1966
Date of Report

Category: **Validity**

Claim Names: **Rackensack Nos. 1, 2 and 3 LMC's.**

Land Office and Serial No.: **Phoenix, Arizona**

Brief of Recommendations:

**That adverse proceedings be directed against all three of the
subject mining claims.**

Approved: _____

E.R. Traggitt
Chief Mineral Examiner

7/18/66
Date

Approved: _____

[Signature]
Forest Supervisor

8-26-66
Date

Approved: _____

[Signature]
Acting Regional Forester

8/31/66
Date

LANDS INVOLVED:

T. 7 N., R. 5 E.
Section 33, Part of S $\frac{1}{2}$ S $\frac{1}{2}$ SW $\frac{1}{4}$
T. 6 N., R. 5 E.
Section 4, Part of N $\frac{1}{2}$
G&SRB&M, Maricopa County, Arizona

Involving the Rackensack Nos. 1, 2 and 3 lode mining claims, recorded as full sized lode claims of 20.66 acres each, aggregating a total of 61.98 acres.

RECORD DATA:

The following data on the three subject lode mining claims were found in the official records of Maricopa County Recorder's Office, 111 South Third Avenue, Phoenix, Arizona:

<u>Name of Claim</u>	<u>Date of Location</u>	<u>Recorded in Maricopa County, Arizona</u> <u>Date</u>	<u>Docket</u>	<u>Page</u>
Rackensack No. 1	11/26/57	11/26/57	2334	17
Rackensack No. 2	11/26/57	11/26/57	2334	18
Rackensack No. 3	11/27/57	11/26/57	2334	19

The above listed claims were located by Glen Martin and G. C. Jones.

By mining deed recorded November 15, 1960, in Docket 3488 on Pages 269-271, G. C. Jones quitclaimed to Milton A. Edgar his undivided one half interest in the three subject Rackensack claims.

A mine lease and option recorded November 15, 1960, on Pages 271 and 272 of Docket 3488, by and between Glen Martin, party of the first part, and Milton A. Edgar, party of the second part, gives the termination date November 15, 1965. Obviously by leasing Martin's half interest, Edgar gained full operational control of the three subject claims.

Milton Edgar and Glen Martin had amended location notices for the Rackensack Nos. 1, 2 and 3 lode claims recorded February 21, 1961 in Docket 3596 on Pages 323, 325, and 327 respectively.

Affidavits of annual assessment work have been regularly recorded in the official records of Maricopa County since 1961 in Docket 4266 on Pages 179, 180 and 181; Docket 4722 on Page 403; Docket 5199 on Page 090; Docket 5659 on Page 41 - Milton A. Edgar being the affiant in each instance.

A reported assigned lease on the claims held by Paul Ferrin, Phoenix attorney of the law firm Burns, Ferrin and Ehrenreich, was confirmed by the undersigned by phone April 15, 1966, but Ferrin advised that because he is considerably behind on his payments, he assumes his lease is no longer valid. There was no record of such a lease agreement found recorded in the Maricopa County Recorder's Office.

Milton A. Edgar resides at: 1409 West Cheryl Drive, Phoenix, Arizona 85021, and Glen Martin at: 3614 West Ocotillo, Phoenix, Arizona.

The District Ranger gave as a reason for the request for mineral examination: "Claims are within an area which is going to be exchanged."

LOCATION, ACCESS AND IDENTIFICATION:

The subject lode mining claims are situated in the Cave Creek Mining District, Maricopa County, Arizona, and the Cave Creek Ranger District of the Tonto National Forest near the head of Rackensack Canyon, about 14 miles road distance from the Cave Creek Ranger Station.

To reach the subject claims from the Cave Creek Ranger Station, take the Seven Springs road and drive 11.3 miles to a side road entering from the left. Turn left onto this Rackensack Canyon road and proceed 2.7 miles to the dwelling shown in Photos "A" and "B" of Attachment No. 2.1 near the road's end.

The claims are situated on lands mapped within the Humbolt Mountain Quadrangle, Maricopa County, Arizona, 7.5-minute series, U.S.G.S.'s Topographic Map, and U.S.F.S.'s Aerial Planimetric Map, Quad. No. 270.

The land was identified by finding the common corner of Sections 4 and 5, T. 6 N., R. 5 E., and Sections 32 and 33, T. 7 N., R. 5 E., and Corner No. 1 of the Fort Worth Patented lode mining claims, Pat. No. 378850, to which land survey corners the subject claim's monuments and improvements found were tied by pace-compass survey.

The principal improvements on the Rackensack No. 2 claim were identified November 20, 1965, by Milton A. Edgar when he and his part time employee, Mr. James O'Neal, accompanied the undersigned to the claim area. Because of physical impairments, Edgar was unable to walk over much of the steep terrain, but he did point out places to take representative samples of the quartz vein exposed in the main or No. 4 adit. He also instructed O'Neal, who he said was quite familiar with the subject claims, to accompany the undersigned on subsequent dates to point out boundary markers and other improvements. The claim sketch furnished by Edgar, a copy of which is Attachment No. 4, aided in determining the relative positions of the three subject claims.

Edgar told the undersigned the Rackensack No. 2 claim occupied the same position as the abandoned Edwards Claim, which he said was surveyed for, but never attained patent. The stone monument and red-wood post identified by O'Neal as being the northwest corner of the Rackensack No. 2 claim, was later identified from the barely legible scribe to be the west end center of the old Edwards claim. A reasonably careful search to the northward from this old Edwards claim marker, picked up only two fairly new monuments with white 4" x 4" x 4' high posts which were identified by small metal plates nailed to them marked: "E. V. Graham."

TOPOGRAPHY, CLIMATE AND VEGETATION:

The three subject claims are situated in an area of quite steep and rugged relief as exemplified by the attached photos.

The mean elevation of the claims is about 4200 feet above sea level as interpolated from contours shown on U.S.G.S.'s Humbolt Mountain Quadrangle Topographic Map.

The climate is mild and dry. Mean temperatures as interpolated from U.S. Weather Bureau's "Climatology of the United States No. 60-2" indicates mean maximum and minimum temperatures (°F) of 62° and 30° for January, and 96° and 66° for July respectively. Mean annual precipitation is about 14 inches.

The claim area is drained by eastward coursing Rackensack Canyon Creek, a tributary to southeastward flowing Camp Creek, a tributary of the Verde River.

The soil coverage is for the most part thin and rocky, but does support a fair stand of chaparral type of vegetation, native grasses, agave, and some varieties of cacti.

GEOLOGY AND MINERALIZATION:

The rock exposures in the general area embracing the subject claims are predominately Precambrian schist as is shown mapped on the Arizona Bureau of Mine's Geologic Map of Maricopa County. This relatively large mass of schist was intruded by a stock of late Cretaceous and/or early Tertiary granite in the vicinity of Continental Mountain, some two miles southwest from the claims, during the Laramide Revolution, a period of mountain-making deformation, uplift and igneous activity.

In the immediate subject claim area, a pegmatitic granite dike which is perhaps an offshoot from the granite stock, supra, appears to have

to be an area from which a flat dipping quartz outcrop has been stripped, surrounding the location monument and the about 8 feet wide and 10 feet deep open end cut lying 36 feet S. 8° W. from the location monument at the southern edge of the disturbed area, were excavated in schist showing some irregular and sporadic rusty quartz occurrences. The principal schistosity was checked at S. 50° E. and -40° S.W.

Sample No. 3518 - Weight 4 1/4 pounds, was a 1.77 foot vertical chip sample of the full width of a rusty S. 70° E. striking and -32° N. 20° E. dipping quartz exposed as a small bench of quartz in schist. This was the best-appearing quartz in place exposure noted in this shallow pit and/or the contiguous open end cut. From the considerable quartz boulders lying scattered about in this shallow pit and piled in the location monument, it is reasonable to assume that whoever did this work was aware the quartz carries little metal value.

Assay Certificate, Attachment No. 3, shows this quartz contained 0.2 oz. silver and 0.03 oz. gold per ton, for a per ton value of \$0.25 for the silver and \$1.05 for the gold content for a total per ton value of \$1.30.

Top Adit - This adit, highest in elevation of the workings examined, consists of a 16 foot long cut to the portal of a S. 28° W. crosscut in schist, running 3/4 feet to a face of schist, 8 feet beyond an intersection with a generally S.E. coursing drift. This drift, driven on an irregular quartz occurrence under a generally S. 50° E. striking and -22° S.W. dipping gouge zone, runs S. 60° E. for 13 feet to a right turn at about a 5 foot long N.E. stub crosscut. Beyond the stub crosscut the drift runs S. 10° W. for 10 feet to an elevated or 5 foot higher portion of drift. Obviously this elevated portion of drift, which runs S. 40° E. for 20 feet to a face of massive quartz in schist, was necessitated to hold the quartz in the face and the gouge zone at the back of the drift due to the fact the quartz, although irregular, appears to hold to the rake of the gouge zone.

Sample No. 3517 - Weight 4 pounds, was a 5.10 foot long vertical chip sample of massive and slightly rusty quartz exposed in the face of the elevated portion of the Top Adit drift. This sample of the full thickness of quartz taken 0 to 5.10 feet above the drift's floor, was from the right hand or south side of the face where the irregular quartz mass showed the greatest thickness. The attached assay certificate shows this quartz ran 0.2 oz. silver and 0.01 oz. gold per ton for a per ton value of \$0.25 for the silver and \$0.35 for the gold for a total per ton value of \$0.60.

No. 1 Adit - This adit, also referred to as the "Rattler," was driven on a fairly persistent but somewhat meandering quartz vein in granite. This about 1 foot thick quartz vein has an average strike of about

S. 50° E. and a -54° N.E. dip. The portal cut shown in Photo "D" of Attachment No. 2.1 is about 21 feet long. From the portal the drift runs S. 75° E. for 21 feet, about 8 feet beyond the center of a 6 foot long by 6 foot wide by 7 foot deep winze. The drift then bears to the right to a course of S. 50° E. for 49 feet to a second slight right bend at a 10 foot high raise. The drift then bears further to the right to a course of S. 30° E. for 24 feet to a left bend at the beginning of about a 50 foot long depressed section of drift, about 8 feet beyond a 6 foot by 8 foot by about 30 feet deep winze in the drift's bottom. It is noteworthy that the quartz vein pinches out in the back of the drift at the brow of the depressed drift, referred to on the claim sketch, Attachment No. 1.2, as "Sump Drift." No doubt this sump drift, driven on about a 3 foot lower elevation and partially full of water at the time of the examination, was driven at this lower level in an attempt to stay with the quartz vein which apparently was pinching out up its dip in this vicinity. Because of this pinching out of the vein and because Edgar did not designate samples be taken in this working, none were taken.

No. 2 Adit - This adit runs N. 60° W. to an open 15+ feet deep winze in its bottom, then an additional 25+ feet to a bend to the right. The open winze in the bottom of the drift 10 feet in from the portal, made the drift inaccessible for sampling without first making preparations for a crossing. This adit was begun on about a 1 foot wide N. 70° W. striking and -60° N.E. dipping rusty quartz vein in granite showing some displacement at the back of the drift on a westward striking and -30° north dipping fault. It was noted that the direction in which the drift was driven left but little apparent backs. Undoubtedly the quite extensive disturbed area or shallow pit, designated "Disturbed Area #2" on Attachment No. 1.2, just northwest from this adit's portal, is an area from where the outcrop of this quartz vein has been stripped. Here again the considerable quartz left in piles obviously attest to its lack of economic value.

The three small open end cuts shown sketched in on Attachment Nos. 1.1 and 1.2, lying eastward from the "Top Adit" portal cut, and the cut, lying between "Disturbed Area #2" and No. 2 Adit portal, were badly sloughed and not considered worthy of sampling.

The 18 feet long open end cut lying some 75 feet north from the portal of No. 1 Adit was mineralogically unimpressive and not sampled.

The slide on the upper side of the road, shown platted immediately north from Adit No. 1 portal on Attachments Nos. 1 and 2 is of frame and light metal construction and was obviously built for loading rock material into trucks. From the little apparent wear to this slide and the lack of any stoping in Adit No. 1, it is assumed that only token lots of quartz might have been loaded for test or other purposes from this exploration working.

RACKENSACK NO. 2 CLAIM

If the west end center marker of the older Edwards Claim location is taken as the west end center of the Rackensack No. 2 claim in accordance with Edgar's statement that the subject claim covered the same ground as the older abandoned Edwards claim, then the dwelling, shed and privy described earlier in this report, are within the boundary limits of the subject claim as platted on Attachments Nos. 1.1 and 1.2. However, if O'Neal correctly identified this Edwards claim end center post as being the northwest corner of the Rackensack No. 2 claim, and there is the yellow painted claim marker found and shown as "Yellow Top Post" at the lower left hand portion of Attachment No. 1.1 to substantiate O'Neal's identification, then the non-mining improvements, supra, lie outside the subject claim boundary. It is noteworthy that most of the subject claims marker posts found had yellow painted tops, and that a reasonably careful search of the area north of the west end center of the Edwards claim revealed nothing but the two E. V. Graham posts.

The relatively small hopper behind the retaining wall appearing near the center of Photo "C" of Attachment No. 2.1 and identified as "Loading chute" on the attached Photo "C" and the attached claim sketches, perhaps served as a coarse bin during the period in the early 1960's when Edgar tried to mill the quartz, using portable jaw crusher, rolls, and a dry concentrator, which undertaking he readily admits was a dismal economic failure.

No. 3 Adit - This working, the portal of which may be viewed in Photo "F" of Attachment No. 3, consists of a crosscut in granite running S. 68° W. for 39 feet to a face of granite, about 6 feet beyond its interception of a S. 40° E. average striking and -60° N.E. dipping 1 foot average width quartz vein, on which a drift was driven N. 38° W. for 39 feet to a face under a 6 foot high raise, 31 feet beyond a connecting raise from the No. 4 Adit workings below. Also a drift was driven on this quartz vein S. 40° E. for 13 feet to a face under a 6 foot high raise on this vein. Because Edgar did not designate this working as a place to sample, none were taken.

No. 4 Adit - Photo "G" of Attachment No. 2.2 is a view of the portal of this, the principle working on the group of three subject claims. This adit consists of a crosscut in granite running about S. 45° W. for 65 feet to a junction with a heading entering from the left at a vertical N. 20° W. fracture in granite. From this first junction, the crosscut continues S. 70° W. for 13 feet to a second junction with a drift entering from the right. This drift will hereafter be referred to as the "northwest drift." From this second junction, the crosscut, hereinafter referred to as the "footwall crosscut," runs S. 60° W. for 21 feet, then bears slightly to the right and continues about due west for 29 feet to about a 5 foot wide and 6 foot high face of pegmatitic granite. Throughout this footwall crosscut, the walls and the face

show a series of generally northwest trending narrow stringers of a reddish-colored translucent mineral having a vitreous luster, thought to be microcline, a variety of feldspar with some quartz interspersed and a few flecks of metallic minerals in evidence. From the first junction mentioned above, a heading bears S. 12° W. for 15 feet to intersect a 0.9 foot wide S. 30° E. striking and -43° northeast dipping rusty quartz vein at the bottom of a raise connecting the No. 3 adit above. From this connecting raise, the heading, hereinafter referred to as the "Southwest Drift," follows the narrow well-defined quartz vein, having an average strike of about S. 50° E. and an average dip of about -60° northeast, for about 200 feet to a fairly abrupt turn to the right, some 100 feet beyond a 3 foot high raise on the vein in the drift's back. From the center of this curve right, the drift continues S. 21° E. for 13 feet to a junction, 13 feet short of the drift's face where the vein can be observed to have pinched out completely in the back of the drift a few feet back from the face. From the junction a crosscut runs S. 30° W. for 24 feet to a face, all in barren granite.

From the second junction in from the portal of the main crosscut, the northwest drift follows the northwest extension of the narrow well-defined quartz vein at N. 45° W. for 21 feet, 5 feet beyond a 3 foot high raise on the vein over a shallow water filled winze or sump. From what point the drift bears N. 35° W. for 40 feet to a partially collapsed and inaccessible N. 65° W. section of drift, 22 feet beyond a ladderless S. 40° W. and +45° raise.

The following samples were taken at points in this main working designated by Milton Edgar as places to sample and their relative positions can be identified on Attachment No. 1.2 by their respective numbers.

Sample No. 3519 - Weight 3 pounds, was a 0.56 foot long chip sample taken normal to and across the full width of the quartz vein exposed in the center of the back of the southeast drift at its junction with the southwest crosscut, 13 feet back from the drift's face. The attached assay certificate shows this sample ran 0.2 oz. silver and 0.01 oz gold per ton for a per ton gross value of \$0.25 for silver and \$0.35 for gold, aggregating a total per ton value of only \$0.60.

Sample No. 3520 - Weight 4½ pounds, was a 0.98 foot long chip sample taken normal to and across the full width of the quartz vein exposed in the western portion of the drift's back at the southeast brow of the 3 feet high raise which is about 115 feet southeast of the main crosscut - southeast drift junction. The attached assay certificate shows this sample ran 0.2 oz. silver and 0.03 oz. per ton gold for a per ton gross value of \$0.25 for the silver and \$1.05 for the gold, aggregating a total per ton gross value of \$1.30.

Sample No. 3521 - Weight 10 $\frac{1}{4}$ pounds, was a chip sample taken at about waist height along the south wall of the footwall crosscut at from 0 to 33 feet from the face. The attached assay certificate shows this sample ran 0.4 oz. per ton silver, 0.01 oz. gold and 0.03% copper having a total per ton gross value of \$0.50 for silver, \$0.35 for gold and \$0.186 for copper, aggregating a per ton gross value of \$1.036.

Sample No. 3522 - Weight 3 $\frac{1}{4}$ pounds, was a 0.92 foot long chip sample taken normal to and across the full width of rusty quartz veins exposed in the southwest wall of the northwest drift, 4.8 feet to 5.7 feet above the floor of the drift, 20 feet northwest of the drift's juncture with the main crosscut. Edgar requested the quartz vein at this point be checked for tin and nickel content, as well as for gold, silver and copper. The attached assay certificate shows this sample ran 0.4 oz. per ton silver, 0.01 oz. gold, 0.03% copper, nil tin, and nil nickel having a per ton value of \$0.50 for silver, \$0.35 for gold, \$0.186 for copper, nil for tin and nickel, aggregating a per ton gross value of \$1.036.

