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We are proud to devote this entire issue to a topic of basic importance to title people everywhere. It is so basic in fact, it might well be the genesis of land titles in virtually all areas of the United States.

We think this a must for the library of every title office. Additionally, we believe it could well be fundamental reading for all title men, to refresh those of experience; to instruct those in their formative years in the business.

To the author, Mr. Glenn Cox, Chief Title Officer, The Title Insurance Company, Boise, Idaho, we extend our thanks for the use of this learned compilation of material on a subject not often treated in such exacting detail.

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EXCEPTIONS AND RESERVATIONS IN UNITED STATES PATENTS TO PUBLIC LANDS

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Introduction

During the Korean conflict the United States, as a member of the United Nations, offered a $100,000 to the first enemy soldier who would deliver intact a MIG 15. The idea of offering rewards and immunity to enemy soldiers as an inducement to surrender or supply information was not new. In fact the first similar action taken by the authorities of the United States, in relation to the public land was an act taken in August 1776, in which it was provided in part:

> "That these States will receive all such foreigners who shall leave the armies of his Britannic Majesty in America, and shall choose to become members of any of these States, and that they shall be protected in the free exercise of their respective religions, and be invested with the right, privileges, and immunities of natives, as established by the laws of these States; and moreover, that this Congress will provide for every such person, fifty acres of unappropriated lands in some of these States, to be held by him and his heirs in absolute property."

Additional provisions were made to give various amounts of public lands to officers who would desert from the British Army and choose to become citizens of these States. The amount of land given was on a graduated scale depending upon rank. It extended from a 1000 acres for a Colonel to 100 acres for a non-commissioned officer.

While this subject is Exceptions and Reservations in United States Patents to Public Lands, and while there is no intention to enlarge that subject by attempting to discuss any other phase of the Public Land Laws, it is deemed necessary, in order to adequately present this topic, to acquaint you in general with the historical development of the public land acts.

While the first Public Land Law is mentioned, there is no intention to bring you up to date, act by act. It is intended rather to give you the historical development of the public land laws by pointing out the principal acts, and correlating the acts that provide for the various exceptions and reservations you see in the patents you examine.

HISTORICAL DEVELOPMENT

I. **Sales of Public Lands:**—The first

general act passed by Congress in relation to the public lands is dated May 20, 1785. It directed the manner of survey, the price of the land, and the mode and form of conveyance. This act and many of the early acts provided for the sale of public lands. These acts are those which provided for the sale of public lands to the highest bidder or at private sale. None of these acts made provision for exceptions or reservations. The Act of May 18, 1796, under which lands were sold in the territory northwest of the Ohio River and above the mouth of the Kentucky River—the area which is some times referred to as the Seven Ranges—did exclude from sale the salt springs, together with the section of one-mile square which included it. This exclusion from sale is not the reservation or exception discussed, but is more the forerunner of excluding known mineral lands from sale — something that will be touched on later.

Among the early laws is the Act of April 24, 1820, 3 Stats. 566, Chap. 51: Title 43, U.S.C.A. Sec. 672. This Act required that lands subject to sale be first offered for sale at public auction and thereafter at private sale. It is under this Act, as amended that sales of public lands have been made since that time. It is an Act under which many lands in Idaho were patented and it is therefore requested that you keep this Act in mind—The Act of April 24, 1820.

The early laws providing for the sale of public lands, including the Act of April 24, 1820 contained no provisions for reservations or exceptions. However, if public lands were sold under the authority of the Act of April 24, 1820, but after the passing of a subsequent Act which called for patent reservations, the patent issued will contain such reservations even though the Act of April 24, 1820 authorizing the sale made no provisions. These subsequent Acts providing for the reservations will be discussed later. Therefore, in examining patents, not only is the date of the Act authorizing the grant important, but the date the patent was issued is likewise important to determine whether or not it should contain exceptions or reservations. Only a relatively few patents issued under the Act of April 24, 1820 and its amendments contain an exception of oil or minerals because most of the sales of public lands were made prior to the passage of the first Act calling for these reservations. These points will become clear as the laws that have provided for the exceptions and reservations you find in the patent you examine are pointed out.

II. **Preemption Claims:**—Congress has the exclusive jurisdiction and control over the public lands. This authority is derived from Article 4, Section 3, Clause 2, of the United States Constitution. This authority is so complete that Congress has been able to make special grants or sales to individuals.

It appears that prior to 1799 one John Cleves Symmes had entered into a contract with the United States for the purchase of certain lands. Later he asked to change the contract by having it call for a smaller number of acres. This was granted and a patent was issued to Symmes to the land described in the amended contract. Before the contract was changed, Symmes had contracted to sell part of the land described in the original contract, but which he did not receive under his patent. The government by an Act approved March 2, 1799 permitted these contract purchasers to buy this land from the government. This was the first preemption statute. Many preemption statutes; that is, acts that conferred special privileges to purchase the public lands, were subsequently approved. The next Act recognizing preemption was approved May 10, 1800. It was followed by similar preemption acts. The Act of September 4, 1841 extended preemption rights upon surveyed public lands to every citizen who was the head of a family, or widow, or single man over the age

of twenty-one years. The thinking behind the preemption laws was to permit the pioneer, who was usually in advance of established settlements to purchase the favorite spot of land selected by him, not to exceed one hundred and sixty acres. These preemption statutes made no provisions for exception or reservations but did exclude certain types of land including those upon which there was situated any known salines or mines. Although these preemption statutes did not provide for exceptions or reservations if the patent was issued pursuant to one of them, but after the Acts calling for reservations had been passed the patent will contain such reservations. So here again we see that not only is the date of the act under which the patent was issued important, but the date of the patents is likewise important. The preemption laws were repealed by the Act of March 3, 1891, 26 Stats. 1097, Chap. 561, Sec. 4., which was before the passage of acts calling for the exceptions and reservations of minerals. Hence, patents issued upon preemption claims will not contain any exceptions or reservations of oil, gas, coal or other minerals.

Most of the public land disposed of in the late 1700's and early 1800's was sold under laws providing for the sale of public lands to the highest bidder or at private sale, and under the preemption claims. None of these acts in themselves contained provisions for reservations or exceptions, but patents issued pursuant to them, but after the passage of acts we will discuss, would contain exceptions and reservations. Sales under preemption laws continued until their repeal in 1891, and sales were made under the act of April 24, 1820, into the 1900's.

III. **Homestead Acts:**—The third of the principal Acts under which individuals acquired public land are the Homestead Acts. The first Act passed by Congress granting "homesteads" was approved May 20, 1862, 12 Stats. 392. The enactment of this first Homestead Act was the culmination of a long fight to change the theory of the Public Land Laws. Prior to that time, as has been pointed out, public lands had been sold to the highest bidders, and to those who had a preemption claim. Under the Homestead Acts the theory was to encourage settlement of the public domain by rewarding the settlers with the land after they had resided upon, cultivated and improved it.

Various amendments and supplements to the original Homestead Act were approved from time to time, but these Amendatory Acts and the original Acts are all termed the Homestead Acts. Some of those Homestead Acts are:

(1) Original Homestead Act May 20, 1862; 12 Stat. 392 Amended March 21, 1864 and March 3, 1891; 26 Stats. 1097; Title 43 U.S.C.A., Sec. 161

(2) Commuted Homestead Entry March 3, 1891; 26 Stat. 1098 Sec. 6; Title 43 U.S.C.A. Sec. 173.

(3) Soldiers and Sailors' Homestead June 8, 1872; 17 Stat. 333, Title 43 U.S.C.A., Sec. 271 and Amendment.

(4) Additional Homestead Entries
  (a) March 2, 1889, 25 Stat. 854; Title 43 U.S.C.A., Sec. 214.
  (b) April 28, 1904, 33 Stat. 527; Title 43 U.S.C.A., Sec. 213.
  (c) February 20, 1917, 39 Stats. 925; Title 43 U.S.C.A., Sec. 215.

(5) Enlarged Homesteads February 19, 1909; and Amendments thereto; 35 Stats., 639; Title 43 U.S.C.A., Sec. 218.

(6) Enlarged Homesteads in Idaho June 17, 1910; 36 Stat. 531.

(7) Enlarged Homesteads, National Forests March 4, 1923, 42 Stats. 1445; Title 43, U.S.C.A., Sec. 222.

(8) Stock-Raising Homesteads December 29, 1916 39 Stats. 862; Title 43 U.S.C.A., Sec. 291, 292.

With the exception of the Stock-Raising Homestead Act approved on December 29, 1916 these Acts likewise did not contain provisions for reservations and exceptions.

However, by the time the first Homestead Act was approved May 20, 1862, the policy of the government was more and more towards dividing the public lands into two main classifications which were: (1) Mineral and (2) Non-mineral. Also the policy of the government was to limit the entry and sale to those lands classified as non-mineral.

Here again, although the various Homestead Acts did not contain provisions for exceptions and reservations, subsequent acts did make such provisions and if a Homestead patent was issued after these subsequent acts were passed the patent would contain them.

Of course not all public lands were sold to individuals under the Sales Acts, the preemption statutes, and the Homestead Acts, but a large amount of the land was patented under these acts, and as far as Idaho is concerned the Act of April 24, 1820 and the Homestead Acts are more important than the preemption statutes. Other acts which are important and under which large amounts of land in Idaho were patented will be discussed, but now we will turn to the general acts that provide for the exceptions and reservations you find in the patents.

IV. **Water Rights. Act of July 9, 1870:** —In the early public land laws nothing was said about water rights. Local custom, usage and statutes sanctioned the acquisition of the right to use the waters forming part of the public domain by appropriating such waters for a beneficial use, for irrigation, mining or manufacturing, and the Federal Government acquiesced in this policy and finally formally approved it. As the water rights were a necessary adjunct to the mineral rights and mining, we will digress to give you the early mining law relative to public lands.

Even in the early public land law provisions were made for the leasing or sale of minerals or lands containing certain minerals. Some of the acts excluded certain mineral lands from sale such as pointed out in the preemption acts which excluded from sale, lands on which were situated known salines or mines.

