

# Position Classification Standard for Land Law Examining Series, GS-0965

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## SERIES DEFINITION

This series includes positions the duties of which are to administer, supervise, or perform quasi-legal work involved in processing, adjudicating and advising on applications and claims for rights, privileges, gratuities, or other benefits authorized under the various public land, mineral leasing, and mining laws. The work requires a knowledge of governing public laws and agency policies and procedures regarding the application of these laws, but does not require full professional legal training.

## INCLUSIONS

The major activity embraced by this series is the adjudication of rights of individuals with respect to their interest in the public lands and resources. Positions which involve the furnishing of information to the public are also included in this series (a) when they are part of a career pattern for Land Law Examiner positions, and (b) when they require the same basic qualifications and substantive knowledge of the laws, regulations, policies, and procedures governing the acquisition and use of the public lands and resources to the same degree of intensity as that of the Land Law Examiner. These information positions involve a sufficiently close familiarity with the examining and adjudication process to explain such matters as (1) the effect of withdrawals, mineral reservations, land classification and other actions on individual applications; (2) the issues involved, the action being taken, or the status of pending cases (where appropriate to give such information); and (3) the basis for adverse actions and appeal rights.

Work of this series includes the adjudication of applications and claims for rights, privileges or other benefits under public land laws within a pre-established legal framework which reflects, through Department of Interior regulations, the intent of Congress. Any application, the adjudication of which poses a novel legal question, may be referred to the Office of the Solicitor for legal opinion or interpretation.

## EXCLUSIONS

Positions involving the following types of work are excluded from this series:

1. Legal advice, examining, adjudicating, or other work requiring training equivalent to that represented by graduation from a recognized law school, but not requiring admission to the bar. (See the [Legal Assistance Series, GS-0986.](#))
2. The examination of legal documents, other than claims, which requires the application of specialized knowledge of particular laws, or of regulations, precedents, or agency practices based thereon, and which do not require legal training equivalent to that represented by graduation from a recognized law school. (See the [General Legal and Kindred Series, GS-0901.](#))

3. Clerical work. (See the [Job Family Position Classification Standard for Assistance Work in the Legal and Kindred Group, GS-0900](#), or clerical series in the [GS-0300](#) or [GS-0500](#) groups.)

## QUALIFICATION REQUIREMENTS FOR POSITIONS IN THIS SERIES

Incumbents of positions in this series require (1) a knowledge of public and real property laws and implementing regulations; (2) ability to read and understand legal land descriptions, land titles, and tract maps; (3) ability to interpret and apply public land and related laws and regulations to diverse situations; (4) ability to read and understand legal documents; (5) ability to analyze numerous facts and determine their acceptability and completeness; (6) ability to make objective decisions; (7) skill in oral and written expression; and (8) effectiveness in personal relations. They must also have a knowledge of other legal matters, such as descent and distribution of property, domestic relations, citizenship requirements, as these matters apply to the processing of public land law cases.

There is little doubt that persons with law degrees, upon entrance into this occupation, have a head start in learning how to adjudicate claims over persons without such training. For example, persons with a law school background normally are familiar with such matters as domestic relations, descent and distribution of property, and citizenship requirements. Persons without legal training have to gain this knowledge on the job. The ability to be analytical and to apply judgment and discretion to the extent required in this series is found in persons without law school training, as well as among those who have the training. Accordingly, the law school degree, while desirable, is not considered to be a minimum qualification requirement for this series.

## CLASS TITLES

Approved titles for positions in this series are:

1. Land Law Examiner
2. Supervisory Land Law Examiner

For nonsupervisory positions of Land Law Examiner, the standard includes grade-level criteria for grades GS-5 through GS-11. Positions which exceed the GS-11 level in complexity and responsibility should be evaluated by extension of the criteria in this standard and by application of general classification principles.

This standard does not include grade-level criteria for [supervisory positions](#) in this series.

## OCCUPATIONAL INFORMATION

Land Law Examiners are employed, almost exclusively, by the Bureau of Land Management, Department of the Interior. The majority of the positions are located in field Land Offices.

The major activity of Land Offices is the adjudication of individual rights and privileges under a wide variety of land laws which govern the use and disposition of the public lands and resources.

The Land Offices have responsibility for receiving, examining and making decisions (which in the absence of appeals are final) on applications or claims for use or disposal of public domain lands, and the disposal and leasing of minerals in the public lands, acquired lands and patented lands on which mineral rights have been retained by the United States.

Many of the public land laws with which Land Law Examiners are concerned apply only to the unreserved, unappropriated public domain lands. The mineral laws, and some of the land laws, extend to National Forest Lands, reclamation lands, and other types of withdrawals, and to lands the surface of which is in private ownership.

Since the founding of the General Land Office in 1812, and the granting of the first public land patent in 1788, it is estimated that more than 5,000 laws have been passed by Congress which affect the public domain. Many of these laws are now obsolete; however, there still remains a great complex of land law. Within this complex, there exists a framework of some sixty basic categories of application or claim types, under which are often found several separate and distinct sub-types.

While it is not practical to discuss all of the land laws in this standard, a few of the important statutes are reviewed below for purposes of illustration.

