



Department of Mines and Mineral Resources

1502 West Washington

Phoenix, Arizona 85007

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Annual Assessment Work Requirements Under Arizona Statute

Circular 47, August, 1993

The following letter is being reprinted with the permission of John C. Lacy, with the law firm of DeConcini McDonald Brammer Yetwin & Lacy, in hopes that it will answer some questions concerning assessment work on lands where the mineral rights are owned by the federal government.

You have recently indicated to me that the department has been receiving questions regarding what documents, if any, need to be filed in conjunction with the payment of the rental fees to the federal government as required under federal law.

The Arizona statute dealing with the performance of annual assessment work specifies in A.R.S. § 28-208 that an affidavit may be filed before December 31, in "any year in which performance of annual labor or making improvements upon a mining claim is required..." and that any person "may make and record in the office of the County Recorder" an affidavit describing the nature of the work performed. This affidavit, when recorded, constitutes *prima facie* evidence of the performance of the labor and improvement.

Since the federal statute applicable for the 1992-93 and 1993-94 assessment years specifies that annual work is not required except under special circumstances where a claimant has ten or fewer claims, it is my view that no county filing requirement presently exists unless the claimant is performing exploration or mining work on ten or fewer claims under the specifics recognized by the federal statute. It is however, my recommendation that some document be recorded in the applicable county records indicating the payment of the fee to provide record notice that such action has been taken and to assist title examiners in verifying record title and compliance with law in the future.

When the current filing system was established by the Federal Land Policy and Management Act in 1976 the purpose was stated as providing the Bureau of Land Management with records for its own use as a part of its management authority. The law and regulations were seemingly quite clear that it was not the intention of the Congress to establish a records repository within the Bureau of Land Management and thus

the official records were presumably to be continued at the county level. This being the case, it appears to me that the sound practice would be to record a document at the county level evidencing either the payment of the rental fee prior to on or before the close of business on December 30 as specified in the statute or a copy of the form that the BLM has suggested for the 10-claim exemption.

I have enclosed a form that I prepared on behalf of some of my clients to evidence the payment of the rental fee for recording at the county level. Please also note, that where the rental fee has been paid and some assessment work has also been done, it is probably a good idea to state that such work has been performed. If this is done, however, the claimant should be sure that the recited activities have either been permitted under a "Plan of operations" or were otherwise included within a "Notice of Intent to Operate" that has been previously filed by the claimant.

Where the 10 claim exemption is being claimed, the owner should use the forms provided by the Bureau of Land Management and also record the document in the official records of the county in which the claims are situated. I would caution against using the exemption permitting the performance of "exploration work to discover mineralization" because this statement would appear to suggest that no discovery exists within the claim. Thus, if the owner has identified mineralization that is believed to constitute a discovery, the use of the exemption might result in an assertion that the claiming of the exemption amounted to a declaration that no discovery existed as of September, 1993, and any "existing rights" that could exist under new changes to the mining laws thereby denied.

John C. Lacy

(EXAMPLE OF A FILLED-OUT FORM)

STATE OF ARIZONA, County of Pima) SS:

**CERTIFICATION OF PAYMENT OF RENTAL FEE
IN LIEU OF AFFIDAVIT OF ANNUAL ASSESSMENT WORK**

Joe Cassetta, being first duly sworn, deposes and says that:

1. He is one of the owners of the following described unpatented lode and placer mining claims situated in Pima County, Arizona (the "Claims"), the location notices of which are of record in said county, and in the records of the Arizona State Office of the Bureau of Land Management under the file numbers indicated as follows:

Name of Claim	Pima Cnty, Recds Book	Page	BLM Serial AMC No.
Picture Spring No. 1 (lode)	615	491	346136
Picture Spring No. 2 (lode)	615	186	346137
Picture Spring No. 1 Placer	626	190	348289
Picture Spring No. 2 Placer	626	192	348322

[The Picture Spring claims are situated in the Northeast Quarter of Section 23, Township 12 South, Range 5 West,] G&SRB&M

Ridge No. 1	637	366	348896
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[The Ridge No. 1 is situated in the Southwest Quarter of Section 18, Township 13 South, Range 5 West, G&SRB&M]

2. Pursuant to Amendment Number 18 of H.R. 5503, of the Department of the Interior and Related Agencies Appropriations Act, 1993, owner has paid a rental fee of \$100 per claim for the assessment year ending September 1, 1993, and an advance rental of \$100 per claim for the assessment year beginning on September 1, 1993, in lieu of recording an affidavit of performance of annual assessment work. Owner further states, however, that mineral production activities have occurred upon the Claims during the past assessment year that would have ordinarily qualified as annual assessment work.