No. 5 Adit - Also referred to as the "Toothpick" adit by O'Neal who says it was so named because of the closely spaced light sets of timber framed from 4 inch by 4 inch timber. This working consists of an average 20 feet wide cut running S. 68° W. for about 18 feet to the portal. From the portal, which lies just outside the right edge of attached Photo "C," the adit was driven on a long radius curve to the left, checked by a 29 foot long chord at S. 50° W., and then a 37 foot long chord at S. 25° W. to a face of limonite streaked gouge, probably on the contact between the granite and the schist. Except for about the last 5 feet, this adit was driven wholly in schist, crosscutting the schists folia which was checked in the portal cut as having a westerly trend and about -60° S. dip. A few discontinuous and sparse streaks of Cinnabar were recognized in the schist at the portal, which obviously would not approach ore grade and was therefore not sampled. The timber precludes a good inspection of the back and walls of the adit throughout most of its length. The schist can be seen contacting the gouge fault zone about 5 feet from adits face on a contact checked at N. 60° W. strike and -51° southwest dip. Because Edgar did not designate this working as a place to sample, none were taken.

The location monument lying but a short distance north from the No. 5 adit portal contained the Rackensack No. 2 location notice dated November 26, 1957, signed Glen Martin and G. C. Jones, and the notice of amendment to this location dated January 29, 1961, which was signed by Milton Edgar and Glen Martin.

Caved Adit - This working which lies just outside the right edge of

attached Photo "C," is the lowermost working found on the Rackensack No. 2 claim. Its collapsed condition made it inaccessible.

Incline Shaft - This raw shaft, located some 150 feet east of the southwest corner of the Rackensack No. 2 claim, was collared on a bench of pegmatitic granite and sunk on about a -60° incline at N. 35° E. It was inaccessible but its bottom was visible some 20 feet below the collar. Just north of the shaft's collar is an escarpment, at the base of which there is evidence that some gouging has in the past been done on a narrow flat lying mineralized seam or streak. A short distance westward, a small partially caved adit with considerable water backed up behind a pile of slough material at its portal, was noted but not entered. Mr. Edgar made no mention of this adit or the incline shaft and it was therefore, felt he place little or no importance to these workings and as a consequence the undersigned paid them but little attention and no samples were taken of the apparent meager mineral showings.

Well - This small boxed-in excavation, located a relatively short distance south-southwest from the dwelling near creek bottom, was overflowing water when observed November 30, 1965. The unburied pipe line lying between the spring development and the dwelling indicates this has in the past served as the domestic water supply.

RACKENSACK NO. 3 LMC

The shaft, pit and cut, shown platted just to the north of the Rackensack No. 3 claim's location monument on the claim sketch, Attachment No. 1.1, were the only mine workings found or pointed to by O'Neal. These workings were excavated in a somewhat darker colored phase of the granitic rock, perhaps a diorite.

The location monument of stone was found to have two notices of location posted in it; one the Rackensack No. 3 lode mining claim location notice dated November 26, 1957, signed by Glen Martin and E. C. Jones; and the amendment to this location dated January 29, 1961, signed by Milton A. Edgar and Glen Martin.

Shaft - This 4 feet wide by 6 feet long by about 12 feet deep working, lying about 8 feet N. 50° E. from the location monument was excavated on a 2 foot wide limonite stained structure in diorite having a N. 85° E. strike and a dip of about -79° to the south.

Cut - The entrance to this 4 feet average width cut, which runs S. 64° E. for 11 feet to a 3 foot thick rib separating it from the 6 feet wide by 6 feet long and 5 feet average depth pit, where sample No. 3516 was taken, lies 44 feet N. 20° W. from the location monument. From the amount of quartz in the dump material, it is assumed this open end cut

was excavated on sporadic quartz occurrences having a generally west-northwest trend in diorite similar to those showing in the rib separating the pit and the shaft, photographed and showing in attached Photo "K." The sides and face of the cut were considerably sloughed and there were no quartz in place exposures apparent in this working for sampling at the time of the examination.

Pit - The quartz exposure, in the western end of this pit described supra, near the pit's bottom, was selected as the most representative exposure of quartz in place to sample in the three workings found on the Rackensack No. 3 claim.

Sample No. 3516 - Weight $3\frac{1}{2}$ pounds, was a 1.65 foot long chip sample taken 7.0 feet below the projected surface on and normal to the about -40° north dipping and N. 55° W. striking pair of quartz veins exposed in the northwestern wall or end of the pit. This sample, which included 0 to 0.65 feet of hanging wall quartz, 0.65- to 1.40 feet of intervening diorite, and 1.40- to 1.65 feet of footwall quartz, ran 0.2 oz. silver and 0.01 oz. of gold per ton, having a per ton gross value of \$0.25 for the silver and \$0.35 for the gold content, for a total gross per ton value of \$0.60. The white ribbon showing near the lower right hand corner of attached Photo "J" shows the position and limits of this sample.

A 0.2 foot wide, S. 85° E. striking and -41° north dipping barren appearing quartz vein found outcropping on the surface a short distance southeast from the location monument was not considered worthy of sampling.

OTHER DATA:

The old arrastre located a short distance down Rackensack Gulch from the claimant's dwelling, about as shown platted on claim sketch, Attachment No. 1.1, attest to the fact the quartz occurrences in the general area of the subject claims have no doubt been under investigation for quite some time, but the undersigned through inquiries made was unable to learn of any important production from the Rackensack mine or from the Dallas-Ft. Worth-El Paso group of patented claims. The Arizona Bureau of Mines, Mineral Technology Series No. 37, Bulletin No. 137; "Arizona Lode Gold Mines and Gold Mining" published August 15, 1934, states; "The Rackensack Mine, owned by L. E. Hewins, is in Rackensack Gulch, about 4 miles upstream from the camp creek highway bridge. In May, 1934, the authors learned by oral communication from A. S. Lewis, this mine was being worked through a tunnel by A. Verkroost. During the past three years, it has yielded more than \$1,000 worth of ore. This ore was packed for about 2 miles to the Dallas-Ft. Worth Mill."

Also - "The Dallas-Ft. Worth property, now under option to Charles Diehl and Crismon Brothers, is in Rackensack Gulch, about 2 miles upstream from the highway bridge. This property is said to have produced a few thousand dollars' worth of gold during the nineties. It is equipped with a small stamp mill." Mr. Jack E. A. Stone, who operates the Arizona Assay Office in Phoenix, knew Charles Diehl and remembers Diehl's disappointing experience with the Dallas-Ft. Worth property.

Hearsay pretty well establishes that in the early 1930's, Verkroost made most of the mining improvements, built the dwelling and other non-mining improvements, and attempted to operate a small gravity mill at the site just down the gulch from the dwelling where there remains only a steel tank and the concrete foundations shown platted on the attached claim sketches, and the nearby remnants of the deck of a Wilfley type concentrating table. The absence of any stoped areas in the accessible mine workings is noteworthy, however, there may exist some stoped ground beyond the cave in the No. 4 adit's northwest drift, and in the caved adit on the Rackensack No. 2 claim.

Edgar admits he spent considerable of his personal funds during the period 1960-1961, equipping a small more or less portable dry process mill on the advice of others without so much as sampling the workings to first learn if such an investment would be justified. He confided he would be content to recoup as much as one half of his investment to date. Apparently he is hopeful some impressionable party might come along who might be as impressed with the mine workings and quartz exposures as he was and take the property off his hands. It is conceivable the property might possess desirable promotional aspects.

Neither of the claimants, Edgar or Martin, have first hand knowledge of any production from the property.

CONCLUSIONS AND RECOMMENDATIONS:

While the quartz exposures on the subject claims are somewhat impressive in appearance and would no doubt justify some of the considerable exploration work that has in the past been done on them, it is the opinion of the undersigned that these quartz occurrences have been adequately explored to disqualify them as having any present economic importance. The negative results of the undersigned's sampling along with the apparent considerable amount of unrewarded past endeavor, establishes quite well the fact that the claimant's cannot now show a discovery of ore in place such as would justify a prudent man to spend further of his time and money on these claims in an effort to develop a paying mine.

It is therefore, recommended that the Government initiate a contest

against the Rackensack Nos. 1, 2, and 3 lode mining claims on the following charges:

1. That the land embraced within the subject claims is not chiefly valuable for mineral.
2. That a discovery of mineral in sufficient quantity and quality to constitute a valid discovery does not now exist within the limits of the three subject claims.



Gilbert J. Matthews
Mining Engineer

Attachments:

- No. 1.1 - Claim Sketch, Scale 1" = 400'.
- No. 1.2 - Claim Sketch, Scale 1" = 100'.
- No. 2.1 - Photos "A", "B", "C" and "D".
- No. 2.2 - Photos "E", "F", "G" and "H".
- No. 2.3 - Photos "I", "J" and "K".
- No. 3 - Assay Certificate
- No. 4 - Milton Edgar's sketch showing the relative positions of the Ft. Worth and the Rackensack lode claims.



Photo "A" - View northeasterly showing dwelling, storage shed and privy.
3/15/66 G.J.M.



Photo "B" - View westerly from Corner No. 1 of Fort Worth patented L.M.C. showing Edgar's and Martin's dwelling, type terrain and vegetation. 3/15/66 G.J.M.



Photo "C" - View S. 60° W. from Corner No. 1 of Fort Worth patented L.M.C. showing loading pocket just below No. 4 adit portal, part of access road to No. 1 adit, and type terrain where principal mine workings are located. 3/15/66 G.J.M.

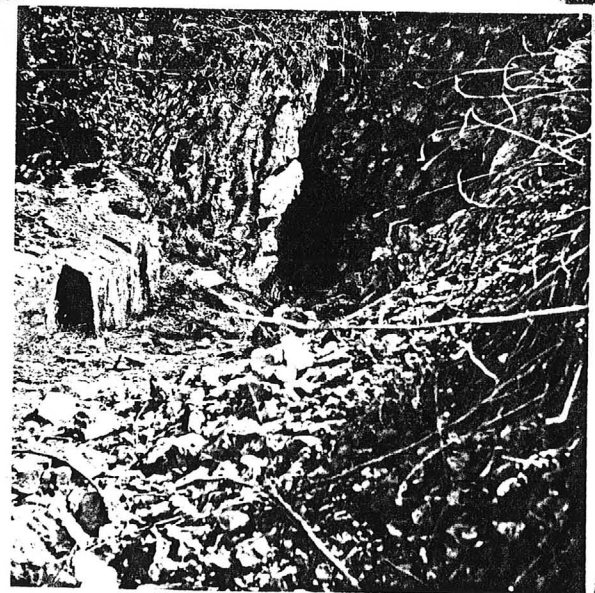


Photo "D" - View southeasterly of No. 1 or Rattler adit portal. 3/15/66 G.J.M.

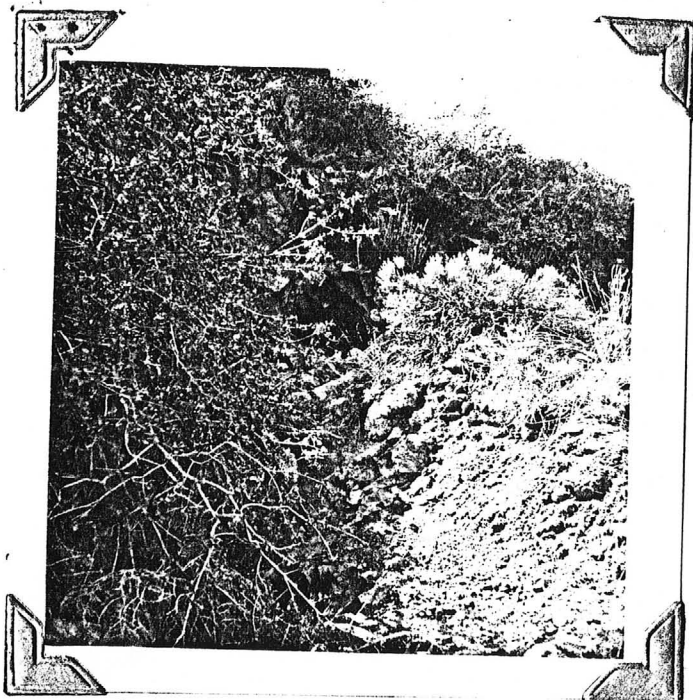


Photo "E" - View northwesterly of No. 2 adit portal. 3/15/66 G.J.M.



Photo "F" - Southerly view of No. 3 adit portal. 3/15/66 G.J.M.

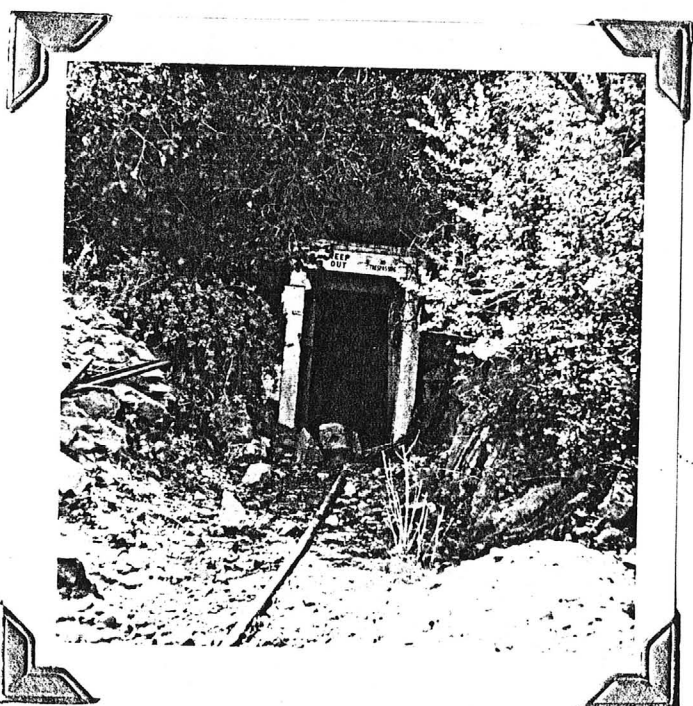


Photo "G" - Southerly view of No. 4 adit portal. 3/15/66 G.J.M.



Photo "H" - Southwesterly view of No. 5 or Toothpick adit portal. 3/15/66 G.J.M.



Photo "I" - View northwesterly over a portion of the disturbed area which lies just west-northwest from portal of Adit No. 2.
3/15/66 G.J.M.



Photo "J" - Looking northerly into pit lying immediately north of Rackensack No. 3 L.M.C.'s location monument. White ribbon marks the position and limits of Sample No. 3516.



Photo "K" - Southeasterly view at rib dividing the Rackensack No. 3 L.M.C.'s discovery shaft and pit. Note the sporadic quartz occurrences. 12/2/65 G.J.M.

2810 - TONTO
Bigar, (lton and Martin, Glen

Shop No. 3516-22
File No. 810 USFS

Date 13 MARCH 1966

VALUES
Latest Quotation

1 oz. Gold.....
1 oz. Silver.....
1 lb. Copper.....
1 lb. Lead.....
1 lb. Zinc.....

THIS CERTIFIES
Samples submitted for assay
contain as follows:

Arizona Assay Office

815 NORTH FIRST STREET

Phone: 253-4001

U.S. FOREST SERVICE (TONTO)
ROOM 6426
FEDERAL BUILDING
230 N. 1st AVE
Phoenix Arizona 85025

Phoenix, Arizona 85001

P. O. BOX 1148

Short Ton 2000 Lbs.
Short Ton Unit 20 Lbs.
Long Ton 2240 Lbs.
Long Ton Unit 22.4 Lbs.

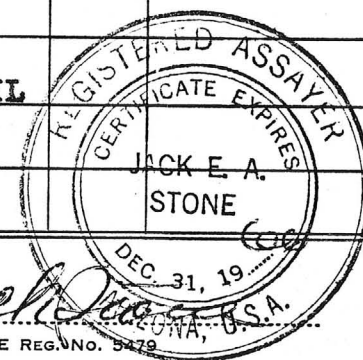
MARKS	SILVER PER TON		VALUE PER TON		GOLD PER TON		VALUE PER TON		TOTAL VALUE PER TON of Gold & Silver		MR. GILBERT MATTHEWS PERCENTAGE			REMARKS
	Ozs.	Tenths	Ozs.	Tenths	Ozs.	100ths	Ozs.	Tenths	Ozs.	Tenths	COPPER	TIN	NICKEL	
3516		.2	\$	.25		.01	\$	.35						
3517		.2	\$	.25		.01	\$	.35						
3518		.2	\$	.25		.03	\$	1.05						
3519		.2	\$	.25		.01	\$	.35						
3520		.2	\$	.25		.03	\$	1.05						
3521		.4	\$	.50		.01	\$	.35			0.03			
3522		.4	\$	.50		.01	\$	.35			0.03	NIL	NIL	

Charges \$ 31.00

ANDY CHUKA, PRINT

Assayer.....