In these discussions, a "patent" corresponds to a deed and is the initial instrument of transfer of title to public lands from the United States to private ownership. Patented land, then, is land which has passed into private ownership. Unpatented land, with a few minor exceptions, is termed public domain. "Withdrawn" or "reserved" land is public domain which has been set aside for some governmental use. Vacant public domain is unreserved, unpatented, and otherwise unappropriated public land. "Acquired lands" are now owned by the United States, but were not necessarily part of the public domain.

Settlement of the land is usually accomplished by filing an application to enter surveyed lands. In Alaska, unsurveyed lands may also be settled by establishing a claim and filing a location notice. Hence, the term "entry" refers to an allowed application to acquire title to public lands; and "entryman" refers to the individual, corporation, association, or other entity which has made an entry. Title to or use of land by lease or permit is accomplished by the filing of applications under various land laws. The contemplated uses for which land may be obtained run the gamut from industrial to recreational. Applications are processed with public interest as a factor to be considered.

# **ILLUSTRATION OF LAND, MINING AND MINERAL LEASING LAWS**

## **(A) HOMESTEAD**

All unappropriated and unreserved public land which is adaptable to any agricultural use, and which contains no minerals other than coal, oil, gas, or other leasable minerals which are reservable to the United States is subject to homestead application. Applications for homestead entry are filed under various Federal statutes, particularly (1) additional, (2) enlarged, and (3) adjoining farm homesteads, and (4) original 160-acre homesteads.

Requirements and limitations of these laws are numerous. For example, the law and implementing regulations provide special requirements relating to (1) qualifications for homesteading, e.g., age, marital status, citizenship, acreage owned, etc.; (2) how to homestead, e.g., in Alaska marking the site, filing an application, etc.; (3) area and shape of homestead claims, with special provisions for surveyed and, in Alaska, unsurveyed lands; (4) residence requirements on the homestead site; (5) cultivation of the area in the claim; (6) final proof of entry within five years, with special provisions for acceptable proof within three years, or commuted proof by paying for the land and fulfilling fourteen months' residence and certain cultivation requirements during the first two years.

Other factors considered are fees and commissions, and credit for service. Depending upon time served in the armed forces, veterans who have been honorably discharged are entitled to various benefits, including the partial substitution of military service for compliance with the homestead laws. Under certain conditions, veterans' rights are transferable to their spouses, widows, heirs.

## **(B) SMALL TRACTS**

Small tracts not exceeding five acres of public land may be leased or sold for residential, recreational, business or community purposes. Any citizen of the United States, as well as partnerships, associations, corporations or governmental subdivisions are eligible to apply for small tracts. Lands are generally disposed of on a direct purchase basis. Leases with option-to-purchase normally run for a three-year period, during which improvements specified by the Bureau of Land Management must be constructed. Any time after acceptable improvements have been placed on the land and before termination of the lease or within a "reasonable period" thereafter, application to purchase at the appraised value stated in the lease form may be filed. Ordinarily, leases with option-to-purchase will not be renewed except where substantial improvements have been made. Renewals are possible in unusual cases where extreme hardship would result if the lease were not renewed and where lessees demonstrate that their failure to place suitable and timely improvements on the land was justifiable under the circumstances.

Land classified for "lease only" may be leased for periods up to twenty years. Improvements suitable for the contemplated use and acceptable to the Bureau of Land Management must be constructed by the lessee.

### **(C) PRIVATE EXCHANGES**

Private exchanges are transactions whereby the United States acquires title to private lands in exchange for public lands pursuant to authority granted by the Taylor Grazing Act. Private exchanges may be made only on a basis of lands for lands and subject to reservations.

Private exchanges are discretionary and either party to a private exchange may reserve minerals, or rights-of-way and other use rights.

In acting upon such applications, the Land Law Examiner must determine, for example, whether the description of offered or selected lands or both conform to legal subdivisions; whether the offered and selected lands are in the same State and within a 80 kilometer (50-mile) limit; whether there are any reservations in the offered lands; whether applicant (or any of them if more than one party to the exchange) is legally capable of consummating the exchange (refers to such things as minority, marital status, and legal competence otherwise); whether applicant has fee title to the lands; whether applicant affirms that the selected lands do not exceed the offered lands in value; whether the proposed mineral reservations conform with departmental policy; whether the selected lands are not subject to selection because they are unsurveyed, reserved, or otherwise unavailable for status reasons; easements or other rights, in the selected lands which must be reserved in the patent.

### **(D) STATE INDEMNITY SCHOOL SELECTIONS**

States may select public lands in lieu of school sections to which they did not acquire title because of appropriation prior to survey or because of natural deficiencies such as fractional townships and section.

Applications and land status reports must be examined in order to determine whether the lands for which the State is claiming indemnity qualify under existing laws. Conflicts with other applications must be considered for priorities; withdrawals and existing mineral leases must also be considered as well as the mineral character of both the base and selected lands. Lands covered by a producing or producible lease may not be selected.

The selected lands must be favorably classified before being "clear-listed." Title passes to the State upon approval of a clear list. Existing mineral leases must also be transferred to the State under certain conditions.

