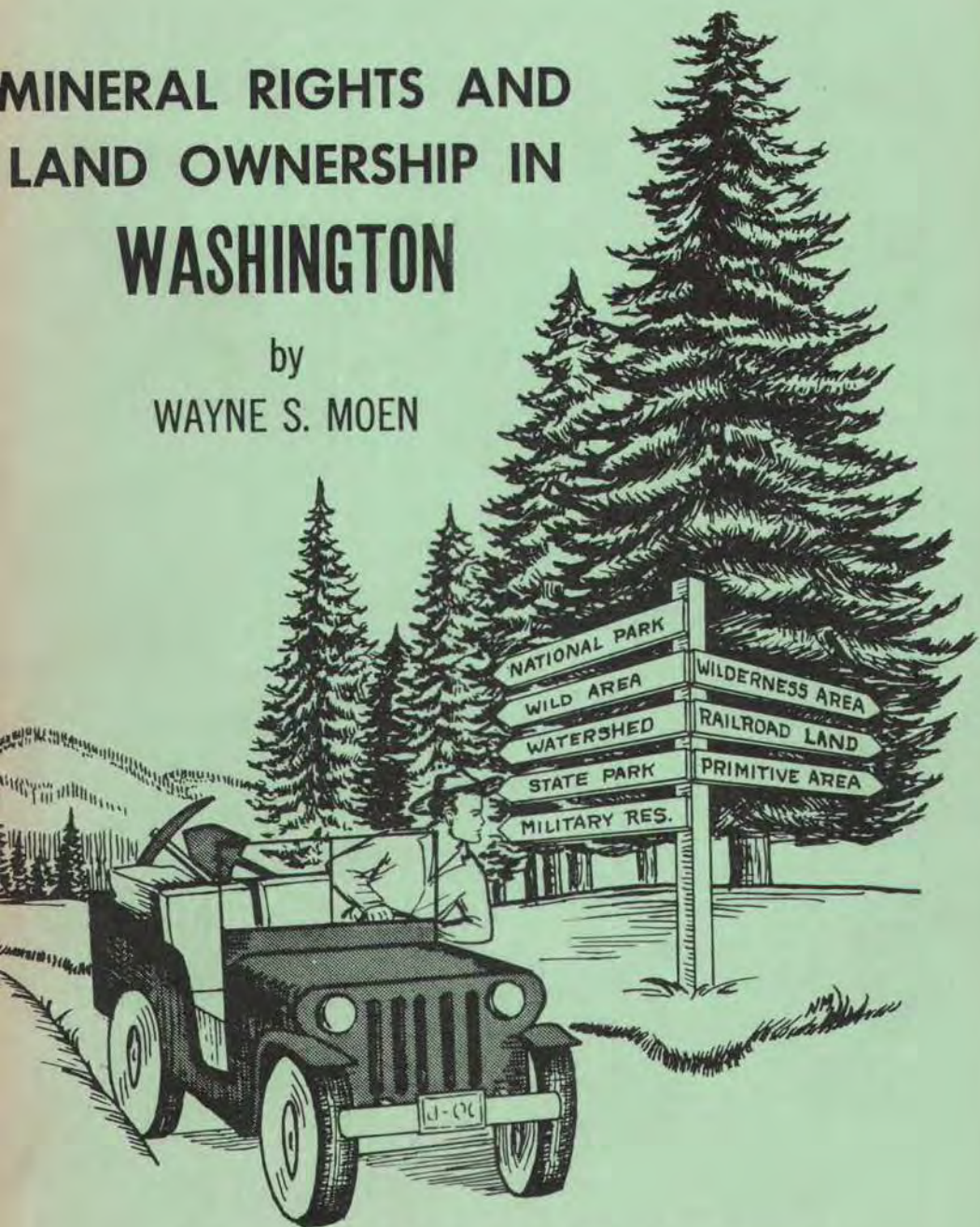


MINERAL RIGHTS AND LAND OWNERSHIP IN WASHINGTON

by
WAYNE S. MOEN



WASHINGTON DEPARTMENT OF CONSERVATION
DIVISION OF MINES AND GEOLOGY

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INTRODUCTION

At one time or another in the course of his work, the average prospector is faced with the problem of ascertaining which lands are open for prospecting. The word "open" as used in this circular refers to lands that are open to prospecting, location, mining, and patenting of lode or placer mining claims. To determine which lands are open involves not only knowing upon what lands a prospector may legally explore but also what minerals are open for location.

To complicate the situation, the complex pattern of land ownership presents numerous problems. One of the problems concerns privately owned lands, where many poorly defined boundary lines exist. In many places, because of the lack of boundary line markers, it is impossible to know upon whose land one is prospecting.

Another problem often encountered is that the owner of the surface rights to the land does not own the mineral rights. Under that circumstance, even if the prospector did have the permission of the surface owner to prospect, he would not be entitled to the minerals he discovered. The minerals would legally belong to the holder of the mineral rights to the land.

On public domain and national forest lands, certain areas have been withdrawn from mineral entry. Other public lands are subject to multiple-use laws, which allow a person to lease certain minerals on land that has been staked for other minerals by someone else.

Regardless of where one prospects, whether on public or private land, these are only a few of the problems involving land ownership and mineral rights. The purpose of this article is: (1) to present to the reader, on the State map (pl. 1) that accompanies this article, the general distribution of the major types of land ownership in Washington; (2) to discuss briefly the major laws that apply to the minerals on these lands; (3) to detail the procedures that must be followed in order to prospect and mine on the different lands of the State; and (4) to briefly delineate the "Public Land Survey" system, by which the location of surveyed lands in the United States is legally described.

No attempt has been made to recite the details on how to stake a claim on open land or how to lease State lands. Procedures are fully described in "An Outline of Mining Laws of the State of Washington" [2], as well as in "Mining Claims— Questions and Answers [2b]."*

LEGAL DESCRIPTION OF LANDS

In the United States, the location of land plats that have been surveyed is described legally by means of a rectangular coordinate system of surveying known as the Public Land Survey system. In defining areas that have been surveyed, it is important that one knows how lands are subdivided, so that he can properly describe the area of land in which he is interested.

The surveyed areas of Washington are divided into a series of squares that are roughly 36 square miles in area and are called "townships." Theoretically, each township should be 6 miles on each side, but, due to errors encountered in surveying, very few of the townships are exactly square.