JACK STONE REG. NO. 5479

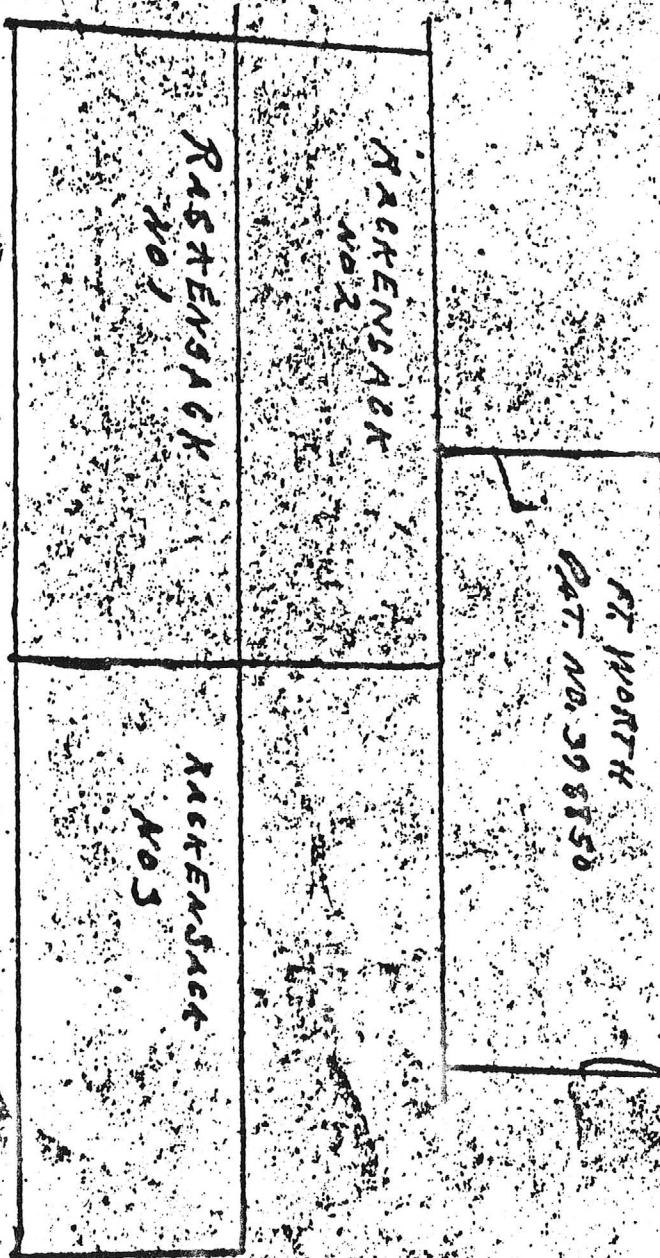


Attachment No. 3
Gilbert J. Matthews

2810-TONTO

Edgar, Milton & Martin, Glen

MILTON A. EDGAR
1111 WEST WASHINGTON AVENUE
ANN ARBOR, MICHIGAN



UNITED STATES
DEPARTMENT OF AGRICULTURE
FOREST SERVICE

2810 _____

REQUEST FOR MINERAL EXAMINATION

1. Name of Claim(s) - Rackensack No. 1, 2, and 3.
2. Date of Location - November 26, 1957
3. Recorded Maricopa 2234 17,18, and 19.
County Date Book Page
4. Name of Claimant(s) - Hilton Edgar
5. Address of Claimant(s) - Dewey, Arizona
6. Kind of Claim (lode or placer) - Lode
7. State minerals or mineral materials claimed - Gold
8. Location of Claim(s) - Sec. 33 T. 7N R. 5E, Q&SRB42 Mer.
9. Is claim marked on the ground? Yes If so, in what manner? 4" x 4"
wooden posts
10. Describe improvements and work of a mining nature: Four tunnels, and assorted
mining machinery (compressors, crusher, and truck loading equipment)
11. Describe other improvements: Road to claim is partially on forest land. Also
a cabin.
12. Reasons for this request: Claims are within an area which is going to be ex-
changed.

9/25/63

Date

Bamby Peterson
District Ranger

Approved: 10/4/63
Date

W. H. Hushman
Forest Supervisor

Submit to RO in duplicate

Form 331-R3 2800 9


UNITED STATES DEPARTMENT OF AGRICULTURE
FOREST SERVICE

Tonto National Forest

REPLY TO: 2810
5430

SUBJECT: Rackensack Claims

TO: District Ranger, Cave Creek R. D.

RECEIVED Cave Creek R. D.	
DEC 22 1975	
ACTION	
DEC 19 1975	
	

This memo documents our November 25, 1975, field review on the access problems related to the Rackensack Mining Claims. There are major problems in using the existing road as an ore haul road. Almost one mile is in the bottom of Rackensack Canyon. It requires re-building after each major flow.

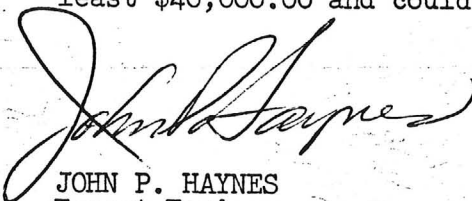
As the roadway is washed away, material is hauled in from the mine to fill over the exposed boulders to make it passable. This is not only expensive, it increases sediment in the watercourses and lakes below. To reach the mines from the canyon bottom now requires excessive grades. WEX

Proper design of this road to remove it from the canyon bottom and eliminate the steeper grades would require construction of approximately two miles of road in rock with steep side slopes. One possible location is shown on the enclosed map.

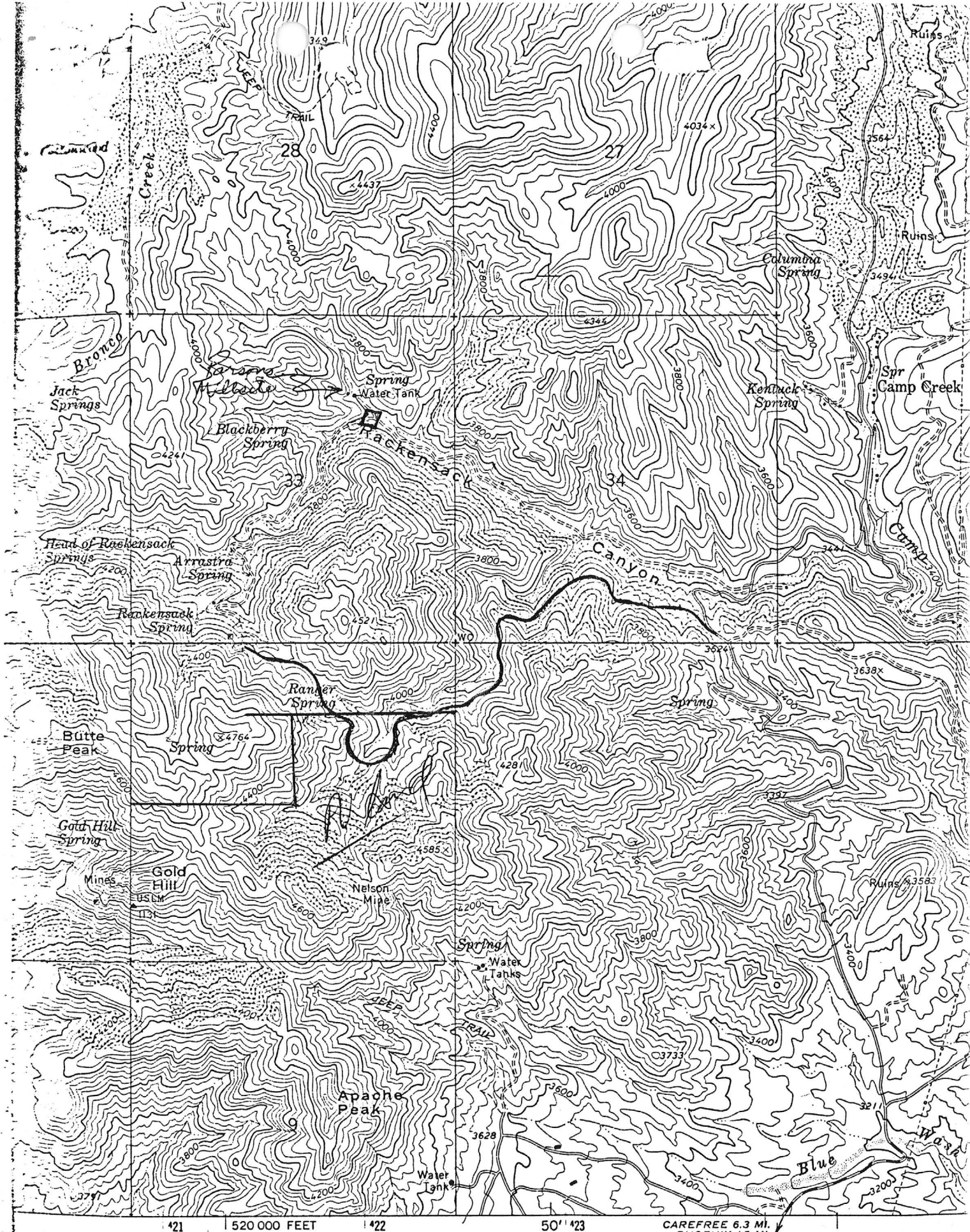
The minimum standard for this road should be as shown below:

Roadway width	14 feet
Maximum grade	8 percent
Minimum Curve Radius	50 feet

To build this standard road into the Rackensack Mines would cost at least \$40,000.00 and could cost twice that amount.

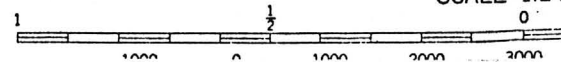

JOHN P. HAYNES
Forest Engineer

Enclosure



by the Geological Survey

SCALE 1:24



UNITED STATES
DEPARTMENT OF AGRICULTURE
FOREST SERVICE
Southwestern Region
Albuquerque, New Mexico

SUPPLEMENTAL MINERAL REPORT
(For Administrative Use Only)

2810 - Tonto
Edeline, George R., et al.
Contest Nos. 5320-7 & 5320-15

June 16, 28, 1976

Date of Examination

Raj H. Daniel

Mineral Examiner

August 27, 1976

Date of Report

Category: **Validity**

Claim Names: **Rackensack Nos. 1, 2, & 3, and Cerro de Oro No. 1 LMCs**

Brief of Conclusions and Recommendations:

Mineralization on the claims is insufficient to support a discovery.

Approved: _____

Leader, Minerals Group

_____ Date

2810 - Tonto
Edeline, George R.
Cerro de Oro No. 1 LMC
and
Edeline, George R., and Steinegger, Mabel S.
Rackensack, Nos. 1, 2 and 3 LMC's
Contest Nos. 5320-7 & 5320-15

SUPPLEMENTAL MEMORANDUM REPORT

PURPOSE

The two contests in this case were consolidated and a hearing was held on November 16 and 17, 1971, at Phoenix, Arizona. A second hearing was held on March 19 and 20, 1973, at Phoenix, Arizona. Due to certain "conflict and confusion" and based on the testimony of a consulting geologist the above claims were declared valid by the Administrative Judge in his decision dated March 5, 1974. On appeal by the Forest Service a third hearing is scheduled for July 29, 1976.

This examination was made to dispel the "conflict and confusion", refute Brooks' (Consulting Geologist) testimony regarding quantity and quality of ore and dispute his method of approach in evaluating mineral properties.

BACKGROUND

In June 1973 when I was employed by Allied Chemical Corporation, Mr. Jack Roeschlaub, a metallurgist, and I visited this property accompanied by Messrs. Perry Bigbee and Don Howe of Tonto Mining and Milling Company strictly to take back with us a few "good gold specimens". We stayed on the property for about an hour and we were able to obtain a few specimens. I recall Mr. Edeline giving us one or two specimens in which gold was visible to the naked eye. My visit to this property was strictly for pleasure, my first ride in a helicopter and not to evaluate this property. At this time my assignment with Allied was to evaluate the fluorspar mill and mines of Tonto Mining and Milling Company.

INTERVIEW WITH MR. EDELINE

On June 16, 1976, I accompanied Mr. Gil Matthews, Zone Mining Engineer and Mr. Bill Hirt, Mining Engineer for Tonto National Forest, to the above claims of Mr. Edeline. On our way to the claims we visited with Mr. Edeline and Mrs. Mabel Steinegger at their residence. They told us both of them would be present at the hearing. We asked Mr. Edeline to accompany us to his property to be a witness in case we took any samples. He declined this offer as he had other commitments. Mr. Edeline told us that Tonto Mining did drop the option to his property and he claims the reason for them not developing it was due to Don Howe's mismanagement. Further, he stated he has had the services of a Canadian consulting firm which made an evaluation of this property. He refused to show us their report. He said he would bring an assay map made by the consultants to court. We

reviewed a geologic report made by a Dr. Willard Pye. We suggested to Mr. Edeline that we wanted to sample the vein in Rackensack No. 2. He told us this would not be possible since he has covered the vein with dirt to protect the hot spots from rock hounds. On arriving at the property we found the vein not covered as Mr. Edeline claimed.

He told us he would like to have this case in the civil courts as he did not get any justice in bureaucratic "kangaroo courts". He further declared his suspicion about the government's land exchange and the inability to develop his mine because he has to fight the government.

GENERAL VISIT

After leaving the residence of Edeline we went to the Cerro de Oro claims. There were numerous sporadic quartz veins in Precambrian schist. We decided they were irregular, lenticular quartz veins. There were no new additional developments in the Cerro de Oro No. 1 claim. Some strikes and dips were measured. Lead mineralization was noticed on a quartz vein in the Cerro de Oro No. 2 claim. In places these veins measured up to 8 feet in width. Due to Mr. Brooks' testimony that he found a fluorspar vein 4 feet wide, all three of us made a diligent search to find the vein in Cerro de Oro No. 3 claim but we did not find it. We decided there was no need for any more samples to be taken on the Cerro de Oro No. 1 claim.

We entered the No. 4 adit in the Rackensack No. 2 claim, photo Z₁₂, Attachment No. 12, and examined the narrow vein which was up to 18 inches. The open cut in the Rackensack No. 2 claim exposed only a 6 inch quartz vein, photo Z₁₀, Attachment No. 11. Photo Z₈, Attachment No. 10, shows the Rackensack No. 2 open cut. Bill and I entered the No. 5 Toothpick adit and at a distance of 75 feet from the portal the tunnel was caved preventing entry. Photo Z₉, Attachment No. 10, shows the entrance to this tunnel.

This was a reconnaissance visit to get Bill and me familiarized with the area. No samples were taken. Later, Mr. Matthews decided it would be beneficial to the case if I would take a few samples from this property.

On June 28, 1976, I accompanied Mr. Bill Hirt to the Edeline property to map and sample.

CERRO DE ORO NO. 1

Sample #9122 was a 1.8 foot horizontal chip sample, across the vein exposed on the west trench, weighing 3 lbs. The exact location of the sample is 98 feet, N. 81° W., in the 36 foot deep shaft, photo Z₄, Attachment No. 8. The sample assayed trace gold, trace silver, and 0.002% Cu, reported on Assay Certificate, Attachment No. 14.

Sample #9121 was a 12 foot chip sample across the vein in the middle trench, which weighed 9.6 lbs., photo Z₇, Attachment No. 9. The sample was taken from the foot wall of the vein which is 43 feet, N. 73° W., from the 36 foot deep shaft, and sampled across the vein including 12 feet on a

bearing of N. 130° W., to the hanging wall of the vein. This sample assayed trace gold, nil silver, 0.02% Cu, 0.005% Pb and 0.04% Zn, for a value of 31¢/ton of zinc based on the June E/MJ price of 39¢/lb. zinc, Assay Certificate, Attachment No. 14.

Sample #9120 was a 4 foot wide chip sample, weighed 3.2 lbs., was located N. 400 E., 38 feet from the northeast corner of the 36 foot shaft and sampled 4 feet on a bearing of N. 300° W., photo Z₆, Attachment No. 9. The sample assayed trace gold, trace silver, 0.005% Cu and 0.003% Zn.

Discussion: Attachment No. 13 is a plan map of the workings of the Cerro de Oro No. 1 claim. It is evident from the assays Mr. Matthews and I have taken there is no indication of any appreciable mineralization. I will not recommend such a property to an exploration manager based on the assay I obtained from sampling.

Mr. Brooks based the quality of mineralization strictly on the 37 tons shipped from this prospect by Edeline. Mr. Brooks also made a loose unprofessional statement in his report that "at least a few thousand tons of open pit copper ore exists on the Cerro de Oro No. 1 claim", based on no real evidence. If the 37 tons is representative, it is definite samples taken by us at regular intervals would also show more or less appreciable values. Our samples did not show any values as the oxide copper showing was superficial and did not persist at depth. One shipment of 37 tons made from this prospect does not make a mine. I believe the shipment of 37 tons to be highly selective, and if such "ore" exists Mr. Edeline would be mining it now.

RACKENSACK NOS. 1, 2 & 3

No samples were taken from Rackensack No. 1 and No. 3.

RACKENSACK NO. 2

Sample #9123 was a chip sample across the vein 6" wide, weighing 8 lbs., located on the open cut in Rackensack No. 2 claim, photo Z₁₁, Attachment No. 11. The location of the sample is S. 450 E., 85 feet along the west bank. The sample assayed trace gold, trace silver and 0.03% copper, valued at 42¢/ton.

DISCUSSION:

In evaluating vein type deposits there is no better way to depict all assays, vein widths and mine workings except as we show it on a longitudinal section on the plane of the vein. Attachment No. 16 is a longitudinal section on the Rackensack vein. The elevations were taken from the 7.5 minute USGS topographic map. Attachment No. 1.2 shows the plane of the cross-section. In reviewing Attachment No. 16 there is no evidence of the vein 2.6 feet wide as testified by Mr. Brooks. There is one sample #3703, taken by Mr. Matthews, having a width of 3.6 feet. This was taken at the intersection of 2 veins as shown in Attachment No. 1.2.

Based on the information obtained from Attachment No. 16, I will not recommend this prospect to a company. I feel there are enough mine openings above the Toothpick adit to make a fair evaluation of this vein.

I dispute Mr. Brooks' method of taking 'composite samples'.

The theory of sampling has been defined as:

"A mathematical-mechanical process, a mechanical collection of material at mathematically spaced intervals ... and never should be considered a haphazard procedure"1/.

Sampling also has been defined as:

"The process of taking a small portion of an article such that the consistency of the portion shall be representative of the whole"1/. It is a common practice in industry to limit a single sample to about five feet.

A 'composite sample' is usually taken by combining several individual samples from geologic outcrops, drill holes, ore blocks, etc. In common terminology, 'composite sample' is a sample of many regularly spaced (5 feet) individual samples combined to give an average value of the simple samples.