## **(E) RECREATION AND PUBLIC PURPOSES**

Sale or leasing of lands for public and recreational purposes is authorized. The act is applicable to any public domain lands, surveyed or unsurveyed, except lands withdrawn or reserved for national forests, parks, monuments or wildlife refuges, lands set aside or held for Indian use or benefit, and the revested forest lands (termed O & C lands) in the State of Oregon which are subject to lease only.

Only the following are qualified to make application: nonprofit associations, nonprofit corporations, Federal and State instrumentalities and political subdivisions including municipalities. Individuals are not eligible.

Sales or leases cannot be approved unless and until the lands applied for are first classified as being suitable for the intended use and not needed for any other public purpose or higher use. Lands for these uses are sold at prices which take into consideration the purpose for which the land will be used.

Application must be accompanied by statements fully describing the proposed use of the lands, showing that the application involves an established or definitely proposed project, and giving full details of the plan of development and the proposed disposition of any revenue derived from the project. Only such acreages as are required for the particular project can be sold or leased. There are also governing requirements relating to acreage that can be patented in any one calendar year; payment of a reasonable rental based on the value of the lands taking into consideration the purpose to which the lands will be put; payment of purchase price before issuance of a patent; limitations and terms of leases; and reservation of all mineral rights.

## **(F) RIGHTS OF WAY**

Rights-of-way may be granted on public lands, under certain conditions, for railroads, station and terminal grounds, tramways, reservoirs, ditches, canals, pipelines, flumes, roads, telephone and telegraph lines, and plants for the generation of electrical energy, and for the transmission lines to convey such power. Applicants are required to submit detailed maps of the project and rental is generally charged.

In addition to the basic statute or statutes, there is involved the application of pertinent State statutes, such as those relating to appropriation of water, and water rights in public-land States; a knowledge of domestic relations laws, descent and distribution of property; wills and administration; assignments, and transfers of property (voluntary and involuntary); and powers, formation, dissolution, and rights of corporations to function.

Factors considered are eligibility of applicant, and his right to apply for the right-of-way or easement; ascertaining from maps, field notes, tract book records, and plats whether lands are covered by homestead applications or entries, Indian reservations, national forests or other types of withdrawal; determining whether lands reserved for specific purposes may be restored to the

extent of granting the right-of-way; obtaining reports and recommendations from other interested divisions of own agency and other departments having certain jurisdiction over land to learn, e.g., whether granting the right-of-way is compatible with the public interest, whether there are any objections to granting the right-of-way with, or without, the imposition of conditions.

## **(G) MINING AND MINERAL LEASES**

### **(1) Mining Claim Locations and Patents**

Deposits of minerals, other than coal, oil, oil shale, gas, sodium, potash, and phosphate, and certain common varieties of minerals, in the public and national forest lands are subject to location and may be patented under the general mining laws of the United States. A valid discovery must be shown on each location. Generally, notice of location of a mining claim, whether a lode or placer claim, need only be recorded with the local county recorder's office. No recording is generally made with the Land Office until and unless the claimant wishes to apply for patent. Minerals such as common varieties of stone, gravel, sand, pumice, pumicite, cinders, and clay are not locatable under the mining laws. They may be purchased under the Materials Act, however.

There are various restrictions relating to lode claims and placer locations for gold, silver, or other precious metals or minerals; e.g., legal availability of land to mineral appropriation and size of area or tract. Rights to minerals are obtained by discovery of valuable deposits, staking and filing of locations, and maintenance of proper assessment work. When mining improvement work has been done and certain other conditions of the law and regulations have been met, such as posting and publication of notice of application for patent, the Government will issue a patent to the mining claim. An application for patent must contain an adequate description of the nature of the mineral deposit and must include sufficient evidence that applicant has right of possession to the claim. Information is also required as to citizenship, conflicts of record, claims to be excluded from the patent, and payment of a purchase price.

The United States may manage and dispose of certain surface resources on unpatented mining claims. Public Law 167 (Act of July 23, 1955) provides certain procedures for determination of surface rights to unpatented mining claims located prior to the Act. Public Law 585 (Act of August 13, 1954) provides a procedure for the determination of rights to leasable minerals on mining claims located prior to August 13, 1954.

### **(2) Coal**

Public lands known to be valuable for their deposits of coal may be divided into suitable leasing blocks or tracts of forty acres each, or multiples thereof, in such form as will permit the most economical mining of the coal therein, not exceeding 2,560 acres in any such leasing block or tract; and thereafter such blocks or tracts may be offered for lease by competitive bidding, after publication of notice of the lease offer.



The Act and implementing regulations contain provisions relating to issuance of coal prospecting permits; conditions of leases and renewal and readjustment of lease terms; royalties and readjustment of royalties payable under the lease; annual rental; issuance of coal licenses for supplying strictly local and domestic needs for fuel, without the payment of royalty.

Leases, prospecting permits and licenses may be issued to citizens of the United States 21 years or older, associations of such citizens, corporations organized under the laws of the United States or any State or Territory thereof, including a company or corporation operating a railroad or common carrier, and municipalities, subject to certain limitations.

