

STATE OF OREGON  
DEPARTMENT OF GEOLOGY AND MINERAL INDUSTRIES  
Head Office: 1069 State Office Bldg., Portland 1, Oregon  
Telephone: Capitol 6-2161, Ext. 488  
Field Offices

2033 First Street  
Baker

239 S. E. "H" Street  
Grants Pass

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## TRENDS IN INTERPRETATION OF THE MINING LAWS

Since 1957 every major meeting of the mining fraternity has included on its program a session on mining laws. The continuing interest stems from the passage of Public Law 84 - 167 (the Multiple-Use Mining Law), which gave authority to Government bureaus to manage the surface of mining claims located prior to the act if, upon examination, it was found that the claims were invalid. This authority had long been wanted by the U.S. Forest Service and the U.S. Bureau of Land Management and they were quick to realize that the interpretation of what constituted validity was the key to the examinations. Interpretations by the Government bureaus on validity therefore became very important to the miner contemplating a prospecting program, spending money to develop a mine, or considering the patenting of his claim.

Most people in mining today grew up under the "prudent man" test for determining if there was a valid showing of minerals in order to locate and hold a claim. This test, as set forth by the Supreme Court of the United States, states: ". . . where minerals have been found and the evidence is of such a character that a person of ordinary prudence would be justified in the further expenditure of his labor and means, with a reasonable prospect of success, in developing a valuable mine, the requirements of the statute have been met. . . ." The bureaus have added to this long-standing test another and more stringent one: "marketability." They have been successful in this on claims located for the nonmetallic minerals and now cite as their authority the 1959 case of *Foster v. Seaton* (271 F. 2d 836) where it was held that "with respect to widespread nonmetallic minerals. . . the Department (of Interior) has stressed the additional requirement of present marketability. . . . Thus, such a mineral locator. . . must show that by reason of accessibility, bona fides in development, proximity to market, existence of present demands, and other factors, the deposit is of such value that it can be mined, removed and disposed at a profit. . . ." Recently (*U.S. v. Altman and Russell*, A-28478, July 17, 1961) the Interior Department ruled, in effect, that the holder of a mining claim for the metallic minerals must prove the existence of an ore body of such size and quality as to permit profitable operation if the claim is to be considered valid. This ruling has not been tested by the courts.

Apparently the interpretation of marketability by the bureaus as an additional test for a valid claim is based upon the lack of court definition for "valuable" as used in the mining law. This law reads "All valuable mineral deposits in lands belonging to the U.S. . . are . . . declared to be free and open to exploration and purchase. . . ." (Sec. 2319, Revised Statutes). A bureau spokesman stated: "Now what is, or is not, a 'valuable' deposit may be a matter of opinion. . . . But the fact remains that a mineral deposit must be valuable if it is to be validly appropriated." (From a speech of K. S. Landstrom, Director, Bureau of Land Management, at the 1961 American Mining Congress meeting in Seattle.)

That a claim holder must prove valuable mineral in place at all times is borne out by a recent Department of Interior hearings officer decision, where he upheld the recommendation of bureau examining engineers that the claim was invalid because drifts were caved and the ore at the face could not be sampled. Similar decisions have been applied to some properties that actually had a past history of modest production. The contention by the examining engineers was that the vein could have been mined out and that because it was unavailable for sampling there was not definite proof that there was valuable mineral in place. In some instances these were gold mines that had been closed during the war as the result of War Production Order L-208.

Another innovation in the interpretation of the mining laws that has miners wondering "what next" is an adopted policy on houses, long considered a legitimate assessment expense. This policy is found in the brochure "The BLM at Work in Oregon and Washington, 1961", where the statement is made that "The mining laws also allow a miner to live on his claim when this is necessary for the prudent development of the claim. . . . Today, a miner can often live in a nearby town and commute to his mining operation. Where this is possible, residence on the claim is

