



U.S. Department of the Interior
Bureau of Land Management

Surface Disturbance on Public Lands

43 CFR 3809 Surface Management

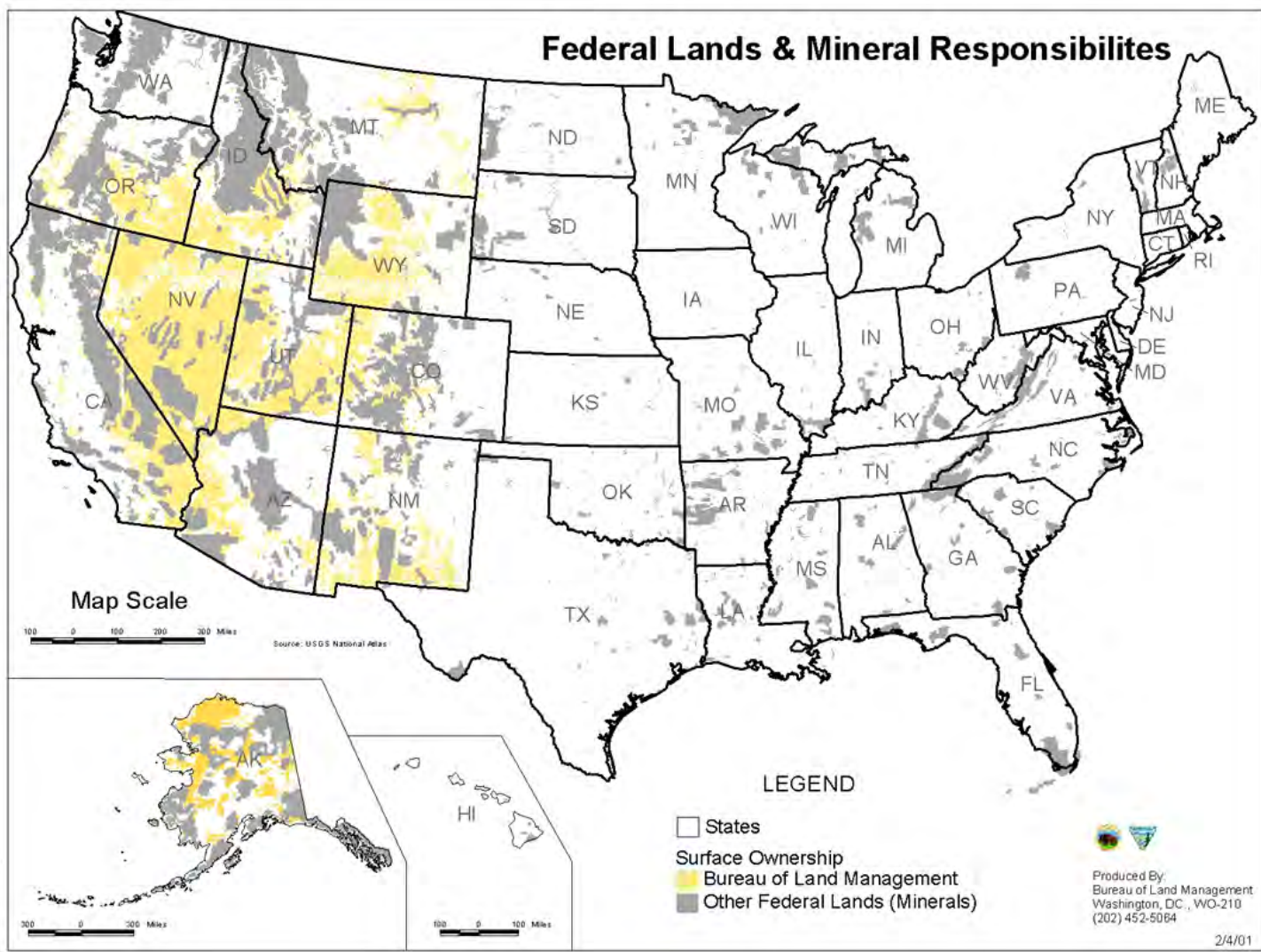
Daniel Atkinson
datkinson@blm.gov
(775) 861-6538





43 CFR 3809

- All information presented comes directly from the regulations at 43 Code of Federal Regulations (CFR) 3809.
 - Please review these regulations prior to initiating any surface disturbance on public lands to ensure you maintain compliance.
 - Contact BLM District/Field Office for specific questions/details.



