



Department of Energy, Mines,
Industry Regulation and Safety

GUIDELINES

Programme of Work Guidance

To assist in the preparation of Programmes of Work
under the *Mining Act 1978*

Version 1

December 2023

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Document Hierarchy

Legislation	<i>Mining Act 1978</i> Mining Regulations 1981
Policy	Environmental Regulatory Strategy Environmental Objectives Policy for Mining
Guidelines	This document
Procedures	Environmental Applications Administrative Procedures

Version History

Version	Date	Changes
0.1	December 2022	Draft for consultation
1	December 2023	Updated to reflect stakeholder feedback

Purpose

The purpose of this document is to provide transparency on the information requirements of a Programme of Work (PoW) application under the *Mining Act 1978* (Mining Act) and to assist applicants in preparing PoW applications.

This guidance should be read in conjunction with the companion Exploration and Prospecting Rehabilitation Guidance.

Scope

This guidance document applies to exploration and prospecting activities regulated under the Mining Act.

Legislation/Guidelines

Exploration or prospecting activities using ground disturbing equipment require an approved PoW, as per sections 46, 63, 70H, and 82 of the Mining Act.

The Mining Act requires that a PoW is lodged in the prescribed manner and approved by the Minister (or a prescribed official) prior to a tenement holder conducting any ground disturbing activities with mechanised equipment. The prescribed manner is the submission of a PoW application to the Department of Energy, Mines, Industry Regulation and Safety (DEMIRS).

The [Environmental Applications Administrative Procedures](#) provide details regarding the procedures for screening and assessing environmental applications, as well as any constraints on acceptance of applications.

1. Preparing a Programme of Work

There are two ways to submit a PoW application:

1. Spatial submission

The PoW Spatial lodgement system (PoW-S) allows proponents to digitise or upload their activities directly into the system and provides site-specific feedback regarding any land of interest that is intersected. The lodgement questions are also tailored to the activities and the types of land the application intersects. The application can then be adjusted and optimised before submission, resulting in a streamlined application and assessment process.

Please see the department [website](#) for additional information regarding spatial lodgement of a PoW-S, including guidance on spatial upload formats.

2. Hard copy submission

The fastest and most efficient method for submitting a PoW is via the PoW Spatial lodgement system, however, a paper based application form can be downloaded from the department [website](#) and submitted either over the counter at any of the department's offices, or electronically via the departmental submissions portal.

The department has provided a pre-submission checklist to assist proponents in preparing a PoW submission. See Appendix 1.

1.1 Reviewing tenement conditions

Prior to submitting a PoW, applicants should review tenement conditions in order to understand the relevant requirements and obligations. PoW applications that appear to not comply with relevant tenement conditions will likely result in the department seeking further information or resubmission of the application with necessary amendments to demonstrate compliance with conditions.

Tenement conditions are listed in the department's [Mineral Titles Online \(MTO\) system](#), which provides details of mineral exploration and mining tenements throughout Western Australia, and the PoW-S lodgement system.

1.2 Land access

1.2.1 PoWs on tenements held by a third party

For PoWs that are not submitted by the tenement holder, are submitted by a consultant on behalf of the applicant, or include tenements held by multiple tenement holders, the applicant must obtain authorisation to submit a PoW on the tenement from all tenement holders prior to submission. The PoW must declare that authorisation from all tenement holders has been granted.

1.2.2 Pastoral and general leases

Under section 20(5) of the Mining Act, written consent of the occupier is required in most instances for exploration on any Crown land, that is:

- (a) for the time being under crop, or which is situated within 100m thereof;
- (b) used as or situated within 100m of a yard, stockyard, garden, cultivated field, orchard, vineyard, plantation, airstrip or airfield;
- (c) situated within 100m of any land that is in actual occupation and on which a house or other substantial building is erected;
- (d) the site of or situated within 100m of any cemetery or burial ground; or
- (e) land the subject of a pastoral lease within the meaning of the *Land Administration Act 1997* which is the site of, or is situated within 400m of the outer edge of, any water works, race, dam, well or bore, not being an excavation previously made and used for mining purposes by a person other than a lessee of that pastoral lease.

A PoW proposing activities on land referenced in section 20(5) of the Mining Act may be approved, however, activities cannot commence until consent from the relevant land occupier has been obtained.

When exploring on a pastoral lease, applicants must take all reasonable and practical steps to notify the pastoralist about their proposed activities within the pastoral lease and the PoW application must include details of the notification to the pastoralist, including contact method and date. Applicants can obtain the address, telephone, fax numbers, and email address of pastoralists by contacting any of the department's Mining Registrar offices.

Explorers should proactively communicate with pastoralists so that the legal rights of both mineral and grazing activities are preserved. Early engagement will allow time to address any matters raised by either party. Where appropriate, it is recommended that a written record is maintained of any matters raised by either party.