Every applicant for lease must show that there is a need for additional coal production which cannot otherwise be reasonably met, or, if such a showing of need cannot be made, a statement of the reasons why a lease or permit is desired, and that, with the area applied for, his or its interest in coal permits, leases and applications therefor, directly or indirectly, do not exceed the acreage permitted.

### (3) Oil and Gas

Oil and gas leases are of two types: competitive leases which are issued for lands within a known geologic structure of a producing oil or gas field, and noncompetitive leases which are issued for lands not within such known geologic structure.

Leases will be issued only to citizens of the United States, associations of such citizens, or corporations organized under the laws of the United States, any State or Territory. A minor may not obtain or hold leases except as heir or devisee of an offer or lessee, and aliens, save for reciprocal rights granted by treaties, may not acquire interests in oil and gas leases except through stockholding in corporations if the laws of their country do not deny like privileges to American citizens.

Noncompetitive (wildcat) leases are issued to the first qualified applicant, making an offer for a lease, for a period of 10 years and so long as oil or gas is produced in paying quantities. Provisions are stipulated for annual rental to be charged, extension of noncompetitive leases under certain conditions, and payment of royalty based on production during succeeding years.

The Mineral Leasing Act permits lessees to operate leases under approved cooperative or unit plans. Such unit agreements provide for segregation of leases as to lands within and outside unit areas. This segregation is effected by a decision which describes lands segregated, the new serial number assigned, bond requirements, and sets out the extension to which the segregated lease may be entitled. The terms of leases eliminated from unit plans likewise may be entitled to extension. To determine the period of extension, the status of the lease must be ascertained at the time the action is effective; that is, whether the lease is in its fixed term or is in producing status. It is frequently necessary to search various statutes, regulations, and decisions to determine the period of extension to which a particular lease may be entitled.

Record title to oil and gas leases or undivided interests therein may be assigned in whole or in part provided the assignee is qualified to hold interests in Federal oil and gas leases and meets

the bonding requirements. Likewise, a lessee may assign operating rights in his lease to an operator who qualifies as to citizenship and holdings. To be effective, such assignments must be filed with and adjudicated by the Land Office for compliance with the Mineral Leasing Act and its various amendments, and applicable regulations before approval is authorized.

The Act of May 21, 1930, provides for the issuance of leases covering deposits of oil and gas in and under rights-of-way acquired under any law of the United States. The right of lease is restricted to the owner of the right-of-way or his assignees.

Competitive leases for lands within a known geologic structure are issued through competitive bidding only to the qualified bidder who submits the highest bid as a bonus for the privilege of obtaining the lease. There are governing requirements relating to assignments, extension of leases, annual rental, and payment of royalty on production.

## **(H) OTHER**

In the previous sections, only several of the acts relating to use and disposal of the public domain were discussed. In addition, there are many other types including, for example: Desert Lands, Withdrawals, Reclamation Homesteads, Permits and Easement for Public Works, Public Sales, Soldiers' Additional Homesteads, Homesites (Alaska), Townsites, Indian Allotments, Airport Leases, Air Navigation Sites, Color of Title, Phosphate, Potash and Sodium Permits and Leases, Cemetery Sites, and Private Act disposals as approved by Congress.

Further, many cases are received under the Mineral Leasing Act for Acquired Lands. This Act promotes the mining of coal, phosphate, sodium, potassium, oil, oil shale, gas and sulfur on lands acquired by purchase or donation by the United States, and provides for leasing for oil and gas of entire or fractional present mineral interests as well as mineral interests which will vest in the United States at a future specified date.

## **THE EXAMINING PROCESS**

Prior to adjudication by the Land Law Examiners, applications and claims are docketed, and a record status of the land involved is prepared. When required by governing law or regulations, the lands are classified as being suitable for the intended use and not needed for any other public purposes or higher use. (These functions are performed in other operating segments of the Bureau.)

Land Law Examiners typically perform the following duties in the examining, processing, and adjudication of applications and claims for obtaining title to, or rights or interests in public domain lands, or in mineral resources of the public domain or acquired lands:

1. Examine reports reflecting the status of lands involved in applications to determine if they are available for disposition or use as sought by the applicants. For example, they determine (a) whether lands are withdrawn from certain or all types of entries; (b) whether the lands are

known to be prospectively valuable for minerals; (c) whether a given application conflicts with others pending or previously allowed and priority rights of the parties involved; (d) whether a field examination is necessary to develop facts regarding utilization of the land; (e) the character of the land over which a right-of-way is desired, and whether granting the right-of-way is compatible with the public interest; (f) whether the use of the land, as sought, is permissible under applicable statutes and regulations.