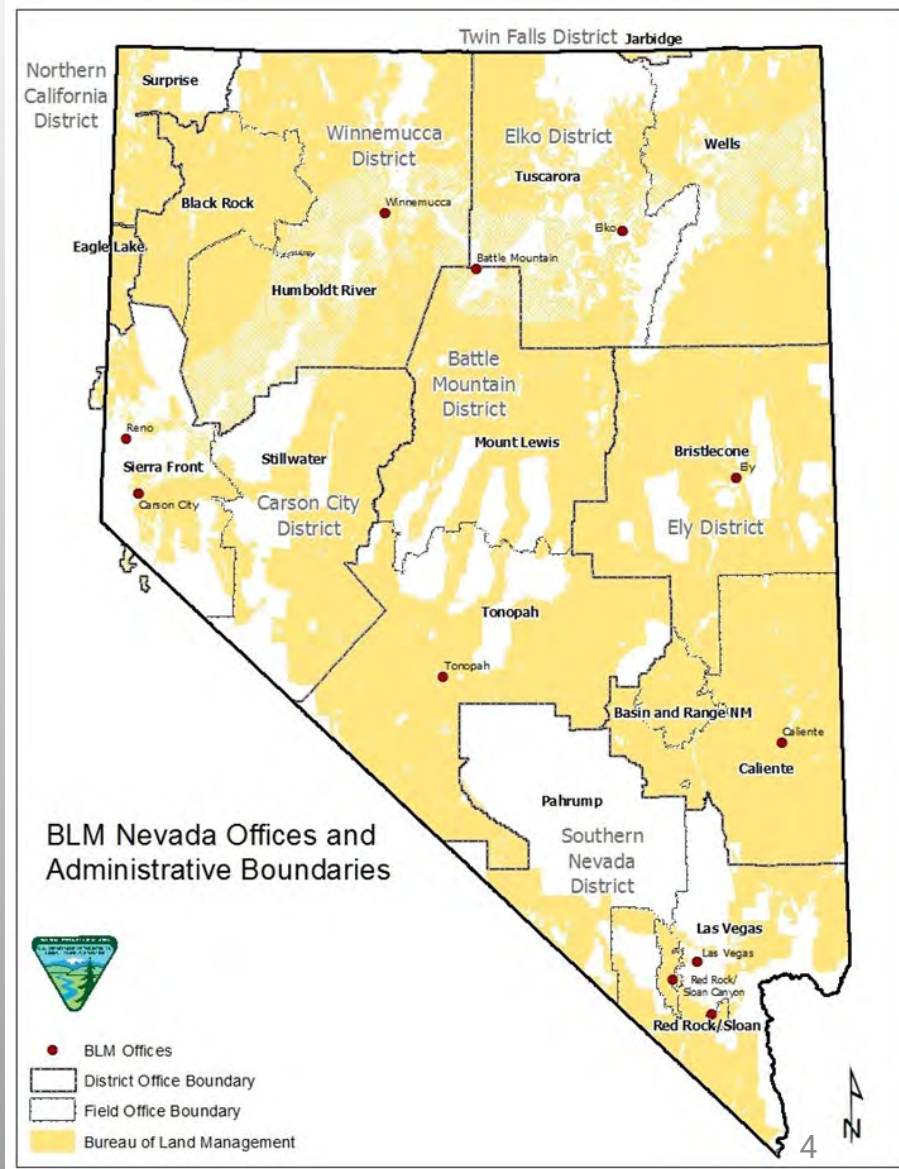
BLM Overview

- Manages ~ 262 million acres of public land
- ~ 1/8 of the land in the United States
- ~ 300 million acres sub surface minerals



Operations in Nevada

- 218 Approved Plans of Operations
- 358 Active Notices





43 CFR 3809.10

- BLM classifies operations as:
 - Casual Use – Operator need not notify BLM.
 - You must reclaim any casual use disturbance that you create.
 - Notice-level operations – Operator must submit a notice.
 - Plan-level operations - Operator must submit a plan of operations and obtain BLM approval.