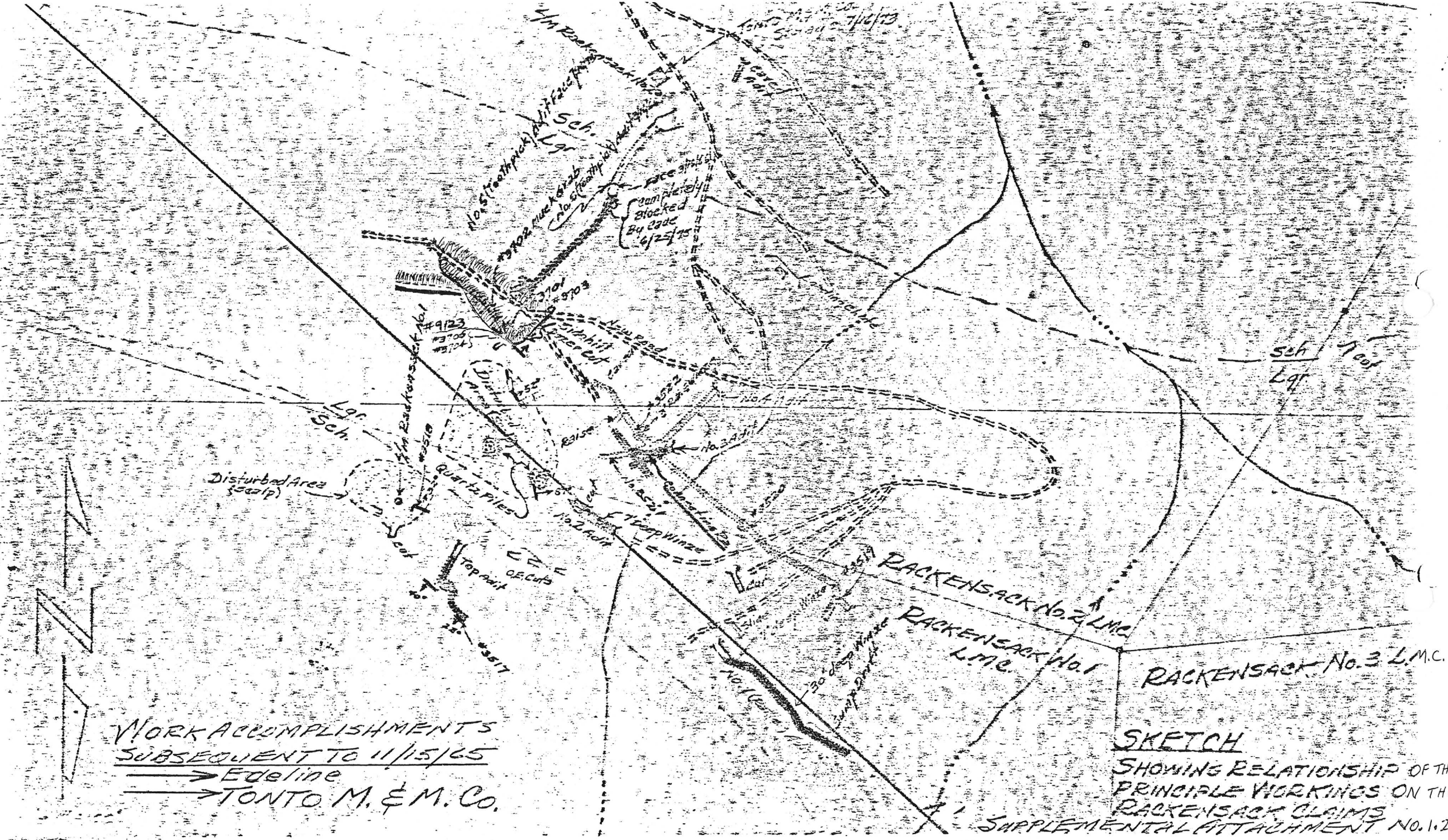
Mr. Brooks has taken five 'composite samples' covering 20-40 feet in 'length of outcrop represented'. Such samples will only give erroneous results, because they were taken over an area of 20-40 feet on strike of vein, instead of the conventional 5 or 10 feet spacing. We have taken chip samples on the back of the drift and across the vein on the surface. Our sampling on the vein structure does not show an arbitrary average vein width of 2.6 feet, as testified by Mr. Brooks. I also dispute his ore reserve estimate of 14,700 tons at 1.25 oz. of gold, based only on 5 composite samples, which is over-optimistic. Attachment No. 15 is definitions of ore reserve classifications. Mr. Brooks does not assign a category to his reserves. Are they proven or just possible? There seems to be a lack of professional expertise in his examination.

CONCLUSION

The area within the claims does not have enough mineralization to warrant a prudent, diligent or reasonable man to expend his time and means to develop the property.

Raj H. Daniel
Raj H. Daniel
Mining Geologist

1/ Examination and Valuation of Mineral Property
-Baxter and Parks



ATTACHMENTS

Attachment No. 1.2 - Plan Map
Attachment No. 8 - Photo Page
Attachment No. 9 - " "
Attachment No. 10 - " "
Attachment No. 11 - " "
Attachment No. 12 - " "
Attachment No. 13 - Geologic Sketch
Attachment No. 14 - Assay Certificate
Attachment No. 15 - Ore Definitions
Attachment No. 16 - Longitudinal Map

UNITED STATES
DEPARTMENT OF AGRICULTURE
FOREST SERVICE
Southwestern Region
Albuquerque, New Mexico

SUPPLEMENTAL MINERAL REPORT
(For Administrative Use Only)

2810 - Tonto
Edeline, George R., et al.
Contest Nos. 5320-7 & 5320-15

July 16, 1973; June 11, 12, 25, 1975
June 16, 1976
Date of Examination

Gilbert J. Matthews
Mineral Examiner

July 14, 1976
Date of Report

Category: Validity

Claim Names: Rackensack Nos. 1, 2, 3, and Cerro de Oro No. 1 LMCs

Brief of Conclusions and Recommendations:

Mineralization on the claims is insufficient to support a
discovery within the meaning of the mining laws.

Approved:

Jack M. Packer
Leader, Minerals Group

Date

Arizona Zone Office

REPLY TO: 2810 Mining Claims

July 14, 1976

SUBJECT: Edeline, George R., et al., Rackensack Nos. 1, 2 and 3 et al., LMC's AR-5320-7 and 5320-15, Tonto NF, Cave Creek RD

TO: Mr. Jack McK. Pardee, Leader
Minerals Group

SUPPLEMENTAL MEMORANDUM REPORT

Subsequent to the hearing of the subject case on March 19 and 20, 1973, the writer took every opportunity while in the general area on other work assignments to check activities on the subject mining claims. The writer was especially interested in observing the results of Tonto Mining and Milling Company's extension of the No. 5 crosscut adit to an interception with the Rackensack principle quartz vein down dip from its exposure in the Edeline dozer cut. He was anxious to learn if his geologic appraisal of the mineralization exposed in this relatively narrow but apparently persistent quartz vein would as usual be spotty and meager. This appraisal was found to hold true.

The writer visited the property on the following enumerated dates:

July 16, 1973 - Jim Hibbetts, Cave Creek District Ranger, Edwin Barkman, Fire Control Officer, and the writer visited the Rackensack property. We found on the property a portable tool shed, house trailer, small diesel powered "Load-Haul-Dump" (mucker-tramper), portable air compressor, and miscellaneous pneumatic drilling equipment, ventilating equipment and miscellaneous hand tools, see attached Photo "Z". There was no one around, so with Barkman remaining outside Hibbetts and the writer entered the No. 5 adit crosscut equipped with lights and lit candle to check for oxygen deficiency. The 7/16/73 crosscut face, having been advanced about 185 feet, was in a water bearing fracture zone and about a 5 inch wide spottily mineralized N. 65° W. striking and 32° northerly dipping quartz vein was exposed on either wall of the crosscut about 10 ft. back from the face. The heading had been widened on both sides on the strike of this narrow vein and a round had been blasted up the dip. The heading advance as plotted in olive green on Sketch, Supplemental Attachment No. 1.2, was from Brunton-pace survey made on that date. The heading had penetrated a water bearing fracture zone in a brecciated granite in which the vein occurred. The vein was mostly barren appearing with a couple of widely separated small pods of galena-chalcopyrite mineralization. Because the sampling of these isolated portions of the vein would not have been representative of the whole, no samples were taken. It was later learned operations were in a shut-down situation and the full-time watchman had gone out for his mail and groceries at the time of our visit.

2810-Pardee-7/14/76

August 1, 1973 - Jim Hibbetts, Cave Creek District Ranger, and the writer drove to the Rackensack No. 2 claim where we met Messrs. Alder and Sheets, miners, emerging from the No. 5 (Toothpick) adit. They advised they had just set off their noontime blast. During the lunch period the writer asked if he and Hibbetts might go to the face after blasting fumes had been dispelled from the adit. Their reply was that they did not have any objections and offered us the use of their miner's lights. Upon arriving at the face a quick assessment indicated this lunch time blast appeared to be only the second round blasted since the writer's previous visit to the property July 16, 1973. This second round blasted on the southeast strike showed the narrow quartz vein was persisting at about its 5 inch width, and was still barren appearing where exposed in the face and back. It was not thought worthy of sampling. Upon returning to the surface the writer thanked Alder and Sheets and asked what they thought of Tonto Mining and Milling Company's Rackensack project. They responded they did not think much of the company's chances of developing a paying mine at that property. They said management had advised them operations would be closed down at the end of the week. Hibbetts and the writer departed. A few days later Mr. Don Howe paid Hibbetts a visit at the Cave Creek Ranger District office and voiced his displeasure that Hibbetts and the writer would enter the adit without having his permission and cautioned against repetition.

June 11, 1975 - The writer contacted Mr. W. T. Elsing, contestee's attorney, by phone to request permission to visit the Rackensack property to make an inspection of Tonto Mining and Milling Company's developments on the property. He advised plans were to resume work on the property in a week or two. He assured the writer there should be no problem but that he would contact the man in charge, Mr. Perry Bigbee in Muscle Shoals, Alabama, and arrange for such a visit. As of this writing the undersigned has had no word from Mr. Elsing.

June 12, 1975 - The writer, unaccompanied, on another work assignment, found time to make a side trip to the Rackensack property when attached Photos "S", "U", and "V" were taken. The trailer house and all equipment had been removed giving the property an air of abandonment. As the writer was alone, no attempt was made to enter the partially bulkheaded adit. The sidehill dozer cut on the Rackensack No. 2 lode claim, outlined in blue-green color on Sketch, Supplemental Attachment No. 1.2, where the writer observed Edeline dissipating much of an apparent relatively small pocket of free gold over the side of the dump with his dozer operations, had badly sloughed bank attesting to its abandonment (see attached Photo "U"). Attached Photo "V" is a view over the dozer cut on the Cerro de Oro No. 1 lode claim. Here again Edeline dissipated a fair showing of what turned out to be a superficial occurrence of green copper oxide mineralization over the side of the dump,

with but sparse meager oxide copper mineralization now apparent. There was no evidence of any work having been done on the sparse sporadic galena occurrences in bull quartz on the Cerro de Oro No. 3 lode claim since the writer last saw it February 27, 1973.

June 25, 1975 - Larry Lincoln, Forestry Aid, and the writer drove to the Rackensack No. 2 et al., mining claims where again we found no one around or any evidence of activity. The writer, with electric cap lamp and lit candle to check for any oxygen deficiency, entered the No. 5 adit, viewed by attached Photo "T". The purpose was to see what miners Alder and Sheets had accomplished in the two remaining work days of the week after the writer's visit to the property August 1, 1973, at which time they advised operations would cease that weekend. The writer was also prepared to sample any quartz vein exposures in the adit at that time, but it was found the adit was completely blocked by roof fall 75 ft. in from its portal, see attached Photos "Y" and "Z". Larry Lincoln and the writer proceeded on a trek by foot to the shaft and cuts viewed by attached Photos "W" and "X", designated as the discovery on the Rackensack No. 3 LMC--see claim sketch, Attachment No. 1.1 of Edgar and Martin Mineral Report of 7/15/66 for location. Except for more profuse vegetative growth and sloughing of banks due to weathering, there was no change noted since the writer's previous visit December 2, 1965. Attached Photo Z₂ is a view of one of the multitude of incongruent, mostly completely barren, quartz outcrops in the general area of the subject claims. The relative narrow but quite persistent Rackensack vein is the one exception the writer was able to observe.

June 16, 1976 - Raj H. Daniel, FS Mining Geologist, William Hirt, FS Mining Engineer and the undersigned drove to the subject Rackensack and Cerro de Oro claims via Mrs. Steinegg's ranch home on Camp Creek. At the ranch house we met with Mrs. Habel Steinegg, George Edeline, Mrs. Steinegg's son Larry and as I remember a Mr. Ed Johnson. During our morning discussions Mr. Edeline reiterated his criticisms of Federal bureaucratic procedures as they relate to the interpretation of our mining laws and questioned the Forest Service's right to subject them to the expense of another hearing. He declared he will do his utmost to have his case heard in the civil courts. He also made the statement the subject claims as shown on the locality map submitted as an exhibit at the March 19-20, 1973 hearing was in error. Supplemental Attachment No. 1.3 is a corrected copy of this locality map showing the relation of the subject claims' boundaries as dictated by Mr. Edeline. Mr. Edeline admitted Tonto Mining and Milling Company, Inc., gave up their lease option shortly after the first of this year, blaming Mr. Don Howe's mismanagement for the project's failure. Edeline declined our request he accompany us to the claims stating he had other urgent commitments to honor.

2810-Pardee-7/14/76

Therefore, Daniel, Hirt and the undersigned proceeded to the subject claims to make our joint examination.

Mr. Daniel is reporting on our findings on this date, and his and Hirt's subsequent June 28, 1976 visit to the claims in a separate supplemental mineral report.

CONCLUSIONS

The fact that Tonto Mining and Milling Company, Inc., have removed all of their mining equipment, allowed the No. 5 crosscut to cave and given up their option is quite compelling evidence of their present disillusionment with the property's ore potential. It is self evident geologist James R. Brook's appraisal attested to at the March 19-20, 1973 hearing as to the property's potentialities was overly optimistic. The tonnage of known economic grade ore he attested to just does not exist.

There are still no valid discoveries within the meaning of the mining laws on any of the subject claims, therefore, these claims are invalid.


GILBERT J. MATTHEWS
Mining Engineer

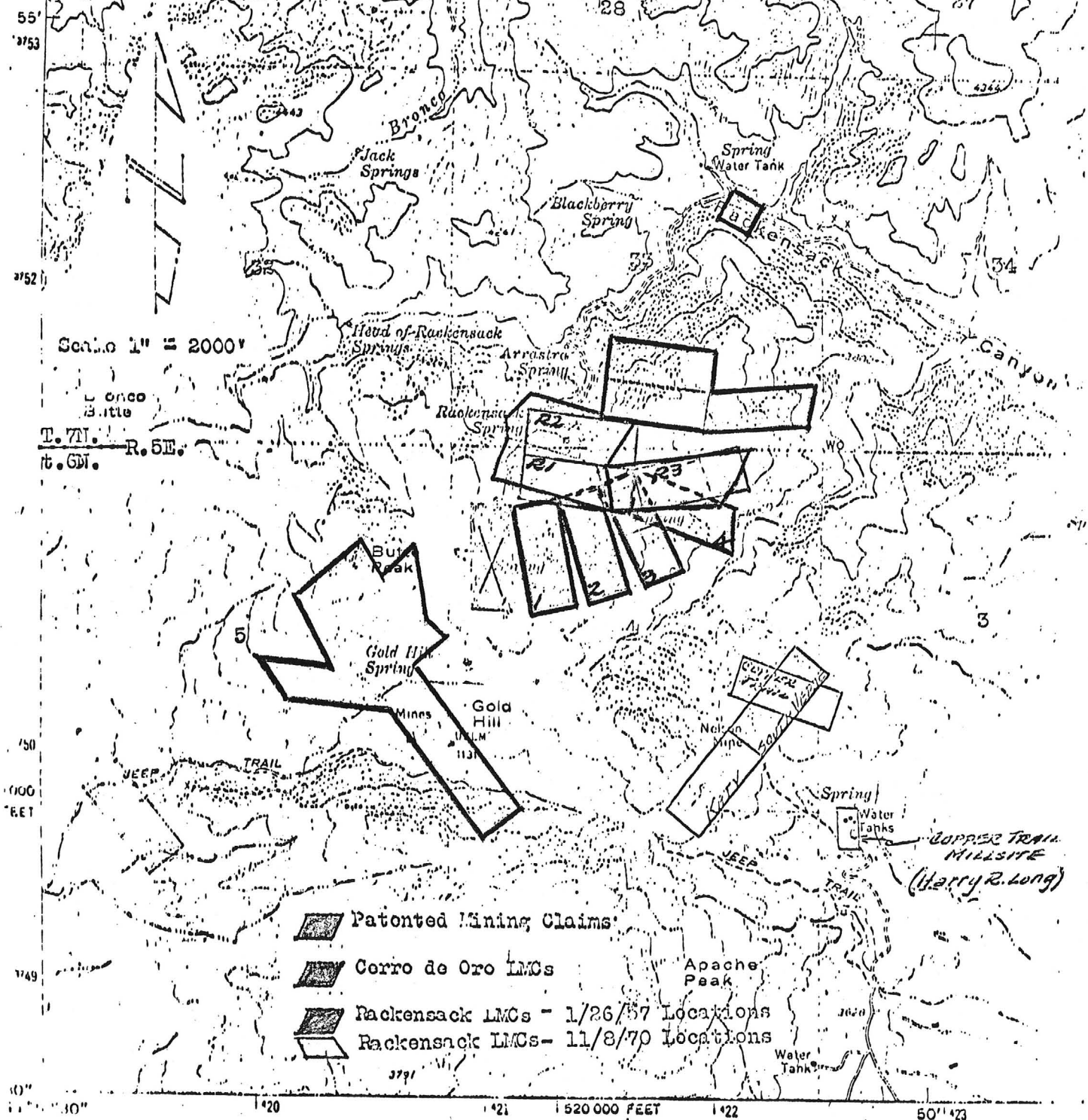
ATTACHMENTS

- No. 1.1 - Rackensack LMC's claim sketch
- No. 1.2 - Sketch, Rackensack LMC's workings
- No. 1.3 - Locality Map - Claim sketch
- No. 2 - Photos "S" and "T"
- No. 3 - Photos "U" and "V"
- No. 4 - Photos "W" and "X"
- No. 5 - Photos "Y" and "Z"
- No. 6 - Photos "Z₁" and "Z₂"
- No. 7 - Photo "Z₃"

2810 - TOLTO

Steinegger, Mabel S., and/or
Edeline, George R.

Division of
USGS
HULTOLT Mtn. Quadrangle
Maricopa Co., AZ.