Until about 1860 the United States had no real mineral policy. As lands were surveyed some lands were classified as mineral and reserved from sale under the general land laws and preemption statutes. Coal lands for example were excluded from sale and in an act approved July 1, 1864 provision was made for entry upon the coal lands for mining, under such regulations as the President should prescribe and at twenty dollars per acre.

Shortly after the passage of this Act, a Resolution of Congress made on January 30, 1865 13 Stats. 567; Title 30 U.S.C.A., Sect. 50, formulated the principal that mineral lands should be reserved to the United States. An Act approved July 4, 1866; 14 Stats. 86; made such principal, law, by saying "In all cases lands valuable for mineral shall be reserved from sale, except as otherwise expressly directed by law." The Old Lode Mining Law 14 Stat., Chap. 262, Title 30 U.S.C.A., Sec. 22 was then approved on July 26, 1866.

It was this old Lode Mining Law that formally recognized and acknowledged the water rights acquired by settlers upon the public domain under the local customs, laws, statutes and the decisions of the courts. It also confirmed the right of way for the construction of the ditches and canals necessary for the enjoyment of such rights. To remove all doubt, the Act of Congress of July 9, 1870 16 Stats. 217 and 218, Sec. 17, Title 30 U.S.C.A., Sec. 52 Title 43 U.S.C.A., Sec. 661 provided that "all Patents granted or preemption or homesteads allowed, shall be subject to any vested and accrued water right, or rights to ditches and reservoirs used in connection with such water rights, as may have been acquired under or recognized by the ninth section," of the Act of

July 26, 1866 (The Old Lode Mining Law).

Hence, beginning on July 9, 1870 all patents issued under the agricultural or non-mineral laws, whether under a Homestead Act, a preemption Statute or under the Act of April 24, 1820 contains the following:

> "Subject to any vested and accrued water rights for mining, agricultural, manufacturing, or other purposes, and rights to ditches and reservoirs used in connection with such water right, as may be recognized and acknowledged by local customs, laws and decisions of courts."

The above quoted paragraph although technically not an exception or reservation does make the land patented subject to the water rights that may have been acquired by persons other than the patentee. This so called exception became less important after the passage of the Desert Land Act of March 3, 1877, 19 Stats. 377; Title 43 U.S.C.A., Sec. 321 because this Act not only limited the water right which should pass by the patent to the amount which could be appropriated and beneficially used upon the land, but also provided that, all surplus water over and above such actual appropriation and use, together with the waters of all lakes, rivers and other sources of water supply upon the public lands and not navigable, shall remain and be free for the appropriation and use of the public for irrigation, mining and manufacturing purposes subject to existing right. It has been held that this Act effected a severance of all waters upon the public domain, not theretofore appropriated, from the land itself, and that a patent thereafter issued, under any of the land laws of the United States, carried with it, of its own force, no common law right to the water flowing through or bordering upon the land conveyed. The patent would not, therefore, carry as an appurtenance to the land the usual common law riparian rights. The patentee did acquire common law riparian rights under State law, but not by virtue of the patent. Because the result is that after March 3, 1877, the land is patented separately from any rights to the non-navigable waters, and such water rights were reserved for the use of the public under the laws of the State in which the land was situated. The Act of 1877 has been construed as providing that all non-navigable waters then a part of the public domain became public property, subject to the plenary control of the State, with the right in each State to determine for itself the extent to which the rule of appropriation or the common law rule in respect of riparian rights should obtain. See **California Oregon Power Co. vs. Beaver Portland Cement Co. et al** 295 U.S. 142; 55 S. Ct. 725; 79 L. Ed. 1356.

V. **Right of the proprietor of a vein or lode to follow such vein or lode onto adjoining land—Lode Mining Law of May 10, 1872.**

As previously pointed out, until the law provided for entry upon coal lands for mining, approved July 1, 1864, the Resolution of Congress of January 30, 1865 formulating the principal that mineral land should be reserved to the United States, and passage of the Old Lode Mining Law on July 26, 1866, the patents issued to public land were of only one character; and that is, what we generally refer to as an agricultural patent or non-mineral patent. While it is true these patents also conveyed to the patentee the minerals in place, the disposal of the land was upon the thinking that such land was primarily valuable for agriculture and not mining.

The Old Lode Mining Law of July 26, 1866 provided in general that the mineral lands of the public domain, both surveyed and unsurveyed were declared to be free and open to exploration and occupation to all citizens of the United States, and those who have declared their intention to become citizens, subject to such regulations

as were prescribed. Any person or association claiming a vein or lode of quartz rock in place, bearing gold, silver, cinnebar, or copper, who had expended in improvements thereon not less than one thousand dollars, and who had occupied and improved the same according to the local customs or rules of miners in the district could acquire title to the claim.

This law provided for a type of patent, similar to the patents granted for coal lands, which we speak of as a mineral patent. The law provided that the claimant could receive a patent to the mining tract granting such mine, **"together with the right to follow such vein or lode, with its dips, angles, and variations to any depth although it may enter the land adjoining which land adjoining shall be sold, subject to this condition."**

It is emphasized that this act allowed a patentee of a mining claim to follow the vein or lode onto adjoining land, and that such adjoining land would be sold subject to this condition.

Another Lode Mining Law similar to the earlier law was passed on May 10, 1872. It is cited as 17 Stats. 91, Title 30 U.S.C.A., Sec. 26. Certain provisions in this act gave to the owner of a lode mining claim the so-called extra lateral right, which is the right to follow onto adjoining property, the lode or vein having its apex in his mining claim. Although this provision in the Act of May 10, 1872 is quite similar to the earlier provision in the Act of 1866, it was not until the Act of 1872 was passed that patents were issued subject to this extra lateral right. This so-called exception is found immediately following the water rights exception and reads:

> "Also to the right of the proprietor of a vein or lode to extract and remove his ore therefrom should the same be found to penetrate or intersect the premises hereby granted as provided by law."

VI. **Right of Way for Ditches or Canals—Act of August 30, 1890.**

As the United States began considering reclamation of its arid public lands in the west, Congress became solicitous lest continued disposal of Public lands in that region might render it difficult and costly to obtain necessary rights of way for canals and ditches when the work was undertaken. To avoid this, Congress at first withdrew great bodies of the lands from disposal. Act of October 2, 1888, C. 1069, 25 Stat. 526; 19 OP. Attys. Gen. 564; 9 Land Dec. 282; 11 Land Dec. 296. That action proved unsatisfactory, and, by the Act of August 30, 1890, 26 Stats. 391; Title 43 U.S.C.A., Sec. 945. Congress repealed the withdrawal, restored the lands to disposal under the public land laws, and gave the direction, that in all patents for lands hereafter taken up under any of the land laws of the United States or on entries or claims validated by this Act, west of the one hundredth meridian, it shall be expressed that there is reserved from the lands in said patent described a right of way thereon for ditches or canals constructed by the authority of the United States. See **United States vs. Ide** 263 U.S. 497; 68 L. Ed. 407; 44 Sup. Ct. 182.

Pursuant to this Act all patents issued subsequent to August 30, 1890, for lands west of the one hundreth meridian are required to contain the following reservation:

> "And there is reserved from the lands hereby granted a right of way thereon for ditches or canals constructed by the authority of the United States."

Some of the patents seemingly went further than the statute and reserved right of way, "for canal and ditches constructed or to be constructed by its authority." It was contended in **United States vs. Ide,** supra, that the act and patent issued thereunder reserved these rights of way for canals or ditches only for those already constructed at the date of the act. The Supreme Court of the United States

said such a contention was too narrow, and that the act although saying only **"constructed"** and not **or to be constructed** meant a reservation of a right of way for ditches or canals which may be authorized by the United States at any time in the future. The Court reasoned that as there were no canals or ditches constructed under the authority of the United States west of the one hundredth meridian at the time of the passage of the act, Congress surely meant a reservation of a right of way for ditches and canals to be constructed in the future. The Court also reasoned that the Statute must be interpreted in the light of the circumstance which prompted it. It is clear now that these reservations are for future constructed canals or ditches and by the Act of March 3, 1891; 26 Stat. 1101 Sec. 18, "the right of way through the public lands and reservations of the United States is . . . granted to any canal or ditch Company formed for the purpose of irrigation. . . " See also Act of February 26, 1897; 29 Stat. 599 and May 11, 1898; 30 Stats. 404.

VII. **Mineral Exceptions and Reservations:**

Following the passage of the Lode Mining Acts and until after 1900 lands were generally patented as mineral lands or as agricultural. It was not considered that lands could be patented for agriculture if the land was thought to be more valuable for mining.

A. **Reservation of coal under Acts providing for agricultural entry upon coal lands—Acts of March 3, 1909 and June 22, 1910.**

Starting with the Act of March 3, 1909; 35 Stat. 844 Title 30 U.S.C.A., Sec. 83-85, providing for agricultural entry upon coal land a new policy was established permitting agricultural entries upon mineral lands with a reservation of the minerals, for which the land had been classified as mineral, and this policy has been adhered to since.

This Act of March 3, 1909 said "that any person who has in good faith located, selected, or entered under the non-mineral land laws of the United States any lands which subsequently are classified, claimed, or reported as being valuable for coal, may, if he shall so elect . . . receive a patent, which shall contain **a reservation to the United States of all coal in said lands, and the right to prospect for, mine, and remove the same . . . .**"

The Act of June 22, 1910 36 Stat. 583 went further and opened the coal lands to entry under the homestead laws, the desert-land law, the Carey Act and the Reclamation Act provided a reservation to the United States was made of the coal and of the right to prospect for, mine, and remove the same. In both the Act of 1909 and 1910 if it could be proved that such lands should not have been classified as coal land, the entryman could secure a patent without reservation of the coal. It was also provided in an Act approved April 14, 1914 (38 Stat. 335) that the Secretary of the Interior could, in cases where patents had been issued under these acts reserving the coal and it was subsequently classified as non-coal in character, issue new or supplemental patents without such reservation. Coal lands could also be entered by the States under laws providing for the sale of isolated or disconnected tracts of public lands, but the coal must be reserved. Act of April 30, 1912 (37 Stat. 105).