43 CFR 3809.5

Casual Use means activities ordinarily resulting in no or negligible disturbance of the public lands or resources.

- Generally includes:
 - Collection of geochemical, rock, soil, or mineral specimens using hand tools; hand panning; or non-motorized sluicing
 - May include use of small portable suction dredges
 - Check with your District/Field Office



U.S. Department of the Interior
Bureau of Land Management

Casual Use





43 CFR 3809.5 continued

- Casual Use generally includes:
 - Use of metal detectors, gold spears and other battery-operated devices for sensing the presence of minerals.
 - Hand and battery-operated drywashers.
 - Use of motorized vehicles must be consistent with regulations governing such use, off-road vehicle use designations contained in BLM land use plans, and the terms of temporary closures ordered by BLM



Casual Use





43 CFR 3809.5 continued

Casual Use does **NOT** include:

- Use of mechanized earth-moving equipment
- Truck-mounted drilling eqp.
- Motorized vehicles in areas “closed” to off-road vehicles
- Occupancy
 - Defined in 43 CFR 3715.0-5
 - Full or part-time residence
- Areas where cumulative effects >negligible dist.
- Use of chemical recovery or processing of minerals
- Use of explosives





43 CFR 3809.21

Notice-level operations:

- For exploration activity greater than casual use
- Surface disturbance of 5 acres or less of public land
- Bulk Sampling of 1,000 tons or less of presumed ore

- Operator must file a complete Notice with BLM District/Field Office
 - 15 days before commencing operations
 - Submit a Financial Guarantee (Bond) for reclamation
- Expires after 2 years unless extended or modified



U.S. Department of the Interior
Bureau of Land Management

Notice-level Operations





U.S. Department of the Interior
Bureau of Land Management

Casual Use or Notice-level?





U.S. Department of the Interior
Bureau of Land Management





U.S. Department of the Interior
Bureau of Land Management

Casual Use or Notice-level?





43 CFR 3809.301

- Required Notice Information
 - Operator Information
 - Name, address, phone, taxpayer ID number ⁽¹⁾
 - BLM serial number of mining claims
 - Point-of-Contact for corporations
 - Description of Activities
 - Description of the proposed activity
 - Measures to prevent Unnecessary or Undue Degradation
 - Maps showing all activity
 - Schedule of activities

(1) Must be a U.S. citizen or U.S. registered corporation (43 CFR 3809.301(b)(1)).



43 CFR 3809.301 continued

- Required Notice Information
 - Reclamation Plan
 - Description of how you will complete reclamation
 - Reclamation Cost Estimate
 - An estimate of the cost to fully reclaim your operations
 - Tools available on BLM/NDEP website
 - Additional information required by BLM
 - Provide a Financial Guarantee (Bond) for reclamation



U.S. Department of the Interior
Bureau of Land Management

Notice-level Operations





Plan-Level Operations





43 CFR 3809.11

Plan-level Operations:

- For exploration activity greater than casual use
- Surface disturbance greater than 5 acres of public land
- Bulk Sampling of >1,000 tons of presumed ore
- Mining, processing, and milling activities

- Operator must file a complete Plan of Operations with BLM District/Field Office
 - Plan must contain all required information under 43 CFR 3809.401(b)
 - Environmental Analysis (NEPA)
 - Submit a Financial Guarantee (Bond) for reclamation



43 CFR 3809.11 continued

- Operator must submit a Plan of operations in the following special status areas:
 - Lands in the California Desert Conservation Area
 - Areas in the National Wild and Scenic Rivers System
 - Designated Areas of Critical Environmental Concern
 - Areas designated as part of the National Wilderness Preservation System
 - Areas designated as “closed” to off-road vehicle use