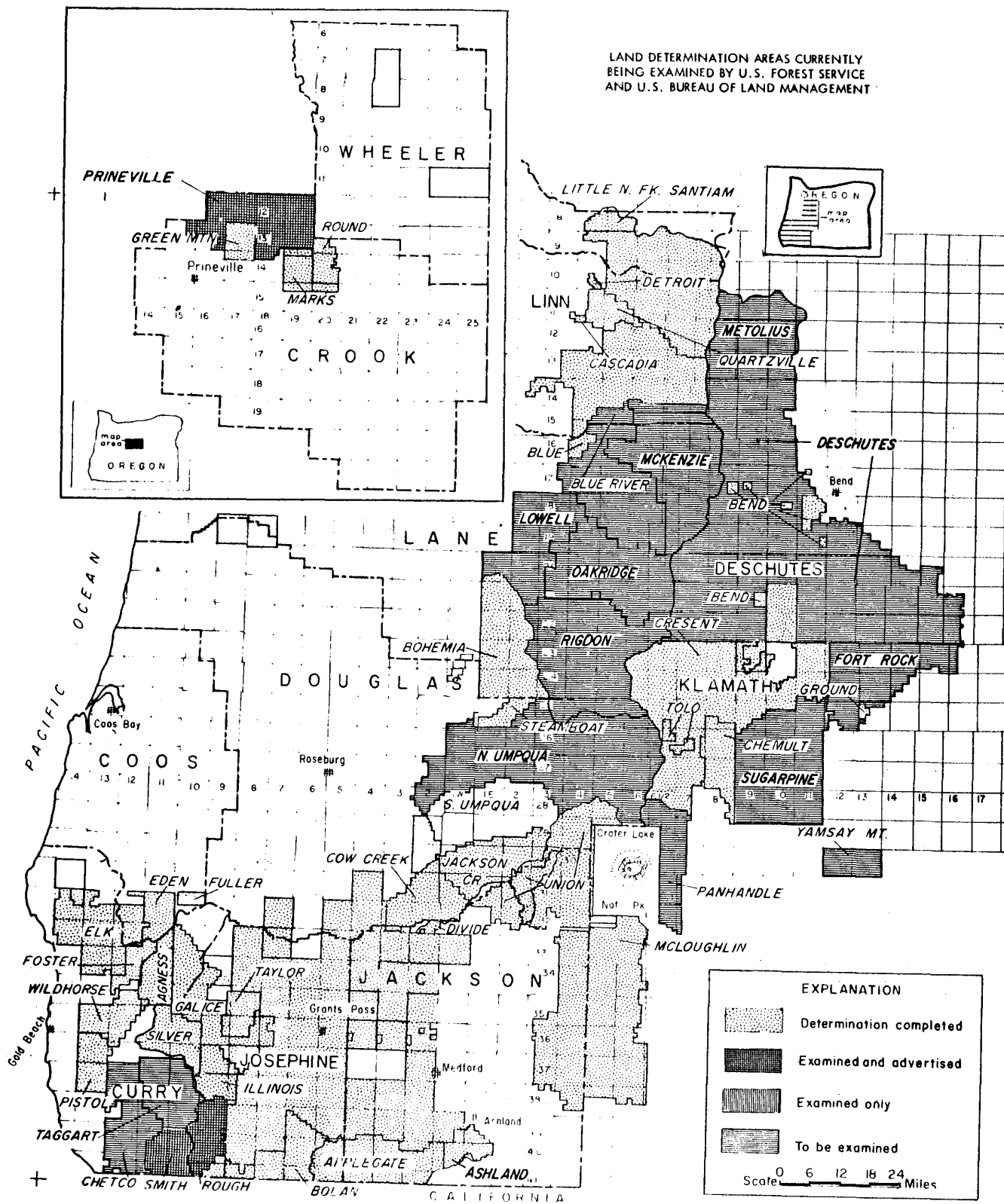
(Continued on Page 120)