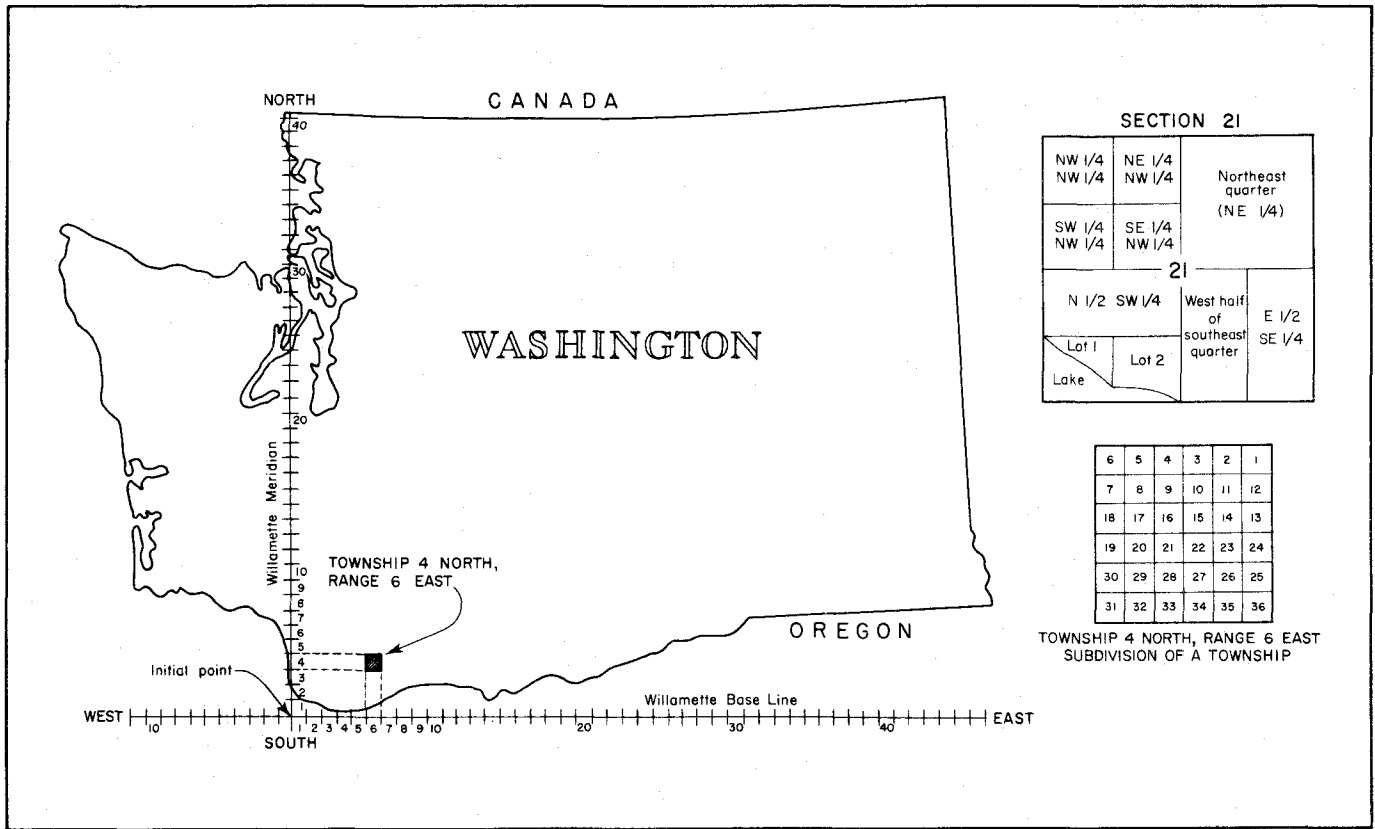
The base point from which a survey begins and the townships are numbered is called an "initial point." The initial point on which the townships of Washington are based is in northwestern Oregon near Portland (fig. 1). Through this point runs an imaginary north-south line that is called the "Willamette principal meridian," and an imaginary east-west line called the "Willamette base line." From the initial point the coordinates are stated as being north or south and east or west. The townships north of the point are written as township north, and the townships south of it are written as township south. Ranges are similarly designated as range east or range west. In Washington all townships lie north of the initial point, whereas the ranges lie both east and west of it. The Willamette initial point is one of a series of initial points that have been established throughout the United States, but it is the only one used in legal descriptions of land in Washington.

The township shown in figure 1 is township 4 north, range 6 east, Willamette Meridian. To abbreviate this, it is commonly written as T. 4 N., R. 6 E., W.M. Very commonly the W.M. is omitted and it is written T. 4 N., R. 6 E. By using this coordinate system, any township within a surveyed area can be defined in terms of townships and ranges.

A township is further subdivided into 36 sections, each of which is about 1 square mile (640 acres) in area. Any errors or discrepancies in the survey are usually taken up in the northern- and western-most tiers of sections. Thus, very few of sections 1 through 6, 7, 18, 19, 30, and 31 are exactly 1 square mile in area.

The sections of each township are numbered in a definite pattern. They begin with 1 in the upper right-hand corner of the township and end with 36 in the lower right-hand corner. The numbering of the sections within a township is shown in figure 1.

* Numbers in brackets refer to the list of selected references on page 20.



SECTION 21

NW 1/4	NE 1/4	Northeast quarter (NE 1/4)
NW 1/4	NW 1/4	
SW 1/4	SE 1/4	21
NW 1/4	NW 1/4	
N 1/2 SW 1/4		West half of southeast quarter
Lot 1	Lot 2	
Lake		E 1/2 SE 1/4

6	5	4	3	2	1
7	8	9	10	11	12
18	17	16	15	14	13
19	20	21	22	23	24
30	29	28	27	26	25
31	32	33	34	35	36

TOWNSHIP 4 NORTH, RANGE 6 EAST
SUBDIVISION OF A TOWNSHIP

Figure 1. Public Land Survey system.

Sections and parts of sections that are regular in shape are further subdivided by "quartering" (fig. 1). Areas that are irregular in shape are divided into lots. As an example, the northwest 40 acres of section 21 as shown in figure 1 would be described as the $NW\frac{1}{4}NW\frac{1}{4}$ sec. 21, T. 4 N., R. 6 E., W.M. The section or any quarter of a section may also be divided into "halves." By using this method it is possible to subdivide a section into a great number of parts and legally describe them.

Of the 66,977 square miles of land in Washington, about 9,500 square miles is unsurveyed. The unsurveyed lands of the State are chiefly in four areas (pl. 1). These areas are the most rugged and inaccessible parts of the State. They are the central part of the Olympic Peninsula, the northern and southern Cascade Mountains, and the northeastern quarter of Ferry County.

The locations of areas or parcels of land that lie within unsurveyed lands are described by the "metes and bounds" system. By this method surveys and descriptions of tracts of land are connected by traverses to landmarks or the closest survey or mineral monuments.

LAND OWNERSHIP MAPS

Many maps are available that portray topography and the works of man (see Appendix A, on page 21), but there are few that show land ownership. This is probably because land ownership is constantly changing, and any such map that is published is soon out of date.

The most accurate and readily available land ownership maps are the plats maintained by the County Assessor for each county. On these maps are shown the names of the owners of the different parcels of land as well as the boundaries of the land. As these maps are maintained for taxation purposes, the status of most lands is kept as accurate and up to date as possible. The offices of the County Assessor have no land ownership maps for sale, but their maps are available for public inspection. The office of the County Assessor is usually in the court house at the county seat (see Appendix B, on page 23).

Land ownership maps are also published in the form of County Atlases. The two most popular County Atlases in Washington are those published by the Kroll Map Company [7] and the Metsker Map Company [6]. Each page of the atlas is a township map that is drafted to a scale of about 2 inches to the mile. In addition to showing the ownership of lands, the maps also show the culture and drainage. Figure 2 shows part of a township from a County Atlas. It should be remembered that, because it is impossible to keep the atlases up to date, they serve as a guide to land ownership but cannot be used as a decisive authority. Privately owned land in particular should always be rechecked through the office of the County Assessor. The prices of County Atlases range from \$25.00 to \$80.00, depending on the size of the county. However, sheets of individual townships may be purchased at about \$1.00 each from the companies that print the atlases. Many of the larger libraries have copies of County Atlases for reference.

TOWNSHIP 23 N., RANGE 10 E. W.M.
KING COUNTY, WASH.

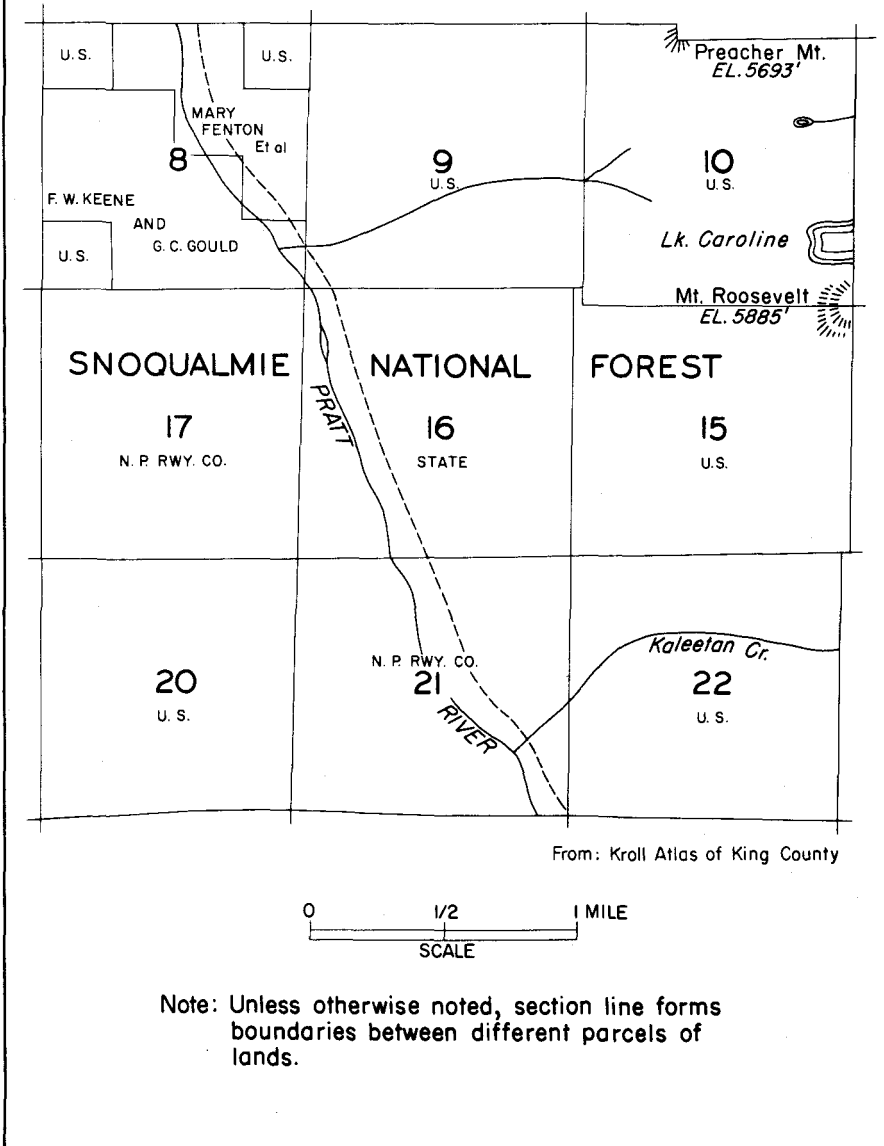


Figure 2. Part of page from County Atlas showing location of Federal, State, and private lands.