2. Determine the eligibility or qualifications of the applicants to acquire interests in or use of the lands involved. For example, they determine (a) whether applicants meet provisions of law and regulations as regards citizenship, marital status, age, veterans' benefits, etc.; (b) where application is filed by a soldier's widow, that proof is submitted of the marriage, of the soldier's death, and of the fact that the widow has remained unmarried; (c) where heirs file the application, by reference to the pertinent State and Federal laws, whether the heirs involved in the chain of title to the right are the parties legally entitled to the shares of the right claimed; (d) where an assignee files application, whether the assignment is legal, and that no prior assignment of the same right has been made; (e) if the applicant is a municipality, whether it has shown the law or charter and procedure taken by which it became a legal body corporate, that the taking of the lease is authorized under such law or charter, and that the action proposed has been duly authorized by a governing body of such municipality; (f) whether the acreage of land applied for is within the allowable maximum and minimum limits; (g) whether provisions of law and regulations permit priority or preference to be given specific classes of applicants, etc.

3. Determine whether applications otherwise conform with applicable statutory and/or regulatory requirements. For example, they determine (a) requirements as to furnishing of surety or cash bonds; (b) whether there are any outstanding tax liabilities on the land; (c) payment of fees, rentals, or other charges for the land, etc.

4. Prepare necessary leases, permits, and other documents, involving therein appropriate provisions as to royalty payments, limitations or stipulations. For example, they determine (a) what easements, exceptions, and mineral reservations, if any, must be incorporated in the patents for the selected land in order to protect the rights of others and the interests of the Government; (b) limitations or stipulations requested by other Federal agencies which have jurisdiction over or an interest in the land involved, for inclusion in the terms of the lease or other document.

5. Formulate agency decisions, as required, for notification of the applicant and other interested parties as to acceptance, modification, additional requirements and evidence, or rejection of the applications. For example, when applications are filed by more than one party for the land involved, the individual whose application has been denied must be notified of the reason for rejection and his appeal rights. The examiner must also determine in formulating decisions which parties have sufficient standing to be designated as "adverse parties" and thus entitled to be served with copies of all documents issued in the proceeding.

6. Compose necessary correspondence with applicants, other Bureau offices and other agencies concerned relative to application or claims.

7. Conduct personal and telephone contacts with applicants or their representatives, other Bureau personnel, and occasionally with representatives of other Federal agencies or local governmental agencies on matters pertaining to specific applications.

### Signatory Authority

Decisions granting or denying rights and privileges to public lands and resources are made by the Land Law Examiner responsible for adjudicating the case. Although authority to sign such decisions is normally reserved to supervisors or higher authorities, the extent to which such decisions are reviewed depends upon the type of case involved, and the reliance placed upon the examiner for a proper interpretation of the governing requirements.

### Appeal Rights

Any party to a case who is adversely affected by a decision of an officer of a Bureau of Land Management Land Office has a right of appeal to higher administrative authority. In limited circumstances some decisions may be directly appealed to the Federal District Court.

## **GRADE DISTINGUISHING ELEMENTS**

The grade distinguishing elements of Land Law Examiner positions are (1) the nature and complexity of individual cases or other work performed; and (2) the level of responsibility.

### (1) Nature and Complexity of Work

Considered under this factor are:

- the variety and complexity of the factual data and issues which must be analyzed and evaluated;
- the nature of determinations and commitments, including the amount of judgment required;
- the availability and applicability of regulations, guides, or precedents;
- the extent of private interest in the actions, and the significance of such actions and decisions from the standpoint of economic values and the public interest;
- the breadth and intensity of knowledge required of the various laws, rules, regulations, policies and decisions governing public land administration.

### (2) Level of responsibility

Considered under this factor are:

- the amount and kind of supervision received during the progress of the work;
- the extent and purpose for which the completed work is reviewed;
- nature and extent of personal contacts.

## **NOTES ON APPLICATION OF THE STANDARD**

1. Grade-level criteria have been developed primarily for positions of Land Law Examiners located in field Land Offices, Bureau of Land Management, Department of the Interior. In evaluating positions in other situations, e.g., at a staff level, the grade-level criteria should serve as a guide, with appropriate recognition given to other controlling features of the positions.
2. In applying grade-level criteria, undue emphasis should not be placed on any one feature, e.g., money or economic value.
3. The standard shows a two-grade progression because this is the current manner of establishment of positions by agency officials. Where appropriate, the GS-6, GS-8, and GS-10 levels are to be used for assignments of work that fall between the levels described in the standard.

### **LAND LAW EXAMINER, GS-0965-05**

#### Nature and complexity of work

This is typically a trainee level. Land Law Examiners GS-5 are assigned cases for the purpose of broadening their knowledge of public land laws and implementing regulations, and familiarizing them with the various types of land, mining or mineral cases. Additionally, examiners adjudicate or take action on a few varieties of the simpler, or routine applications or transactions.

Land Law Examiners GS-5, for example, determine (1) correctness and proper execution of applications, claims and other forms; and (2) eligibility and qualifications of applicants for rights requested. At this level, the majority of cases processed involve only a minimum of development in that:

- a limited number of facts are involved and the facts are clear-cut;
- the rights and interests of the applicant or petitioner are clearly defined in the documentation, evidence and/or information at hand;
- there are few, if any, conflicts other than priority of filing (which is determined essentially by date of filing) affecting the status or availability of the land;
- the status and availability of the land or resources for the purpose sought can be readily determined by examination of basic land title and use records or abstracts of such information;
- laws, regulations and precedent decisions are clearly applicable;
- form letters or standardized guides are typically used in preparation of correspondence or decisions;
- generally nominal values in terms of the lands and mineral resources are involved. (Note, however, that oil and gas lease assignments, which are rote operations, may deal with substantial monetary values.)