3. The name and address of the owners of the Claim for which this Certificate is prepared is: Joe Cassetta and Julie Cassetta, 860 E. 19th Street, Tucson, Arizona 85719. **THIS IS NOT A CHANGE OF ADDRESS**

4. The Claims are held and claimed by the owner for the valuable mineral contained therein, and the owner intends to continue development of the claims.

DATED this _____ day of August, 1993.

Joe Cassetta

The foregoing instrument was acknowledged before me this _____ day of August, 1993, by Joe Cassetta.

Notary Public

My Commission Expires: _____

STATE OF ARIZONA, County of _____) SS:

**CERTIFICATION OF PAYMENT OF RENTAL FEE
IN LIEU OF AFFIDAVIT OF ANNUAL ASSESSMENT WORK**

_____, being first duly sworn, deposes and says that:

1. He is one of the owners of the following described unpatented lode and placer mining claims situated in _____ County, Arizona (the "Claims"), the location notices of which are of record in said county, and in the records of the Arizona State Office of the Bureau of Land Management under the file numbers indicated as follows:

_____ Name of Claim	_____ County Recorder's Data	_____ BLM Serial AMC No.
Located in Sec(s) _____, Township _____ Range _____		

_____ Name of Claim	_____ County Recorder's Data	_____ BLM Serial AMC No.
Located in Sec(s) _____, Township _____ Range _____		

2. Pursuant to Amendment Number 18 of H.R. 5503, of the Department of the Interior and Related Agencies Appropriations Act, 1993, owner has paid a rental fee of \$100 per claim for the assessment year ending September 1, 1993, and an advance rental of \$100 per claim for the assessment year beginning on September 1, 1993, in lieu of recording an affidavit of performance of annual assessment work. Owner further states, however, that mineral production activities have occurred upon the Claims during the past assessment year that would have ordinarily qualified as annual assessment work.

3. The name and address of the owners of the Claim for which this Certificate is prepared is _____

THIS IS NOT A CHANGE OF ADDRESS.

4. The Claims are held and claimed by the owner for the valuable mineral contained therein, and the owner intends to continue development of the claims.

DATED this _____ day of _____, 19 _____.

The foregoing instrument was acknowledged before me this _____ day of _____, 19 _____ by _____

Notary Public

My Commission Expires: _____

STATE OF ARIZONA, County of _____) SS:

NOTICE OF INTENT TO HOLD MINING CLAIMS
(IN LIEU OF AFFIDAVIT OF ANNUAL ASSESSMENT WORK)

_____, being first duly sworn, deposes and says that:

1. He is one of the owners of the following described unpatented lode and placer mining claims situated in _____ County, Arizona (the "Claims"), the location notices of which are of record in said county, and in the records of the Arizona State Office of the Bureau of Land Management under the file numbers indicated as follows:

Name of Claim _____	County Recorder's Data _____	BLM Serial AMC No. _____
Located in Sec(s) _____, Township _____ Range _____		

Name of Claim _____	County Recorder's Data _____	BLM Serial AMC No. _____
Located in Sec(s) _____, Township _____ Range _____		

Additional claims, if any, are listed on attached sheet.

2. Pursuant to Amendment Number 18 of H.R. 5503, of the Department of the Interior and Related Agencies Appropriations Act, 1993, owner has paid a rental fee of \$100 per claim for the assessment year ending September 1, 1993, and an advance rental of \$100 per claim for the assessment year beginning on September 1, 1993, in lieu of recording an affidavit of performance of annual assessment work. Owner further states, however, that mineral production activities have occurred upon the Claims during the past assessment year that would have ordinarily qualified as annual assessment work.

3. The name and address of the owners of the Claim for which this Certificate is prepared is _____

_____ **THIS IS NOT A CHANGE OF ADDRESS.**

4. The Claims are held and claimed by the owner for the valuable mineral contained therein, and the owner intends to continue development of the claims.

DATED this _____ day of _____, 19_____.

The foregoing instrument was acknowledged before me this _____ day of _____, 19_____ by _____

Notary Public

My Commission Expires: _____