Information on the location of Federal lands in Washington is available through the land office of the United States Bureau of Land Management, West 920 Riverside, Spokane, Washington 99201. The Bureau has published no land ownership maps, but their records are open to the public for inspection. By consulting the records it can be ascertained which lands belong to the United States. Information on the status of Government land can also be requested by mail; however, the land in question should not exceed 1 square mile (640 acres).

About 22 percent of the land in Washington is within the boundaries of the national forests, which are managed by the United States Forest Service. Many maps [1], including some that are available at gasoline service stations, show the approximate boundaries of the national forests. The most accurate maps of the national forests are those that are available through the offices of the Forest Service. There is usually a small charge for the large-scale maps, but the small-scale maps are generally free. Many of the large-scale maps ($\frac{1}{2}$ inch and $\frac{3}{4}$ inch to the mile), in addition to showing the national forest boundaries, culture, and drainage, delineate private lands that lie within the national forests.

The Land Ownership Map (pl. 1) that accompanies this article shows the distribution of the major types of lands within Washington. In general, only the national forest lands are open. However, certain areas within the forests are not open. Also, certain small areas of public domain not delineated on the map are open. The purpose of the map is to show the locations of several types of land so the prospector may have a general idea of the location of the lands discussed herein.

The lands that are shown on the Land Ownership Map of Washington (pl. 1) are as follows:

- Indian reservations
- National parks and monuments
- Federal reservations and withdrawn areas
- Private land
- National forests
- State land

LANDS NOT OPEN TO MINING LOCATION

The lands that are not open to the location of mining claims are (1) the Federal lands that have been withdrawn from mineral entry, (2) State lands, which require a prospecting lease from the State, and (3) private lands, which require the consent of the owner in order to prospect. Some of these lands are definitely closed to all forms of prospecting, but others may be prospected after obtaining the proper permission.

Indian Reservations

According to Van Nuys [2, p. 17], Indian reservations and lands allotted by the Government to Indians are not open. But under the Indian Land Leasing Act unallotted

lands within any Indian reservation, or lands owned by any tribe, group, or band of Indians under Federal jurisdiction may, by authority of the tribal council or representative, and with the approval of the Secretary of the Interior, be leased for mining of metalliferous or nonmetalliferous minerals, including coal, oil, and gas. The secretary may authorize the head of the Indian Service to approve leases.

In Washington about 4,000 square miles of land is within the boundaries of Indian reservations. The location and boundaries of 16 Indian reservations, which are not open to prospecting, are shown on the Land Ownership Map (pl. 1).

Inquiries concerning the leasing of mineral lands on Indian reservations should be directed to the Indian agency that has jurisdiction over the specific reservations. The Indian agencies and reservations in Washington are as follows:

Table 1.—Indian Reservations of Western Washington

Bureau of Indian Affairs
Western Washington Indian Reservation
1620 Hewitt Avenue
Everett, Washington

<u>Reservation</u>	<u>County</u>	<u>Acreage</u>
Chehalis	Grays Harbor and Thurston	4,225
Hoh	Jefferson	443
Lower Elwha	Clallam	372
Lummi	Whatcom	12,442
Makah	Clallam	27,079
Muckleshoot	King	3,440
Nisqually	Thurston	1,364
Ozette	Clallam	719
Port Gamble	Kitsap	1,301
Port Madison	Kitsap	7,284
Puyallup	Pierce	33
Quileute	Clallam	595
Quinault	Grays Harbor	189,621
Shoalwater	Pacific	335
Skokomish	Mason	4,987
Squaxin Island	Mason	1,496
Swinomish	Skagit	7,155
Tulalip	Snohomish	22,490

Table 2.—Indian Reservations of Eastern Washington

	Bureau of Indian Affairs Colville Agency Nespelem, Washington	
<u>Reservation</u>	<u>County</u>	<u>Acreage</u>
Colville	Okanogan and Ferry	1,087,274
Spokane	Stevens	141,380
	Bureau of Indian Affairs Yakima Agency Toppenish, Washington	
Yakima	Yakima and Klickitat	1,134,830
	Bureau of Indian Affairs Northern Idaho Agency Lapwai, Idaho	
Kalispell	Pend Oreille	4,629

National Parks and Monuments

Mount Rainier National Park, Olympic National Park, North Cascades National Park, Fort Vancouver National Monument, and Whitman National Monument are not open to prospecting (pl. 1). A valid mining claim existing at the time a national park was created is protected. The national parks of Washington cover about 2,607 square miles (1,668,480 acres) of land. The Olympic National Park is about 1,388 square miles in area, Mount Rainier National Park is about 431 square miles, and North Cascades National Park comprises 504,500 acres. The Whitman National Monument, which is in Walla Walla County, and the Fort Vancouver National Monument, in Clark County, are each less than 1 square mile in area. These parks and monuments were created to preserve historic and prehistoric landmarks as well as other objects of historic, scenic, and scientific interest.

Federal Reservations and Withdrawn Areas

At different times the Federal Government has withdrawn from the public domain sections of land to be used for public purposes. There follows a brief discussion of a few of the major land withdrawals:

Military reservations.—Military reservations are not open to prospecting and mining. The largest areas of this type are the Fort Lewis Military Reservation and the Rainier Training Area in western Washington and the Yakima Firing Range in eastern Washington (pl. 1). Many smaller military installations are located throughout the State and

are delineated on larger scale maps such as County Atlases or the plats that are maintained by the counties. Only the larger installations are shown on the Land Ownership Map that accompanies this article.

Hanford Works, U.S. Atomic Energy Commission.—The Hanford Works in Franklin, Benton, and Grant Counties of eastern Washington is closed to prospecting and mining. The boundary of the Hanford Works is shown on plate 1.

Withdrawals adjacent to State and Federal-aid highways.—Before prospecting on lands adjacent to State and Federal-aid highways within the national forests, information on the status of the lands should be obtained from the Forest Service. Van Nuys [2a, p. 15] makes the following statement in regard to mineral withdrawals adjacent to State and Federal-aid highways:

State and Federal-aid highways which cross national forest lands may or may not be open to mineral entry. In several areas of Washington, such highway rights of way have been withdrawn from mineral entry or location for widths from 200 feet to 500 feet on each side of the highway centerline. In some instances the adjoining lands so withdrawn have been described by legal subdivision. Within the Snoqualmie Pass area, additional lands have been withdrawn for a winter sports area. Also, the U.S. Forest Service has requested the protected withdrawal of certain lands, having scenic, aesthetic, or recreational value, adjacent to some highways traversing national forests.

The two areas of Washington that have been withdrawn are in the Snoqualmie Pass area of the Cascades and the Sherman Creek area of northern Ferry County. About 5,230 acres of land have been withdrawn at Snoqualmie Pass and 3,800 acres in the Sherman Creek area.

As to the exact location of the lands included in these withdrawals, inquiry should be made to the U.S. Bureau of Land Management by specific reference to section, township, and range of the land in question.

Federal irrigation and flood-control reservoir sites.—Federal irrigation and flood-control reservoir sites on United States public lands are not open to mineral entry. However, United States Code, Section 662, Title 43 gives the Secretary of the Interior discretionary authority to open any portion of such land that is known or believed to contain valuable mineral and that has been withdrawn for possible use for construction purposes under the Federal reclamation laws, but reserving to the United States such rights of way and other easements as the Secretary deems proper. He may require a separate contract for such easements for the protection of irrigation projects [2, p. 17].