### Level of responsibility

Land Law Examiners GS-5, when taking action on the simpler and routine types of cases, work under the general supervision of a higher-grade examiner. After initial instructions, duties are performed without close review or guidance. The examiner approves or disapproves cases based on a substantive review of record data in light of governing requirements. Individual applications or claims involving complexities or problems are discussed with the supervisor, or referred to a higher-grade examiner for disposition. Decisions are reviewed and signed by higher-grade personnel.

When assigned more difficult cases for training purposes, the supervisor points out legal and/or factual issues to be resolved or developed, evidence and documentation required to support specific claims and determinations, and precedent decisions and other guidelines which are available. Advice and instructions are also furnished with respect to the organization and presentation of facts, findings and conclusions. The supervisor is available to discuss and provide advice or instruction on any difficult or questionable matter which may arise in the adjudication of a case or problem. Completed work is thoroughly reviewed.

Personal contacts at this level are primarily with other employees of the office, usually for the purpose of obtaining or furnishing information relative to specific applications of transactions.

## **LAND LAW EXAMINER, GS-0965-07**

### Nature and complexity of work

Land Law Examiners GS-7 are typically assigned a wider range of more difficult types of cases. Assignments are made as a continuation of the examiners' training for the eventual processing of the broad range of applications or claims that may be made pursuant to the numerous public laws or the mining and mineral leasing laws.

Land Law Examiners GS-7, under general supervision, also take action on moderately difficult cases. These are situations where issues involved may be encountered on a repetitive basis; and while numerous facts must be considered, guides and precedents clearly applicable are available to resolve any controversial cases.

Land Law Examiners GS-7 approve or disapprove applications or claims based upon interpretation and application of a variety of laws and implementing regulations. They determine, for example: (1) whether lands are available for disposition or use as sought by the applicant by interpreting status reports, classification reports, the validity and sufficiency of instruments purporting conveyance of rights, title or interests in real property (such as deeds, mortgages, easements and assignments); (2) whether applicant meets prescribed requirements relating to citizenship, filing of applications within allowable time limits, limitations on acreage that may be applied for, entitlement to priority or preference, etc.; (3) the rights and interests of applicants in lands which have been withdrawn for some other specific purpose by law, regulations or public land order; and (4) whether applicant has met other applicable statutory or

regulatory requirements, such as publication of notice, service of notice on known interested third parties, payment of proper fees and other charges, etc.

The work performed by Land Law Examiners GS-7 exceeds the GS-5 level in that:

- cases require development and/or review of a considerable amount of factual data and evidence pertaining to the rights and interests of the applicant (or prospective applicant) and the availability of the land or other resources for the purpose sought;
- cases require application of a greater variety of laws, rules, regulations and decisions to such facts and evidence;
- cases involve controversial factual situations, conflicting rights and interests, or public interest considerations but these are relatively free from complexity and may be resolved by reference to precedents or guides;
- some original composition, as well as adaptation of form letters and standardized guides, are used in preparation of correspondence and decisions;
- determinations frequently involve several parties, and moderate sums of money or property values are involved.

By way of training and development, GS-7 examiners are assigned applications or cases which are among the more difficult from the standpoint of the variety and complexity of the statutory and regulatory provisions to be applied, and substantive determinations to be made (for example, cases which have some of the characteristics described at the GS-9 level).

#### Level of responsibility

When processing moderately difficult cases, Land Law Examiners GS-7 work under general supervision. They are expected to develop, on their own initiative, the information or evidence required to properly process the applications, claims or requests for information assigned to them. They search for and locate precedents, and draft letters, notices, decisions and other documents to effect required actions. Technical advice and guidance is available from higher-grade or supervisory land law examiners whenever complicated or controversial factual issues are involved, or whenever guides and precedents are not applicable or their applicability is not clear. Except for occasional spot check for technical accuracy and adequacy, review of completed work is limited to examination of final decisions and/or other documents prepared for general quality and effectiveness.

When processing more difficult cases for training purposes, GS-7 examiners are furnished advice and instructions regarding legal and/or factual issues to be resolved or developed, evidence and documentation required, and precedent decisions and other guidelines. The supervisor is available to provide advice on any difficult or questionable matter. Actions are reviewed by higher-grade examiners for validity and sufficiency of documentation and accuracy and adequacy of decisions.

Personal contacts are not a significant feature at GS-7. The examiner, however, has some personal work contacts with applicants or their representatives, employees of the office or

Bureau, or other individuals to answer inquiries or to obtain information, involving few problem situations.