43 CFR 3809.11 and 3809.31

- Operator must submit a Plan of operations in the following special status areas:
 - Any lands or waters known to contain Federally proposed or listed threatened or endangered species or their proposed or designated critical habitat
 - National Monuments and National Conservation Areas
 - Lands patented under the Stock Raising Homestead Act when operator does not have the written consent of the surface owner.
 - Split estate lands other than those patented under the SRHA (a.k.a. Acquired Lands)



U.S. Department
Bureau of Land M

Plan-level Operations



7 12:41



Unnecessary or Undue Degradation

To prevent UUD the proposed operation will:

- Comply with the performance standards at 43 CFR 3809.420
- Comply with terms and conditions of an approved plan of operations or notice
- Comply with other Federal and State laws related to environmental and cultural resource protection
- Conform to the requirements of 43 CFR 3715
 - “Occupancy”
- Must be reasonably incident to prospecting, mining, or processing as defined in the regulations



43 CFR 3809.420 – Performance Standards

General Performance Standards

- Use equipment, devices and practices that will meet the performance standards of this subpart
- Avoid unnecessary impacts by following a reasonable exploration, development, and reclamation sequence
- Comply with applicable BLM land-use plans
- Apply mitigation measures specified by BLM to protect public lands
- Initiate and complete reclamation at the earliest economically and technically feasible time (concurrent)
- Compliance with other Federal and State laws



43 CFR 3809.420 – Performance Standards

Specific Performance Standards for:

- Access Routes
- Mining Wastes
- Reclamation
- Air Quality
- Water Quality
- Solid Wastes
- Fisheries, wildlife and plant habitat
- Cultural and paleontological resources
- Protection of survey monuments
- Fire
- Acid-forming, toxic, or other deleterious materials
- Leaching operations and impoundments
- Maintenance and public safety



Claimant Responsibilities – § 3809.116

(a) Mining claimants and operators (if other than the mining claimant) are liable for obligations under this subpart that accrue while they hold their interests.

(b) Relinquishment, forfeiture, or abandonment of a mining claim does not relieve a mining claimant's ... responsibility under this subpart for obligations that accrued or conditions that were created while the mining claimant ... was responsible for operations conducted on that mining claim or in the project area.

(c) Transfer of a mining claim or operation does not relieve a mining claimant's ... responsibility under this subpart for obligations that accrued or conditions that were created while the mining claimant ... was responsible for operations conducted on that mining claim or in the project area until—