The Federal irrigation and flood-control reservoir sites are not shown on the Land Ownership Map (pl. 1). Information regarding the areas withdrawn for these purposes can be obtained through the U.S. Bureau of Land Management.

Coulee Dam National Recreational Area.—Located in north-central Washington, Coulee Dam National Recreational Area consists of Franklin D. Roosevelt Lake and federally owned shorelands surrounding it. This recreational area comprises a total of 98,000 acres. Mining operations are not prohibited but are subject to restrictions. Inquiries regarding prospecting and mining on these lands should be directed to the Coulee Dam National Recreational Headquarters, Coulee Dam, Washington.

Game sanctuaries.—No game sanctuaries within the national forests of Washington are closed to mineral entry. Inquiries regarding the leasing of lands on State game refuges or ranges should be directed to the Washington State Department of Game, 600 North Capitol Way, Olympia, Washington.

Privately Owned Lands

Many square miles of land within the State are privately owned and are not open to the location of mining claims. These lands range in size from small city lots to the large land holdings of timber and railroad companies. The privately owned lands, for the most part, fall outside the boundaries of the national forests. However, some privately owned lands lie within the national forests. These lands are delineated on some of the national forest maps and are kept on record by the U.S. Forest Service.

Although privately owned lands are not open to the location of mining claims, they may be prospected by obtaining the consent of the individual or company that owns the mineral rights to the land. The owner of the surface does not necessarily own the mineral rights, because in the sale of private lands the rights to the minerals are often reserved by one of the former owners. The mineral owner, his heirs, and assigns, have the legal right to enter upon the land at any time to prospect and mine the minerals. However, no damage may be done to permanent improvements on the land. A mineral reservation such as this does not cover ordinary sand, gravel, or earth. In order to determine who owns the mineral rights on privately owned lands it is usually necessary to examine the title of the property.

In some land exchanges all minerals have been reserved to the United States upon issuance of the original patents. Where such is the case, a qualified person may enter the land, prospect for minerals, locate a claim, mine, and remove any minerals except Mineral Leasing Act minerals. The Mineral Leasing Act minerals (see page 14) are reserved to the United States and may be leased under certain conditions. Any persons entering such lands to prospect must compensate the surface owner for any damages caused thereby to crops or improvements. It is best to secure the written consent or a waiver from the land owner. If consent is not given, entry may be obtained by posting a bond, the amount of which will be determined by the U.S. Bureau of Land Management, after which the land can be entered upon and mining operations commenced.

Lands containing deposits reserved to the United States are chiefly: (1) lands classified or withdrawn as coal lands and patented thereafter under nonmineral land laws subsequent to March 3, 1909, or (2) lands classified or withdrawn for their contained phosphate, nitrate, potash, oil, gas, and asphaltic minerals, or valuable for such deposits and thereafter patented under the nonmineral land laws, (for example, homesteads) subsequent to July 17, 1914. Prior to December 29, 1916, most patents that were issued under the agricultural laws included the minerals, so that the minerals in the land belonged to the patentee or holder of the agricultural patent.

Whether or not a given tract of land has minerals reserved to the United States can be ascertained by searching an abstract of title, by examining the county claim-of-title

records, or by inquiring of the U.S. Bureau of Land Management.

Lands containing mineral deposits reserved to the State are all lands which were sold by the State after 1907.

Beds of non-navigable streams and lakes.—Non-navigable stream and lake beds on private property are not open. They must be leased from the owner or owners of the land that surrounds the body of water. Navigable streams and lake beds are owned by the State and are subject to mineral leasing from the State (see page 12).

Railroad lands.—Railroad lands are private lands and are not open to the location of mining claims. In the past, railroad land grants and indemnity lands were either patented or unpatented. The unpatented lands were open for prospecting. However, under the Transportation Act of 1940, the railroads were granted patents on all their lands, and no railroad lands are now open. Should anyone desire to prospect or mine on railroad land, he should negotiate with the railroad company the same as with the owner of any other privately owned land.

The general distribution of privately owned land in Washington is shown on the Land Ownership Map (pl. 1). As pointed out in the section on land ownership maps (see page 4), in order to obtain the exact location of privately owned lands it is best to consult a County Atlas of the plats maintained by the county. In many areas the boundary lines of these lands are difficult, if not impossible, to trace and may require the services of a surveyor to relocate them.

County-Owned Lands

Lands owned by a county may be leased for prospecting and mining through its county commissioners. If the lease covers land previously sold by the county, but in which the county reserved the minerals, the lessee must pay the surface owner for damages to the surface.

State-Owned Lands

Approximately 7 percent (3,000,000 acres) of the total land area of Washington is owned by the State. The distribution of most of the State lands is shown on plate 1. No attempt has been made to show all the State lands on this Land Ownership Map. Only lands in tracts of 320 acres or more that are administered by the Department of Natural Resources, and State parks in excess of 500 acres are shown on the map. Some tracts of private land, which are too small to delineate, are included within the State lands. State-owned public lands include school lands (usually sections 16 and 36 of every township), university lands, state parks, state forest lands, deeded lands, institutional lands, highway rights of way, lands under the jurisdiction of the Game and Fisheries departments, tidelands, offshore lands, and the beds of navigable streams and lakes.

Mining locations may not be made upon lands that belong to the State. However, most State lands may be leased for prospecting and mining purposes. Most of the State land shown on the Land Ownership Map (pl. 1) is subject to the mineral leasing

regulations of the State. The State Commissioner of Public Lands administers the leasing of State-owned mineral lands and deposits. Inquiries regarding the leasing of State lands should be directed to the following address: State Commissioner of Public Lands, Department of Natural Resources, Olympia, Washington 98504.

There are three types of State mineral leases: (1) leases for gold, copper, silver, lead, cinnabar, or other valuable minerals; (2) leases for oil and gas; and (3) leases for coal. Timber, sand, gravel, stone, and other like materials on State land may be sold, and in some cases leased, by the Commissioner of Public Lands at their appraised value. Full details on the leasing of State-owned mineral lands are given on page 108 of "An Outline of Mining Laws of the State of Washington" [2].

There is no objection to a person examining State lands in order to determine which area he might want to lease. However, after an area has been selected, a prospecting lease is required. This lease costs \$5.00 for each 40 acres plus a \$5.00 fee for the permit itself. The area may not exceed 80 acres for any one permit. Prospecting permits are for 2 years, during which time not more than 5 tons of ore may be removed for testing purposes. Should ore be discovered, a mining contract may be obtained from the State. A mining contract costs \$5.00, and the annual rental fee is \$10.00 per 40 acres for the first 2 years. A royalty of about 3 percent is paid to the State from the sale of ore or minerals. Mining contracts are issued for 20 years and may be renewed.

Amended by Chapter 56, Laws of 1965. See page 24 for addenda.

There is no way of determining, from an examination of the surface, which State lands are open for leasing. As leases for minerals on State lands must be legal subdivisions of the United States survey, the lessee is not required to establish marked boundaries as in locating mining claims on open Federal land. For this reason the only way of knowing whether a certain section of State land is available for leasing is to inquire of the office of the State Commissioner of Public Lands.

State parks.— The Washington State park system comprises 167 parks and additional tracts, which cover more than 76,000 acres. Individual State parks range in size from 3 acres at Donovan State Park in Skagit County to 24,330 acres at Mount Spokane State Park in Spokane County. Of the 167 State parks, only those larger than 500 acres are outlined on the Land Ownership Map (pl. 1). The smaller parks are shown as dots.

Certain areas within some of the parks are open for leasing of mineral lands. Inquiries regarding the leasing of land within State parks should be directed to the Washington State Parks and Recreation Commission, Olympia, Washington 98504.

Beds of navigable and certain non-navigable waters.— Whereas the beds of non-navigable streams and lakes on public domain and in national forests are open to mineral entry, on State-owned lands they are not open but are subject to mineral leasing from the State. The beds of all inland navigable streams and lakes, whether on State, Federal, private, or any other type of land, are owned by the State and are subject to the mineral leasing laws of the State.

Tidelands, backshore lands, and offshore lands.— The State owns all tidelands unless they have been granted away and are now privately owned. This includes the land that lies between the meander line and the mean low tide line.