## **LAND LAW EXAMINER, GS-0965-09**

Nature and complexity of work

Land Law Examiners GS-9 are full journeyman workers, performing a wide scope of assignments. At this level:

- (a) GS-9 examiners process applications, claims or requests for information encompassing the broad range of land or mineral leasing and mining laws, primarily those involving a high level of difficulty -- whereas at GS-7 work is typically limited to moderately difficult cases or training for higher level duties.
- (b) GS-9 examiners are required to exercise judgment in those areas where the guides and precedents may not be applicable, or their applicability may not be clear, or they may apply only in a very general sense -- whereas the GS-7 level primarily requires the application of guides and precedents which cover particular factual situations.
- (c) Actions require application of numerous and different provisions of land law or the mineral leasing and mining laws and implementing regulations -- whereas the GS-7 examiner is concerned with laws and regulations relating to more limited or specific situations, or is being trained in use of a wider variety of land, mineral leasing or mining laws.
- (d) Cases have local impact and limited public interest but may involve numerous parties or major interests (e.g., a large oil company) and relatively high property or economic values, either directly or indirectly -- whereas the GS-7 examiner is more typically concerned with several parties and moderate sums of money or property values.  
Judgments typical of the GS-9 level include such matters as:

- (1) Rights or privileges to acquire title to or use of lands or resources based on prior ownership and subsequent conveyances from third parties; completeness of the chain of title through such predecessors must be made, as well as examination into the sufficiency of the evidence of the present applicant in order to vest title or allow use.
- (2) Superior rights or claims when there is not a clear preponderance of evidence in favor of any party.
- (3) Rights or privileges to acquire title to or use of lands and/or resources based on prior usage, such as when rights or privileges are founded upon availability of the land under diversified and overlapping withdrawals and are affected by one or more laws regulating multiple use; date title (or the right to use) would take effect, and whether the title or interest is absolute or restricted and to what extent.
- (4) Action to be taken in cases where the applicant falls short of full compliance but where principles of equity and substantial compliance must be considered.



- (5) Application of State law (e.g., determining whether conditions and circumstances surrounding road usage are such as to constitute a public road under State laws).
- (6) Transferable interests in that the applicant is not the original entryman, or the Government may or may not own 100% interest in the mineral estate.
  
- (7) Lands subject to the provisions of various laws, with the result that conflicts frequently exist and the allowance of applications must be made subject to varied and diverse limitations, reservations, and conditions.

To illustrate, determinations and judgments must be made on such complex and controversial factual issues as (a) whether or not an applicant for mineral patent has made a prima-facie showing of discovery of a valuable mineral (the test employed in this determination is whether a reasonably prudent person would be justified in expending time and money with a view to developing a paying mine); (b) whether or not a color-of-title claimant acquired land in good faith, and whether his predecessors held in good faith for 20-year period; and (c) whether or not a lessee or permittee has made a sufficient and reasonable showing of unavoidable delay in making improvements or meeting other regulatory requirements within required time limits so as to justify the granting of an extension of time.

The types of cases and situations typical of the GS-9 level are too numerous and varied to permit categorization. The following case example is illustrative of a conflict where guides and precedents do not apply in a situation which has local impact and limited public interest:

Adjudication of a protest to a proposed exchange of private for public lands.

An applicant offers to exchange certain of his private lands for certain public lands. The exchange satisfies all the statutory and regulatory requirements and is therefore subject to allowance. However, a third party files a protest to the proposed exchange on the grounds that the public lands selected for exchange are used by him for trailing stock to and from portions of his ranch. The examiner must determine whether or not there is an essential need for a reservation for a right-of-way in the patent. Departmental policy and regulations provide only a general framework of guidance in that they provide only that it is not in the public interest to burden lands with reservations unless essential. The examiner must therefore determine whether or not the need for a reservation is essential. This involves consideration of the topography and past use of the public lands by previous owners, as well as the individual protesting the exchange. The examiner must also determine whether other roads or trails might be used for trailing in lieu of the selected lands. In addition to land and road use history, weather history must also be considered by the examiner in establishing the accessibility of roads or trails in high elevations subject to severe weather conditions. The examiner

must determine the extent and periods of use of the selected lands for stock trailing purposes, the existence and accessibility of alternate roads or trails, and, finally, he must establish whether or not the use of the selected lands is, in fact, essential to the livestock operations of the individual protesting the exchange.

#### Level of responsibility

Land Law Examiners GS-9 are normally expected to proceed on their own initiative in developing facts and evidence, in defining legal and factual issues, in searching for and locating precedents, and in drafting letters, notices, decisions and other documents to effect required actions. Advice and guidance is provided by or available from a higher-grade examiner or supervisor whenever any unusual or novel problem or question is presented, or whenever an important policy consideration appears to be involved.

The GS-9 examiner must be able to recognize problems which may be of a precedent-setting nature or cause unfavorable public reaction and require referral to a higher level for decision. Except for occasional spot check for technical accuracy and adequacy, review of completed work is limited to examination of the final decision and/or other documents for general quality and effectiveness.

At this level, examiners have telephone or personal contacts with applicants or their representatives, other employees in the office or Bureau, and representatives of other agencies on problems associated with cases of this level of difficulty.

At GS-9, the essential difference in level of responsibility from GS-7 lies in the greater scope and complexities of assignments.