## NATIONAL FOREST AREAS APPROVED FOR DETERMINATION OF SURFACE RIGHTS

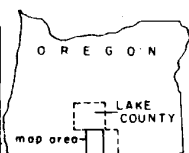
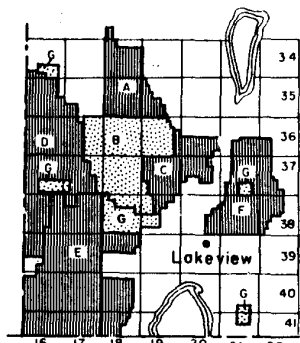
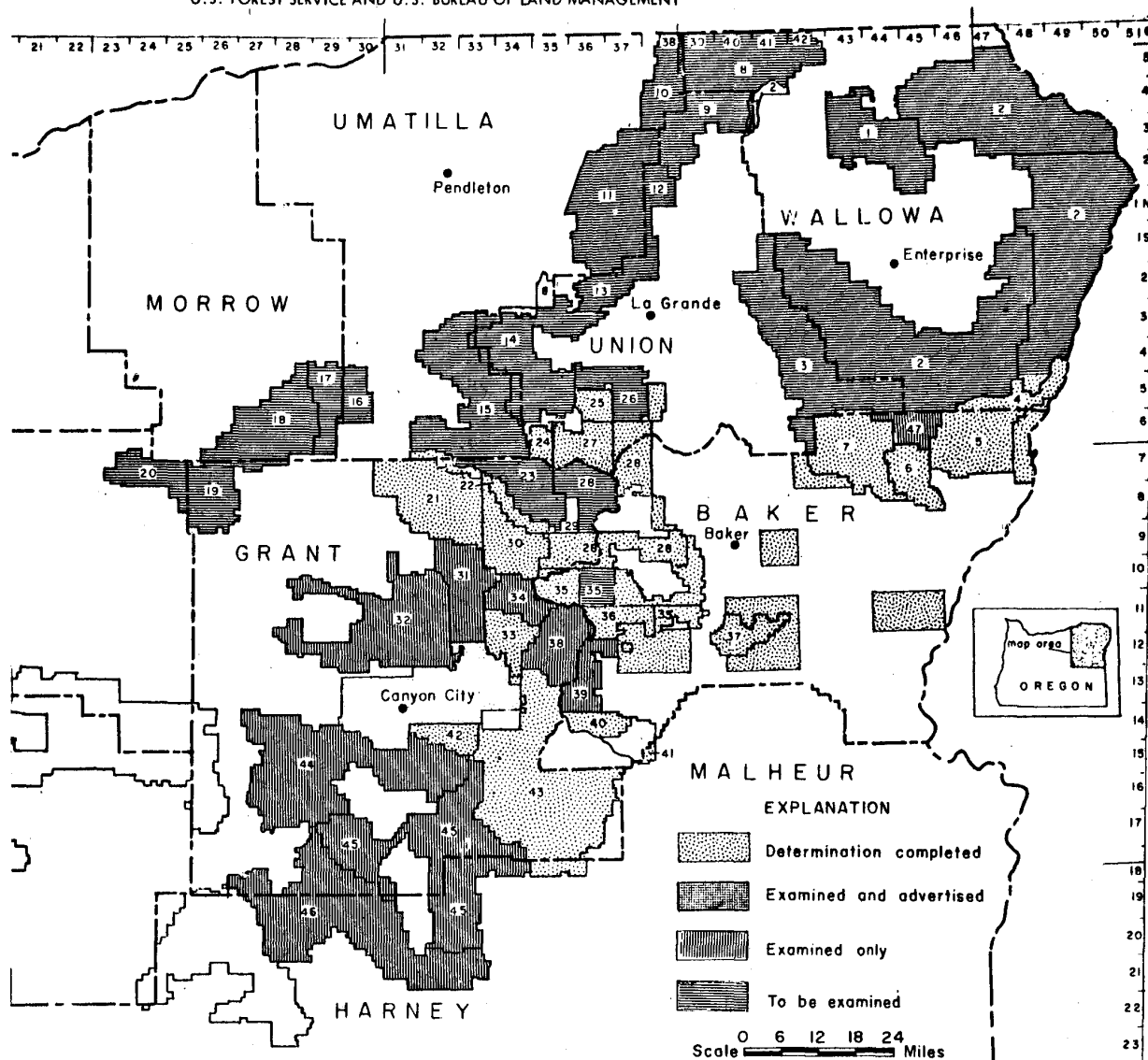
Forest	Name of Area	Forest Acreage	Acres Examined	Approved for Examination	Date of First Publication	150-day Period*
Deschutes	Chemult	45,500	45,500	5- 4-56	2-27-57	7-29-57
	Bend	29,760	29,760	5- 1-57	12-24-59	5-23-60
	Tolo	9,750	9,750	5- 1-57	12-24-59	5-23-60
	Ground	1,120	1,120	5- 1-57	12-24-59	5-23-60
	Crescent	300,000	300,000	6-21-60	6-14-61	11-13-61
	Fort Rock	171,000		3-14-61		
	Deschutes	937,000		3-14-61		
	Metolius	157,800		3-14-61		
Fremont	Chemult	8,500	8,500	5-17-56	2-27-57	7-29-57
	Fremont	31,200	31,200	3-25-59	12-24-59	5-23-60
	White King-Thomas Cr.	50,000	90,000	8-11-59	5-18-60	10-17-60
	Mill Flat	29,000	29,000	7-28-60		
	Drews	114,924	114,924	4-20-60		
	Brattain Butte	44,541		4-20-60		
	Yamsey Mtn.	44,520		5- 3-60		
	North Warner	45,750		5- 3-60		
Malheur	Bly-Lake	70,000		5-25-60		
	Twin	39,600	39,600	7- 5-56		
	Dixie	36,070	36,070	7- 5-56	9-25-58	2-23-59
	Canyon	22,680	22,680	4-25-57	12-24-59	5-23-60
	Drewsey	247,366		4- 6-60		
	Clear Creek	60,160		4- 6-60		
	Long Creek	180,382		4- 6-60		
	Burns	502,500		4- 6-60		
Ochoco	Prairie City	297,429		4-21-60	6- 1-61	10-30-61
	Bear Valley	246,000		4-21-60		
	River	110,400	110,400	4-21-60		
	Round "A"	10,440	10,440	7- 5-56	11-20-57	4-21-58
	Round "B"	14,015	14,015	7- 5-56	9- 4-58	2-23-59
	Marks	21,900	21,900	7-31-57	12-31-59	5-31-60
	Green Mtn.	22,920	22,920	7-31-57	12-31-59	5-31-60
	Prineville	101,240	111,970	5- 3-60	1-11-62	6-11-62 <sup>1</sup>
Rogue River	Applegate "A"	17,785	17,785	7- 5-56	9-24-58	2-23-59
	Applegate "B"	35,660	35,660	7- 5-56	12-23-59	5-23-60
	Applegate "C"	55,449	55,449	7- 5-56	3- 1-61	7-31-61
	Union "A"	39,295	39,295	4-25-57	9-17-58	2-16-59
	Union "B"	191,105	26,033	4-25-57	1- 4-61	6- 8-61
	Union "C"	148,248		4-25-57		
	Ashland "A"	28,184	28,184	4-25-57	12-23-59	5-23-60
	Ashland "B"	946		4-25-57		
Siskiyou	McLoughlin	368,640	368,640	9-21-59	3- 1-61	7-31-61
	Wildhorse	53,000	53,000	2- 2-56	2-21-57	7-22-57
	Elk "A"	17,920	17,920	7-11-56	9-12-57	2- 9-58
	Elk "B"	120,300	120,300	7-11-56	9-11-58	2- 9-59
	Elk "C"	4,487	4,487	7-11-56	2-26-59	7-27-59
	Elk "D"	8,457		7-11-56		
	Fuller	8,800	8,800	7-11-56	2-21-57	7-22-57
	Taylor	35,000	35,000	7-11-56	9-11-57	2- 8-58
	Illinois "A"	26,880	26,880	7-11-56	3- 4-59	8- 3-59
	Illinois "B"	22,400		7-11-56		
	Pistol	39,950	39,950	7-11-56	3- 5-59	8- 3-59
	Galice "A"	27,280	27,280	7-16-58	12-17-58	5-16-59
	Galice "B"	111,440	111,440	7-16-58	6-29-60	11-28-60
	Foster	23,220	23,220	9-11-58	5-25-61	10-23-61
	Agness	45,007	45,007	3-25-59	3- 2-61	7-31-61
	Smith	55,278	55,278	4- 6-60	1- 4-62	6- 5-62 <sup>1</sup>
	Rough	58,718		4- 6-60	12-27-61	5-28-62 <sup>1</sup>
	Chetco	133,321		3-25-59		
	Eden	32,618	32,618	3-25-59	6-29-60	11-28-60
	Bolan	76,793	76,793	3-25-59	6-29-60	11-28-60
	Silver	94,234	94,234	4- 6-60	4- 6-61	9- 5-61
	Taggart "A"	55,680		7-10-60		
	Taggart "B"	34,500		4- 6-60		