The land shoreward from the meander line (usually the mean, or average, high tide line) is the uplands. Whether uplands are open to prospecting or not depends on the ownership. Hence, public domain would be open, whereas State and privately owned land would not. Accreted land, or land added to the original property by natural forces such as stream deposition, ordinarily belongs to the owner of the adjacent land.

Offshore lands extend 3 nautical miles seaward from the mean low tide line. These lands belong to the State and are subject to mineral leasing from the State. The outer continental shelf lands lie beyond the State offshore lands. For information regarding these lands see page 15.

LANDS OPEN TO MINING LOCATION

The word "open" as used in this circular refers to lands that are open to prospecting, location, mining, and patenting of lode or placer mining claims. If the land is open, no permit or license is required to enter, prospect, or locate a mineral claim. The only fee required is the charge made by the County Recorder to record a mining claim. It is usually about \$2.00.

The U.S. Government does not publish maps showing which Federal lands are open for mineral entry. In general, public domain and the national forests offer the largest area of lands open to prospecting within the State. However, there are restrictions even on parts of this land, such as areas that are withdrawn from mineral entry, wilderness-type areas, and areas that are open only for certain minerals.

Public Domain

Public domain, which is land belonging to the United States, is open. In Washington, each month, title to a few thousand acres of land passes from the United States to others, the recipient of the largest amount being the State of Washington. At present only a few hundred square miles of public domain remains. This land represents unallocated lands, which are subject to sale or other disposition under the general laws of the United States.

The public domain is managed by the U.S. Bureau of Land Management. They publish no maps that show the locations of these lands. However, the Bureau of Land Management maintains plats and records of all the public domain. The plats, which are in the form of township maps, show vacant lands and various types of classified, reserved, and appropriated lands. They also show lands that are reserved for certain minerals, oil and gas, and power sites. The Bureau also keeps records of all applications for patents as well as of patents that have been issued for mining claims.

All records of the Bureau of Land Management are open to the public for reference. The address of the office that manages the public domain within Washington is:

U.S. Bureau of Land Management, Washington Land Office, West 920 Riverside, Spokane, Washington 99201.

Some of the lands that lie within the public domain as well as the laws that affect the mineral deposits on these lands are discussed briefly in the following paragraphs:

United States Leasing Act mineral lands.— The United States Mineral Leasing Acts of 1920 and 1927 authorized the United States to lease its public lands that contain coal, oil, oil shale, gas, phosphate, and sodium and potassium compounds. These acts prohibited the location of mining claims on Leasing Act mineral lands; the lands could only be leased from the Government.

Public Law 585, which was passed in 1954, opened the Leasing Act lands for minerals other than the Leasing Act minerals. Thus, all such lands are now open to prospecting and mining (of all but the Leasing Act minerals) under the general mining laws of the United States. However, the same land is also open to leasing (of Leasing Act minerals) under the Mineral Leasing law. Where Leasing Act minerals are reserved to the United States, the claim owner in the course of his operations must not damage the reserved mineral deposits. Also, the Leasing Act lessee shall conduct his operations so as not to interfere with the surface or underground workings of patented or unpatented mining claims [2a, p. 11]. Lands are not subject to the terms of the Leasing Act when they lie in incorporated cities and towns, national parks and monuments, and military and Indian reservations.

Federal power sites.— United States Public Law 359, passed in 1955, opened to entry for location and patent of mining claims all public lands belonging to the United States that were thereafter withdrawn or reserved for power sites or power development. However, a mining claim may not be located within a Federal power site in which a power project is being operated or is being constructed under the Federal Power Act. Also, any land that is under examination by any prospective licensee of the Federal Power Commission is not open for the location of a mining claim [2a, p. 14].

Under the Federal Power Act, Federal hydroelectric power sites or power projects that were established prior to August 11, 1955, are not open to prospecting or mining. However, the Federal Power Commission can open any portion of the sites or projects, provided the sites are not damaged for power development purposes by mining operations. The United States and its licensees have the right at any time thereafter to reoccupy or use any part of such opened land without compensation to the miner (or entryman) except for damage to crops, buildings, and improvements.

Grazing districts.— Grazing districts and areas occupied by grazing permittees within the public domain are open. The miner is not obligated in any way to such permittees for damage to their grazing operations.

The Taylor Grazing Act of June 28, 1934, created grazing districts on United States vacant, unreserved, and unappropriated public lands. However, this act provides the prospector the following allowance:

The right to prospect, locate, and patent mining claims, also to lease lands containing U.S. Mineral Leasing Act minerals without regard to classification and without restriction or limitation by any provision in the Act (Taylor Grazing Act) [2, p. 19].

The purpose of the act is to promote the highest use of public lands.

United States public land withdrawals.—Any permanent land withdrawals are not open to metalliferous and nonmetalliferous mining. However, if the withdrawal converted the land into a class that is already open, such as a national forest, it is open. Temporarily withdrawn public lands are open to metalliferous but not nonmetalliferous mining. Any temporary withdrawal remains in effect until revoked by the President or by Congress [2, p. 20].

Beds of non-navigable waters.—Beds of non-navigable waters are open if they are on United States public land that is open. This applies to the minerals on or under the bottom of the water and not to the rights to appropriate and use the water. The State owns the beds of all inland navigable streams and lakes, and tidelands. Hence, the minerals are subject to leasing from the State.

There is no definite rule as to what distinguishes a navigable stream from a non-navigable stream. In general, those streams, lakes, and coastlines that have been meandered (government surveyed) are considered to be navigable waters.

Outer continental shelf lands.—The outer continental shelf lands lie between the outer limits of the State's offshore lands (3 nautical miles seaward from the mean low tide line) and the 12-mile offshore line, which marks the boundary of the United States.

The outer continental shelf lands are public domain. The contained minerals are subject to the United States mineral leasing and mining laws as administered by the Bureau of Land Management [5].

It is evident from the foregoing discussion that public lands are subject to many regulations and laws that determine whether or not they are open for prospecting. Before expending time and money prospecting on any particular parcel of land in the public domain it is best to inquire through the U.S. Bureau of Land Management as to the status of the mineral rights on this land.

National Forests

The national forests of Washington constitute the largest land areas open for prospecting. In Washington there are 7 complete national forests and 2 fractional parts. The total land area of the national forests within the State is approximately 15,093 square miles, which is about 22 percent of the total land area of Washington. The boundaries of these forests are shown on the Land Ownership Map (pl. 1) that accompanies this circular.

The U.S. Forest Service, by act of Congress, is given exclusive control over the timber and the surface use of the national forest lands. In addition, the Forest Service is authorized to make general regulations that relate mainly to trails, rights of way, and forest protection. The U.S. Bureau of Land Management has been given exclusive control of surveying, prospecting, locating, and patenting of national forest lands. Persons entering the national forests for any purpose must comply with Federal, State, county, and local rules and regulations of the forests.

The national forests of Washington and the towns in which the supervisors' offices are located are as follows:

Table 3.—National Forests of Washington

<u>Forest</u>	<u>Supervisor's office</u>
Chelan	Okanogan
Colville	Colville
Gifford Pinchot	Vancouver
Kaniksu	Sand Point, Idaho
Mount Baker	Bellingham
Olympic	Olympia
Snoqualmie	Seattle
Umatilla	Pendleton, Oregon
Wenatchee	Wenatchee

Within the boundaries of the national forests there are several different types of lands, some of which are open and others of which are closed to prospecting and mining. These types include lands withdrawn from mineral entry, wilderness-type areas, patented lands, unpatented mining claims, watersheds, beds of navigable and non-navigable waters, State lands, and limited areas.

Lands withdrawn from mineral entry.—Some lands within the national forests are withdrawn from mineral entry and therefore are not open. These lands comprise less than 5 percent (453,093 acres) of the total land area of the forests. The following table contains the various types of withdrawn land as well as the areas (in acres) of land involved in the withdrawals.

Table 4.—Withdrawn Lands Within the National Forests of Washington

<u>Types</u>	<u>Area (acres)</u>
Reclamation	31,130
Power	304,179
Flood control	0
Federal game refuges	0
Military reservations	7
Administrative sites	6,356
Public service sites and recreational areas	8,945
Experimental forests and refuges	0
Road zones and rights of way	6,256
Watersheds	96,000
Other	<u>220</u>
Total	453,093

The Forest Service does not have available for distribution maps showing the location of the withdrawn lands. However, regional and district offices of the Forest Service maintain up-to-date plat and tabular records of these lands that can be consulted.