B. **Reservation of Oil, Gas and other Minerals—Acts of July 17, 1914 and December 29, 1916.**

Although there are other acts reserving minerals, of which we will discuss or which are set out in the attached Bureau of Land Management List Showing Reservations, and providing for the issuance of patents with reservations or exceptions of oil, gas, or other minerals, the two most important acts are those of July 17, 1914 and December 29, 1916. The reason for saying that these two acts are the most important is because probably

more land was patented subject to the provisions of these acts than any of the other similar acts.

Following the precedent of allowing agricultural entry upon coal land with a reservation of the coal, the Government authorized entry under the agricultural land laws upon vast amounts of land that had been withdrawn because of their suspected oil or mineral bearing character. This was done by the Act of July 17, 1914 38 Stat. 509; Title 30 U.S.C.A., Sec. 121. This is an important act and should be remembered. The patent issued under the various agricultural land laws, and which was subject to the terms of this act was required to contain a reservation to the United States of the oil and gas and/or the the other non-metallic minerals which because of their presence the land had been withdrawn, classified, or reported as valuable. The entryman was required to elect to take title subject to these exceptions and reservations.

When patents **are issued under the various agricultural land acts and subject** to the Act of July 17, 1914 the patent will contain the following exception:

> "And excepting and reserving, also, to the United States all the (oil and gas, or other stated non-metallic minerals; i.e., phosphate, nitrate, potash or asphaltic material) in the lands so patented and to it, and persons authorized by it, the right to prospect for, mine and remove such deposits from the same upon compliance with the conditions, and subject to the provisions and limitations of the Act of July 17, 1914 (38 Stats. 509)."

The Act of July 17, 1914 was supplemented by adding Sodium and Sulphur to the list of minerals in the Act of March 4, 1933 Chapter 278 47 Stats. 1570 Title 30 U.S.C.A., Sec. 124.

As mentioned earlier one of the latest Homestead Acts provided for a reservation of minerals to the United States. This was the Act of December 29, 1916 39 Stats. 862, 863, 864 and Amendments thereto; Title 43 U.S.C.A., Sec. 291, 295, 296, commonly called the Stock-Raising Homesteads. The date of this act is another important date to remember when thinking of patent exceptions and reservations. This Act provided that any person qualified to make entry under the Homestead Laws could make a Stock-Raising Homestead entry not to exceed 640 acres of unappropriated unreserved land which had been declared by the Secretary of the Interior to be mainly valuable for grazing and raising forage crops and not susceptible to irrigation from known water supplies. There were amendments to the act, and an additional Stock-Raising Homestead Act, under date of March 4, 1923; 42 Stats. 1445; Title 43 U.S.C.A., Sec. 302 and June 9, 1933 48 Stats. 119, but in the main the important date to remember is December 29, 1916. This Act provided that all patents shall contain a reservation of all coal and other minerals in the land, together with the right to prospect for, mine, and remove the same. This Act also permits a mineral patent to the land separate and apart and subject to the rights of the patantee under the agricultural land laws.

Patents issued under the Act of December 29, 1916, the Stock-Raising Homestead Act, contains the following exception:

> "And excepting and reserving, however, to the United States all the coal and other minerals in the land so entered and patented, together with the right to prospect for, mine, and remove the same pursuant to the provision and limitations of the Act of December 29, 1916 (39 Stats. 862)."

It is to be noted that the Act of July 17, 1914 specifically mentions oil and gas in the reservations while the act of December 29, 1916 says "coal and other minerals." The question is, does this reservation reserve the oil and gas? Although the Supreme Court of the United States has never ruled upon the

question, the 10th Circuit Court of Appeals has held that the exception does include oil and gas. **Skeen vs. Lynch** 48 Fed. (2d) 1044. Also the Department of the Interior **has** always treated the oil and gas as being reserved to the United States and has issued many oil and gas leases on these lands. See also the discussion of the world minerals in **Burke vs. Southern Pacific Railroad Company** 234 U.S. 669; 34 Sup. Ct. 907; 58 L. Ed. 1527.

It was pointed out earlier that in deciding whether a patent should contain the different exceptions and reservations as to water right—Act of July 9, 1870, mining rights—Act of May 10, 1872, and right of way for ditches or canals on land west of the one hundredth meridian—Act of August 30, 1890, we can not look solely to the date of the act under which the patent was issued but must also look to the date of the patent.

In all patents issued subsequent to March 3, 1909 another factor must be added in addition to the date of the act and the date of the patent to determine what exceptions and reservations the patents should contain. This factor is whether the land had been classified, withdrawn or reported as valuable for its possible contents of minerals. To determine this the records in the District Land Office of the Bureau of Land Management will have to be searched. This information cannot be obtained from any county records because the county records begin with the patent, they do not show the proceedings prior to the issuance of the patent except possibly the issuance of the Register's certificate.

Also when a patent is issued with reservations of coal, oil and gas, or other minerals under the Acts of 1914, 1916 or any other acts hereinafter discussed calling for such reservations the mining right exception provided for by the Act of May 10, 1872 is not always found because the patent reservation of the mineral also reserves the right to prospect for, mine and remove the minerals.

C. Miscellaneous Acts Calling For Exceptions And Reservations Of Minerals.

Although the Act of July 17, 1914 and December 29, 1916 are the two most general acts providing for exceptions and reservations of minerals there are also other acts calling for this reservation. A brief discussion of these acts will be made. Reservations contained or called for in Railroad Grants or School or State Land grants are not included here, but are discussed separately.

1. Exchange of Land Within a National Forest. The Act of March 20, 1922, 42 Stats. 465 Title 16, U.S.C.A., 485, 486 as amended by Act of February 28, 1925, 43 Stats. 1090; Title 16 U.S.C.A., Sec. 486 authorizes the Secretary of the Interior to exchange land with individuals owning lands which is advantageous to the public interest in connection with the National Forests. Either party to the exchange may make reservations of timber, minerals or easements. When the United States makes such reservation it will be so stated in the patent and will appear as folows:

> "Also reserving to the United States all phosphate, nitrate, potash, oil, gas and asphaltic minerals in the land so patented, and to it, or persons authorized by it, the right to prospect for, mine and remove such deposits from the same upon compliance with the conditions and subject to the provisions and limitations of the said Act of February 28, 1925."

2. Small Tract Act. The so-called Small Tract Act of June 1, 1938, 52 Stats. 609; amended July 14, 1945, 59 Stats. 467; 43 U.S.C.A., Sec. 682a, authorizes the sale of tracts, limited in size to five acres, for the purpose of cabin, recreational, business sites and other individual purposes. This act requires that all patents issued under it shall contain a reservation of the oil, gas and other minerals, together with the right to prospect for, mine and remove the

same. Not many patents have been issued under this act.

3. Townsite Acts: The Act of March 3, 1865, 13 Stats. 530, Title 43 U.S.C.A., Sec. 717 in providing for the sale of Townsite lots said, "that where mineral veins are possessed, which possession is recognized by local authority, and to the extent so possessed and recognized, the title to town lots to be acquired shall be subject to such recognized possession as the necessary use thereof; provided, however, that nothing contained herein shall be so construed as to recognize any color of title in possessors for mining purposes as against the government of the United States."

The Townsite Act approved March 2, 1867 14 Stats. 541 excluded all valid mining claims from the operation of the Townsite laws. It was further provided under this act and by the Act of June 8, 1868 15 Stats. 67; and June 23, 1874 18 Stats 254 that; "No title shall be acquired under the foregoing provisions of this chapter, to any mine of gold, silver, cinnebar or copper; or to any valid mining claim or possession held under existing laws." The Act of March 3, 1891 26 Stats. 1101, Title 43 U.S.C.A., Sec. 728 authorized incorporated cities and towns to enter mineral lands as townsites, but further provided that the mineral claimant, whose rights are recognized by local authority or the laws of the United States are entitled to a patent covering their mining ground in the townsite.

Under the first Townsite Act it was thought that title could be acquired subject to right of mineral claimants, however, later, and particularly after the Act of March 3, 1891 it was generally considered that no title could be acquired if at the time of the entry the townsite was known to be mineral in character, was worked as a mine or within a valid mining claim. However, these titles were merely voidable and not void, and therefore there usually is no question about the title unless the land is located where there has been or still is mining activity.

None of the Townsite Acts provided for a patenting of the surface with a reservation to the United States of the oil, gas and minerals.

4. **Taylor Grazing Act.** Provision is made under the Taylor Grazing Act, Act of June 28, 1934, 48 Stats. 1269, Title 43 U.S.C.A., Sect. 315 and Amendment 48 Stats. 1272, Title 43 U.S.C.A., Sec. 315g, whereby the Secretary of the Interior may exchange lands outside for lands within or without the district. See also the Act of June 26, 1936; 49 Stats. 1976. If the lands to be patented are mineral lands the patent must reserve all the mineral. If the lands are not mineral the government may nevertheless reserve minerals, easements or rights of way. The party making the exchange may also make such reservations. The right to prospect for, mine and remove the minerals is also reserved by the government.

5. **Patents Issued to Persons Who Hold Public Land Under Color of Title.**

The Act of December 22, 1928, 45 Stats. 1069, provides that whenever it shall be shown to the satisfaction of the Secretary of the Interior that a tract of public land, not exceeding one-hundred and sixty acres, has been held in good faith and in peaceful, adverse possession by a citizen of the United States, his ancestors or grantors, for more than twenty years under claim or color of title, and that valuable improvements have been placed on such land, or that some part thereof has been reduced to cultivation, the Secretary may, in his discretion, upon the payment of not less than $1.25 per acre, cause a patent to issue for such land to any such citizen. If the land claimed is more than one-hundred and sixty acres the Secretary may determine which one-hundred and sixty acres shall be patented.

All patents issued prior to July 28, 1953 were required to provide

that coal and all other minerals be reserved together with the right to enter upon lands for the purpose of prospecting for and mining such deposits.

This Act was Amended on July 28, 1953 by Chapter 254, Public Law 159, 67 Stats. 227 as follows:

"Sec. 3. If the claimant requests that the patent be issued under this Act not contain a mineral reservation and if he can establish to the satisfaction of the Secretary that the requirements of this Act have been complied with by such claimant and his predecessors for the period commencing not later than January 1, 1901 to date of application, no mineral reservation shall be made unless the lands are, at the time of issuance of the patent within a mineral withdrawal or subject to an outstanding mineral lease."