Mapped, edited, and published by the Geological Survey
Control by USGS and USC&GS

Topography by photogrammetric methods from aerial
photographs taken 1962. Field checked 1964

Projection: 1927 North American datum
10,000 foot grid based on Arizona coordinate system, central zone
1000 meter Universal Transverse Mercator grid ticks,
zone 12, shown in blue

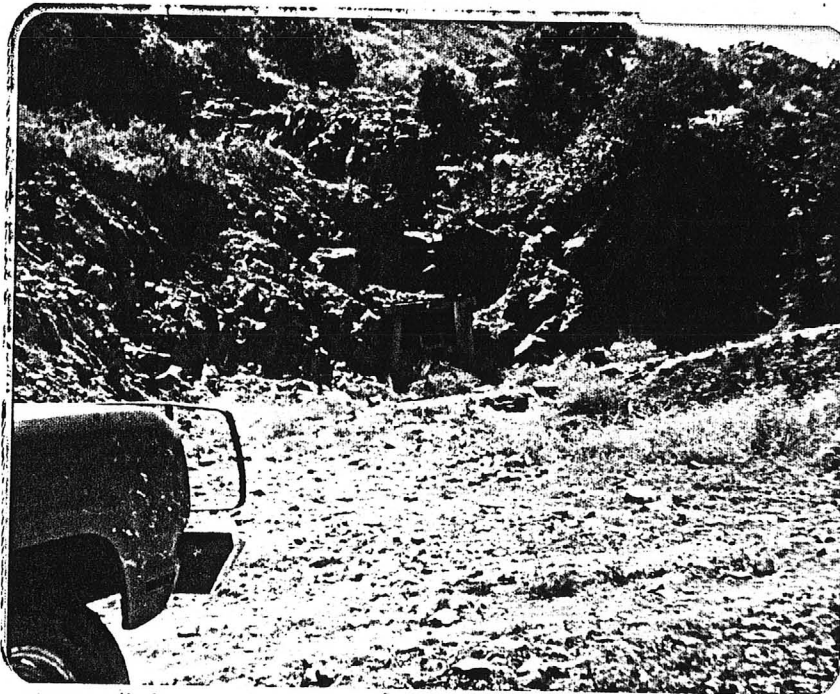
Some old, land lines have not been established

SUPPLEMENTARY LOCALITY MAP
Showing Rackensack and Cerro
de Oro Claims as dictated by
Geo. Edeline 6/16/76 to GJM

0° 27' 8" N
141° 5' 25" W
250 MILES

SUPPLEMENTAL
ATTACHMENT NO. 1.3

2810 Tonto, Cave Creek RD
Edeline, George R., et. al.
Rackensack No. 1 et. al. LMC's - Contest A-5320-15



• Photo "S" - View south-southwesterly of the No. 5 (Toothpick) adit portal. 6/12/75 G.J.M.



• Photo "T" - View southerly of No. 5 (Toothpick) adit. Water seep from adit nurtures the green, vegetative growth in the foreground. 6/25/75 G.J.M.

Supplemental Attachment No. 2
Gilbert J. Matthews

.2810 Tonto, Cave Creek RD
Edeline, George R., et. al.
Rackensack No. 1 et. al. LMC's - Contest A-5320-15

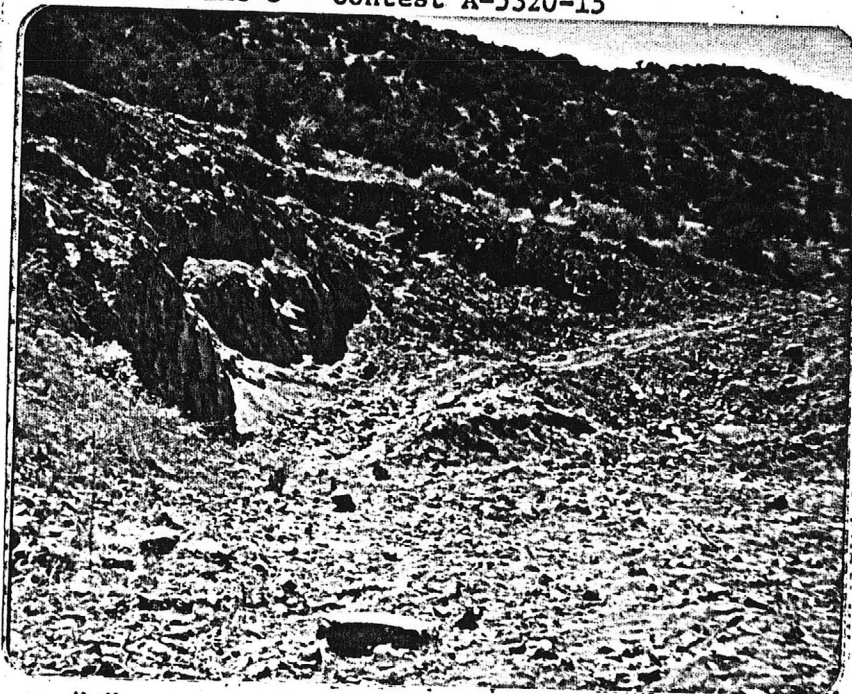
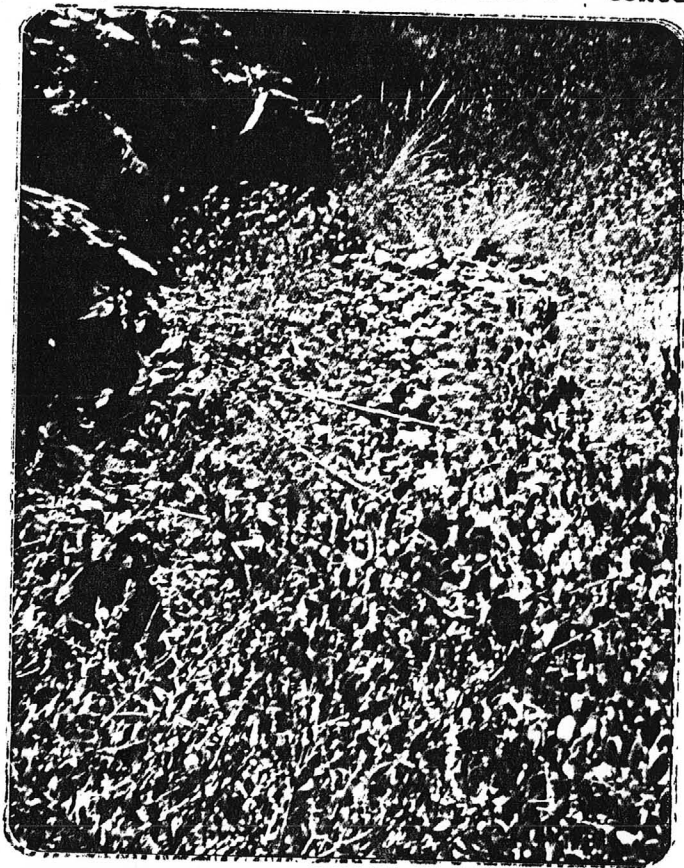


Photo "u" - View westerly of apparently abandoned sidehill dozer cut on the Rackensack No. 2 LMC. 6/12/75 G.J.M.

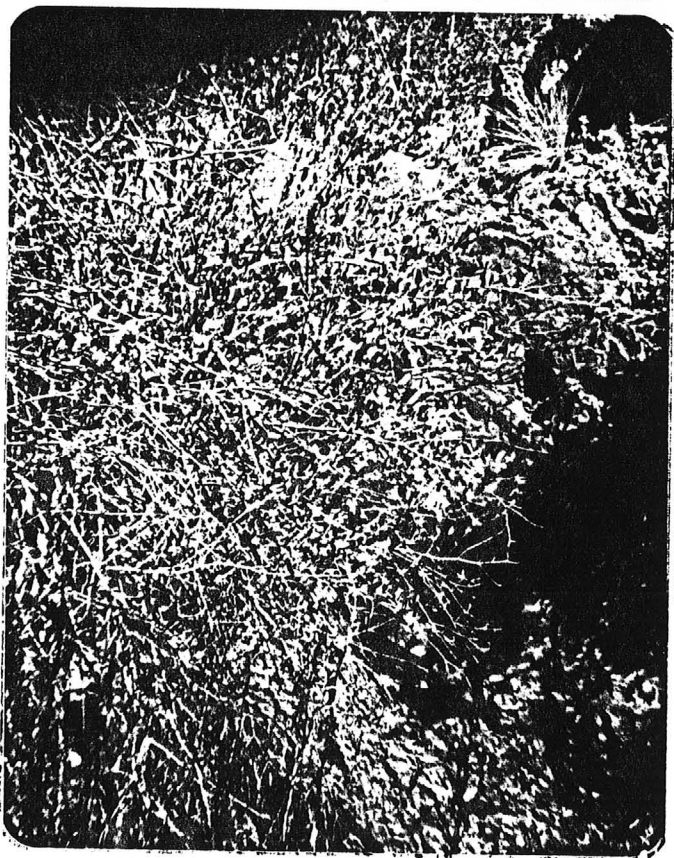


Photo "v" - View northwesterly of apparently abandoned dozer cut on the Cerro de Oro No. 2 LMC. This is the cut that, from the meager oxide copper showings, Edeline voiced great hopes of finding an ore body. Apparent copper mineralization was sparse. 6/12/75. G.J.M.

2810 Tonto, Cave Creek RD
Edeline, George R., et. al.
Rackensack No. 1 et. al. LMC's - Contest A-5320-15



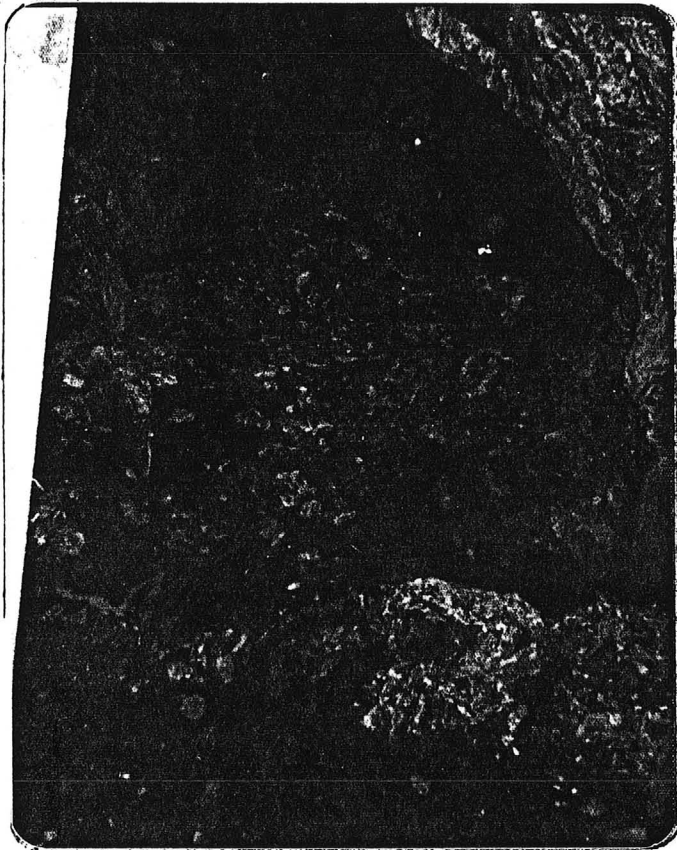
• Photo "W" - View southerly over open end cut and shaft on the Rackensack No. 3 LMC. This shows that vegetation has taken over since comparable Photo "K" was taken 12/2/65, which is part of Edgar and Martin's 7/15/66 mineral report. 6/25/75 G.J.M.



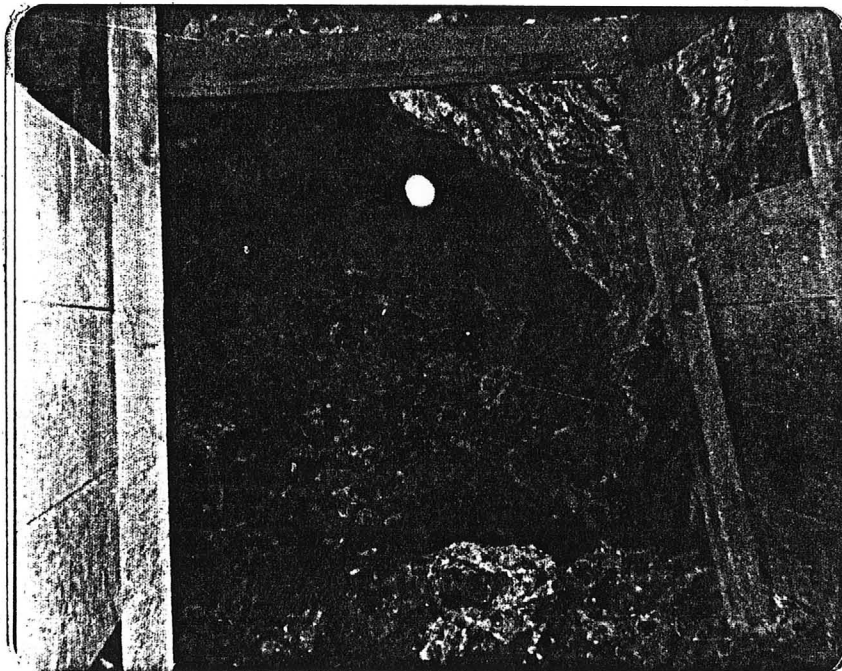
• Photo "X" - View northerly over the shaft and cuts on the Rackensack No. 3 LMC, viewed also by above Photo "W". 6/25/75 G.J.M.

SUPPLEMENTAL ATTACHMENT NO. 4
Gilbert J. Nathorn

2810 Tonto, Cave Creek RD
Edeline, George R., et. al.
Rackensack No. 1 et. al. LMC's - Contest A-5320-15



• Photo "Y" - View south-southwest-
erly of roof fall material complete-
ly blocking No. 5 (Toothpick) adit
75 ft. in from portal. Spot of
light was a lit candle taken in
adit to check for oxygen deficien-
cy. Note mine timber protruding
from the muck pile left. 6/25/75 GJM



• Photo "Z" View south-southwest of same roof fall viewed by above Photo
"Y". Light spot is same lit candle on muck pile. 6/25/75 G.J.M.

SUPPLEMENTAL ATTACHMENT NO. 5
Gilbert J. Matthews

2810 Tonto; Cave Creek RD
Edeline, George R., et al.
Rackensack No. 1, et al., LMC's - Contest A-5320-15

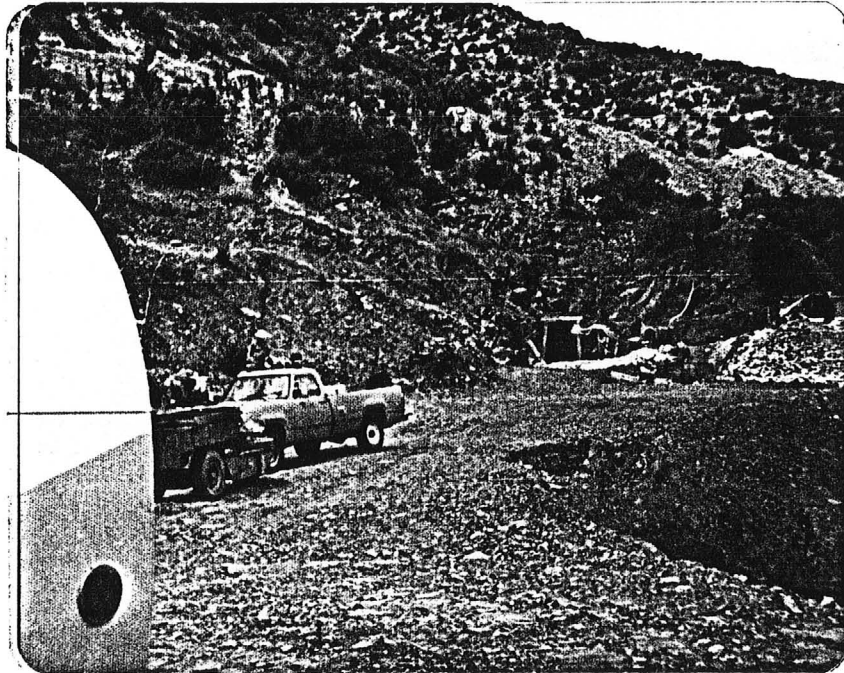


Photo Z₁ - View southwesterly of No. 5 adit portal as it appeared 7/16/73 with Tonto Mining & Milling Co.'s tools and equipment still on the property but operations in a shut-down status. 7/16/73 - GJM



Photo Z₂ - View southerly into Edeline's sidehill dozer cut from where equipment had been removed. From the growth of annual weeds, it was apparent there had not been any activity for quite some time. 7/16/73 - GJM

SUPPLEMENTAL ATTACHMENT NO. 6
Gilbert J. Matthews

2810 Tonto; Cave Creek RD
Edeline, George R., et al.
Rackensack No. 1, et al., LMC's - Contest A-5320-15



- Photo Z3 - View easterly of a typical disconnected barren quartz segment or lense segregation in the schist and other country rock in the general area. 6/25/75 - GJM

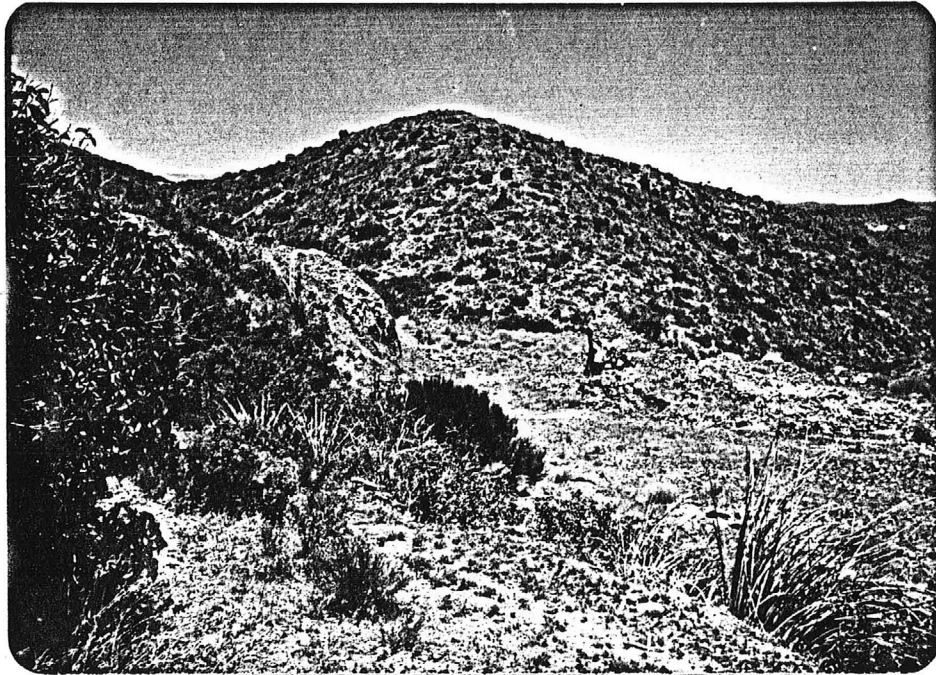


Photo Z4

RHD 6/16/76

Westerly view of open cut, Cerro de Oro No. 1.