The regional office for all the national forests of Washington except the part of the Kaniksu National Forest in Pend Oreille County and the part of the Colville National Forest in Ferry and Stevens Counties is: U.S. Department of Agriculture, Forest Service, Pacific Northwest Region, P. O. Box 3141, Portland, Oregon 97208.

The regional office for part of the Colville National Forest and the part of the Kaniksu National Forest in Washington is: U.S. Department of Agriculture, Forest Service, Northern Region, Federal Building, Missoula, Montana 59801.

Wilderness-Type areas.—Certain areas within the national forests are set aside to preserve their exceptional scenery. In Washington there are four such areas, as shown on the Land Ownership Map (pl. 1). The names and sizes of the areas and the national forests in which they are located are as follows:

Table 5.—Wilderness-Type Areas of Washington

<u>Name</u>	<u>Size (acres)</u>	<u>National forest</u>
Pasayten Wilderness Area	520,000	Mount Baker and Okanogan
Glacier Peak Wilderness Area	468,105	Mount Baker and Wenatchee
Goat Rocks Wild Area	82,680	Gifford Pinchot
Mount Adams Wild Area	42,411	Gifford Pinchot
Total	1,113,196	

The wilderness-type areas are open to prospecting and mining. However, moving about in these areas is restricted to foot or horse travel, as the usual policy of the Forest Service is to prohibit construction of roads in these areas. This regulation also applies to smaller areas within the national forests that are designated as natural areas. The natural areas of Washington, their sizes, and the national forests in which they are located are as follows:

Table 6.—Natural Areas of Washington

<u>Natural area</u>	<u>Size (acres)</u>	<u>National forest</u>
Cedar Flats	680	Gifford Pinchot
Lake 22	790	Mount Baker
Long Creek	640	Mount Baker
Meeks Table	68	Snoqualmie
North Fork Nooksack	1,495	Mount Baker
Quinault	1,435	Olympic
Wind River	1,180	Gifford Pinchot
Total	6,288	

Limited areas.—In 1946, four areas within the national forests of Washington were identified by the Forest Service as possessing special recreational values. The Forest Service cannot establish these areas as specific recreational areas until they have been given a special study. If found to be of recreational value, they may be classified as wilderness-type areas. If they are not classified as such, they will be restored to their original national forest status. The Glacier Peak Wilderness Area, which was established in 1960, was formerly a limited area.

Although limited areas are not closed to logging operations, road building, and prospecting and mining, occupancy requires the prior approval of the Forest Service. Before undertaking work in limited areas, one should contact the supervisor of the national forest in which the areas are located.

The limited areas of Washington, the national forests in which they are located, and their gross areas are as follows:

Table 7.—Limited Areas of Washington

<u>Limited area</u>	<u>Size (acres)</u>	<u>National forest</u>
Alpine Lakes	256,000	Snoqualmie and Wenatchee
Cougar Lake	90,000	Snoqualmie and Gifford Pinchot
Monte Cristo Peak	11,500	Snoqualmie and Mount Baker
Packwood	<u>10,000</u>	Gifford Pinchot
Total	367,500	

Patented lands.—The national forests contain areas of patented land owned by the Northern Pacific Railway Company, the Northwestern Improvement Company (its subsidiary), timber companies, and individuals. These patented lands are private property and are not open to prospecting and mining.

The location of patented lands within the boundaries of the national forests is shown on some of the large-scale maps compiled by the Forest Service. Inasmuch as patented lands are subject to county taxes, they are also shown on the plats that are maintained by the County Assessors of the counties in which these lands are located.

Unpatented mining claims.—Valid unpatented mining claims in the national forests are not open. However, if it can be proved that the claims have been abandoned or are in default of assessment work, they are open for relocation.

The Forest Service or the office of the County Recorder in which the mining claim was recorded do not maintain maps that show the location of unpatented mining claims. By consulting the mining claims records at the office of the County Recorder, however, it should be possible to determine the approximate location of a mining claim. Unfortunately, the locations of many claims are so poorly described that it is impossible to determine their position with any certainty.

By State and Federal mining laws the locator is required to mark the boundaries of a claim so that they can be readily traced. While prospecting, if an individual finds a boundary line of a claim, an examination of the area should disclose the discovery site. At the discovery site there should be a notice that includes the name of the claim and locator, and the date of discovery. If 90 days have elapsed since the discovery, somewhere within the boundaries of the claim there should be a 10-foot discovery shaft or its equivalent work. Recent work in the area is sometimes a sign that the claim is being worked. However, in a group of contiguous claims there may be no signs of work on some claims, as the law permits all the assessment work to be done on any one claim.

Watersheds.—Watersheds are catchment areas or basins that collect a water supply. Some watersheds are closed to mining or similar operations that might pollute the waters. Within the national forests of Washington there are two watersheds that have been withdrawn from mineral entry. They are the Cedar River watershed, for the city of Seattle, and the Rattlesnake Creek watershed, for the city of Yakima. These watersheds are delineated on the Land Ownership Map (pl. 1). A total of 96,000 acres of national forest land has been withdrawn for these watersheds. Parts of both watersheds lie outside the boundary of the national forest. These parts are also closed to prospecting, inasmuch as the land is privately owned. Other watersheds have been established in the national forests. Although they are subject to certain rules and regulations, they have not been withdrawn from mineral entry.

Beds of navigable and non-navigable waters.—The beds of non-navigable waters within the national forest are open to prospecting and mining. This applies to the minerals on or under the bottom of the water and not to the rights to appropriate and use the water. A holder of a mining claim within the national forest who desires to appropriate water from a stream or lake within the national forest must secure a permit from the Forest Service and another from the State Supervisor of Water Resources.

Navigable stream and lake beds within the national forest, regardless of who owns the surrounding lands, belong to the State and are not open. However, they are subject to the mineral leasing laws of the State (see page 12).

State lands.—When the State was created, Congress granted to it, for the support of the public schools, sections 16 and 36 of every township as soon as the land was surveyed. Indemnity lands were granted in lieu of sections or parts of sections already disposed of or sold. Within the national forests there are many surveyed school lands. These lands belong to the State and are not open to prospecting and mining, but may be leased from the State. The distribution of the State lands within the national forests is shown on the Land Ownership Map (pl. 1).

Even though questions might arise over which lands within the national forests are open to prospecting and mining, the prospector will be faced with fewer problems when prospecting within the national forests than on most other lands. As mentioned before, the lands that are withdrawn from mineral entry comprise less than 5 percent of the total area of the national forests of the State. The locations of these areas are readily available from the Forest Service.

SELECTED REFERENCES

Publications available from Department of Natural Resources, Division of Mines and Geology, Olympia, Washington 98504

- [1] Selected Washington maps and their sources (mimeo). Free
- [2] An outline of mining laws of the State of Washington (Bulletin 41), by M. H. Van Nuys, 142 p., 1953. Out of print.
- [2a] Supplement of Bulletin 41, 26 p., 1956. Out of print.
- [2b] Mining Claims—Questions and Answers.

Publications available from Superintendent of Documents, Government Printing Office, Washington, D. C. 20402.

- [3] Lode and placer mining regulations: U.S. Bureau of Land Management Circular 1941, 26 p., 1955. (Part 185, Title 43, Code of Federal Regulations). Free
- [4] Regulations for oil and gas leasing on Federal public lands: U.S. Bureau of Land Management Circular 2037, 13 p., 1960. (Part 192, Title 43, Code of Federal Regulations). Free
- [5] Leasing and operating regulations for the submerged lands of the outer continental shelf: U.S. Department of the Interior, 44 p., undated. (Part 250, oil and gas, Title 30, and Part 20, mineral deposits, Title 43, Code of Federal Regulations). Free

Publications available from private firms:

- [6] Metsker County Atlases: Metsker Maps, 1222 Third Avenue, Seattle, Washington 98101; 111 South 10th Street, Tacoma, Washington 98402.
- [7] Kroll County Atlases: Kroll Map Company, Inc., 816 Second Avenue, Seattle, Washington 98104.

Note: Prices of atlases vary and are available upon request from the above companies.

APPENDIX A

SELECTED WASHINGTON MAPS AND THEIR SOURCES

Topographic quadrangle maps: $7\frac{1}{2}$ -minute, scale 1:24,000 (1 inch = 2,000 ft.) or scale, 1:31,680 (1 inch = 1 mile). 15-minute, scale 1:62,500 (1 inch = approximately 1 mile). 30-minute, scale 1:125,000 (1 inch = approximately 2 miles). Available from the Distribution Section, U.S. Geological Survey, Federal Center, Denver, Colorado 80225. Price, 75 cents per sheet. Also available at larger stationery stores at a slightly higher cost.