Forest	Name of Area	Forest Acreage	Acres Examined	Approved for Examination	Date of First Publication	150-day Period*
Umatilla	John Day "A"	12,240	8,942	7-11-56	9-25-57	2-23-58
	John Day "B"	20,255		7-11-56	6-30-60	11-28-60
	Desolation	94,640	94,640	4-16-59	10-27-60	3-27-61
	Olive Lake	63,700	63,700	4- 4-61	11-9-61	7-21-62 <sup>#</sup>
	Silver Butte	62,960		5- 5-59		
	Wheeler	37,900		4-20-60		
	Umatilla	152,720		6-15-61		
	Phillip Creek	26,320		6-15-61		
	Ellis	35,320		4-20-60		
	West Ukiah	31,960		4-20-60		
	East Ukiah	160,000		6-15-61		
	Tollgate	48,620		4-20-60		
	Grant	64,320		4-20-60		
	Jarboe	71,720		4-20-60		
	Morrow	96,565		4-20-60		
	Wenaha	121,860		4-20-60		
Umpqua	Bohemia	157,460	157,460	7- 5-56	9-17-58	2-16-59
	Steamboat	22,080	22,080	7-31-57	12-23-59	5-23-60
	Cow Creek	67,000		4- 6-60	6- 7-61	11- 6-61
	Jackson Creek	86,000		4- 6-60	6- 7-61	11- 6-61
	Divide	9,400		4- 6-60	6- 7-61	11- 6-61
	South Umpqua	161,616		12-13-60		
	North Umpqua	486,264		4- 4-61		
Wallowa-Whitman	Dooley Mtn-Buffalo	44,000	44,000	6- 1-56	2-27-57	7-29-57
	Pine	82,230	82,230	7- 5-56	2-27-57	7-29-57
	Woodley	35,250	35,250	7- 5-56	2-27-57	7-29-57
	Unity	37,500	37,500	7- 5-56	2-27-57	7-29-57
	Baker "A"	79,120	79,120	3-22-57	5-28-58	10-27-58
	Baker "B"	63,557	63,557	3-22-57	12-24-59	5-23-60
	Baker "C"	10,600	10,600	3-22-57	10-27-60	3-27-61
	Bull Run	22,200	22,200	3-22-57	4-26-61	9-25-61
	Whitney "A"	17,570	17,570	3-22-57	3- 2-61	7-31-61
	Whitney "B"	38,020				
	Starkey	117,120		11-16-60		
	Cornucopia	25,713		1-10-61		
	Cove	186,480		1-10-61		
	Joseph	984,063		1-10-61		
	Eagle	89,600	89,600	3-22-57	3-15-61	8-14-61
	Limber Jim-Sheep Cr.	39,780	39,780	3-22-57	5-21-58	10-20-58
	Snake River	31,750	31,750	3-22-57	5-22-58	10-20-58
	Summit	35,720	35,720	3-22-57	12-24-59	5-23-60
	Sheephead Mtn.	3,200		5- 3-60	6- 1-61	10-30-61
	Imnaha	280,000		12-13-60		
	Chesnimnus	287,972		12-13-60		
	Sled Springs	106,200		12-13-60		
	Mt. Emily	49,280		12-13-60		
	Beaver	43,640		12-13-60		
	Burnt River	64,720		12-13-60		
	Baker "D"	38,400	38,400	3-22-57	1-11-62	6-11-62 <sup>#</sup>
	Baker "E"	8,320		7-12-60		
Willamette	Little North Fork Santiam	22,600	22,600	2-21-56	2-27-57	7-29-57
	Quartzville	28,000	28,000	2- 2-56	11- 1-56	4- 1-57
	Blue	17,600	17,600	7- 5-56	9-25-57	2-22-58
	Blue River	178,700		7- 8-57		
	Cascadia	162,000	162,000	12-13-60	3-15-61	8-14-61
	Detroit	281,950	224,000	7- 8-57	5-25-61	10-23-61
	McKenzie	243,300		8- 8-61		
	Lowell	146,700		7-25-61		
	Oakridge	241,600		8- 8-61		
Winema	Rigdon	300,100		8- 8-61		
	Sugar Pine	146,145		4-24-61		
	Panhandle	74,880		9-14-59		
TOTAL		12,622,314	3,452,661			