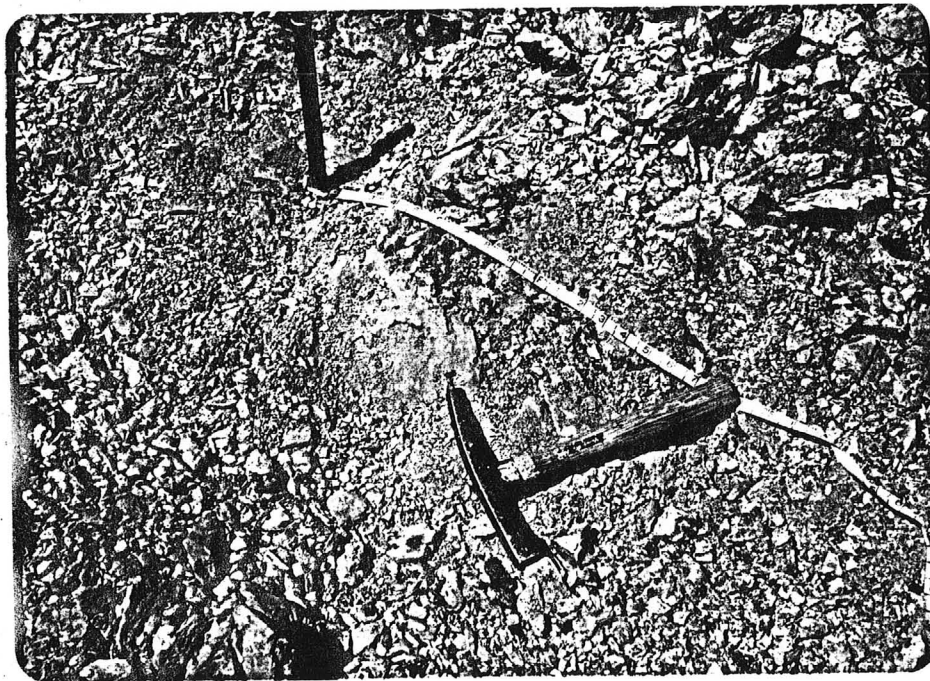


Photo Z5

RHD 6/28/76

Shows location of chip sample #9122, Cerro de Oro No. 1 LMC.

ATTACHMENT NO. 8
RHD 7/14/76



Photo Z₆

RHD 6/28/76

Shows location of chip sample #9120, Cerro de Oro No. 1 LMC.



Photo Z₇

RHD 6/28/76

Shows location of chip sample #9121, Cerro de Oro No. 1 LMC.

ATTACHMENT NO. 9
RHD 7/14/76

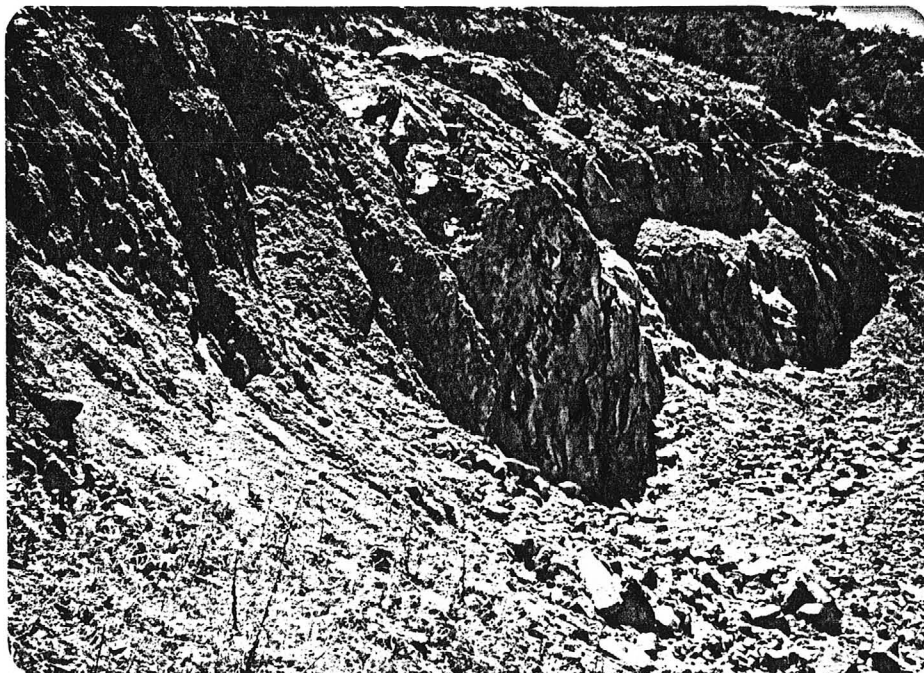


Photo Z8

RHD 6/16/76

Open cut in Rackensack No. 2 LMC.



Photo Z9

RHD 6/16/76

Entrance of Adit #5 (Toothpick).

Photo Z10 RHD 6/16/76

Showing 6 inch quartz vein,
Rackensack No. 2 open cut.



Photo Z11 RHD 6/28/76

Showing location of chip
sample #9123.

ATTACHMENT NO. 11
RHD 7/14/76

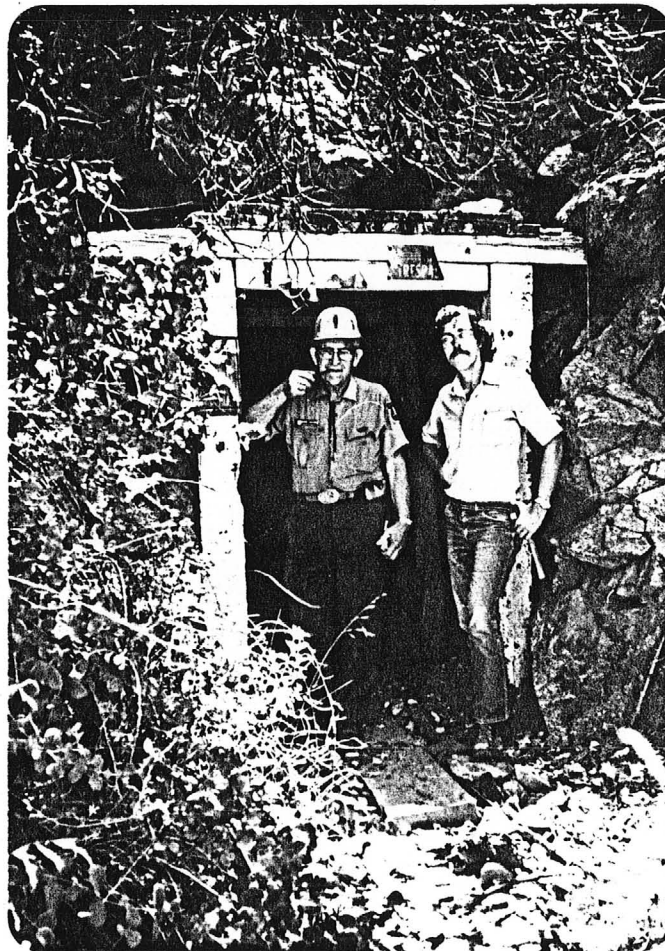
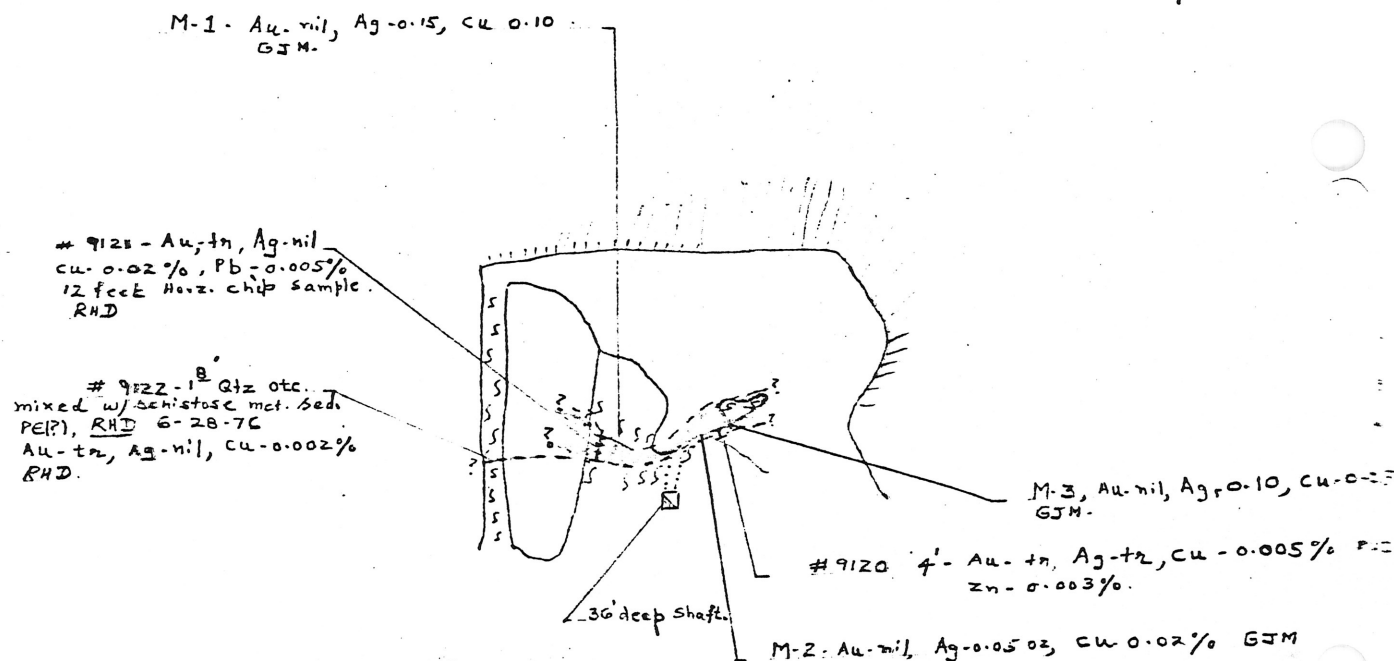


Photo Z12

RHD 6/16/76

Entrance of Adit #4, Rackensack No. 1 LMC. Mr. Gil Matthews (left) and Mr. Bill Hirt.

ATTACHMENT NO. 12
RHD 7/14/76



U.S.D.A. - FOREST SERVICE
Cave Creek R. D. Tonto N. F.
CERRO DE ORO No. 1. LMC.
Scale 1" = 100' - RHD 7-6-76
Claimants: Steingger, Edeline et. al.

f PE (?) Schist
— Qtz. vein (irregular).
'Cut' outline traced from GJM's drawing.

ATTACHMENT NO. 13
RHD 7/14/76

ARIZONA TESTING LABORATORIES

A DIVISION OF CLAUDE E. McLEAN & SON LABORATORIES, INC.
815 WEST MADISON STREET PHOENIX, ARIZONA 85007

PHONE 254-6181

For USDA, Arizona Zone R-3
Attn: Mr. Raj Daniel
522 North Central, Room 213
Phoenix, Arizona 85004

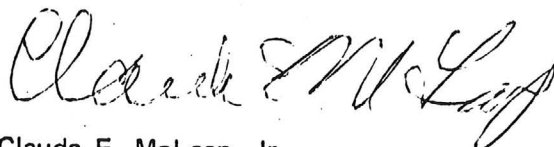
Date July 2, 1976

ASSAY CERTIFICATE

LAB NO.	IDENTIFICATION	OZ. PER TON		PERCENTAGES			
		GOLD	SILVER	Total COPPER	Copper Oxide	Lead	Zinc
2238	9120	trace	trace	0.005%	0.003%		
	9121	trace	nil	0.02		0.005%	0.04%
	9122	trace	nil	0.002			
	9123	trace	trace	0.03			

Respectfully submitted,

ARIZONA TESTING LABORATORIES



Claude E. McLean, Jr.

ATTACHMENT NO. 14
RHD 7/14/76

DEFINITIONS

ORE A solid natural aggregation of one or more minerals that can be mined at a profit.

PROVEN ORE An ore deposit which is exposed on at least three sides and has been defined as to its volume, tonnage and quality by approved sampling, valuing and testing methods.

PROBABLE ORE An ore deposit whose occurrence is reasonably assured but not absolutely certain and is partially exposed by development, sampling or drilling on at least two sides.

POSSIBLE ORE An ore deposit whose existence is a reasonable possibility based on the strength and continuity of geological and mineralogical relationships.

Elevation in feet

4000'

4500'

Head of Rockensack Spr.

No. 1 intersection
Hot Spot

3704-1² Au. S. 42.02
Ag. 0.48-0.2
No. 0.95%

3703-2⁶ Au. 0.02-0.2
Ag. 0.40

3705-1³ Au. 0.01-0.2
Ag. 0.40-0.2
No. 0.95%

3706-2⁶ Au. 0.02-0.2
Ag. 0.40

No. 3 Adit
No. 4 Adit

No. 2 Adit

RATLER Adit

No. 1 Adit

3510-0⁸ Au. 0.02-0.2
Ag. 0.2

U.S.D.A. FOREST SERVICE

Cave Creek R.D.

Tonto N.F.

Rockensack No. 1, 2 & 3 LMC

Scale 1" = 200'

R. Daniel 7/12/76

Claimants: Edeline, G. R. & Steingress, Jr. & Co.

Section on cliff of vein

A-A'

Elevations approx. modified from
U.S. quad map 40.

ATTACHMENT NO. 16
RHD 7/14/76

Scale NE



UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
WASHINGTON, D.C. 20240

IN REPLY REFER TO

U.S.F.S.
NATIONAL FOREST SYSTEM

FEB 24 1970

Mr. M. M. Nelson
Deputy Chief, Forest Service
U. S. Department of Agriculture
Washington, D. C. 20250

Dear Mr. Nelson:

I regret the delay in responding to your letter dated December 18, 1969, regarding amendment of 43 CFR 2244.1. The amendment published on September 5, 1969, merely clarifies the regulations and does not remove the segregative effect of exchange applications under 43 CFR 2244.1-2(h) pertaining to lands administered by the Forest Service.

We will so inform our Oregon State Office.

Sincerely yours,

Dir. [Signature]
Director

FEB 24 1970	
SEARCHED	INDEXED
SERIALIZED	FILED
FEB 24 1970	



UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
WASHINGTON, D.C. 20240

DEPT OF LAND
APR 15 1968
2240 (722a)
FILED

APR 11 1968

U.S.S.
NATIONAL FOREST SYSTEM

APR 12 1968

Mr. M. M. Nelson
Deputy Chief
Forest Service
U.S. Department of Agriculture
Washington, D.C. 20250

Dear Mr. Nelson:

Thank you for your March 27 letter concerning procedures under the new exchange regulations.

We appreciate your concern about the need to segregate National Forest lands selected in proposed exchanges from other forms of disposal under the public land laws.

The new regulations provide that the filing of a "valid formal application for exchange ... will segregate the selected public lands to the extent that they will not be subject to appropriation under the public land laws, including the mining laws" 43 CFR 2244.1-2(h). Thus, the segregation is achieved automatically upon filing of an application.

Where public lands administered by BIM are selected in a National Forest exchange under the 1922 Act, the segregation will be accomplished when the lands are classified as suitable for disposal by exchange. The BIM lands must be classified before an application can be filed or preliminary negotiations conducted. 43 CFR 2244.1-2(c).

The Regional Foresters should simply let the Land Office know that the application has been filed. We will so inform our office.

Sincerely yours,

D. Michael Harvey
Acting Asst. Director

(Secs. 16(b) and 23(a); 48 Stat. 1055, as amended; 15 USC 78p and 78w) and 991,

Effective date. The Commission finds the transactions exempted by the foregoing section are not comprehended within the purpose of section 16(b) of the Securities Exchange Act of 1934 and has taken the foregoing action pursuant to such Act, particularly sections 16(b) and 23(a) thereof. Since the foregoing action grants an exemption from the requirements of section 16(b) of the Securities Exchange Act of 1934, the Commission finds that the procedures specified in section 4 of the Administrative Procedure Act as codified in 5 U.S.C. 553 are unnecessary. The foregoing section shall be effective January 17, 1968.

By the Commission, January 17, 1968.
(SEAL) ORVAL L. DuBois,
Secretary.

[F.R. Doc. 68-1268; Filed, Feb. 1, 1968; 8:46 a.m.]

Title 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

SUBCHAPTER C—DRUGS

PART 166—DEPRESSANT AND STIMULANT DRUGS; DEFINITIONS, PROCEDURAL AND INTERPRETATIVE REGULATIONS

Listing of Additional Drug as Drug Subject to Control

In the matter of listing the drug DOM (STP) as a "depressant or stimulant" drug within the meaning of section 201 (v) of the Federal Food, Drug, and Cosmetic Act because of its hallucinogenic effect:

No comments were received on the proposal in the above-identified matter published in the FEDERAL REGISTER of November 22, 1967 (32 F.R. 16048), and it is concluded that the amendment should be adopted as proposed.

Therefore, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (secs. 201(v), 511, 701, 52 Stat. 1055, as amended, 79 Stat. 227 et seq.; 21 U.S.C. 321(v), 360a, 371) and under the authority delegated by the Secretary of Health, Education, and Welfare to the Commissioner of Food and Drugs (21 CFR 2.120), § 166.3(c)(3) is amended by alphabetically inserting in the list of drugs a new item, as follows:

§ 166.3 Listing of drugs defined in section 201(v) of the act.

LAWYER'S COMMENTS	
(3)	FEB 1 5 1968
Established name or other nonproprietary designation	Some trade or other names
Shaker	
Q.M. (STER.)	Methyl-2,5-dimethoxy-amphetamine; 4-methyl-2,5-dimethoxy-α-methyl-phenethylamine; and "STP."
STATUS-CLASS.	
MAGGATE	
"MS"	

Any person who will be adversely affected by the foregoing order may at any time within 30 days from the date of its publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington, D.C. 20201, written objections thereto. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing, and such objections must be supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof. All documents shall be filed in six copies.