6. **Other Miscellaneous Acts:**

(a) **Act of September 30,** 1890; Chap. 1121, 26 Stats. 502, 43 U.S.C.A., 729. This act provides for the sale of land to incorporated cities and towns to be used for sanitary and park purposes. The act further provides that where such city or town is situated within a mining district the land shall be considered mineral lands and the patent must reserve to the United States all mineral within the land.

(b) **Act of April 16, 1906;** Chap. 1631; 34 Stats. 116; 43 U.S.C.A., 562. This act calls for the withdrawal from public entry, lands needed for townsite purposes in connection with irrigation projects under the Reclamation Act of June 17, 1902. It does not contain a provision for reservation of mineral, but it should be considered in connection with the material on Townsite Acts because the title and patent issued under it will be subject to the same qualification as the act of March 3, 1891. (See Townsite Acts). This act also provides that the patent shall contain appropriate reservations for public purposes.

(c) **Act of February 27, 1917;** 39 Stats. 944, Title 30 U.S.C.A., Sec. 86. This act providing for the disposal of surplus land within Indian reservations, when the land has been withdrawn or classified as coal land, provides that the patent must contain a reservation of all coal together with the right to prospect for, mine and remove the same.

(d) **Act of February 2, 1911;** 36 Stats. 895; 43 U.S.C.A., 375. This act, which provides for the sale of lands acquired under the provisions of the Reclamation Act and which are not needed for reclamation purposes permits the Secretary of the Interior to make such reservations in the patents as he may deem proper.

(e) **Act of January 26, 1921;** 41 Stats. 1089; Title 43 U.S.C.A., Secs. 145 and 146. This act which permits the sale of lands which had been withdrawn from entry, for the purpose of exploratory drilling to discover water supplies for irrigation, (Provided for by Act of June 25, 1910; 36 Stats. 847 as amended by Act of August 24, 1912; 37 Stat. 497), requires that all patents issued under this act shall contain a reservation of all oil, gas, coal and other minerals. The Secretary of the Interior is also given authority to make such sale and issue a patent subject to such reservations, limitations or conditions as he may deem proper.

(f) **Act of June 14, 1926;** 44 Stats 741; Title 43 U.S.C.A., Sec. 869. This act authorizes the Secretary of the Interior to patent to the States by sale or exchange any lands which may have been classified by him as chiefly valuable for recreational purposes. The patent issued under this act should contain reservation of all minerals and a provision that if not used for recreational purposes for a period of five years the title shall revert to the United States.

(g) **Act of May 16, 1930;** 46 Stats. 367; 43 U.S.C.A., Sec. 374 and 375. This act authorizes the disposal of public lands classified as temporarily or permanently unproductive on Federal Irrigation projects. Pat-

ents issued under this act shall contain a reservation of coal and other minerals.

(h) **Placer Mining Patents.** Act of July 9, 1870 16 Stat. 235 as re-stated in Act of May 10, 1872 17 Stats. 152 Revised Stat. Sec. 2318. While our discussion is concerned only with the patents issued under the agricultural or non-mineral laws and not with mining or mineral patents, exceptions and reservations made in Placer Mining Patents will be mentioned. Placer mining patents do not carry the ownership of veins or lodes known at the time of the issuance of the patent. Placer mining patents carry a reservation of any such vein or lode known to exist. One cannot determine from the patent itself whether any lode or vein was known at the time the patent was issued.

D. **Mineral Leasing Act—Act of February 25, 1920; 41 Stats. 437; Title 30 U.S.C.A., Sec. 181-186.**

As has been pointed out the development of the public land laws was to separate the known or suspected mineral estate from the surface interest; to dispose of the mineral estate under the mining laws and the surface interest under the agricultural land laws. To do this patents were issued under the agricultural land laws containing reservations to the United States of the minerals. This development was completed by the Leasing Act of February 25, 1920, whereby the mineral estate was leased to persons other than the patentee of the agricultural estate.

When the following reservation is found in a patent it shows that the minerals or some of them have been reserved and that there is an outstanding prospecting permit or lease on the land:

"This entry is made under Section 29 of the Act of February 25, 1920, 41 Stats. 437 and the patent is issued subject to the rights of prior permittees or lessees to use so much of the surface of said land as is required for mining operations, without compensation to the patentee for damages resulting from proper mining operations."

This Act which provides for leases and prospecting permits on lands thought to contain oil, gas and other mineral provides that in making any such prospecting permits or leases the United States reserves the right to extract helium produced from the land.

E. **Railroad Grants.**

To encourage the construction of railroads, Congress made liberal grants of public lands. These grants were of two kinds, (1) Outright grants in fee to aid, and encourage the construction of the road and (2) a grant of a right of way.

1. **Grants in Aid.**

The grants in aid were accomplished by giving the named railroad so many odd numbered sections within 10 miles on each side of their right of way. Sometimes this was extended to granting the odd numbered sections within 20 miles of the railroad. The extent of the grant; that is, whether 10 miles or 20 miles was called the "place limits" and the odd numbered sections within these limits were called the "place lands." Usually after the railroads had fulfilled the necessary requirements patents were issued. Occasionally no patents were issued as the Act of Congress operated as a direct grant.

Usually the lands classified as mineral, with the exceptions of coal and iron lands were excluded from the grants. This meant those lands that were considered mineral at the time the patent was issued, and the issuance of the patent was, in the absence of fraud, a conclusive determination that the lands were non-mineral in character. Subsequent discovery of minerals after the issuance of the patent would not invalidate the patent.

Because some of the lands were considered mineral in character prior to the issuance of the patent the railroad lost some of their "place lands." To compensate for

these lost "place lands," the railroads were given indemnity lands. These lands were also limited to lands non-mineral in character and the selection was from the odd numbered sections not more than 10 miles beyond the "place limits." Usually patents were issued for these indemnity lands, but occasionally the certification of the indemnity list conveyed the title without the issuance of a patent.

The granting Acts excepted lands which had been entered or settled upon under the general agricultural land laws. Hence, many of the odd number sections could not be granted to the railroads. Frequently this lead to a conflict between the settler and the railroad. To provide for an adjustment of these conflicts, Congress permitted railroads to select lieu land. These lieu lands usually had to be within 10 or 20 mile limits of the right of way, but frequently were not limited to the odd number sections.

In all of the patents issued to the railroads between 1866 and 1904 under the grants in aid, one of the following exceptions will be found:

"Excluding and excepting all mineral lands s h o u l d any be found in the tract aforesaid."

OR

"Yet excluding and e x c e p t i n g from the transfer of these presents all mineral land should any such be found to exist in the tracts described in this patent, this exception, as required by statute, not extending to coal or iron lands."

As was pointed out these railroad grants in aid granted to the particular railroad certain alternate sections of public land, **not mineral,** designated by odd numbers; and all **mineral land**s were excluded from the operation of the grant. No provisions were made for granting mineral lands under these acts with a reservation to the United States of the minerals. In construing these acts and the heretofore mentioned exceptions the Supreme Court of the United States in **Burke vs. Southern Pacific Railroad Company** 234 U.S. 659; 34 Sup. Ct. 907; 58 L. Ed. 1527 struck down the foregoing exceptions as being void upon the theory that the act in question (similar to all Grant in Aid Acts) did not authorize a conveyance of public lands with a reservation of the minerals; that it was the duty of the Land Department to determine at the time the patent was issued whether the land was mineral or non-mineral. As the Act authorized a conveyance of only land non-mineral the issuance of a patent was conclusive determination that the land was non-mineral. Lands could not be conveyed with a reservation of the minerals as was attempted to be done under the patents issued between 1866 and 1904. For all practical purposes these exceptions could be ignored in title work, as the minerals are considered to have passed to the railroad company under the patent. This is particularly true if the title has ben transferred to a bona fide purchaser from the railroad. However, out of caution, in ATA policies the reservation should be shown.

It is the understanding of the writer that not all transcontinental railroads received grants in aid and therefore are not considered "land grant railroads." At least two of the railroads operating in Idaho received in grants in Aid and they are the Northern Pacific and the Union Pacific.

The Act authorizing the grant in Aid for the main line of the Northern Pacific Railroad is the Act of July 2, 1864 13 Stat. 365. The provisions contained in this grant are similar to those discussed relative to the railroad grants in aid in general, and gave alternate odd numbered sections to the amount of twenty alternate sections per mile.

The Union Pacific was incorporated by the Act of Congress of July 1, 1862; 12 Stats. 489 and was authorized to construct a road from a point on the one-hundredth meridian of longitude, between the south margin of the valley of the

Republican River on the north margin of the valley of the Platte River, in the Territory of Nebraska, to the western boundary of Nevada Territory and was granted every odd numbered section of land amounting to 5 alternate sections of land per mile, afterwards extended to 10 sections by the Act of July 2, 1864 (13 Stat. 356) on each side of the road; and that whenever the company should have completed 40 consecutive miles of its road (afterwards reduced to 20 by the same Act of 1864) patents should issue for such public lands.

No attempt has been made to set forth all of the acts under which lands in Idaho were patented to the various railroads. The material applicable to grants in aid heretofore given. . . when the railroads received such grants should apply to the various acts under which railroad received land in Idaho.

2. **Grants of Right of Ways.** As stated before it is the writer's belief that not all transcontinental railroads received grants in aid. This is borne out by the court in **Great Northern R. Co. vs. U.S.** 315 U.S.; 262 Sup. Ct. 529; 86 L. Ed. 836 when it said:

> "Beginning in 1850 Congress embarked on a policy of subsidizing railroad construction by lavish grants from the public domain. This policy incurred great public disfavor which was crystallized in . . . (a) . . . resolution adopted by the House of Representatives on March 11, 1872. . . After 1871 grants of public lands to private railroad companies seem to have been discontinued. But to encourage development of the Western Vastness, Congress had to grant rights to lay track across the public domain."

The Great Northern acquired its right of way after 1871 by the Act of March 3, 1875, hereinafter discussed.

The rights of ways granted to some railroads were given by the same acts giving the grants in aid. For example the Union Pacific and Northern Pacific received their rights of way in acts giving them their land grants. Other special Acts granted some railroad rights of way, but a large number of the rights of ways were obtained under the general right of way Act of March 3, 1875; 18 Stats. 482; Title 43 U.S.C.A., Sec. 934-939.