\*Determination completed (time expired for submitting verified statement), except where noted by <sup>#</sup>.



LAND DETERMINATION AREAS CURRENTLY BEING EXAMINED BY  
U.S. FOREST SERVICE AND U.S. BUREAU OF LAND MANAGEMENT



**Forest Service Areas**

- A. Brattain Butte
- B. White-King Thomas Creek
- C. Mill Flat
- D. Bly Lake
- E. Drews
- F. North Warner
- G. Fremont

- 1. Sled Springs
- 2. Joseph
- 3. Cove
- 4. Snake River
- 5. Pine
- 6. Summit
- 7. Eagle
- 8. Wenaha
- 9. Jarboe
- 10. Tollgate
- 11. Umatilla
- 12. Phillip Creek

**FOREST SERVICE AREAS**

- 13. Mt. Emily
- 14. Starkey
- 15. East Ukiah
- 16. West Ukiah
- 17. Ellis
- 18. Morrow
- 19. Grant
- 20. Wheeler
- 21. Desolation
- 22. John Day
- 23. Silver Butte
- 24. Sheep Creek

- 25. Limber Jim
- 26. Beaver
- 27. Woodley
- 28. Baker
- 29. Buffalo
- 30. Olive Lake
- 31. River
- 32. Long Creek
- 33. Dixie
- 34. Twin
- 35. Whitney
- 36. Unity

- 37. Dooley Mt.
- 38. Clear Creek
- 39. Burnt River
- 40. Bull Run
- 41. Sheephead Mt.
- 42. Canyon
- 43. Prairie City
- 44. Bear Valley
- 45. Drawsey
- 46. Burns
- 47. Cornucopia