Index to Topographic Mapping in Washington: This shows the areas in Washington for which topographic quadrangle maps are available. May be obtained free from the Distribution Section, U.S. Geological Survey, Federal Center, Denver, Colorado 80225.

Contour Map of the State of Washington: 1,000-ft. contour intervals, scale 1:500,000. Six sheets (Sectional Aeronautical Charts) are necessary for complete coverage of the State. These are: Bellingham, Kootenai, La Grande, Portland, Seattle, and Spokane. They are available for 25 cents a sheet from the U.S. Coast and Geodetic Survey, Washington Science Center, Rockville, Maryland 20852. Aeronautical maps at scales of 1:2,000,000, 1:1,000,000, 1:250,000, and 1:125,000 are also available. A catalog of nautical and aeronautical charts is available from the U.S. Coast and Geodetic Survey.

U.S. Army Map Service Topographic Maps of Washington: (Sheets available: Sandpoint, Spokane, Pullman, Okanogan, Ritzville, Walla Walla, Pendleton, Concrete, Wenatchee, Yakima, The Dalles, Victoria, Seattle, Hoquiam, Portland, Copalis Beach). Scale 1:250,000 (1 inch = 4 miles). Available from the U.S. Army Map Service, Washington, DC 20242. Also available are maps on a scale of 1:100,000 covering more of the State. An index to Army Map Service maps may be obtained from The Commanding Officer, Army Map Service, Corps of Engineers, U.S. Army, Washington, DC 20315.

Plastic relief models of 2-degree quadrangles in Washington: These relief models, at a scale of 1:250,000, depict the same areas as shown by the U.S. Army Map Service topographic maps described above. Available from Hubbard, P. O. Box 105, Northbrook, Illinois 60062, at a price of \$9.95 per quadrangle, plus \$1 for handling and postage regardless of the number of maps ordered.

U.S. Geological Survey Planimetric Map of Washington: Covers the entire state, scale 1:100,000 (1 inch = 16 miles). One color. Available from the Distribution Section, U.S. Geological Survey, Federal Center, Denver, Colorado 80225, or from the U.S. Geological Survey, Washington, DC 20242. Also available from these sources is a similar map on a scale of 1:500,000 (1 inch = 8 miles).

U.S. Forest Service Map of Washington: This is a planimetric map composed of 4 sheets— $NE\frac{1}{4}$, $SE\frac{1}{4}$, $NW\frac{1}{4}$, and $SW\frac{1}{4}$, on a scale of 1:253,440 (1 inch = 4 miles). Available from the U.S. Forest Service, Washington, DC 20250.

Maps of National Forests: (Chelan, Colville, Gifford Pinchot, Mount Baker, Olympia, Snoqualmie, and Wenatchee National Forests). Planimetric maps available from the U.S. Forest Service, P. O. Box 3141, Portland, Oregon 97208. Prices vary according to scale of map.

Highway Map of Washington: This shows primary and secondary highways. Available from the State Department of Highways, Olympia, Washington. Also available from this source is a State of Washington index map that shows the sheets available of the Department of Highways county maps.

County Planimetric Maps: Scale, 1 inch = 1 mile. Up-to-date maps showing land grid, towns, rivers, and highways. All roads, both primary and secondary, are shown. Also available at a scale of 1 inch = 2 miles. May be purchased from the Washington State Department of Highways, Highway Administration Building, Olympia, Washington 98504.

County Planimetric Maps: Scale, 1 inch = 2 miles. Less detailed and on a larger scale than U.S. Geological Survey topographic quadrangle maps. Available at a price of \$1.25 from Metsker Maps, 1222 Third Street, Seattle, Washington 98101, or 111 South 10th, Tacoma, Washington 98402. Also available from this source are maps showing land ownership.

Aerial Mosaic Index: Shows all areas for which aerial mosaics or photomaps are known to have been compiled for or by Federal, State, or commercial agencies. Available from the Map Information Office, U.S. Geological Survey, Washington, DC 20242.

Status of Aerial Photography: Shows the areas covered by photographs and the agency that holds the photographs. This is available from The Map Information Office, U.S. Geological Survey, Washington, DC 20242.

Landform Map of the Northwest: This map shows topography by shading. Available from Erwin Raisz, Cambridge, Massachusetts 02135, and University Book Store, 4326 University Way, Seattle, Washington 98105. Scale, 1 inch = about 20 miles.

Charts showing water depths and surface contours on adjacent lands: Available for the Pacific Coast and some harbors and rivers in Washington. Practically all charts are drawn on decimal scale, generally from 1:10,000 to 1:80,000. Available from the U.S. Coast and Geodetic Survey, Washington Science Center, Rockville, Maryland 20852.

Maps and Mapping Agencies in Washington State: This is a University of Washington Bachelor of Arts Thesis, Department of Geography, by Ralph Edward Black and Howard Edward Vogel. All known maps dealing with the State of Washington are listed, and the names of the distributing agencies are also given. It may be consulted in the University of Washington Library, or it may be borrowed through interlibrary loan.

LOCATION OF COUNTY SEATS IN WASHINGTON

<u>County</u>	<u>County seat</u>
Adams -----	Ritzville
Asotin -----	Asotin
Benton -----	Prosser
Chelan -----	Wenatchee
Clallam -----	Port Angeles
Clark -----	Vancouver
Columbia -----	Dayton
Cowlitz -----	Kelso
Douglas -----	Waterville
Ferry -----	Republic
Franklin -----	Pasco
Garfield -----	Pomeroy
Grant -----	Ephrata
Grays Harbor -----	Montesano
Island -----	Coupeville
Jefferson -----	Port Townsend
King -----	Seattle
Kitsap -----	Port Orchard
Kittitas -----	Ellensburg
Klickitat -----	Goldendale
Lewis -----	Chehalis
Lincoln -----	Davenport
Mason -----	Shelton
Okanogan -----	Okanogan
Pacific -----	South Bend
Pend Oreille -----	Newport
Pierce -----	Tacoma
San Juan -----	Friday Harbor
Skagit -----	Mount Vernon
Skamania -----	Stevenson
Snohomish -----	Everett
Spokane -----	Spokane
Stevens -----	Colville
Thurston -----	Olympia
Wahkiakum -----	Cathlamet
Walla Walla -----	Walla Walla
Whatcom -----	Bellingham
Whitman -----	Colfax
Yakima -----	Yakima