Effective date. This order shall become effective 60 days from the date of its publication in the FEDERAL REGISTER, except as to any provisions that may be stayed by the filing of proper objection. Notice of the filing of objections or lack thereof will be announced by publication in the FEDERAL REGISTER.

(Secs. 201(v), 511, 701, 52 Stat. 1055, as amended, 79 Stat. 227 et seq.; 21 U.S.C. 321 (v), 360a, 371)

Dated: January 24, 1968.

WINTON B. RANKIN,
Deputy Commissioner of
Food and Drugs.

[F.R. Doc. 68-1207; Filed, Feb. 1, 1968; 8:45 a.m.]

Title 27—INTOXICATING LIQUORS

Chapter I—Internal Revenue Service, Department of the Treasury

[T.D. 6945]

PART 5—LABELING AND ADVERTISING OF DISTILLED SPIRITS

Standards of Identity for Neutral Spirits and Domestic Whiskies

Correction

In F.R. Doc. 68-981, appearing at page 983 of the issue for Friday, January 26, 1968, the following changes should be made:

1. In the first column of page 984 in the paragraph captioned "Conclusion," the first sentence should read: "All proposals for amendments in the regulations with respect to domestic whiskies distilled at 160° proof or less are rejected."

2. In the third column of page 985, paragraph 2.B. should read:

B. By inserting in subparagraph (1) in the first sentence ", at not more than 125° proof," after "March 3, 1932, stored";

3. In the first column of page 986, paragraph 8.A. should read:

A. By inserting in the first sentence of subparagraph (1) "(14)," after "(13)," and

Title 43—PUBLIC LANDS: INTERIOR

Chapter II—Bureau of Land Management, Department of the Interior

SUBCHAPTER B—LAND TENURE MANAGEMENT (2000)

[Circular 2239]

PART 2240—SALES AND EXCHANGES

Subpart 2244—Exchanges

MISCELLANEOUS AMENDMENTS

On pages 10799-10803 of the FEDERAL REGISTER of July 22, 1967, there were published a notice and text of proposed revision of 43 CFR 2244. The purpose of the revision is to establish uniform procedures for the handling of exchanges.

Interested persons were given 30 days within which to submit written comments, suggestions or objections with respect to the proposed revisions. Two suggestions, both relating to the citation of authority, were received and adopted. The proposed regulations are hereby adopted with the following changes, and are set forth below:

(1) In paragraph (c) of § 2244.1-2 the part number is changed to read "2410," this being the correct identification for the Part relating to Land Classification.

(2) Existing paragraph (a) of § 2244.4-5 of the proposed regulation is deleted. This paragraph cited as authority §§ 303 and 304 of the Act of June 15, 1935 (49 Stat. 382; 16 U.S.C. 715d-2, 715e-1). However, § 303 of the Act of June 15, 1935, was repealed by the Act of October 15, 1966 (80 Stat. 930), and § 304 is also now without effect.

(3) Existing paragraph (c) of § 2244.4-5 of the proposed regulation is redesignated paragraph (a).

(4) A new paragraph (c) is added to § 2244.4-5, to complete the citation of exchange authority relating to wildlife refuge exchanges:

"(c) Section 1 of the Act of August 22, 1957 (71 Stat. 412), as amended (16 U.S.C. 696) authorizes the Secretary of the Interior to acquire, for the National Key Deer Refuge, lands in designated areas in Florida which he finds suitable for the conservation and management of key deer and other wildlife by exchange for any Federally owned property in Florida which he classifies as suitable for exchange or other disposal. The values of the property so exchanged shall be approximately equal, or if they are not approximately equal, the values shall be

cc: Bob Conlock

equalized by the payment of cash to the grantor or to the Secretary as required." This amendment shall become effective at the beginning of the 30th day following the date of publication in the FEDERAL REGISTER.

STEWART L. UDALL,
Secretary of the Interior.

JANUARY 27, 1968.

Subpart 2244 is revised in its entirety to read as follows:

Subpart 2244—Exchanges

§ 2244.0-1 Purpose.

The regulations in this subpart provide procedures for processing exchanges of U.S. property for other property.

§ 2244.0-2 Objectives.

The discretionary authority of the Secretary of the Interior to make exchanges will be used to consolidate land holdings of the United States, and to establish land ownership and use patterns which will permit more effective administration of the public lands of the United States, the stability of communities and enterprises dependent on the public lands, and other program objectives described in Subpart 1725 of this chapter.

§ 2244.0-5 Definitions.

(a) As used in this part the term "person" includes any person or entity legally capable of conveying and holding real property under the laws of the States within which the property is located.

§ 2244.1 Provisions applicable to all exchanges.

Except where otherwise noted in the regulations of this Subpart 2244, the regulations in this § 2244.1 are applicable to all exchange.

§ 2244.1-1 Basis for exchange.

The fair market value of the property conveyed to the United States in any exchange shall not be less than the fair market value of the United States property exchanged therefor.

§ 2244.1-2 Applications.

(a) Preliminary negotiations: Preliminary negotiations for exchanges must be conducted with the Federal bureau or agency which would administer the offered lands if the exchange were completed. Any person who holds an interest in property within the boundaries of the area of responsibility of such Federal bureau or agency and who desires to negotiate an exchange with the United States must file with the appropriate field officer of that bureau or agency an informal proposal in writing, describing the property which is to be offered to the United States and the property which is desired in exchange. After consultation with the authorized officer of the bureau or agency which has jurisdiction over the property desired by the proponent, the appropriate field officer will notify the proponent in writing whether the proposal appears feasible and, if so, whether any adjustments appear necessary for its consummation.

(b) Formal application:

(1) Any person desiring to effect an exchange hereunder must file with the Bureau of Land Management an application, in duplicate, on a form approved by the Director, Bureau of Land Management, or its equivalent, properly describing the offered and selected property. If the selected property is surveyed, it must be described by legal subdivisions of the public land surveys. The documents must be filed in accordance with the provisions of § 1821.2 of this chapter. The application must be accompanied by the notice required by paragraph (a) of this section, stating that the proposal appears feasible.

(2) The application must also include a corroborated statement relative to springs and water holes on the selected property, in accordance with §§ 2321.1-1(a) to 2321.1-2(d) of this chapter.

(3) The application must state that the value of the selected property does not exceed the value of the offered property. In a case where, by statute, equalization of values is permitted by a cash payment, the amount of cash payment that must be made to equalize values shall be stated in the application.

(c) Classification of land: No preliminary negotiations will be conducted, and no application will be accepted for lands administered by the Bureau of Land Management which have not been classified as proper for disposal by exchange, consistent with the provisions of Part 2410 of this chapter. This does not, however, prevent an interested agency from requesting that the authorized officer of the Bureau of Land Management schedule classification action, in accordance with the provisions of Part 2410 of this chapter, for any lands which the interested agency considers may have value for exchanges.

(d) The applicant must be legally capable, under the laws of the State in which the offered property is located, of consummating the exchange. The application must state that the applicant is the owner of the interest in the property offered in exchange and that such offered interest is not the basis of any other exchange.

(e) Deed to the United States:

(1) Owners of private property will be required to submit a warranty deed of conveyance of the offered property to the United States, properly executed, acknowledged, and recorded in accordance with the laws of the State in which the property is situated. Revenue stamps required by Federal and State law must be affixed to the deed and canceled. A deed executed by an individual grantor must disclose his marital status. If married, the spouse of the grantor must join in the execution of the deed to bar any right of curtesy, dower, community interest, or any other claim to the property conveyed, or it must be fully shown that under the laws of the State in which the conveyed property is situated, the grantor's spouse has no interest, present or prospective, in the property. A deed executed by a corporation must recite that it was executed pursuant to a resolution or order of

its board of directors, or other governing body, and a copy of such resolution or order must accompany the deed. A corporate seal must be affixed to the instruments.

(2) States will be required to submit a deed of conveyance of the offered property to the United States, properly executed, acknowledged, and duly recorded in accordance with the laws of the State making the exchange, together with a certificate of the proper State officer showing that the officer executing the conveyance was authorized to do so under the State law.

(3) Holders of unperfected claims and Indian trust patents will not be required to submit a deed of conveyance. In lieu thereof, they will be required to submit a relinquishment of the claim or trust patent to the United States, witnessed by two persons and acknowledged before a notary public or other official with a seal. The relinquishment must contain a statement that the applicant has not sold, assigned, mortgaged, or contracted to sell, assign, or mortgage the land covered by the unperfected claim or relinquished allotment.

(4) All deeds and relinquishments must state that they are made "for and in consideration of the exchange of certain lands, as authorized by" the appropriate act of the Congress.

(5) Where appropriate, the deed shall recite that the conveyance is made to the United States, "as grantee in trust" for the appropriate Indian tribe or group.

(f) Taxes and equalizing money: Where taxes which have been assessed or levied on the offered property constitute liens against the property although such taxes are not due and payable at the time of the recordation of the deed to the United States, the applicant may furnish a bond with a qualified surety for double the amount of taxes paid on the property for the previous year, or, in lieu of a bond, a cash deposit in like amount, to secure the payment of such taxes. When proper evidence of payment in full of such taxes is furnished by the applicant, liability under the bond will be terminated or the cash deposit will be returned to him. Cash deposit or bond for taxes and, where applicable, cash payment of the amount determined to be needed to equalize values, will be payable upon request of the authorized officer of the Bureau of Land Management.

(g) Evidence of title:

(1) Owners of private property offered in exchange must submit as evidence of title to the offered lands a policy of title insurance on the form prescribed by the Department of the Interior (Form 4-1202), or on the form approved by the Attorney General (See "Standards for the Preparation of Title Evidence in Land Acquisitions by the United States" issued by the Department of Justice, 1964 ed.); or a certificate of title issued by a title insurance company authorized by law to issue same, or an abstract of title prepared and authenticated by a licensed abstractor or abstract company or by the recorder of deeds or other

proper officer of the State under his official seal.

(2) States must submit satisfactory evidence of title to the offered property.

(i) If the offered property was ever held in private ownership, certificate of title, or an abstract of title as prescribed in subparagraph (1) of this paragraph must be submitted. (ii) If the offered property was never held in private ownership the State must submit a certificate of the proper State officer showing that the offered property had not been sold or otherwise encumbered by the State, and a certificate by the recorder of deeds or other proper officer under his official seal or by an abstractor or abstract company that no instrument purporting to convey or in any way encumber title to the offered property is of record or on file.

(3) Holders of unperfected claims and Indian trust patents must file a certificate of the recorder of deeds or other proper officer under his official seal or of an abstractor or abstract company that no instrument purporting to convey or in any way encumber title to the offered land is of record or on file.

(h) Segregation of the land: The filing of a valid formal application for exchange under the regulations of this subpart will segregate the selected public lands to the extent that they will not be subject to appropriation under the public land laws, including the mining laws, and that any subsequently tendered application, allowance of which is discretionary, will not be accepted, will not be considered as filed, and will be returned to the applicant. The segregative effect of an application on the lands covered by the application will terminate at 10 a.m. on the 30th day from and after the date a notice of the withdrawal or rejection of the application is first posted in the land office having jurisdiction over said lands.

§ 2244.1-3 Publication.

Upon a determination by the authorized officer of the bureau or agency having jurisdiction over the selected property and the authorized officer of the bureau or agency which will administer the offered property, if the exchange is completed, that the exchange is consistent with the law and regulations and is otherwise in the public interest, notice of the proposed exchange will be published by the Bureau of Land Management. The notice of publication will give the name and post office address of the applicant, the serial number and date of the application, a reference to the statute authorizing the exchange, and the description of the offered and selected property. It will also state that all persons asserting a claim to the selected property or having bona fide objections to the exchange may file their protests or other objections in the office designated in the notice, together with evidence that a copy of such protest or objections has been served upon the applicant. The notice will be published once a week for 4 consecutive weeks in a designated newspaper of general circulation in the county or counties in which the

offered property is situated, and in the same manner in a newspaper of general circulation in the county or counties in which the selected property is situated. Proof of publication of notice shall consist of a certificate by the publisher or foreman or other authorized employee of the newspaper, specifying the dates of publication, attached to a copy of the notice as published.

§ 2244.1-4 Approval of exchange; right to reject; unperfected claims.

(a) *Approval of exchange.* (1) The criteria in Parts 1720 and 2410 of this chapter and the provisions of appropriate law shall be used in determining whether an application for exchange should be approved.

(2) After examination of the title and other evidence required of the applicant, if all be found regular and in conformity with the law and regulations, and there are no objections, the authorized officer may accept title to the property offered and conveyed to the United States. He will then issue a patent or other instrument of transfer for the property selected in exchange and, where authorized by law, will transmit to the applicant the cash payment, if any, necessary to equalize the values.

(b) *Right to reject.* (1) An application may be rejected at any time prior to the issuance of patent or other instrument of transfer. Exchanges will not be consummated, in the discretion of the authorized officer when, for example, after public notice—

(i) An appropriate public requirement for the selected property is identified, or
(ii) Information is received which establishes that the exchange is not in the public interest.

(2) Changes in values, after publication of the notice required by § 2244.1-3, will ordinarily not be a basis for rejection of an application, all other factors being equal.

(3) Prior to issuance of patent, no action taken shall establish any contractual or other rights against the United States, or create any contractual or other obligation of the United States.

(c) *Unperfected claims.* When the offered lands are embraced in unperfected claims, patents will not issue for the selected lands until the applicant complies with all the requirements of the law and regulations under which the unperfected claims have been held. The applicant will be credited with all acts of compliance whether earned in connection with the offered lands or selected lands or both.

§ 2244.1-5 Removal of improvements; return of title evidence.

(a) When any buildings, fencing, or other movable improvements owned or erected by an applicant on the land relinquished or conveyed are not a part of the offer to relinquish or convey, the applicant may remove such improvements from the land upon receipt of notice that the exchange has been approved, provided that such removal is accomplished within the time period specified in said notice.

(b) If an applicant has submitted deed and title evidence in connection with an exchange and his application is rejected, the evidence of title will be returned to the applicant. If the deed was recorded, a quitclaim deed for the land conveyed to the United States will be issued under section 6 of the Act of April 23, 1930 (46 Stat. 257; 43 U.S.C. sec. 872).

§ 2244.1-6 Costs and fees.

Whenever the law permits, the bureau or agency which will administer the offered lands if the exchange is consummated will be required to do the following:

(a) *Appraisals.* At the request and with the approval of the authorized officer of Bureau of Land Management, arrange, by contract or otherwise, for the services of appraisers, for the purpose of appraising both the offered and selected property.

(b) *Publication and securing title evidence.* Pay for costs of publication of the exchange and of securing title evidence for the offered property, except as provided otherwise in other sections of this subpart.

(c) *Processing.* At the request of authorized officers of Bureau of Land Management, reimburse the Bureau of Land Management and the bureau having jurisdiction over the selected lands, if other than the Bureau of Land Management, for any costs incurred by them in processing an exchange filed pursuant to the regulations in this subpart.

(d) *Service or filing fees.* Where the law permits, no service or filing fees shall be required in connection with an application for exchange.

§ 2244.2 Exchanges with States under the Taylor Grazing Act.

§ 2244.2-1 Authority.

(a) Subsections (c) and (d) of section 8 of the Act of June 23, 1934 (48 Stat. 1272), as amended (43 U.S.C. sec. 315g), authorize exchanges of lands between the United States and a State, upon the application of the State, and provide for the issuance of patent for the selected lands upon acceptance of title to the lands conveyed to the United States in exchange therefor.

(b) Lands offered in exchange by a State may be State-owned lands within or without the boundaries of a grazing district, and the selected lands may be surveyed grazing district lands not otherwise appropriated or reserved, or unappropriated and unreserved surveyed public lands of the United States, within the same State. If, however, the selected lands are within a grazing district, the lands offered by the State must be within the same grazing district and the selected lands must lie in a reasonably compact body which is so located as not to interfere with the administration or value of the remaining lands in the district for grazing purposes.

(c) Unsurveyed school sections within or without the boundary of a grazing district may be offered by the State in an exchange based upon equal areas, but the Secretary of the Interior will

consider and determine whether the values of the offered and selected lands are approximately equal for the purpose of the exchanges. No mineral reservations to the State may be made in such unsurveyed sections, the identification of which will be determined by protraction or otherwise, the State by such selections waiving all rights to the unsurveyed sections.

(d) State-owned lands, as well as school sections surveyed and unsurveyed, the title to which has not yet vested in the State, located within national forests, national parks and monuments, Indian or other reservations or withdrawals, may be offered as a basis for an exchange under said section 8 of the Taylor Grazing Act as amended, where the selected lands are not within a grazing district. Where the selected lands are within a grazing district, lands within the exterior boundaries of the grazing district and also within such reservations or withdrawals may be offered as a basis for an exchange only if the authorized officer, Bureau of Land Management, determines that the exchange would not interfere with the administration or value of the remaining lands in the grazing district for grazing purposes.

(e) Either party to an exchange may make reservations of minerals, easements, or rights of use. The right to enjoy reservations made in lands conveyed to or by the United States shall be subject to such reasonable conditions respecting ingress and egress and the use of the surface of the lands as the authorized officer deems necessary.

(f) Lands conveyed to the United States pursuant to a State exchange under this section, upon acceptance of title thereof, become public lands. If the lands are located within the exterior boundaries of a grazing district, they become a part of that district.

(g) Where a State exchange under this section involves lands embraced in outstanding grazing leases under section 15 of the Taylor Grazing Act (43 U.S.C., sec. 315m) issued prior to the filing of the State exchange application, the Secretary of the Interior, upon the request of the State, may issue patent to the State, subject to such outstanding lease, in accordance with the Act of August 24, 1937 (50 Stat. 748; 43 U.S.C. sec. 315p).

(h) The State is responsible for payment of one-half the cost of publication.

§ 2244.2-2 Program.

The program of the Secretary of the Interior is to cooperate with the States to effect mutually advantageous exchanges and to process State proposals for exchange as rapidly as possible, consistent with the law and the regulations of this subpart.

§ 2244.2-3 Applicable regulations.

All the provisions of § 2244.1 apply to State exchanges except:

(a) States may file applications for exchanges without meeting the requirements for preliminary negotiations.

(b) State exchanges are not subject to the classification requirements of Parts 2410 and 2411 of this chapter.

§ 2244.3 National forest exchanges.

§ 2244.3-1 Authority.