RESUME OF U. S. BUREAU OF LAND MANAGEMENT PUBLIC LAW 167 WORK\*

Areas Examined and Advertised		Areas Examined and Not Advertised	
<u>Jackson County</u> May 31, 1961	<u>Josephine County</u> May 24, 1961	<u>Douglas County</u>	<u>Jackson County</u>
T. 34 S., R. 2 W.	T. 33 S., R. 5 W.	T. 30 S., R. 9 W.	T. 38 S., R. 3 E.
T. 36 S., R. 2 W.	T. 36 S., R. 5 W.	T. 29 S., R. 9 W.	T. 39 S., R. 3 E.
T. 37 S., R. 2 E.	T. 33 S., R. 6 W.	T. 28 S., R. 8 W.	T. 40 S., R. 3 E.
T. 39 S., R. 4 W.	T. 36 S., R. 7 W.	T. 29 S., R. 8 W.	T. 36 S., R. 3 W.
T. 37 S., R. 4 W.	T. 39 S., R. 7 W.	T. 28 S., R. 6 W.	T. 38 S., R. 2 W.
T. 38 S., R. 4 W.	T. 34 S., R. 8 W.	T. 28 S., R. 7½ W.	T. 34 S., R. 4 W.
T. 38 S., R. 3 W.	T. 35 S., R. 9 W.	T. 28 S., R. 7 W.	T. 30 S., R. 9 W.
T. 39 S., R. 3 W.	T. 34 S., R. 9 W.	T. 28 S., R. 8 W.	T. 37 S., R. 2 W.
T. 34 S., R. 4 W.		T. 28 S., R. 3 W.	T. 36 S., R. 3 W.
T. 36 S., R. 4 W.		T. 28 S., R. 4 W.	T. 34 S., R. 4 W.
T. 39 S., R. 2 W.		T. 28 S., R. 5 W.	
T. 34 S., R. 3 W.		T. 28 S., R. 2 W.	<u>Josephine County</u>
T. 35 S., R. 3 W.		T. 28 S., R. 3 W.	T. 35 S., R. 5 W.
T. 38 S., R. 3 W.			T. 35 S., R. 6 W.
	<u>Douglas County</u> March 30, 1961	<u>Columbia County</u>	T. 34 S., R. 7 W.
<u>Lane County</u> March 30, 1961	T. 24 S., R. 1 W.	T. 5 N., R. 3 W.	<u>Washington County</u>
T. 23 S., R. 1 W.	T. 33 S., R. 1 W.	T. 4 N., R. 2 W.	T. 3 N., R. 3 W.
		T. 5 N., R. 2 W.	T. 4 N., R. 3 W.
		T. 4 N., R. 3 W.	T. 2 N., R. 2 W.
			T. 3 N., R. 2 W.
			T. 4 N., R. 2 W.
			T. 2 N., R. 3 W.
			T. 3 N., R. 3 W.

\*In most instances only part of township has been examined. Information as to exact areas examined can be obtained from U. S. Bureau of Land Management.

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(Continued from Page 115)

unnecessary . . ." This policy has resulted in bringing trespass action against claim holders where the bureaus are not convinced the dwelling is necessary. In Oregon many trespass actions have been taken and the claim holder ordered to remove his house or have it torn down.

It is quite plain that mining people can expect a continuation of this "administrative legislation", since for every case that finally reaches the courts for judicial revue there are probably 1,000 cases ruled on by Department of Interior hearings officers. Thus it would appear wise for the mining industry to make a concerted effort in Congress to have such terms as "discovery", "valuable", "assessment work", and "mineral in place", clearly defined. Such legislation would perhaps leave something to be desired, as far as the mining industry is concerned, but at least it might establish rules of the game that could not be changed at the whim of some bureau solicitor. Another objective the mining industry might wish to shoot for would be a quicker and less costly procedure for getting appeals from hearings officers into a court of law, preferably a court within the state where the claim in dispute is located. If such laws could be passed, legislation by administrative procedure would be reduced measurably with the result that prospecting and mining would be less chancy. As any miner can tell you, Nature has made prospecting risky enough without adding man-created uncertainties.

Hollis M. Dole, Director

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## CANADIAN GAS FLOWS THROUGH CENTRAL OREGON

On December 3, 1961, the Pacific Gas Transmission Co. began supplying the San Francisco Bay region with natural gas from fields in the Edmonton, Alberta, area through its recently completed pipeline. Construction on this line, which is the world's longest 36-incher, began last January and cost about \$350 million. The pipeline enters Oregon northeast of Hermiston and follows a route through the central part of the state, passing near Madras, Redmond, and Bend. It leaves the state near Malin on the California-Oregon border (see map).

