

## LANDS CASE FILE CONTENT, DOCUMENTATION, AND MAINTENANCE

Source: NTC Beginning Lands, 2011

### CASE FILE CONTENT

- Be sure that every action is supported in the case file
- Copy of proposal or nomination
- MTP (Master Title Plat) with parcel plotted
- MTR (Master Title Record) and/or other LR2000 search record
- Mining claim report
- List of encumbrances
- Copy of all reports or reference to reports and where they are on file
  - \* mineral potential report
  - \* appraisal
  - \* environmental site assessments (initial and final hazardous material surveys)
  - \* cultural
  - \* T&E Species (Section 7 biological assessment and biological opinion)
- List of any grazing permits/leases
- List of any grazing improvements
- NEPA document and decision document/FONSI
- NORA
- Copy of FEDERAL REGISTER publication of NORA
- Copies of 3 publications in local newspaper(s) and Affidavit of Publication
- Copy of brochure
- Copy of log identifying bids on that particular parcel
- Bid form/certificate of eligibility
- High bidder declared letter
- Copy of corporate papers/trust agreements, etc.
- Updated LR2000 serial register page
- Accounting advices for all payments: bid deposit, final payment, filing fee, reimbursement for publication costs, etc.
- All other information relating to this parcel
  - \* News articles
  - \* Correspondence

## PROPER DOCUMENTATION AND MAINTENANCE OF CASE FILES

Proper documentation in, and maintenance of, case files has become vital to the way we do business because public lands are everyone's business and more and more of the public is making it their business to look at and question our case records.

Protests, appeals, and lawsuits are becoming more frequent and, when they occur, our records not only take on a more serious nature, but the record, as it stands when an appeal or lawsuit is filed, becomes frozen. The appeal or lawsuit may be won or lost by the information in the case file, its completeness, and how well it supports the decision being contested. The case file should be kept free of extraneous material and of documents with notations in the margins, notes, and other material that contain comments that are sarcastic or otherwise unprofessional. The case file should also not contain handwritten notes that may have had meaning when they were written but no one can either decipher them, figure out why or to whom they were written, or construe what purpose the note was to serve. It should be remembered that the case file, with a few exceptions, is open to the public, and that material could be examined and copied. If the case file is reviewed at a later date, and it is noticed that information has been removed, the BLM could be accused of trying to hide something. Once an appeal or lawsuit has been filed, the case record should not be purged of unnecessary materials that have been inadvertently or carelessly placed in the record. If the case file is examined and found not to be exactly the same as those records we submitted for court or IBLA action, we could be reprimanded severely for tampering with "evidence".

In addition, often there has been verbal conversations discussing important aspects of a case that are not documented. Please remember to formally document meetings, even informal ones, and telephone conversations. This should include the names and telephone numbers of all parties involved, a concise clear record of what was discussed, and any agreements made.

The following rules should be followed:

1. A case file should always be kept in chronological order (by date of the correspondence, not by date received by BLM). All documents received by BLM should be stamp dated so you can tell when BLM received it. The larger the case file, the more important it is that the file be in chronological order. It is imperative that it be easy to track the order in which events occurred. If necessary, tab the file so that it is easy to find the most important documents.
2. All documents should be fastened in the case file. If the document is too thick, a copy of the cover should be fastened in the case file in the appropriate chronological order. The cover copy should then be marked to indicate that the complete document is in the case file jacket.
3. No duplicate copies of the same reports, documents, or correspondence should be retained in the file unless there is a specific reason for it. Duplicate copies clutter the file unnecessarily.
4. No copies of drafts, instruction memoranda, manuals, or other guidance (unless case specific) should be placed in the file.
5. A professional tone must be maintained when documenting the file regarding telephone calls, conversations, notes, and informal transmittals. Inappropriate or offhand remarks of any kind by BLM personnel that show up on a document in the case file are inexcusable.

6. Case files should contain paper copies of the appropriate master title plats, LR2000 search records, and mining claim records, or documentation that previous searches are still complete and valid, at certain strategic points in time:
  - a. When the case file is established. This is evidence of the land status at the time the application/proposal is filed.
  - b. Following publication of the NORA in the FEDERAL REGISTER. This is evidence of the land status at the time the segregation is effective, and will also determine if there are additional applications have been filed or additional land use authorizations have been issued that were not previously known.
  - c. Immediately prior to transmittal of the file to the State Office for patent issuance. Again, this is evidence of the land status at the time of patent issuance.

