



The Stock Raising Homestead Act of 1916 and Mining Claims

Background:

Passed in 1916, the intent of the Stock Raising Homestead Act (SRHA) was to allow ranchers to privatize lands deemed to be of no value except for livestock grazing and the growing of forage for cattle. While homesteaders gained ownership of the surface lands, the federal government retained the mineral rights. Over 70 million acres of public lands were privatized under SRHA including 2,986,746 acres in Arizona. Much of this acreage has since been developed for home sites and sold as smaller parcels – something the Act never intended.

Since the Federal Government retains the mineral rights under this act, the 1872 Mining Law applies and SRHA lands are opened to mineral entry even though the surface land is private. As a result, anyone has the right to enter these lands, prospect, file a mining claim, and then file a plan of operations to mine. The Act was amended in 1993 to require notification of the surface owner before the land is entered, but the landowner has no right to prevent entry or stop mining from taking place on the property. The Bureau of Land Management (BLM) is charged with administering mining on these lands.

Notification and Entry Requirements:

Claimants (those who intend to file a mining claim) are required by law to provide the surface owner notice (called a NOITL) by certified mail before they can enter SRHA lands. Once notice has been given, no one (including the surface owner) may conduct mineral activities except the person who filed notice. This is called a segregation period, which lasts 90 days. The claimant must wait 30 days after notice has been provided before entering SRHA land. While the surface owner is allowed to request that their lands be entered at a convenient time, the land owner may not prevent entry. The claimant has the remainder of the segregation period (60 days) to explore and stake mining claims.

Plan of Operation and Bonding:

After a mining claim is staked, the mining claimant cannot conduct mineral activities (other than non-surface disturbing activities) without written consent from the surface owner or an approved plan of operations from the BLM. If the claimant submits a plan of operations, the BLM has 60 days to approve the plan, but can get an extension of an unspecified amount of time to comply with other applicable laws. The claimant must file a reclamation bond to cover tangible losses during operations and/or permanent losses if the land is not returned to pre-mining agricultural production levels. The BLM decides the amount and conditions of the bond. The surface owner cannot be reimbursed for loss of property values as a result of mining claims or operations. During the time that operations take place, the surface owner receives an annual rental payment based on fair market rental conditions for agricultural land.

Answers to common questions:

- SRHA lands are open only to locatable minerals.
- Millsite claims are not allowed on SRHA lands.
- Surface owners can stake mining claims at anytime as long as a NOITL has not segregated the land.
- Only the person who filed a NOITL can stake a mining claim during the segregation period.
- The 90 day segregation period commences when the letter was received by the surface owner.
- If a surface owner refuses service of a NOITL, the claimant must prove the service was attempted by submitting evidence that the letter was refused or undeliverable. The 90 day segregation clock starts ticking in this case on the day the Post Office noted the letter was refused or undeliverable.
- The claimant must wait for the first 30 days of the segregation period to enter SRHA lands. The claimant then has the remaining 60 days to explore and stake mining claims.
- Surface owner permission is not required to enter (or re-enter) the land to stake mining claims.
- If the surface owner will not allow the claimant to enter his or her land, it becomes a civil matter for a court to decide. The BLM may not force the surface owner to grant access.
- Once a mining claim has been filed, the claimant cannot enter the land without either written permission from the surface owner or an approved plan of operation.
- A surface fee (determined by the BLM) must be paid to compensate the surface owner for losses during mining operations.
- The BLM bases the surface fee on the current uses of the land and the fee may not exceed fair market rental value of the land.
- The claimant must post a bond (determined by the BLM) to compensate the landowner if the land cannot be reclaimed to the full production level before mining.
- Loss to actual improvements (buildings, access, etc) due to mining is compensable. Loss of property value is not.
- If the claimant fails to comply with the surface agreement, the surface owner can sue for triple the damages caused by exploration or locating the mining claim.

For more information:

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