Ralph Nabors, general superintendent for the Pacific Gas Transmission Co., said the compressor plant now under construction at Gilchrist would be completed in January 1962. The plant will have two 5,000 hp. compressors and plans call for five more compressor stations in Oregon, with 10-15,000 hp. capacity per plant. Total compressor push in the system will be around 270,000 hp.

At the present time it is expected the system will deliver 450 million cubic feet of gas a day to northern California and 150 million a day to Washington, Idaho, Montana, and Oregon. Gas for the northwestern states is taken off the line at Spokane, Washington, and delivered to El Paso Natural Gas Co., which is the distributor for the northwestern states.

The El Paso system is unique as far as natural gas delivery systems are concerned, since gas is delivered at both ends of the line. Now, with the new central Oregon pipeline in operation, it is possible to send gas into the northwestern states from three sources (see map). Pacific Gas Transmission Co. expects to be shipping one billion cubic feet of gas through the Alberta-California line by 1967.

Natural gas and petroleum products pipelines are new to the Pacific Northwest. El Paso's line from New Mexico was put into operation in 1955, and Canadian gas entered Oregon and Washington in 1956. It was announced this summer that Texaco, Inc., Shell Oil Co., and Magnolia Pipeline Co. will construct a 324-mile line to ship liquid petroleum products from refineries in northwestern Washington to points south, terminating at Portland. The pipeline will cost an estimated \$17.5 million. Olympic Pipeline Co., a subsidiary of the three companies, will operate the system. Southern Pacific Co. is planning to start construction of a 123-mile petroleum products pipeline from Portland to Eugene early in 1962. Laying of the line will be done by Southern Pacific Pipelines, Inc., a subsidiary of Southern Pacific Co. Estimated cost of the project is \$6.5 million. This new pipeline will carry products from tankers docked at Portland, and will follow the railroad right-of-way. Terminals will be built at Albany and Eugene. The pipeline will have a capacity of 13,000 barrels per day.

Plans to build a natural gas pipeline from Eugene to Grants Pass were agreed upon by officials of El Paso Natural Gas Co. and California Pacific Utilities Co. in December of this year. Cost of the project will be \$8 million. California Pacific will extend its distribution system to carry gas to Medford and Ashland. Final approval of the project lies with the State Public Utility Commissioner and the Federal Power Commission.

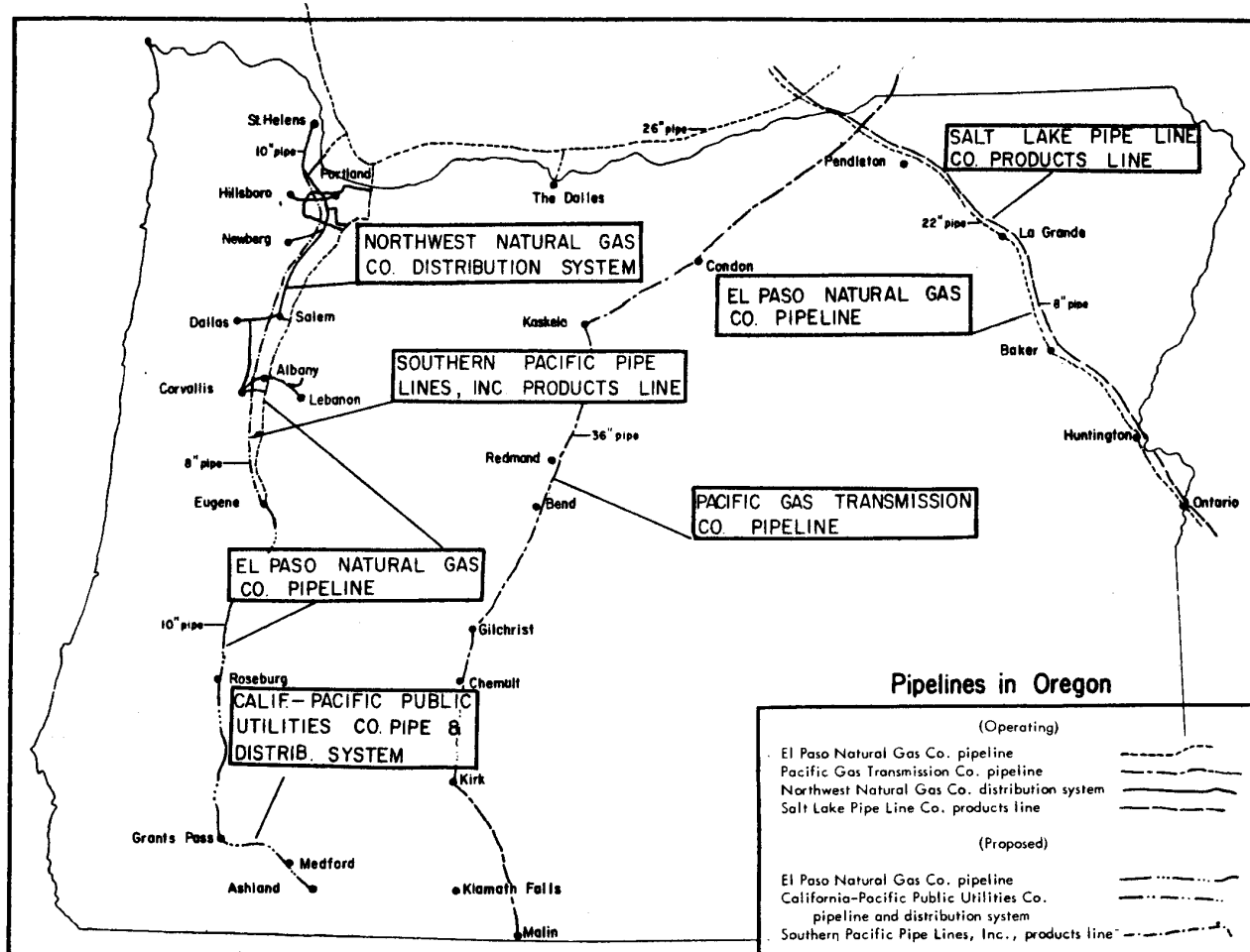
The introduction of natural gas and petroleum products transmission lines in the state offers incentive to industrial growth, since manufacturers looking for prospective sites in Oregon will be able to find an energy supply suitable for any operation with electricity, liquid petroleum, and natural gas available in large quantities.