Additional times the records might be checked are:

- a. When a new authorization or amendment has been approved and posted to the records. This is proof that the records were posted and the plat can be checked for accuracy.
- b. When an authorization has been relinquished, canceled, terminated, revoked, etc. and the action has been posted to the records. Again, this is proof that the records were posted and the plat can be checked for accuracy.

Each plat placed in the case file should be dated on the folded outside right hand bottom corner to show the date the plat was made and placed in the file. Always check the plat to be sure it has been noted correctly.

7. Only official record copies of FEDERAL REGISTER notices that affect the case file should be placed in the file. If a notice does not require posting to the records then place a copy from the FEDERAL REGISTER in the file; if the notice does require posting then the official copy will be sent to the field office by the State Office after the posting is completed. The official copy will be stamped to show whether the action was posted to the master title plat, the use plats, and/or filmed for the control document index (CDI) file in the State Office. The stamped information will also contain the date and initials of the person who did the posting.

Prior to sending a case file to the State Office for a final action such as patenting, please make sure the file is in chronological order and that the most important documents (application, NEPA document, Decision Record/FONSI (DR/FONSI), mineral report, cultural report, Sec. 7 biological assessment/opinion, FEDERAL REGISTER publication, newspaper publication, corrections to publications, grazing notification, classification, environmental site assessments, etc.) are tabbed for easy identification.

All reports in the file should be checked before the DR/FONSI is signed to ensure that the recommendations support the proposed action. The recommendations made in the transmittal memorandum to the State Office must be identical to the DR/FONSI. If the DR/FONSI is not specific, then the recommendations must be identical to the document(s) the DR/FONSI references.

Even though confidential material can remain in a file in a sealed envelope appropriately marked, it is always a risk that it will not be removed before the file is offered to the public to review. Preferably confidential material should be referenced in a case file by using a cross reference sheet indicating there is confidential material involved and who has control of the material. As of now there is no existing BLM cross reference numbered form available for this purpose. There is a form (1273-2), however, that can be attached to the envelope in which confidential material is placed. Notations can be made on that form information such as: "archaeological material, Paradise Valley - see Jane Doe, District Archaeologist, if you require review of the information."

The confidential material should be kept in a locked cabinet designated for such purposes. Confidential information should accompany a case coming forward to the State Office for final action or being sent to IBLA. That material will be maintained, separate and apart, per guidance. At some appropriate points - case closure, patenting, etc. there is a need to check with the party who submitted the material as to whether it must be maintained as confidential material or, at that point should become part of the public record, should be returned to the submitter, should be destroyed, or some other disposition should be accomplished.

When an application is filed, a serial page is set up in LR2000. Every time an amendment to that application is filed, an authorization is approved, a decision is issued, a decision is appealed, IBLA issues a decision, etc., the serial page should be updated. Cases should not be forwarded to the State Office for final action until case recordation notations in LR2000 are complete and current.

When a case file becomes so large that it contains more than one part, both the jacket(s) and the case file must have new bar numbers to indicate the changes. Both the case jacket(s), as well as the case file, should also indicate how many parts there are, i.e., Part I of III, Part II of III, etc.

Legal descriptions - When townships have been surveyed and sections contain lots, tracts, and/or parcels, then the lots must be used, not an aliquot part description. Even if the description is for an entire section that has lots, tracts, and/or parcels, "all" should not be used as a legal description. The exception to this rule is when inputting to LR2000. For all other documents (EAs, NORAs, memoranda, letters, patents, etc.), the legal description should match the survey, i.e., lots 1 -4, S $\frac{1}{2}$ N $\frac{1}{2}$ , and S $\frac{1}{2}$  - not "all". Remember that public lands that cannot be legally described under the cadastral survey system cannot be sold under the regulations in 43 CFR 2710.

Proper documentation and good maintenance of a case record are as important as the next document you are going to place in the file. Maintenance of files is everybody's responsibility; don't leave it to the next person to clean up the file. Please also remember that the case file may be reviewed years from now, long after you have transferred to another office or have retired.