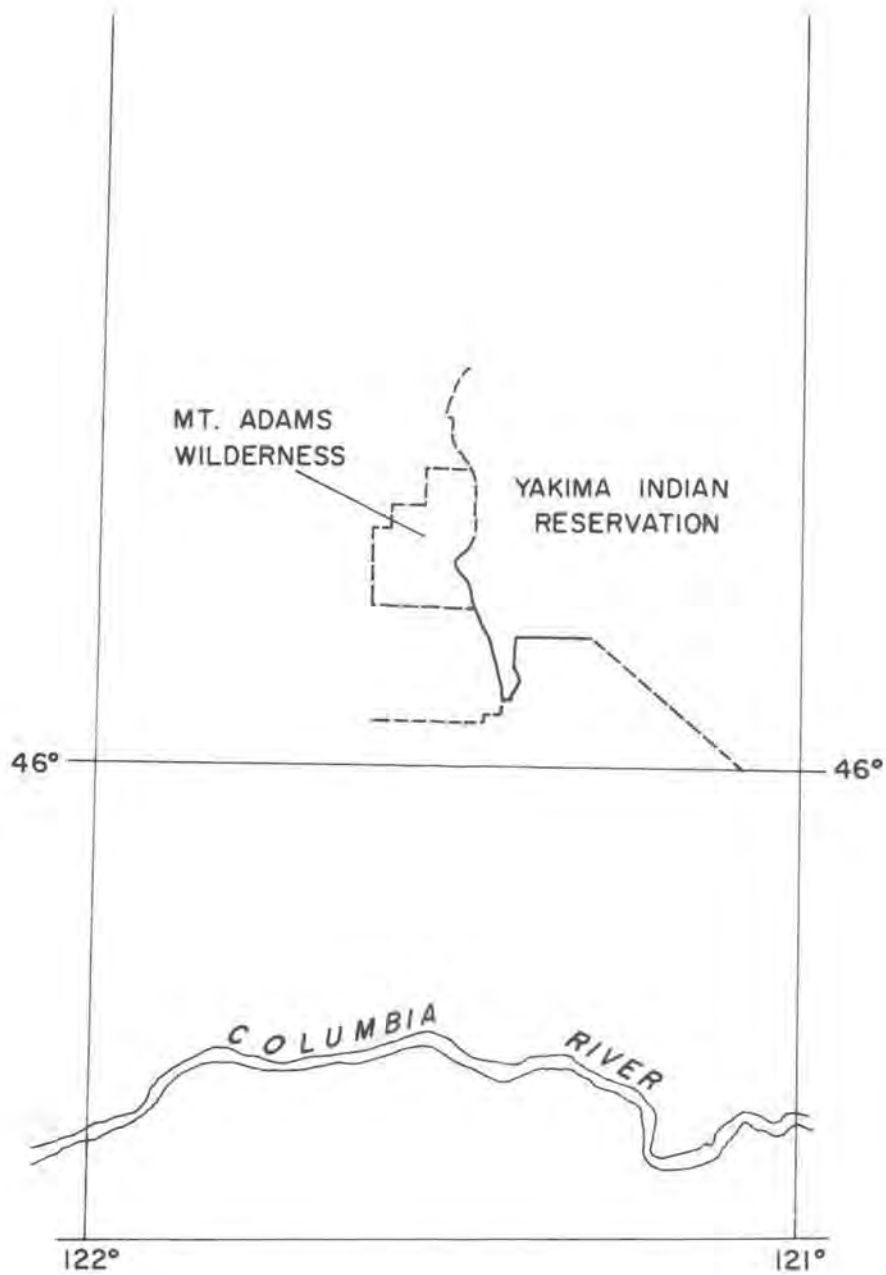
ADDENDA

(page 12, shaded paragraph, amended by Chapter 56, Laws of 1965)

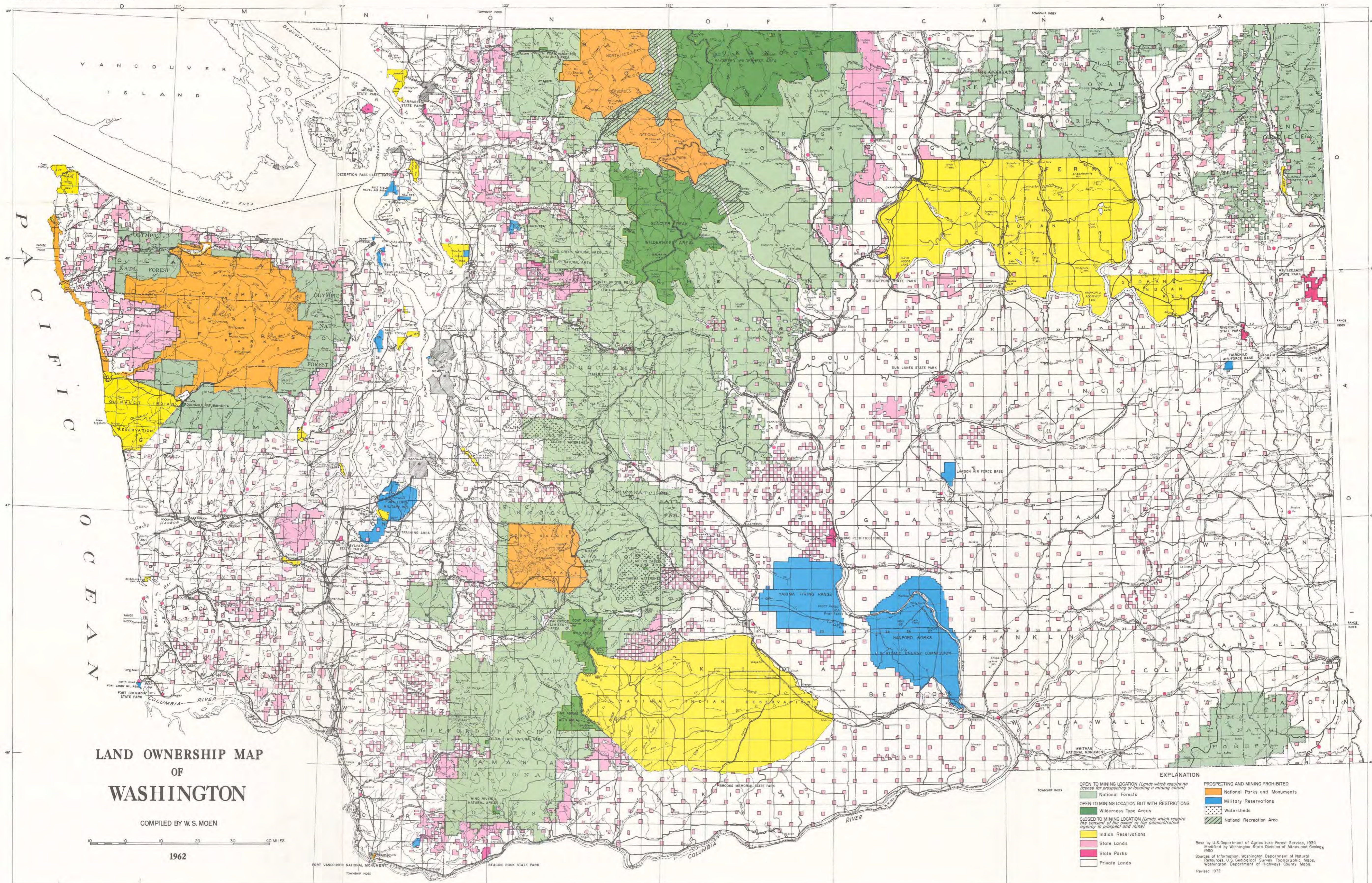
There is no objection to a person examining State lands in order to determine which area he might want to lease. However, after an area has been selected, a prospecting lease or mining contract is required. Prospecting leases are for 2 years. The area covered by a lease may not be less than 40 acres (less if a legal government lot) or more than 640 acres (more if a legal section). A rental of 25 cents per acre per year is required. A prospecting lease may be converted to a mining contract; however, the conversion must be initiated prior to the expiration of the prospecting lease. The lessee must submit proof of development work on the property in the amount of \$1.25 per acre per year in order to convert a prospecting lease to a mining contract.

A mining contract is required when the actual mining commences. The first 4 years of a contract are referred to as the exploration or prospecting period. The rental for the first 2 years is at the rate of 25 cents per acre per year. For the 3rd and 4th years the rental is 50 cents per acre per year. Time expended on a prospecting lease is deducted from the exploration or prospecting period of the contract. To retain the contract past the 4th year, the lessee must submit evidence of development work in the amount of \$1.25 per acre per year. The 5th through the 20th year requires a minimum annual royalty of \$2.50 per acre, and annual development work in the amount of \$2.50 per acre. A standard royalty of 3 percent is required; however, the Commissioner of Public Lands may establish a different rate for specific minerals.

OVERLAY TO INFORMATION CIRCULAR 36 - PLATE I
MINERAL RIGHTS AND LAND OWNERSHIP IN WASHINGTON

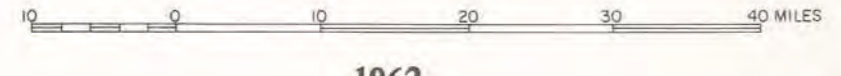


NOTE: This overlay shows the new boundary of a recent addition to the Yakima Indian Reservation in the vicinity of Mt. Adams. The new addition is shown in a solid line.



LAND OWNERSHIP MAP OF WASHINGTON

COMPILED BY W. S. MOEN



1962

EXPLANATION

- OPEN TO MINING LOCATION (Lands which require no license for prospecting or locating a mining claim)
 - National Forests
- OPEN TO MINING LOCATION BUT WITH RESTRICTIONS
 - Wilderness Type Areas
- CLOSED TO MINING LOCATION (Lands which require the consent of the owner or the administrative agency to prospect and mine)
 - Indian Reservations
 - State Lands
 - State Parks
 - Private Lands
- PROSPECTING AND MINING PROHIBITED
 - National Parks and Monuments
 - Military Reservations
 - Watersheds
 - National Recreation Area

Base by U.S. Department of Agriculture Forest Service, 1934
Modified by Washington State Division of Mines and Geology, 1960
Sources of Information: Washington Department of Natural Resources, U.S. Geological Survey Topographic Maps, Washington Department of Highways County Maps.
Revised 1972