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## CORNUCOPIA PROPERTY GOES TO HIGHER BIDDER

A higher bid for the Cornucopia property resulted in refusal by the Referee in Bankruptcy to confirm the November 20 sale to Carl M. Stolle, Spokane (see November 1961 Ore.-Bin). The referee called the sale for December 12 after receiving a bid of \$13,500. The property went to Morris Weisberg, a Pittsburgh investor, who closed the bidding at \$50,250. An Oregon group, headed by Arthur V. Olson of Eugene, is seeking to acquire the property for recreational development.

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### FERRUGINOUS BAUXITE FOUND IN CHEHALEM HILLS

Exploratory drilling in the Chehalem Hills near the town of Newberg has revealed the presence of an apparently thick section of high-iron bauxite on the north slope. The hills are a homoclinal block tilted to the northeast, capped by flows of Miocene basalt deeply weathered on the upper surface. The discovery hole is situated on the top of a northeast-trending ridge in the SE $\frac{1}{4}$ -NW $\frac{1}{4}$  sec. 3, T. 3 S., R. 2 W. at an elevation of approximately 1,014 feet.

The bauxite zone in this hole lies beneath 6 feet of reddish silty clay. Samples were taken from a depth of 19 feet. Test holes to the north and east of this locality on some of the lower ridges indicate an increasing thickness of silty clay overburden downslope. More work will need to be done before the area can be evaluated properly.

The analyses given below show the composition of the ore taken at 2-foot intervals beginning near the surface at the clay-bauxite interface.

Sample No.	Depth	L.O.I.	Al <sub>2</sub> O <sub>3</sub>	SiO <sub>2</sub>	Fe <sub>2</sub> O <sub>3</sub>	TiO <sub>2</sub>
26825	5' - 7'	21.12	35.05	12.34	29.33	2.20
26826	9' - 11'	21.16	30.70	4.40	43.10	0.63
26827	13' - 15'	19.32	16.25	3.64	58.63	2.20
26828	17' - 19'	19.60	34.10	4.64	37.70	3.80

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- AIIME, Oregon section elects officers (23:2:22)  
Minerals conference held at Spokane (23:3:32)  
American Mining Congress elects western governors (23:10:104)  
Angular unconformity marks Triassic-Jurassic, Snake River area, by R. F. Morrison (23:11:105-111)  
Atomic research program at Albany (23:6:63)  
Attention rockhounds, this withdrawal affects you (Malheur County) (23:10:103)
- Bauxite, Ferruginous, in Chehalem Hills (23:12:122)  
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