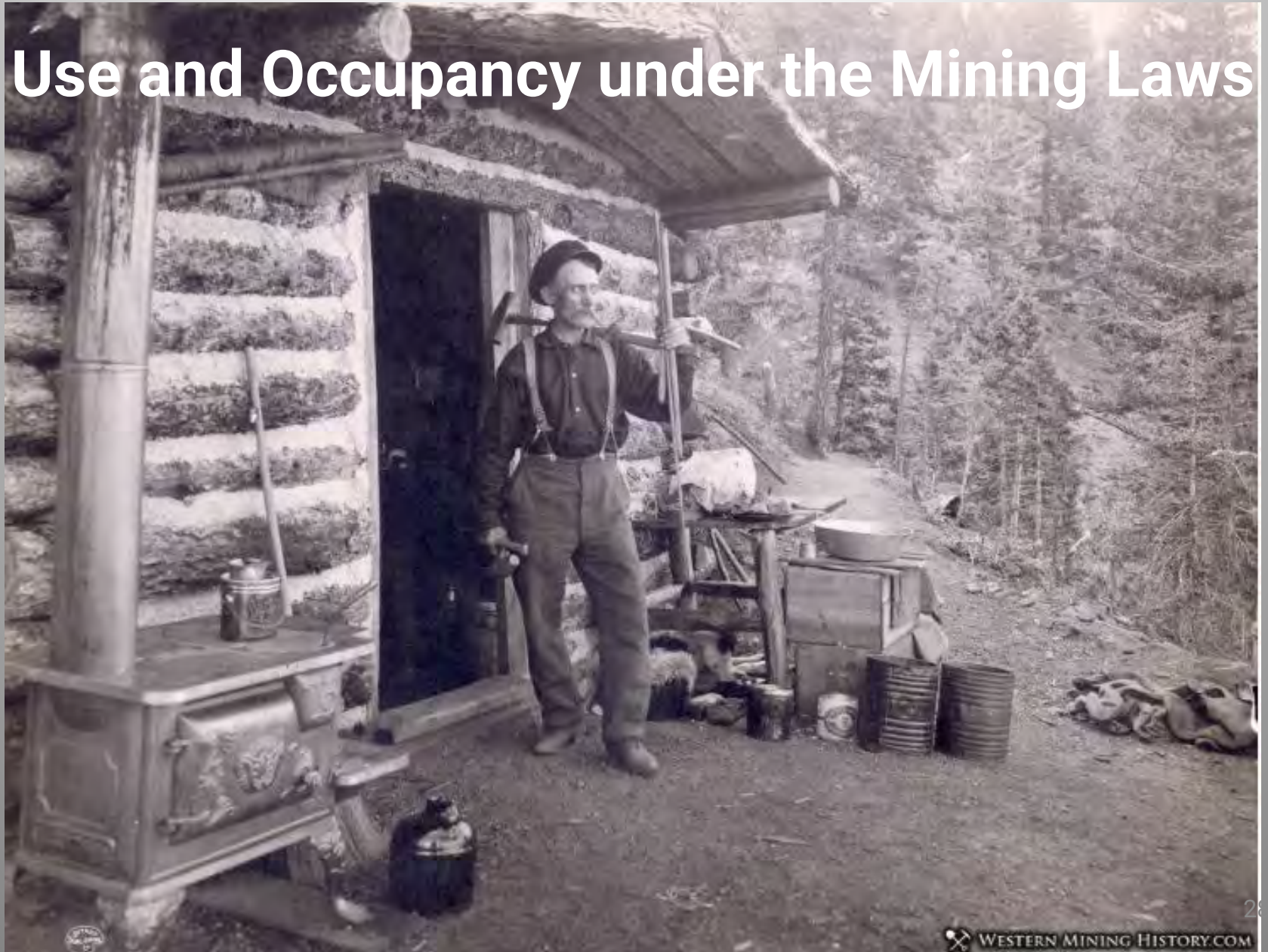
(1) BLM receives documentation that a transferee accepts responsibility for the transferor's previously accrued obligations, and

(2) BLM accepts an adequate replacement financial guarantee adequate to cover such previously accrued obligations and the transferee's new obligations.



U.S. Department of the Interior
Bureau of Land Management

Use and Occupancy under the Mining Laws





43 CFR 3715

- **§ 3715.2 What activities do I have to be engaged in to allow me to occupy the public lands?**
 - In order to occupy the public lands under the mining laws for more than 14 calendar days in any 90-day period within a 25-mile radius of the initially occupied site, you must be engaged in certain activities. Those activities that are the reason for your occupancy must:
 - (a) Be reasonably incident;
 - (b) Constitute substantially regular work;
 - (c) Be reasonably calculated to lead to the extraction and beneficiation of minerals;
 - (d) Involve observable on-the-ground activity that BLM may verify under § 3715.7; and
 - (e) Use appropriate equipment that is presently operable, subject to the need for reasonable assembly, maintenance, repair or fabrication of replacement parts.