Matters that may need to be considered include water supply for stock, biosecurity protocols, firearms, fire prevention and dogs. Campsites should be kept clean, wear and tear on roads and tracks minimised, and no damage caused to fences and gates. Explorers may be liable for compensation for any damage caused to a pastoralist's infrastructure, such as fences or roads.

If a non-pastoral Crown lease is intersected (e.g. a General Lease), the purpose of the lease should be noted in the PoW application and any relevant permissions provided.

1.2.3 Reserves and other protected lands

Part III Division 2 of the Mining Act protects reserves and other types of land such as foreshore, sea bed, navigable waters and townsites. There are many types of protected lands that may intersect a Mining Act tenement. Some may require access permits or agreements, while others may require advice or approval from government agencies other than the department, and/or Ministerial consent prior to the commencement of exploration activities.

Applicants should review available GIS databases (e.g. PoW Spatial lodgement system, Tengraph, etc.) and tenement conditions to determine whether any reserves or other protected lands are intersected by proposed works, and whether any permits, agreements, Ministerial consent, or other approvals are required before a PoW can be lodged, approved, and/or activities can commence (see the department's [Environmental Applications Administrative Procedures](#) for further information as to when parallel processing can occur).

The presence of a reserve or protected land is usually referenced in tenement conditions, however, for various reasons this is not always the case. If the land falls under the definitions of Part III Division 2 of the Mining Act, no activities can occur on that land unless the relevant consent has been obtained. As per the department's [Environmental Applications Administrative Procedures](#), where a PoW is submitted in these areas and the relevant consent has not yet been granted, the department will conduct a parallel assessment but withhold a decision on the PoW until consent has been granted.

In many instances, consent to enter a reserve or other protected land is granted subject to conditions. In these scenarios, the PoW application must demonstrate that these conditions have been met or that proposed activities will comply with all conditions. Even where consent has been granted, the department may seek advice from the relevant vestee to confirm that activities proposed in the PoW are consistent with all conditions.

A common example of this scenario is where consent to enter a Department of Biodiversity, Conservation and Attractions (DBCA) managed reserve is granted subject to the tenement holder complying with a conservation management plan (CMP). In this scenario, applicants will need to demonstrate that commitments made in the CMP have been met when lodging the PoW application, and the department may still consult with DBCA to confirm that the application complies with all conditions.

1.2.4 Commonwealth land

In some instances, a Mining Act tenement may intersect Commonwealth land, which is land vested to or held by the Commonwealth, or land which the Commonwealth holds a freehold or leasehold interest in.

If the Commonwealth land falls under the definition of land protected under Part III Division 2 of the Mining Act, no activities can occur within that Commonwealth land unless the relevant consent has been obtained.

1.2.5 Aboriginal Cultural Heritage

When preparing a PoW, tenement holders must undertake an enquiry/search of the Department of Planning, Lands and Heritage's (DPLH) Aboriginal Cultural Heritage Inquiry System in order to identify if the proposed activities will impact on any known Aboriginal heritage sites. Please note that all sites of Aboriginal heritage are protected under relevant Aboriginal heritage legislation whether or not they are on the inquiry system.

Where activities proposed under a PoW intersect with an Aboriginal heritage site, tenement holders should liaise with DPLH in order to understand their regulatory requirements. Evidence should be provided with the PoW which demonstrates that consultation with DPLH has commenced, and the department may seek further information from the tenement holder and/or DPLH.

Approval of a PoW in no way grants authority to impact any Aboriginal heritage sites.

1.2.6 Private land

Granted Mining Act tenements which occupy areas also covered by private/freehold land do not necessarily give the right to conduct exploration/prospecting activities on the surface of that land. Before a PoW application is lodged on privately owned land, surface rights must be obtained.

As per the department's [Environmental Applications Administrative Procedures](#), where an application intersects privately owned land and surface rights have not been obtained, the application will not be accepted.

More information about private land provision can be found on the department's [website](#).

1.2.7 Mineral rights

Private land granted pre-1899 may be considered 'minerals to owner' where the mineral rights (except for gold, silver and precious metals) are owned by the landowner and not the Crown.

Given this, where proposed works intersect freehold/private land, and target a mineral other than gold, silver, or precious metals, the department requires evidence of mineral rights for the affected freehold/private land. Before the department can progress the PoW, the applicant will be required to confirm that either the land title was granted on or after 1 January 1899, or that the proponent has obtained mineral rights for the proposed works that intersects freehold/private land. More information on mineral rights can be found on the department's [website](#).

1.2.8 Roads, railways, pipelines, and file notation areas

Roads, railways, pipelines and other such infrastructure can have exclusion areas around them in which mining activities are restricted to ensure safety and the integrity of the infrastructure. Tenement conditions should be checked to determine if there are any further approvals or consents required prior to the commencement of activities.