The Act of March 20, 1922 (42 Stat. 465), as amended (16 U.S.C., sec. 485), and other acts authorize the United States to convey Federal lands or timber and in exchange therefor to accept title to non-Federal lands which thereupon become a part of the national forest system administered by the Secretary of Agriculture.

§ 2244.3-2 Applicable regulations.

All proposals for exchange for the consolidation or extension of national forests shall be filed with the appropriate officer of the Forest Service, U.S. Department of Agriculture in compliance with the regulations of the Secretary of Agriculture. In addition, when an application involves the selection of public lands outside of national forests and under the administrative jurisdiction of the Bureau of Land Management, the proponents must comply with the regulations in § 2444.1.

§ 2244.4 Other exchanges.

The following exchanges are subject to the provisions of § 2244.1.

§ 2244.4-1 O&C exchanges.

(a) *Authority.* The Act of July 31, 1939 (53 Stat. 1144), authorizes and empowers the Secretary of the Interior, in his discretion, in the administration of the act approved August 28, 1937 (50 Stat. 874), to exchange any nonmineral land formerly granted to the Oregon and California Railroad Co., title to which was reverted in the United States pursuant to the provisions of the Act of June 9, 1916 (39 Stat. 218), and any land granted to the State of Oregon, title to which was reconveyed to the United States by the Southern Oregon Co. pursuant to the provisions of the Act of February 26, 1919 (40 Stat. 1179), for lands of approximately equal aggregate value held in private, or State, or county ownership, either within or contiguous to the former limits of such grants, when by such action the Secretary of the Interior will be enabled to consolidate advantageously the holdings of lands of the United States. The act further provides that all lands and timber secured by the United States pursuant to any such exchange shall be administered in accordance with the same provisions of law as the reverted and reconveyed lands exchanged therefor, and that parties to the exchange may make reservations of easements, rights-of-way, and other interests and rights. Both the offered and selected lands in Coos Bay Wagon Road exchanges must be in the same county.

(b) *Program.*—(1) *Forest management.* The Act of August 28, 1937 (50 Stat. 874), provides for the conservation of land, water, forest, and forage on a permanent basis; the prudent utilization of these resources for the purposes to which they are best adapted; and the realization of the highest current values consistent with undiminished future returns. It seeks, through the application of the policy of sustained-yield management, to provide perpetual forests which

will serve as a foundation for continuing industries and permanent communities.

(2) *Exchanges.* (i) Lands and timber to be acquired under authority of the Act of July 31, 1939, will be of a character and so located that the acquisition thereof will promote the conservation principles laid down by the Act of August 28, 1937. Lands and timber which will be disposed of by exchange will be of such type and so located that the transfer of these resources will not interfere with those principles. Exchanges will not be authorized where the exchange would create a serious disturbance of existing economic conditions; or in cases where the exchange would operate materially to reduce the revenues which should accrue to the counties under authority of the Act of August 28, 1937. Neither approval be given to the exchange of lands which would prevent the free and ready access of the Government in the development of the resources under its jurisdiction, nor the passing of title which would in any way interfere with the policy of sustained-yield forest management which governs the administration of the O. and C. lands.

(ii) The primary objectives sought in the Act of July 31, 1939, include the following:

(a) Simplification of administrative procedure, improvement, and protection through consolidation of holdings.

(b) The development of a balanced distribution of age classes of timber with a view to promoting the policy of sustained-yield forest management provided for in the Act of August 28, 1937.

(c) The establishment of sustained-yield management units, with a view to sustaining dependent industry, dependent labor and dependent communities.

(d) The effective administration of forest units.

(e) Aid in establishing economic operating units for combined agriculture and grazing enterprises, where such enterprises appear to provide the most desirable use of the land.

(f) The protection of recreational open space, and natural beauty values against impairment or destruction.

§ 2244.4-2 Private exchanges under Taylor Grazing Act.

(a) *Authority.* Subsections (b) and (d) of section 8 of the Taylor Grazing Act of June 28, 1934 (48 Stat. 1272), as amended (43 U.S.C., sec. 315g), authorize the Secretary of the Interior, when the public interests will be benefited thereby, to accept on behalf of the United States title to any privately owned land within or without the boundaries of a grazing district and in exchange therefor to issue a patent for not to exceed an equal value of surveyed grazing district land or of unreserved surveyed public land in the same State or within a distance of not more than 50 miles within the adjoining State nearest the privately owned land. Either party to an exchange may make reservations of minerals, easements, or rights of use. The applicant must pay one-half the cost of publication.

§ 2244.1-3 Indian reservation exchanges.

(a) *Executive order reservations.* The Act of April 21, 1904 (33 Stat. 211; 43 U.S.C., sec. 149), authorizes the Secretary of the Interior to exchange any vacant, nonmineral, non timbered, surveyed public lands located in the same State as the offered lands for any privately owned lands over which an Indian reservation has been extended by Executive order. The offered and selected lands must be approximately equal both in value and area. The applicant must pay all costs of consummating the exchange.

(b) *San Juan, McKinley, and Valencia Counties, N. Mex.* Section 13 of the Act of March 3, 1921 (41 Stat. 1239), authorizes the Secretary of the Interior to exchange any vacant, surveyed public lands, including any lands reconveyed under this act, in San Juan, McKinley, and Valencia Counties, N. Mex., for any privately owned lands, State school lands (except those granted by the act of January 25, 1927, 44 Stat. 1026, as amended (43 U.S.C. 870)), and lands covered by valid unperfected claims, and by Indian allotments and Indian allotment selections in such counties. The exchange must serve to consolidate the holdings of the applicant, who must own land in the same township in which the selected lands are located.

(c) *Apache, Coconino, and Navajo Counties, Ariz.* Section 2 of the Act of June 14, 1934 (48 Stat. 961), as supplemented by the Act of May 9, 1935 (52 Stat. 300), authorizes the Secretary of the Interior to exchange (1) any vacant, nonmineral, surveyed public lands in Apache, Navajo, and Coconino Counties, Ariz., for any privately owned lands in Apache and Coconino Counties and in that portion of Navajo County north of the townships line between Townships 20 North and 21 North, Gila and Salt River Meridian, and (2) any available lands within the reservation described in the above-mentioned act of 1934 for any lands covered by Indian allotments and Indian allotment selections in the three mentioned counties. Applicants may select public lands containing springs or other living waters only if the offered lands contain similar waters. If an applicant reserves oil, gas, and other minerals in the offered lands, a like reservation will be made in the selected lands.

(d) *Reservations established by statute.* Exchanges and lieu selections involving lands within Indian reservations occur infrequently. Regulations covering such transactions are, therefore, not codified. Any such transactions will be handled in a manner consistent with the authorizing laws and with the general regulations of § 2244.1 for exchanges, and of § 2244.2 for State lieu selections.

§ 2244.1-4 National Park System exchanges.

(a) *General.* Exchanges to eliminate private holdings from national parks and national monuments for which no specific provisions are made in this section

have generally reached the limits allowed by enabling legislation. Regulations covering such transactions are, therefore, not codified. Any such transactions will be handled in a manner consistent with the authorizing laws and with the regulations in § 2244.1.

(b) *Point Reyes National Seashore, Calif.* The Act of September 13, 1962 (76 Stat. 538; 16 U.S.C., secs. 459c-459c-7), providing for the establishment of the Point Reyes National Seashore in the State of California, authorizes the Secretary of the Interior, when the public interest will be benefited thereby, to acquire land, waters, and other property within the boundaries of the Point Reyes National Seashore by exchange. He may accept title to any non-Federal property located within such area and convey to the grantor of such property any federally owned property under the jurisdiction of the Secretary within Arizona, California, Nevada, and Oregon, notwithstanding any other provision of law. The properties so exchanged shall be approximately equal in fair market value, provided that when such values are not equal the Secretary may accept cash from or pay cash to the grantor in such an exchange in order to equalize the value of the properties exchanged.

(c) *Fire Island National Seashore.* The Act of September 11, 1964 (78 Stat. 928; 16 U.S.C., secs. 459c-459c-9), authorizes the Secretary of the Interior to establish an area to be known as the "Fire Island National Seashore" and to acquire by exchange lands within the boundaries of the seashore as specified in the act. When acquiring land by exchange the Secretary may accept title to any nonfederally owned land located within the boundaries of the national seashore and may convey to the grantor any federally owned land under his jurisdiction. The properties so exchanged shall be approximately equal in fair market value, but the Secretary may accept cash from or pay cash to a grantor in order to equalize the values of the lands exchanged.

(d) *Lake Mead National Recreational Area.* The Act of October 8, 1964 (78 Stat. 1039, 16 U.S.C., secs. 460n-460n-9) authorizes the Secretary of the Interior to revise the boundaries of the Lake Mead National Recreation Area and to procure property within the exterior boundaries of such area in such manner as he shall consider to be in the public interest. In exercising his authority to acquire property by exchange, the Secretary may accept title to any non-Federal property located within the boundaries of the recreation area and convey to the grantor of such property any federally owned property under the jurisdiction of the Secretary. The properties so exchanged shall be approximately equal in fair market value, provided that the Secretary may accept cash from or pay cash to the grantor in an exchange in order to equalize the values of the properties exchanged.

(e) *Whiskeytown-Shasta-Trinity National Recreation Area, Calif.* The Act of

November 8, 1965 (79 Stat. 1295) authorizes the Secretary of the Interior to administer the Whiskeytown unit of the Whiskeytown-Shasta-Trinity National Recreation Area. The Secretary is authorized to accept title to any non-Federal property within any part of the recreation area and in exchange therefor to convey to the grantor any federally owned property under his jurisdiction within the State of California which he classifies as suitable for exchange or disposal. The properties so exchanged shall be approximately equal in fair market value, provided that the Secretary may accept cash from or pay cash to the grantor in an exchange in order to equalize the value of the properties exchanged.

§ 2244.1-5 Wildlife refuge exchanges.

(a) Section 4(b) (3) of the Act of October 15, 1966 (80 Stat. 926), authorizes the Secretary of the Interior to acquire lands or interests therein by exchange (1) for acquired lands or public lands under his jurisdiction which he finds suitable for disposition, or (2) for the right to remove, in accordance with such terms and conditions as the Secretary may prescribe, products from the acquired or public lands within the National Wildlife Refuge System. The values of the properties so exchanged either shall be approximately equal, or if they are not approximately equal the values shall be equalized by the payment of cash to the grantor or to the Secretary as the circumstances require.

(b) Section 2(b) of the Act of October 15, 1966 (80 Stat. 926), authorizes the Secretary of the Interior to acquire by purchase, donation, or otherwise, lands or interests therein necessary for the conservation, protection, restoration, and propagation of selected species of native fish that are threatened with extinction.

(c) Section 1 of the Act of August 22, 1957 (71 Stat. 412), as amended (16 U.S.C. 696) authorizes the Secretary of the Interior to acquire, for the National Key Deer Refuge, lands in designated areas in Florida which he finds suitable for the conservation and management of key deer and other wildlife by exchange for any Federally owned property in Florida which he classifies as suitable for exchange or other disposal. The values of the property so exchanged shall be approximately equal, or if they are not approximately equal, the values shall be equalized by the payment of cash to the grantor or to the Secretary as required.

§ 2244.1-6 Miscellaneous State exchanges.

Because of the infrequency of transactions involving State exchanges under the Acts of May 7, 1932 (47 Stat. 150), section 3 of the Act of June 14, 1934 (48 Stat. 962), Act of December 7, 1942 (53 Stat. 1042), and the Act of June 29, 1936 (49 Stat. 2026), regulations covering these transactions are not codified. Any such transaction will be handled in a manner consistent with the authorizing laws and with the regulations in § 2244.1.

RULES AND REGULATIONS

§ 2244.5 Reclamation exchanges.

§ 2244.5-1 Applicable regulations.

(a) Regulations for exchange under the Act of August 13, 1953 (67 Stat. 566; 43 U.S.C. 451-451K), are in Part 406 of this title and for exchanges under the Act of May 25, 1926 (44 Stat. 648; 43 U.S.C. 423c), are in §§ 403.6-403.11 of this title.

(b) Applications for new entry under the provisions of the Act of March 4, 1915 (38 Stat. 1215; 43 U.S.C. 447), must be on the form provided for homestead applications, must refer to the serial number, and give the description of the former entry and a statement by the applicant showing the facts upon which he claims to come within the provisions of this act.

[F.R. Doc. 68-1267; Filed, Feb. 1, 1968;
8:46 a.m.]

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OCT 22 1975

REGION 3
LANDS

Room 4017, Federal Building
517 Gold Avenue, S. W.
Albuquerque, New Mexico 87102

October 21, 1975

Mr. Newton Frishberg, Chairman
Board of Land Appeals
Office of Hearings and Appeals
U. S. Department of the Interior
4015 Wilson Boulevard
Arlington, Virginia 22203

Subject: USA v. George R. Edeline, et al.
Arizona 5320-7 and 5320-15

Dear Mr. Frishberg:

Enclosed for filing in the subject case is Motion
to Remand for Further Hearing dated October 21,
1975.

Copies are being sent to the Contestees and
Intervenor also. Proof of Service will be made
in accordance with the rules of practice.

Sincerely,

THOMAS A. PEDRON
Attorney in Charge

DEMETRIE L. AUGUSTINOS
Attorney

Enclosures

CC: Robert J. Welliever, Esq., 16 Luhrs Arcade, 45 W.
Jefferson, Phoenix, AZ 85003
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& French, P. O. Box 471, Phoenix, AZ 85001
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Phoenix, AZ 85003
Jack Pardee, Lands, Forest Service, Alb. Minerals Group

2cc: *Sexto*

1cc: *Zone Minerals*

Case Creek

OCT 20 1975

	Information	Action	Initials
LANDS 5013			
Intervenor	R. L. SAFFAN		
Secretary	Carson A. Garcia		
Class. R/W	F. W. Geller H. C. Reynolds		
Exch.	E. G. Johanson T. W. Seiger		
Stat.	D. R. Park P. C. Fortune E. Reed		
Min.	J. M. X. Pardee D. J. Alexander		
Office Serv.			

UNITED STATES DEPARTMENT OF THE INTERIOR
BOARD OF LAND APPEALS
Office of Hearings and Appeals
4015 Wilson Boulevard
Arlington, Virginia 22203

UNITED STATES OF AMERICA	:	ARIZONA 5320-7
	:	
Contestant	:	Involving the validity
	:	of the Cerro de Oro Nos. 1
v.	:	through 4 Lode Mining
	:	Claims situated within
GEORGE R. EDELINE and	:	Section 4, T. 6 N., R. 5 E.,
TONTO MINING AND MILLING	:	G. and S. R. Meridian,
COMPANY, INC.,	:	Maricopa County, Arizona
	:	
Contestees	:	
	:	
and	:	
	:	
CAREFREE RANCHES, a limited	:	
partnership,	:	
	:	
Intervenor	:	

UNITED STATES OF AMERICA,	:	ARIZONA 5320-15
	:	
Contestant	:	Involving the validity of
	:	the Rackensack Nos. 1
v.	:	through 3 Lode Mining
	:	Claims situated within
GEORGE R. EDELINE, MABEL	:	Section 4, T. 6 N.,
STEINEGGER AND TONTO MINING	:	R. 5 E., and Section 33,
AND MILLING COMPANY, INC.,	:	T. 7 N., R 5 E., G. and
	:	S. R. Meridian, Maricopa
Contestees	:	County, Arizona.
	:	
and	:	
	:	
CAREFREE RANCHES, a limited	:	
partnership,	:	
	:	
Intervenor	:	

MOTION TO REMAND FOR FURTHER HEARING

COMES NOW the Contestant in the above-captioned
mineral contest and moves the Board pursuant to 43 CFR
§ 4.452-9 to remand said case for the taking of additional

evidence regarding the issue of present discovery on the following grounds:

Information not previously available at the hearing on March 19-20, 1973, has come to the attention of the Contestant in regard to the activities of Contestee Tonto Mining and Milling Company, Inc. on the claims in question which casts grave doubt on the testimony of the witness upon whom the Administrative Law Judge relied in holding the claims presently valid, namely, Geologist James R. Brooks. Specifically, further examinations of the claims subsequent to the hearing in 1973 by Gilbert J. Matthews, Forest Service Mining Engineer, indicate that said contestee has abandoned its operations and that the claims are in disrepair and covered by vegetative growth. Subsequent to the hearing and presumably pursuant to the advice of Brooks, Contestee Tonto Mining and Milling Company, Inc. engaged in blasting operations on the Rackensack No. 2 LMC. This ostensibly was in pursuit of the ore which the geologist testified was in such quantity as to return a profit of \$1,000,000. The lack of activity observed by Matthews raises serious doubt as to the soundness of that opinion and consequently on the prudent-man issue. With such profits held before the eyes of the Contestees, it is remarkable that no definitive steps have been taken to exploit the "discovery". The Contestant realizes that actual production is not required to validate a mining claim, but submits that

it is certainly the best evidence of a discovery, especially since a reputable company such as Tonto Mining and Milling has seen fit to apparently abandon the claims. Isn't it more probable that a prudent man would take steps to develop such a claim, i.e., block out the ore body and begin production? One conclusion that could be drawn is that Tonto's operations were always exploratory in nature and operations ceased when Brooks' predictions failed to materialize. If indeed this is the case, a decision affirming Judge Mesch's holding of a present discovery on the claims would be inequitable and unfair to the Contestant and to the public. Certainly, Brooks' hypotheses have been tested and possibly found wanting by Tonto. At any rate, Contestant believes the questions raised by the apparent abandonment of the claims by Tonto are serious enough to merit the taking of additional evidence, especially since Judge Mesch relied exclusively upon Brooks' testimony on the Rackensack claims and was apparently impressed with Tonto Mining and Milling Company, citing their intention to be in production in a few months. Decision, pp. 11-12. The same questions are raised as to the Cerro de Oro No. 1 LMC.

The remand should be ordered to ascertain if the reality of experience has refuted the unsupported and dubious generalizations made by the geologist at the hearing, which generalizations were relied upon by the

Administrative Law Judge.

In support of its Motion, the Contestant attaches a copy of a Memorandum Report and attachments thereto prepared by Matthews dated August 1, 1975, and incorporated herein by reference. Said report is offered solely in support of Contestant's motion and is not intended as an offer of additional evidence on the merits of the case.

Respectfully submitted this 21st day of October, 1975.

DEMETRIE L. AUGUSTINOS

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