43 CFR 3715

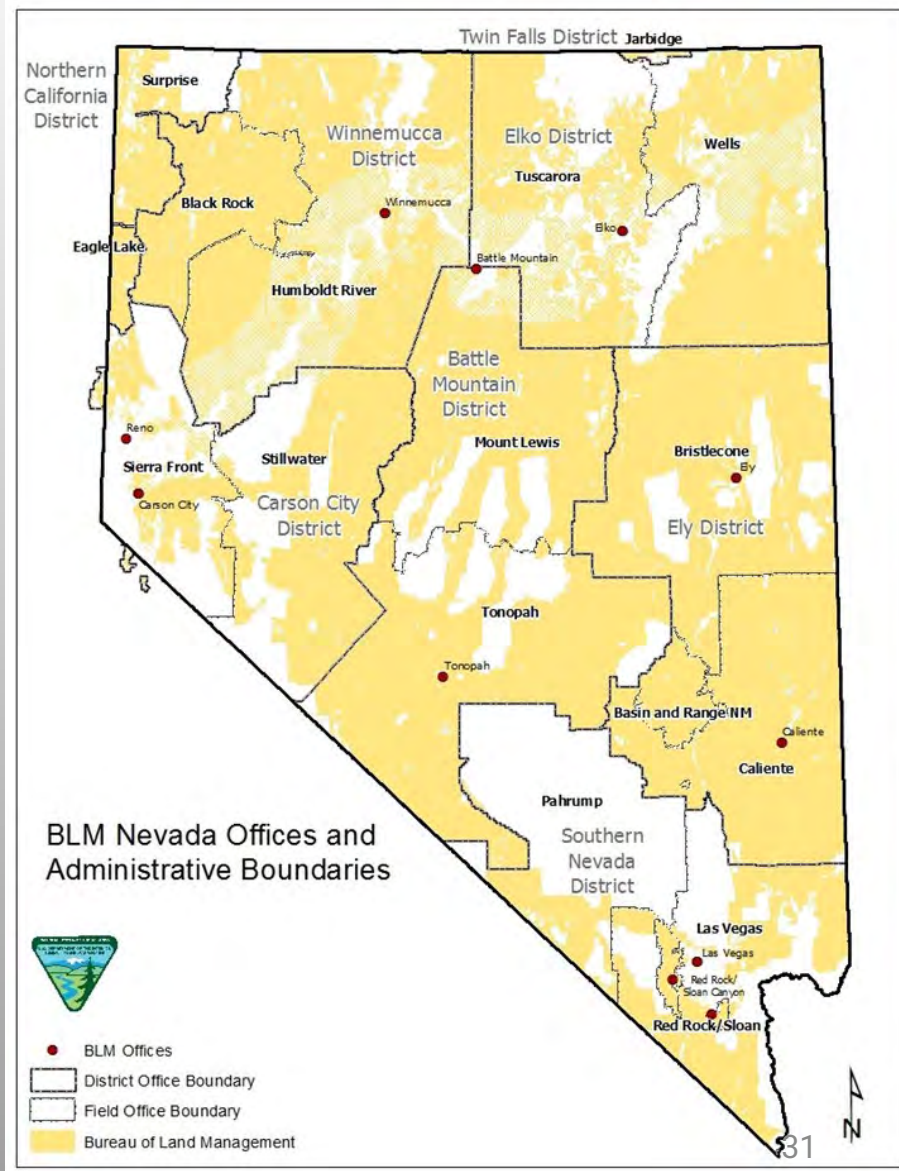
- **§ 3715.2-1 What additional characteristic(s) must my occupancy have?**
 - In addition to the requirements specified in § 3715.2, your occupancy must involve one or more of the following:
 - (a) Protecting exposed, concentrated or otherwise accessible valuable minerals from theft or loss;
 - (b) Protecting from theft or loss appropriate, operable equipment which is regularly used, is not readily portable, and cannot be protected by means other than occupancy;
 - (c) Protecting the public from appropriate, operable equipment which is regularly used, is not readily portable, and if left unattended, creates a hazard to public safety;
 - (d) Protecting the public from surface uses, workings, or improvements which, if left unattended, create a hazard to public safety; or
 - (e) Being located in an area so isolated or lacking in physical access as to require the mining claimant, operator, or workers to remain on site in order to work a full shift of a usual and customary length. A full shift is ordinarily 8 hours and does not include travel time to the site from a community or area in which housing may be obtained.



Operations in Nevada

218 Approved Plans
of Operations

358 Active Notices





U.S. Department of the Interior
Bureau of Land Management

Questions?

Daniel Atkinson
datkinson@blm.gov
(775) 861-6538