## **LAND LAW EXAMINER, GS-0965-11**

#### Nature and complexity of work

Land Law Examiners GS-11 are specialists. Positions exceed the GS-9 level in that:

- (a) GS-11 examiners process or give advice and guidance on complex, unusual, or novel claims or applications for rights or interests in mineral leasing, mining, or public lands. Additionally, they may train or review work of lower-grade personnel; issue instructions or interpretations of land laws in unusual or complex situations; or develop, modify or suggest changes in procedures or policies. By comparison, the GS-9 examiner at the journeyman level processes a broad range of cases involving a high level of difficulty, but he may consult a higher-grade examiner about difficult, unusual or novel claims, or such claims may be segregated for processing by the GS-11 examiner.
- (b) In addition to the exercise of judgment where guides and precedents are not applicable, as shown for the GS-9 level, the GS-11 examiner more frequently must make

determinations in situations when (1) different possible constructions may be placed on the facts or precedents involved; (2) obscure, vague, or conflicting land laws or implementing regulations must be applied; or (3) potential conflicts in public land administration policies or procedures must be recognized and required action taken to resolve.

- (c) Action may require application of any or all of the multiplicity of land law or the mineral leasing and mining laws and implementing regulations, including those stemming from special and private acts of Congress. The GS-9 examiner, on the other hand, may not necessarily be familiar with laws that are infrequently used.
- (d) Actions and decisions affect, economically and/or socially, directly or indirectly, a significant segment of private or public interest; or public interest in and demand for the federally-owned lands and/or resources is highly competitive; or high property or economic values are involved. By comparison, the GS-9 examiner typically is concerned with cases which have local impact, limited public interest, or competing governmental entities are not involved.

Land Law Examiners GS-11 are required to process a wide variety of different types of cases which are considered complex, novel, or unusual. A few examples to illustrate the situations encountered and judgments made at this level are cited below:

- (1) Cases where public land administration policies and national interest factors are involved (e.g., resolving policy conflicts relating to applications initiated by States, counties, municipalities, and agencies of the Federal Government, which require negotiation in person with representatives of, or spokesmen for, applicant agencies to present for their consideration all relevant data, to arrive at a definite agreement, or to secure concurrence).
- (2) Cases where consideration must be given to the effect of decisions from a cumulative program standpoint (e.g., determining effect of allowances or denials on future orderly land development, such as the suburbs of large cities).
- (3) Cases where considerable research is required over many and voluminous records, some of which may be obscure, vague or difficult to locate as only one or a few copies are known to exist, or old and infrequently used laws not of general applicability may be involved (e.g., tracing entitlement to resolve private land claims based on grants from the Crowns of Spain, France, or Great Britain to settlers or colonists).
- (4) Cases where lands, valuable for economic and/or social purposes, are being sought by different groups or governmental entities (e.g., resolving conflicts regarding transfer of title to public lands for building hospitals, churches, etc., involving rights of individuals, State or religious groups, and requiring contacts with other Federal agencies, State representatives, and private individuals or groups).

- (5) Cases requiring recognition of potential land or mineral resource problems, and the need for changes in regulations, policies, and procedures pertaining to the use and disposition of public lands and their resources (e.g., considering the need of a university for 640 acres of land where there are competing State and local government needs therefor).

### Level of responsibility

Land law examiners at this level exceed GS-9 requirements in that, as authoritative specialists, they frequently give advice to other land law examiners on precedent decisions in carrying out their assignments. They proceed independently in developing facts and evidence; in defining legal and factual issues; in searching precedent decisions and other reference materials; in applying laws, regulations, policies and procedures; and in drafting letters, decisions, notices and other documents to effect actions required. Nevertheless, they must recognize legal issues or precedent decisions that will have broad or serious public relations impact. These are referred to superiors or to the legal staff for advice or action to be taken.

Although signed by personnel delegated such authority, letters and decisions are given only a cursory review. Completed work is normally assumed to be accurate, adequate, and acceptable in accordance with applicable laws, regulations, policies and procedures. Review of completed work is normally limited to those cases where an important precedent is being established or where the action or decision is expected to provoke considerable criticism or unfavorable public reaction.

Personal contacts at this level are significant because the examiner serves as the focal point for giving authoritative advice. At lower levels, contacts are made by the examiners primarily to secure information to adjudicate cases.

GS-11 examiners have contacts with attorneys in private business, officials of other Governmental agencies, including Departments of Defense, Commerce, Agriculture, Attorney General's Office, and other Bureaus and offices of the Department of Interior, and Congressional contacts. Such contacts include discussion or explanation of such matters as jurisdiction over lands; special provisions and stipulations in orders or permits, amendments and applications; the effect and meaning of orders, documents and other material pertinent to cases; what claims may be initiated or asserted affecting the lands involved under existing land laws; or other aspects of acquisition, disposal, or rights in and to the public lands.

At the GS-11 level, the land law examiner must demonstrate considerable ingenuity in meeting the public land needs of the public. He is often called upon to suggest an existing law (which may be very old or seldom used) as an appropriate vehicle for the satisfaction of such needs. The field of public land law is esoteric and, not uncommonly, attorneys seek such advice.

NOTE: These standards were developed by the U.S. Office of Personnel Management in cooperation with the Bureau of Land Management, Department of Interior.