The right of way grants were materially different from the grants in aid. The grants in aid gave the railroad patentee a fee interest in the land including the minerals. The rights of way were not given as an unqualified fee; they could not be alienated except to another railroad. Not being complete fees it was held in the case of **Great Northern R. Co. vs. United States,** supra, that the railroad company did not acquire any interest in the minerals or oil and gas in the right of way under the general act right of way act of 1875. It is not certain who owns the mineral interest on the rights of way when the land was acquired under an act other than the Act of 1875.

In this connection the Act of March 8, 1922 42 Stats. 414, should be mentioned. This act provides for the disposition of abandoned portions of railroad rights of way. It provides that upon abandonment by the railroad title shall cease and revert to the United States or if within a municipality to such municipality; and that the transfer of such land shall be subject to and shall contain a reservation to the United States of all oil, gas and minerals therein.

See also for Railroad Rights of Way through Indian Lands, Act of March 2, 1899; 30 Stat. 990 and Act of June 21, 1906; 34 Stat. 330.

F. **Fissionable Material.**

Fissionable material, plutonium and uranium, and the source materials became important with the discovery of the atomic bomb.

By Executive Order 9613 issued on September 13, 1945 all public lands which contained deposits of radio-active mineral substance and all deposits of such substances were withdrawn from sale or other

disposition under the public land laws.

On March 4, 1946 a new Executive Order No. 9701 provided that public lands containing fissionable materials were subject to disposal only under appropriate public land laws which authorize or permit a reservation to the United States of all minerals together with the right to prospect for, mine and remove such minerals. The order also provided that any disposal of the public land thus disposed should be made subject to a reservation to the United States of all minerals.

On August 1, 1946 Congress passed the Atomic Energy Act of 1946, Public Law No. 585, Chapter 724, 60 Stats. 755, which provided that all patents, shall contain a reservation of all source materials for the production of fissionable materials, together with the right of United States or its authorized agents, at any time, to enter upon the land and prospect for, mine and remove the same.

Patents issued under the Atomic Energy Act of 1946 usually contain the following exception:

"Excepting and reserving, however, to the United States, pursuant to the provisions of the Act of August 1, 1946 (60 Stat. 755), all uranium, thorium, or any other material which is or may be determined to be peculiarly essential to the production of fissionable materials, whether or not of commercial value, eogether with the r i g h t of the United States, through its authorized agents or representatives, at any time to enter upon the land and prospect for, mine and remove the same."

On August 30, 1954, Congress approved the Atomic Energy Act of 1954, amending the Atomic Energy Act of 1946. This act is Public Law 703; Chapter 1073; 68 Stats. 919, 934. In Sec. 68 of this Act it is provided:

"In cases where any patent, conveyance, lease, permit, or other authorization has b e e n issued, which reserved to the United States source materials and the right to enter upon the land and prospect for, mine, and remove the same, the head of the Government Agency which issued the patent, conveyance, lease, permit or other authorization shall, on application of the holder, thereof, issue a new or supplemental patent, conveyance, lease, permit, or other authorization without such reservation. If any rights have been granted by the United States pursuant to any such reservation then such patent shall be made subject to those rights, but the patentee shall be subrogated to the rights of the United States."

G. **Grants to State-School Lands:**

No general discussion relative to grants to States will be made other than in connection with the subject of exceptions and reservation.

Section 16 and 36 in every Township in the State was granted to Idaho by Section 4 of the Idaho Admission Bill 26 Stat. 215; Chapter 656. It was also provided in this section that where a Section 16 or 36 had been disposed of, the State was authorized to select indemnity or lieu lands. However, by Section 13 of the Act it was provided that **mineral** lands were excluded from the grants contained in the act, which of course would include the grants of Sections 16 and 36 and the lieu lands. Section 14 provides that the lieu or indemnity lands shall be selected from the **surveyed** unreserved and unappropriated public land of the United States, within the limits of the State of Idaho.

The Admission Bill was self operating and title to Section 16 and 36 vested in the State by it provided the lands were surveyed and were not minerel in character. No patents were issued. If the lands were not surveyed title passed to the State upon the return and approval of the survey showing such sections. Lieu or indemnity lands were obtained by the State submitting a list of the base lands; that is, those lands the State lost or surrendered because they were

mineral or had been settled upon prior to survey, and in the same list a description of the lands selected as lieu or indemnity lands. Upon certification by the Commissioner of the General Land Office title vested in the States provided such lands were **surveyed.** It is to be noted that before title passed to the States the land had to be surveyed, hence, in addition to checking the clear list the date of the survey must be checked because title did not pass to the States, if the selection was made from unsurveyed lands, **until the land was surveyed.**

It is to be noted that the minerals were not reserved, but if the land was mineral in character the land itself did not pass to the State. As there was no provision for determining whether the lands were mineral lands, and as there was no issuance of patents it could not be ascertained whether or not title to a particular tract of school land passed to the State. This has made problems, (See **West vs. Standard Oil Co.** 278 U.S. 200; 49 S. Ct. 138; 73 L. Ed. 936 and **Standard Oil Co. of California vs. United States** 107 Fed. (2d) 402) and attempted corrective measures. These problems, and corrective legislation are not within the scope of this subject, but the corrective acts will be mentioned. The Bureau of Land Management took the position that until the contrary was clearly shown, there was a very strong presumption that sections 16 and 36 were not mineral and that therefore, the title to these sections passed to the State upon survey. In addition to this, if the lands were mineral or did not pass to the State for some other reason these sections will show up as base lands.

Because doubt still remained as to whether there had been a determination that the various sections 16 and 36 were or were not mineral in character and had or had not passed to the States, Congress passed the Act of January 25, 1927, 44 Stats. 1026, 43 U.S.C.A., Sec. 870, 871, amended by Act of May 2, 1932, 47 Stats. 140. This Act provided in effect that whenever the only bar to the operation of the previous school land grant had been that the lands were known to be mineral such lands would pass to the State. This meant that if these sections had not become subjected to the right of third persons or had not been disposed of as base lands they now passed to the State regardless of their mineral character. In this Act it was further provided that all sales, grants, deeds, or patents for any of the lands so granted should thereafter be subject to and contain a reservation to the State of all the coal and other minerals together with a right to prospect for, mine and remove the same, and that the coal and other mineral deposits in such lands not disposed of by the State earlier should be subject to lease by the State as the State legislature should direct. There was also a provision that any lands or minerals thereafter disposed of by the State without such reservations should be forfeited to the United States in an action instituted by the United States Attorney General.

In the main there were no conveyances of school lands to the States with a reservation of minerals. The land including the minerals passed to the State or the land was deemed mineral land and therefore excluded from the grant.

However, Idaho was authorized to select lands valuable for minerals and oil under the indemnity and lieu selection with a reservation of such minerals to the United States. See Compiler's note to Section 77 of Miscellaneous Public Land Provisions Volume 1 Idaho Code (1947). Hence, all lieu and indemnity lists should be examined to determine whether or not these minerals were reserved.

VIII. **Rights of Ways.**

While some rights of ways given over the public lands are not excepted or reserved in the patents, the patentee will take subject to them nevertheless. Some of these

rights of way will appear in the patents, others will appear only on the plats in the District Land Office while others will appear only on the ground. The Act of Congress of July 26, 1866; 14 Stats. 253; Title 43 U.S.C.A., Sec. 932 provides for the construction of highways over the public lands, and the right of way becomes operative upon the construction of the road under local laws. The record of this Highway does not appear in patents subsequently issued, and may not be shown in the records of the District Land Office. Its existence is discovered only by examining the ground. When a patent is issued subsequent to the construction of the highway the patentee takes, subject to the highway right of way, even though there is no mention made in the patent.

Railroad rights of way have been discussed. When the land is subject to a railroad right of way the patent will ordinarily make no mention of it. An examination of the plat books in the District Land Office or an examination of the ground—if the railroad right of way is still being used—will disclose the right of way.

Rights of way for ditches and canals or ditches on public lands west of the one hundredth meridian under the Act of August 30, 1890 have also been discussed.

Vested and accrued water rights for mining, agricultural and manufacturing purposes acquired before the issuance of a patent and confirmed by the Acts of July 26, 1866 and July 9, 1870 have also been discussed.

Patents issued under the Small Tract Act will be subject to such easements for road rights of way for ingress and egress by other patentees to and from their lands acquired under this act.

There are other acts granting or reserving rights of ways, easements and permits upon the public lands. Some of these we have mentioned such as, Exchange of Land Within A National Forest and Taylor Grazing Act. An example of a few others are a permit to the use of a right of way for the purpose of generating or distributing electric power. Act of May 14, 1896, 29 Stats. 120; Title 43 U.S.C.A., Sec. 957; a permit to use rights of way and grants of easements, for electrical plants, pole lines for electricity, telephone and telegraph. Act of February 15, 1901 31 Stats. 790 Title 43 U.S.C.A., Sec. 959; and Act of March 4, 1911, 36 Stats. 1253; Title 43 U.S.C.A., Sec. 961; Title 16 U.S.C.A., Sec. 5, 420 and 523.

Persons engaged in the business of mining, quarrying or lumbering or furnishing water for domestic, public or other beneficial use were granted permits for tramroads, canals and reservoirs. Act of January 21, 1895; 28 Stats. 635, Title 43 U.S.C.A., Sec. 956. See also 43 Code Fed. Reg. Sec. 24448 et seq. See also Act of May 11, 1898 (30 Stats. 404).

See also the attached Bureau of Land Management List showing types of reservations. For telegraph and telephone lines and highways through Indian lands see Act of March 3, 1901; 31 Stats. 1083. For pipe lines through Indian lands see Act of March 11, 1904; 33 Stat. 65.

