

**Patents: Richard Brown, president, Wyo-Ben: 'At least if you've done something, then you have a chance.'**

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patent system and has suspended local BLM managers' authority to grant patents, taking that authority for himself while Congress wrestles with mining reform.

**Wyo applications triple**  
Over the last few years, the Wyoming office of the Bureau of Land Management, which administers the patent application process on all federal lands, has received between seven and 10 applications annually, said Donna Kaitley with the Wyoming BLM office.

The agency has received 37 applications to patent mining claims so far this year, covering slightly less than 35,000 acres, Kaitley said.

The land rush is not confined to Wyoming. In Montana, there were three patent applications in the first half of 1992, six in the first half of 1991 and two in the first half of 1990, said Montana BLM spokesman Dave Wester.

This year, there have been 11, Wester said.  
In other states, the number of patent applications are up, but not as dramatically as in Wyoming, BLM figures indicate.

In all the states west of the Mississippi, 134 patent applications have been filed so far in the current fiscal year, which ends Sept. 30.

If the applications continue on that pace, 160 applications will have been filed for the entire fiscal year, compared to 124 in the previous fiscal year — a 29 percent increase.

**1872 law under siege**  
The rush for patenting represents a tremendous loss to Amer-

icans as taxpayers and as citizens, insofar as there are financial losses and losses for environmental purposes," said Susan Prolman, spokeswoman for the Minerals Policy Center, a lobbying group that favors mining reform.

"It is a nationwide trend to rush patenting recently," due to concern within the industry over how the 1872 Mining Law might be reformed, Prolman said.

The 1872 Mining Law allows companies to patent — obtain ownership of — federal land for hardrock mining. Unlike producers of coal or trona on federal lands, hardrock mining companies pay no federal royalties on production of minerals such as gold, silver or, as is more likely in Wyoming, bentonite and uranium.

Nor are the companies bound by any federal reclamation standards or other federal environmental regulations and reviews which apply to surface mining of coal and trona.

Critics of the law say it amounts to an anachronism from the age of the robber baron West, an outdated welfare program for the mining industry which lets companies profit from public resources for a song.

Prolman said a study done by the Minerals Policy Center estimates that pending federal patent applications represent a gross mineral value of \$36 billion.

The minerals on public lands represented in the patent applications range in value from \$6 million at one of the Wyoming bentonite mine applications, to \$38 billion for a platinum and palladium mine in Montana, she said.

Under one version of mining reform which would levy an 8 percent royalty on that production, the federal treasury would get \$6.9 billion, Prolman said.

Activists in the push for strong reform of the 1872 law also point to environmental disasters such as Summitville, Colo., where a gold mine was permitted in the mid-1980s with only limited environmental assessment.

The mine was permitted expeditiously by state officials, and when the operator filed bankruptcy and the reclamation system at the mine failed, 17 miles of river and a reservoir were contaminated.

Farmers downstream subsequently found themselves irrigating their crops with acid- and heavy metal-laden water, and U.S. taxpayers have been saddled with clean-up costs estimated in the tens of millions of dollars.

Congress is considering legislation which would dramatically reform the mining law, establishing royalties, more stringent environmental regulations, and replacing the patenting system with federal leases.

**Apply or 'cry in your beer'**  
Of the 37 patent applications the BLM has received so far this year, 30 of them are for bentonite mining, Wyo-Ben, a Montana company, has been one of the most active bentonite firms applying for patents, Kaitley said.

Richard Brown, a Wyo-Ben vice president, said now that Babbitt has taken control of the patenting process, it is unlikely that the

company's patents will be approved before the mining law is reformed.  
The House version of the mining law reform bill as it is now written includes a provision which would prevent awarding patents even to those firms which have already made their applications.

But once the reforms go to a conference committee — the Senate has already passed an industry-backed bill which would retain the patent system, and the House is expected to act on its version of the measure after the August Congressional recess — it's anybody's guess what the final reform bill will look like, Brown said.

Wyo-Ben had recently completed the technical work required to apply for a patent under the existing system, and decided it was in the company's best interest to go ahead and apply, Brown said.

"If you don't do anything and the worst thing happens all you can do is cry in your beer. At least if you've done something, then you have a chance" in the event that Congress decides to allow some form of the patent process to continue with firms which have already applied, Brown said.

Quivira Mining Company, a uranium producer headquartered in Oklahoma City, is another company which has filed to patent several claims in Wyoming this year.

The company has filed seven patent applications which cover more than 5,000 acres, primarily in Converse County.

Quivira is a subsidiary of a subsidiary of the Toronto-based Rio Algom Mining Limited.  
Quivira's large number of patent applications is not driven by the hope that the earlier the application is filed, the more chance it will have under mining law reform, said Mark Stout, the company's manager of land marketing.

"In our case it's just sort of following in a logical sequence," Stout said, noting that Quivira only bought the claims from Kerr-McGee in 1989, and has been going through permitting and technical reviews since then.

Mining law reform "is part of the equation," but "we feel that under the current law we should be entitled to receive a patent, and I guess until you see the final language of the reform bill, it's hard to say at what point you've done enough to qualify," Stout said.

**Babbitt seizes program**  
If Interior Secretary Babbitt has his way, companies may never quality again for patents.  
Babbitt is opposed to the entire patent system, said Interior De-

partment spokeswoman Stephanie Hanna.

Shortly after his Senate confirmation, Babbitt took the authority to grant patents out of the hands of state BLM directors and put it in his own.

"He would like to address the passage of title from public land to private ownership. He doesn't support the idea of patenting. That's one of the things he would like to see reformed in the 1872 Mining Act," Hanna said.

"But until that is done by Congress, it is his responsibility to review patents that have already on initial approval from the BLM, Hanna said.

Neither the bentonite nor uranium mining patents filed in Wyoming this year have progressed that far in the process, according to the Wyoming BLM office. Crown Butte Mines, Inc., the Montana subsidiary of Noranda Minerals which wants to mine for gold two miles northwest of Yellowstone National Park, has won the initial approval for about 40 additional acres of claims it is trying to patent, said company spokesman Mark Whitehead.

But Hanna said that so far, the only patent application that Babbitt is allowing to proceed is one for a gold mine in Nevada.

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Wed, Apr 22, 2020