IX. Other General Acts Under Which Patents Have Been Issued.

Needless to say, public lands have been patented under enumerable general and special land laws. As was pointed out, perhaps the majority of the patents you examine were issued under the Act of April 24, 1820 which is the Public Land Sale Act, the Preemption Statutes, and the Homestead Statutes beginning with the first act of May 20, 1862. Most of the patients, which you examine will be subject to the vested and accrued water rights as provided by the Act of July 9, 1870, the right of the proprietor of a vein or lode to remove the ore if found to continue on to the premises as provided by the Act of May 10, 1872. The reservation of the right of way for ditches and canals under the Act of August 30, 1890 will usually be

found in these patents. If the land was classified as valuable for coal or other minerals, reservation of the coal and/or other minerals will also be found in the patent pursuant to Acts of March 3, 1909; June 22, 1910, July 17, 1914 and December 29, 1916.

A couple of other acts under which large amounts of land were obtained from the Federal Government should be mentioned. One is the Carey Act of August 18, 1894, 28 Stat. 422. This Act allowed the State to acquire desert lands by reclaiming and irrigation of the same. Upon compliance patents were issued directly to the States or its assigns. An additional one million acres was made available to the State of Idaho by an Act approved May 27, 1908, 35 Stat. 347.

No exceptions or reservations were provided for by this act, and no reservations will be found in the patent unless entry was made under the Mineral Acts of 1909, 1910, and 1914.

The other act is the Desert Land Act of March 3, 1877, 19 Stats. 377. The Act has been discussed briefly in connection with water rights. Under this act persons were able to receive up to a section of desert land (later reduced to 320 acres by the Act of March 3, 1891, 26 Stat. 1096, Title 43 U.S.C.A., Sec. 321) after they had irrigated and developed a part of the land for a certain period of time. Desert land is defined as all lands exclusive of timber land and mineral lands which will not, without irrigation, produce some agricultural crop. The issuance of a patent concludes the question of whether the land is mineral and hence, all minerals pass to the patentee. No reservations are found in the patent unless the entry was made subject to the provision of the Act of July 17, 1914.

In addition to these important acts public lands were disposed under many other acts, almost all of which made no provisions in the acts themselves for exceptions and reservations. When patents issued under these acts contain exceptions and reservations it is usually not because the act itself provided for the exceptions and reservations, but because the exceptions and reservations were called for by the acts we have discussed calling for rights of ways for canals, making the entry subject to accrued water rights etc. If the lands were classified as mineral and the agricultural patent is issued under one of these miscellaneous acts a reservation of the minerals will be made under the authority of the Act of July 17, 1914. A few minor acts did in and by themselves make provisions for exceptions and reservations. For these see Miscellaneous Acts Calling for Exceptions and Reservations of Minerals, and the attached sheet obtained from the Bureau of Land Management, which sheet shows the various acts, citations, and the types of reservations.

A few of the acts under which some public lands have been patented are Acts:

(1) Authorizing the disposal of abondoned Military Reservations.

(2) Providing for Indian Trust patents, patents in fee to Indians and Indian allotments.

(3) Sale of Isolated Tracts.

(4) Reclamation Projects.

(5) Granting of the lands to the States for special purposes such as public buildings and colleges.

(6) Providing for the patenting of land unfit for cultivation and valuable chiefly for timber or stone (This act of June 3, 1878, 20 Stats 89 Title 43 U.S.C.A., Sec. 311, prohibits the sale of any mining claim or lands containing gold, silver, cinnabar, copper or coal, but the issuance of a patent is a conclusive determination that the land did not contain these minerals, and a subsequent finding of such minerals would not invalidate the patent.—Commonly known as the Timber and Stone Act.)

(7) Providing for patenting of land

to entryman after he has cared for growing timber for a number of years. . . Timber Culture Act (repealed March 3, 1891).

(8) Providing for Military Bound Land.

TITLE INSURANCE PRACTICE

Questions relative to patent exceptions and reservations are eliminated by Paragraph 1 of Schedule B in the Standard Policies. Hence, the foregoing material is applicable for ATA policies and mineral searches only. However, even in standard policies someone might contend the exception "exceptions and reservations in United States patents," is not broad enough to cover an exception or reservation called for in the particular public land act under which the patent was issued, but which was erroneously omitted from the patent itself.

With some exceptions, patents are deemed conclusive, and not subject to collateral attack by others and usually not even subject to direct attack by the Federal Government. In addition to the strong presumption of the validity of a patent there is also the protection of the Act of Congress of March 3, 1891 Chapter 559 and 561, 26 Stats. 1093; 43 U.S.C.A., 1166 providing that "suits by the United States to vacate and annul any patent shall be brought within six years after the date of the issuance of such patents." In some cases involving fraud this statute of limitations is not applicable; but in the main it adds to the conclusiveness of any patent. Another defense that is available when a patent is attacked is that of a bona fide purchaser for value; provided of course, the patentee has conveyed the property, and the purchaser meets the qualification of a bona fide purchaser. This later defense is available when the Statute of Limitation is ineffective because of fraud.

In connection with the six year Statute of Limitations it should be noted that it speaks only of patents and therefore would not be applicable in those situations where no patent is issued, such as when, the Public Land Law in and by itself conveyed the title or the title was passed upon the certification of a lieu or indemnity list.

Also in connection with the Statute of Limitations it should be noted that the Statutes says "vacate or annul," a patent. Therefore in connection with exceptions and reservations in patents it should not be relied on because the action would not be to annul or vacate the patent, but would be to add the exception or reservation to the patent when such exception or reservation was provided for by the act, but was omitted in the patent. If the patent itself is regular on its face and does not disclose an act calling for a reservation the government might not be able to reform the patent. See **United States vs. Price** 111 Fed. (2d) 206. But if the patent on its face refers to an act which calls for an exception or reservation, and such exception or reservation, is not shown in the patent this exception or reservation should nevertheless be shown as an exception in the title insurance policy. However, even if the act calling for the reservation is not set forth in the patent and the patent does not contain the exception or reservation it should, the reservation might be read into the patent and make the land subject to it. See **Swendig et al vs. Washington Water Power Co.** 265 U.S. 322; 44 Sup. Ct. 496; in which the Supreme Court of the United States read such a reservation into the patent even though no mention was in the patent of the act providing for the reservation.

Actually, as shall be pointed out, in order to be certain that patented lands are not subject to exceptions or reservations not contained in the patent one would have to search the plats and records of the District Land Office, inspect the premise and have knowledge of the area in which the land is situated. As this is not always possible, and because it is not feasible from a business

standpoint, reliance will have to be placed on a general knowledge of what the patent should contain, knowledge of the act under which the patent was issued and in the defenses available to a patentee or his successors in the event it is contended that the land is subject to an exception or reservation not set forth in the patent itself.

The water rights exception should be set up in ATA policies in all patents issued subsequent to July 9, 1870. To some extent for patents issued after the passage of the Desert Land Act in 1877 the exception is somewhat meaningless, (although it should still be set up in all ATA policies) because by the Desert Land Act it was deemed that the water right did not follow the land, but "that following the Act of 1877, if not before, all non-navigable waters then a part of the public domain became public juris, subject to the plenary control of the designated States . . . with the right in each to determine for itself to what extent the rule of appropriation or the common law rule in respect of riparian rights should obtain." **California Oregon Power Co. vs. Beaver Portland Cement Co. 295** U.S. 142; 55 Sup. Ct. 725; 79 L. Ed. 1356. In fact, the words in the Desert Land Act that the waters of all sources upon the public lands and not navigable "Shall remain and be held free for the appropriation and use of the public," (as the State laws shall direct), "must be read into every patent thereafter issued, with the same force as though expressly incorporated therein, with the result that the grantee will take the legal title to the land conveyed, and such title, and only such title, to the flowing waters thereon as shall be fixed or acknowledged by the customs, laws, and judicial decisions of the State of their location." **California Oregon Power Co. vs. Beaver Portland Cement Co.,** supra.

The so-called extra lateral rights exception which allows a proprietor of a vein or lode to follow that vein or lode onto adjoining land is not found in all patents. As it is a result of the Lode Mining Law of 1872 it would seem to be only valuable where the adjucent land has been taken up under the mining laws of the Federal Government or where the government has reserved the minerals on the adjoining land so that a party may obtain a claim, lease, or patent to the minerals on the adjoining land. Hence, it would seem that if the adjoining lands have been patented without a reservation of the minerals then the exception would be of little importance as any mining the patentee or his lessees would do, would be governed by State mining laws. Hence, as to whether such an exception should be added to a title policy even though it does not appear in the patent depends upon whether the adjacent land has been taken up under the Federal Mining Laws or could be taken up under the Federal Mining Laws because the minerals on these adjacent lands have been reserved. However, when this exception is shown in a patent it should be set up as an exception in all ATA policies.

All lands patented subsequent to August 30, 1890 west of the one hundredth meridian (all of Idaho is west of the one-hundredth meridian) are subject to the reservation of a right of way for ditches or canals constructed by the authority of the United States. As pointed out before this reservation is not limited to canals or ditches already constructed, but applies to those that may be constructed in the future. For these reasons this exception should be set up in all ATA policies greardless of whether it appears in the patent or not. (If the patent was issued after August 30, 1890).

When the patent discloses that the minerals or some of them have been reserved the Mineral Exception, (See Stenographer's Manual 109-A), **should be excepted from the description.**

As mentioned throughout the foregoing material many acts, in-

cluding those grants by Homestead, lands to the State for various purposes, school land, Railroad lands and Desert Lands to mention just a few authorized entry and patenting to only those lands that were non-mineral. No exceptions or reservations will appear in these patents unless the entry was also subject to the mineral exceptions of the Acts of 1909, 1910, 1914 and 1916 heretofore discussed. These later acts authorized agricultural entries upon mineral lands provided the minerals were reserved. However, in all patents before March 3, 1909 and all those patents issued subsequently to lands that had not been classified or withdrawn as mineral the issuance of a patent was for all practical purposes a determination that the land was non-mineral. Hence, under these patents the minerals passed to the patentee, and the subsequent discovery of minerals on the lands after the issuance of the patent did not divest the patentee of the minerals; change the classification of the lands to mineral, nor invalidate the patent. Hence, in most patents issued prior to 1909, and many patents issued since, no reservation of minerals will be found in the patent and none are required because the land was classified by the Bureau of Land Management as non-mineral in character.

The exception found in Railroad Grants should be set up in all ATA policies although as pointed out in the discussion under Railroad Grants the Supreme Court of the United States has held like reservations to be ineffective and null and void.

Patents issued after March 3, 1909 pursuant to the non-mineral acts, Homestead Acts, Desert Land Acts etc., might contain a reservation of the minerals under the authority of the Acts of 1909, 1910, 1914 and 1916. This would be the case where the lands patented had been classified as valuable for the various type of minerals mentioned in these four acts. The only way one can determine whether these patents should contain a reservation or exception of minerals pursuant to the authority of these principal acts or the other miscellaneous acts calling for mineral reservations (also previously discussed and set forth in attached Bureau of Land Management List), is to examine the patent, the provisions of the act under which it was issued, and by the examining of the District Land Office Records. When such an examination shows that the patent does contain or should have contained reservations of minerals the proper exceptions should be shown in the policy.

If the examination of the District Land Office records fails to show that the mineral or non-mineral character of the land was considered by the Land Department and the entry was made subject to mineral qualifications, but the patent does not contain these reservations, it may be possible that the minerals rightfully passed to the patentee. This is possible because for various reasons the Land Department intentionally omitted the exception or reservation. When an agent finds a situation as outlined in this paragraph he should set up an appropriate exception in the policy which exception may be eliminated after consulting the Home Office.

Even though patents issued now do not contain a reservation of source material for fissionable material, and even though the patents previously issued containing such a reservation may now be exchanged for a patent without such a reservation, when a patent contains a reservation of these substances it should be set up as an exception in the ATA reports and policies.

Patents issued under Acts that call for reservations of minerals **regardless of the classification of the land as mineral or non-mineral,** must contain this reservation, and if they do not, the reservation must nevertheless be exceptioned in the insurance reports and policies. Example of these acts just to mention a few are: Small Tract Act; Stock-Raising Homestead Act;

Additional — Stock Raising Homestead Act and Color of Title Act, (unless patent was issued under this last act without reservation under the provision of the Act of July 28, 1953). See also attached Bureau of Land Management List.

A few acts such as the act authorizing the exchange of lands in a National Forest provided that either party to the exchange may reserve minerals, timber or easements. If the Government did reserve the minerals, timber or easements such reservations will appear in the patents and of course should be shown as an exception in the title insurance reports and policies. The Taylor Grazing Act and Amendments also authorized the Secretary of the Interior to exchange lands, and either party to the exchange may reserve minerals, easements or rights of way. If the lands to be patented by the Government are classified as mineral then the patent must reserve all the minerals. Hence, when a patent is issued pursuant to the Act of June 28, 1934, and Amendments, and the Act of June 26, 1936 the patent and the records in the District Land Office should be examined and if the reservations are found in the patent or the land is classified as mineral, the reservation must be excepted in the policies and reports. In connection with the mineral reservation there is also reserved the right to prospect for, mine and remove the same. This is the case wherever minerals are reserved and should be set up as an exception as a part of the mineral reservation.

The Townsite Acts prevented passage of title to any land which was subject to a mining claim or upon which there was a mine of gold, silver, cinnabar or copper, or which was in possession under any of the mining laws. The patent will frequently contain such an exception, and when it does, this exception should appear in the policies and reports. When the patent does not contain an exception or reservation and if the Townsite is in a locality in which there has been no mining activity, no exception of the mineral lands or the right of mineral claimants need be set up. When, however, the land is in an area where there has been or still is mining activity the vestee's title should be made subject to any mine of gold, silver, cinnabar or copper and any mining claim or possession under the mining laws. Upon inspection and from other information if it can be ascertained, that the land was not known to be mineral in character, nor subject to any rights under the mining laws these exceptions may be eliminated from the policies and reports if they are not contained in the patent. Even if it is found that the land was subject to these mining claims at the time the patent was issued if there has been an abandonment of the claim for a long period of time the exceptions may also be eliminated, provided again the exception is not shown in the patent.

When it is definitely ascertained that Sections 16 and 36 passed to the State, for title purposes we must conclude that the minerals also passed to the State. Since the State of Idaho was authorized to accept indemnity and lieu lands with reservations to the United States of various minerals, the lieu and indemnity list should be examined for these reservations.

The Title Insurance practice relative to some of the rights of ways over public lands has been discussed. Also as pointed out, sometime these right of ways are shown in the patent, sometimes they are shown only in the plats and records in the District Land Office. Occassionally they do not appear in any records and can only be discovered upon inspection of the premises. Highways rights of Way obtained under the Act of July 26, 1866 will not appear of record. When these rights of way are found they should be set up as an exception.

Railroad rights of ways usually will not appear as an exception in the patent, but will be shown

on the plat books in the District Land Office. Where these railroad rights of ways are found they should be excepted in the policies.

Other right of ways such as for electrical plants, poles and lines for the generation and distribution of electrical power and for telephone and telegraph usually will be shown on the township plats in the District Land Office and may occasionally be referred to in the patents. They should be shown as an exception in the policies and reports.

It is recognized, that while the foregoing procedure is from a technical and theoretical standpoint good title insurance practice, agents throughout the state cannot check the records in the district land office, and for that reason this procedure should be followed:

1. **In all ATA policies covering city or urban property, except the exceptions and reservations set out in the patent. If the act under which the patent was issued specifically calls for an exception or reservation and this exception or reservation is not contained in the patent it should also be excepted.**

2. **In all ATA policies covering farm or rural property in addition to excepting the exceptions and reservations actually shown in the patent and specifically called for by the act, also except mineral rights (Stenographer's Manual 109-A) in schedule "A" following the description, if the patent was issued after March 3, 1909 and the area was considered mineral in character. If the examiner is uncertain as to whether the area had or had not been classified as valuable for coal, oil, gas or other minerals and the patent was issued after March 3, 1909, the mineral rights exception should be used.**

It is also pointed out that occasionally, in mortgage policies, when minerals have been excepted, you will be requested to insure the mortgagee against any loss which he may sustain by reason of damage to improvements resulting from the exericse of any right to use the surface of the land for the extraction or development of the excepted minerals. When such a request is made, use endorsement TTIC Form 104.

A specimen copy of this endorsement is attached.

In conclusion the obvious must be pointed out, and that is that this material does not attempt to discuss most of the principals applicable to public lands. In fact, many problems in connection with patent reservations and exceptions have not been exhaustively presented; to do so would result in an article many times the length of this. Also exceptions and reservations contained in States Patents or Deeds is not covered. Your attention is directed to pages 15, 16 and 17 of Volume I, Outlines of Land Titles (Idaho and Montana) for reservation of minerals in State Patents or Deeds. However, it is hoped that this material will give you a working knowledge, for title insurance purposes, of exceptions and reservations in United States Patents to Public Lands.

BUREAU OF LAND MANAGEMENT LIST SHOWING RESERVATIONS

Type of Reservation	Purpose	Date of Act	Citation of Act of Congress: Stat. at Large Vol.	Stat. at Large Page	U.S. Code Title Section		Spec. Data Needed for Pat.
Rt. of Way	Canal & Ditches	7/26/1866 & 7/ 9/1870	14	251	—	—	(App. to all lands west None of 100° except those in Kan., Neb. & Okl. See Ill. 47.
Rt. of Wy.	R.R. & Tel. Lines	6/ 8/1872	17	339	—	—	Name of R.R. Co.
Rt. of Wy.	R.R. Line	6/ 8/1872	17	340	—	—	Name of R.R. Co.
Rt. of Wy.	R.R. & Tel. Lines	6/23/1874	18	274	—	—	Name of R.R. Co.
Rt. of Wy.	R.R. Lines	3/ 3/1875	18	482	43	934-939	None
Restriction	Liab. for debts	2/ 8/1887	24	388	—	—	None
Rt. of Wy.	R.R. Lines	5/30/1888	25	160	—	—	Name of R.R. Co.
Rt. of Wy.	R.R. Tel. & Teleph. Lines	9/ 1/1888	25	452,455	—	—	Name of R.R. Co.
Rt. of Wy.	R.R. Tel. & Teleph. Lines	2/12/1889	25	660	—	—	Name of R.R. Co.; purpose of Rt. of Wy.
Rt. of Wy.	Aqueducts, canals & dams	2/25/1889	25	693	—	—	Name of Rt. of Wy. grantee
Rt. of Wy.	Canals & ditches	8/30/1890	26	391	43	945	None Appl. to all lands west of 100° See Ill. 47
Minerals	Gold, silver & quicksilver	3/ 3/1891	26	854	—	—	None
Rt. of Wy. & Easements	Rt. of Wy & Easements Bureau of Recl. projects	3/ 3/1891	26	1095	43	417	None
Rt. of Wy.	R.R. Lines	3/ 1/1893	27	529	—	—	Name of R.R. Co.
Rt. of Wy.	R.R. Lines	7/18/1894	28	112	—	—	Name of R.R. Co.
Material Site	Timber or Stone	6/ 4/1897	30	11,35	—	—	Name of permittee
Rt. of Wy.	R.R., Tel. & Teleph. Lines	6/ 4/1898	30	436	—	—	Name of R.R. Co.
Rt. of Wy. & flowage easements	Dam & reservoir sites	7/ 1/1898	30	571,576	—	—	None
Rt. of Wy.	R.R. & Tel. Lines	3/ 1/1899	30	918	—	—	Name of R.R. Co.

BUREAU OF LAND MANAGEMENT LIST SHOWING RESERVATIONS

Type of Reservation	Purpose	Date of Act	Citation of Act of Congress: Stat. at Large Vol.	Stat. at Large Page	U. S. Code Title	U. S. Code Section	Spec. Data Needed for Pat.
Rt. of Wy.	Dams, ditches & canals	3/ 1/1899	30	941	—	—	Name of Rt. of Wy. grantee
Rt. of Wy.	R.R. Tel. & Tel. Lines	3/ 2/1899	30	990	—	—	Type of line; name of Rt. of Wy. grantee.
Rt. of Wy.	R.R. Tel. & Tel. Lines	4/17/1900	31	134	—	—	Name of Rt. of Wy. grantee
Rt. of Wy.	Tel. & Tel. Lines	3/ 3/1901	31	1058,1083	—	—	Name of Rt. of Wy. grantee
Lien	Irrig. charges	6/17/1902	32	388	—	—	See Acts of 8-9-1912 and 5-15-1922
Rt. of Wy.	Oil & gas pipe lines	3/11/1904	33	65	—	—	Type of line, name of Rt. of Wy. grantee
Rt. of Wy.	Dams, reservoirs, ditches, flumes	2/ 1/1905	33	628	16	524	Name of Rt. of Wy. grantee
Water & minerals	Mining laws	6/11/1906	34	233	16	508	None except if in Black Hills Nat'l Forest. In that case name of forest.
Minerals	Coal and Oil	6/21/1906	34	325,336	—	—	None
Rt. of Wy.	Material sites, reservoirs, tree planting, etc.	3/ 3/1909	35	781	—	—	Name of R.R. Co.; date of approval of appl'n by R.R. Company
Minerals	Coal	3/ 3/1909	35	844	30	81	None
Rt. of Wy. Reversionary clause	Material sites, reservoirs, tree planting, etc.	5/ 6/1910	36	349	—	—	Name of R.R. Co.; date of approval of appl'n by R.R. Co., type of Rt. of Wy., date of executing of stipulation by the R.R. Co.
Minerals	Coal	6/22/1910	36	583	30	83-85	None
Exceptions	Power-site reserves	6/25/1910	36	847	43	141-143	Acreage of power-site reserves; No. of power-site reserves; date of executive order.
Rt. of Wy.	Bureau of Recl. highway	6/25/1910	36	855	—	—	None

BUREAU OF LAND MANAGEMENT LIST SHOWING RESERVATIONS

Type of Reservation	Purpose	Date of Act	Citation of Act of Congress: Stat. at Large Vol.	Stat. at Large Page	U. S. Code Title	U. S. Code Section	Spec. Data Needed for Pat.
Restriction	Alienation rest.	6/25/1910	36	855	—	—	None
Restriction	Rt. of cancellation	6/25/1910	36	855	—	—	None
Rt. of Wy.	Elec. Trans. Tel. & Tel. Lines	3/ 4/1911	36	1235,1253	43	961	Type of line; name of Rt. of Wy. grantee
Minerals	Coal	4/ 3/1912	37	631	—	—	None
Lien	Drainage Assess.	7/19/1912	37	194	—	—	Name of drainage dist. dollar amt. of assessment
Rt. of Wy.	Canal	7/19/1912	37	194	—	—	None
Lien	Irrig. charges	8/ 9/1912	37	265	43	541-546	None
Easement	Flowage	8/24/1912	37	518,527	—	—	None
Rt. of Wy.	Fed. improvements	—	—	—	44LD	359,513	Type of improve. dimensions etc., suff. to describe item.
Rt. of Wy.	R.R. Tel. & Tel. Lines	3/12/1914	38	305	48	301	None
Minerals	Oil & gas, oil shale, potassium, phosphate, etc.	7/17/1914	38	509	30	121-123	Name of mineral
Lien	Drainage Assess.	7/21/1914	38	553	—	—	Name of drainage dist. No. of dist. dollar amt. of assess.
Minerals	Coal	8/ 3/1914	38	681	—	—	None
Easement	Flowage	8/ 6/1914	38	683	—	—	None
Lien	Irrig. charges	5/18/1916	39	123	—	—	None
Minerals	All minerals	12/29/1916	39	862	43	291-301	None
Minerals	Coal	2/27/1917	39	944	30	86-89	None
Minerals	All minerals	6/30/1919	41	3,17	—	—	None
Minerals	Coal	2/14/1920	41	408,420	—	—	None
Rt. of Wy.	Oil & gas, pipe lines	2/25/1920	41	437	30	185	Type of pipe line; name of Rt. of Wy. grantee

BUREAU OF LAND MANAGEMENT LIST SHOWING RESERVATIONS

Type of Reservation	Purpose	Date of Act	Citation of Act of Congress: Stat. at Large Vol.	Stat. at Large Page	U. S. Code Title	U. S. Code Section	Spec. Data Needed for Pat.
Restriction	Use of surface by mineral lessees	2/25/1920	41	437	—	—	None
Materials	Timber	2/25/1920	41	452	—	—	None
Minerals	All minerals	5/20/1920	41	605	—	—	None
Minerals	All minerals	6/ 4/1920	41	751	—	—	None
Lien	Irrig. charges	6/ 4/1920	41	751	—	—	None
Restriction	Occupation for fed. power purposes	6/10/1920	41	1063	16	818	None
Rt. of Way	Elec. trans. line	6/10/1920	41	1063	16	818	No. of ft. from center line; name of Rt. of Wy. grantee; No. of Fed. power project.
Rt. of Way	Elec. trans. line	6/10/1920	41	1063	16	818	Width of strip in ft.; name of Rt. of Wy. grantee; No. of Fed. power project.
Minerals	All minerals	3/ 3/1921	41	1355	—	—	None
Lien	Irrig. charges	3/ 3/1921	41	1355	—	—	None
Rt. of Wy.	Fed. highways	11/ 9/1921	42	212	23	1-25	None
Material site	Fed. highways	11/ 9/1921	42	212	23	1-25	None
Minerals	Coal or oil & gas	3/ 8/1922	42	415	48	377	None
Lien	Irrig. charges	5/15/1922	42	541	43	511-512	None
Reversion. clause	Missions or schls.	9/21/1922	42	994,995	—	—	None
Lien	Irrig. charges	6/ 7/1924	43	475	—	—	None
Rt. of Wy.	Fed. Irrig. purpose	12/ 5/1924	43	672,704	—	—	Type of Rt. of Wy.; name of Rt. of Wy. grantee.
Minerals	All minerals	2/19/1925	43	951	43	993	None
All types	All purposes	2/28/1925	43	1090	16	486	Type of res.; name of grantee; dimensions of Rt. of Wy., etc.

BUREAU OF LAND MANAGEMENT LIST SHOWING RESERVATIONS

Type of Reservation	Purpose	Date of Act	Citation of Act of Congress: Stat. at Large Vol.	Stat. at Large Page	U. S. Code Title	U. S. Code Section	Spec. Data Needed for Pat.
Minerals	All minerals	5/19/1926	44	566	—	—	None
Minerals	All minerals	6/ 3/1926	44	690	—	—	None
Minerals Rev. clause	All minerals Pub. purpose	6/14/1926-) 6/ 4/1954)	44 68	741 173	43	869	Purpose for which patient is restricted
Minerals, Rev. clause	All minerals	2/ 8/1927	44	1061	—	—	None
Minerals	Oil and gas	3/ 3/1927	44	1401	—	—	None
Lien	Irrig. charges	3/ 7/1928	45	200,210	—	—	None
Minerals	Oil or spec. min.	12/22/1928	45	1069	43	1068	Name of mineral(s)
Restriction	Rts. of agric. entryman	1/29/1929	45	1144	43	299	None
Restricts.	Recl. lands	5/16/1930	46	367	43	424	None
Lien	Loan to Indian Allottees	2/14/1931	46	1124	25	387	Dollar amt. of lien
Minerals	All minerals	2/23/1932	47	53	43	178	None
Minerals	Sodium or sulfur	3/ 4/1933	47	1570	30	124	Type of mineral
Rt. of Wy.	Paths, trails, lanes, etc.	3/31/1933	48	22	16	585-590	None
Surface	Sur. of min. claims	5/26/1934	48	808	—	—	None
All types	All purposes	6/28/1934	48	1269	43	315g	Suff. to describe res. fully
Minerals	All minerals	6/ 1/1938	52	609	43	682a	Width & location of Rt. of Wy.; for community sites, purpose, duration & terms of reversing clause.
Rt. of Wy. Rev. clause	Rds. & pub. Util. (1) Pub. purp. (comm) sites (2) Homesite & rec. (Int. employees)	6/ 8/1954	68	239			
Minerals	All minerals	9/24/1940	54	959	—	—	None
Rt. of Wy.	Rds., Highways, etc.	7/24/1947	61	418	48	321d	None

COMING EVENTS—

Date	Meeting	Where to Be Held
May 23-25	Iillinois Title Association	Abraham Lincoln Hotel Springfield, Illinois
May 25-26	Eastern Seaboard States Title Insurance Regional	Waldorf Astoria New York, New York
May 28-30	California Land Title Association	Sheraton Palace San Francisco, California
June 1-2	Central States Title Insurance Regional	Edgewater Beach Hotel Chicago, Illinois
June 1-2	Tennessee Title Association	Riverside Hotel Gatlinburg, Tennessee
June 4-5	Idaho Land Title Association	Challenger Inn Sun Valley, Idaho
June 8-9	New Mexico Title Association	Alvarado Hotel Albuquerque, New Mexico
June 15-16	Wyoming Title Association	Townsend Hotel Casper, Wyoming
June 21-23	Colorado Title Association	Hotel Colorado Glenwood Springs, Colo.
June 21-23	Michigan Title Association	Sheraton-Cadillac Detroit, Michigan
August 3-4	Montana Title Association	Florence Hotel Missoula, Montana
Sept. 16-18	Missouri Title Association	Hotel Robidoux St. Joseph, Misouri
September 20-22	North Dakota Title Association	Grand Forks, North Dakota
September 20-22	Oregon-Washington Title Association—Joint Meeting	Gearhart Hotel Gearhart, Oregon
Sept. 20-22	Wisconsin Title Association (50th Anniversary)	Lorraine Hotel Madison, Wisconsin
September 22-25	New York Title Association	Whiteface Inn Lake Placid, New York
September 23-24	Kansas Title Association	Allis Hotel Wichita, Kansas
October 8-11	Mortgage Bankers Association of America (43rd Annual Convention)	Conrad Hilton Hotel Chicago, Illinois
Oct. 12-13	Nebraska Title Association	Lincoln Hotel Lincoln, Nebraska
October 16-20	**National Convention—American Title Association (50th Anniversary)**	**Hotel Fountainebleau Miami Beach, Florida**
November 12-13	Ohio Title Association	Deshler-Hilton Hotel Columbus, Ohio

Watch for It—

AMERICAN TITLE ASSOCIATION
50th ANNUAL CONVENTION

Plan for It—

ON

OCTOBER 17-20, 1956

Head for It—

AT

HOTEL FONTAINEBLEAU,
MIAMI BEACH, FLORIDA