The department approval does not constitute authority to conduct works on a road, road verge or road reserve as protected under the *Land Administration Act 1997*. Should works be proposed within road/railway reserves, the Shire or owner/holder of the road/railway reserve will need to be consulted and consent to explore on these areas must be demonstrated.

File Notation Areas (FNA) are shown on the Tengraph system and refer to any proposed land transactions, alienations from the Crown, or other proposed changes in land use. Often these denote an area which is the subject of a future development or project, such as a proposed railway corridor. Conditions may or may not exist on a tenement in relation to an FNA. If proposed exploration or prospecting activities fall within the boundary of an FNA, it is advisable to contact the [Resource Tenure Division](#) to determine whether any further restrictions apply.

1.2.9 Indigenous Land Use Agreements

A number of Indigenous Land Use Agreements (ILUAs) have been executed between the State Government and various Native Title groups. As part of these agreements with the Government, all mining tenements within the ILUA areas will have a Heritage Agreement condition placed on the tenement. This condition requires that tenement holders must enter into a Heritage Agreement with the relevant ILUA group before any rights of the tenement can be exercised.

If the tenement is located within an ILUA area and a Heritage Agreement is required by tenement conditions, a statutory declaration must be provided as evidence that the tenement holder has entered into a Heritage Agreement with the relevant ILUA group, prior to submission of a PoW. If a Statutory Declaration has not been submitted prior to the lodgement of the PoW, the PoW will be refused in accordance with the [Environmental Applications Administrative Procedures](#).

More information on ILUAs can be found on the department's [website](#).

1.3 Liaison with other agencies

Where proposed activities intersect environmental sensitivities, the department may seek advice from other agencies in accordance with relevant Administrative Agreements.

1.3.1 Environmental Protection Authority

Consultation between the department and the Environmental Protection Authority (EPA) may be triggered where PoWs are considered environmentally significant when applying the EPA's significance test (consideration of significance). Consultation may be triggered where PoWs meet any of the following criteria (subject to the department applying the EPA's significance test):

- Activities are located within Environmentally Sensitive Areas including:
 - within 500m of World Heritage Property;
 - within 500m of a Bush Forever site;
 - within 500m of a Threatened Ecological Community;
 - within 500m of defined wetlands (as defined in Environmental Protection (Environmentally Sensitive Areas) Notice 2005);
 - within 50m of an area containing rare flora; and
 - any area covered by an Environmental Protection Policy.
- Within 500m of a declared/proposed State Conservation Estate, including national park, nature reserve, conservation park, or state forest and timber reserves.
- Within a public drinking water source area (PDWSA).
- Hydraulic fracture stimulation exploration and production/development activities.
- Any area previously or currently subject to formal assessment by the EPA.

Further information regarding liaison between the department and the EPA on PoW assessments can be found in the [Administrative Agreement between the department and DWER](#).

1.3.2 Department of Water and Environmental Regulation

The department will seek advice from the Department of Water and Environmental Regulation (DWER) where proposals intersect a Primary Water Resource Management (WRM) area. These include:

- Public Drinking Water Source Areas (PDWSA);
- clearing control catchments;
- high value waterways; and
- Waterway Management Areas.

The department will also seek advice from DWER where proposals intersect a Secondary WRM area and the proposed activity is likely to have a negative impact on that WRM area.

Further information regarding referral of applications to the department, and definitions of Primary and Secondary WRM areas can be found in the [Administrative Agreement between the department and DWER](#).

1.3.3 Department of Biodiversity, Conservation and Attractions

Prior to submission, applicants should ensure they are aware of their obligations under the *Biodiversity Conservation Act 2016* (Biodiversity Conservation Act), particularly in relation to the requirements for the take or disturbance of threatened flora and fauna species and the modification of an occurrence of a Threatened Ecological Community, as authorisations under the Biodiversity Conservation Act may be required in these scenarios.

The department may seek advice from the DBCA where the application will directly or indirectly impact or has the potential to impact threatened flora or fauna, or threatened ecological communities listed under the Biodiversity Conservation Act.

The department may seek advice for applications that will significantly impact or have the potential to significantly impact priority flora or fauna, priority ecological communities (PECs), or Ramsar-listed wetlands. Further information regarding referral of applications to DBCA can be found in the [Administrative Agreement Between the department and DBCA](#).

1.3.4 Department of Climate Change, Energy, the Environment and Water

Where applications intersect with Matters of National Environmental Significant, applicants should liaise with the federal Department of Climate Change, Energy, the Environment and Water (DCCEEW) to determine if an application is likely to have a significant impact on a matter protected under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act).

Further Information on matters of national environmental significant and guidance on whether an action is likely to have a significant impact on a matter protected under the EPBC Act can be found on the [DCCEEW's website](#).

1.4 Environment

1.4.1 Clearing of native vegetation

Under Section 51A of the *Environmental Protection Act 1986*, the definition of clearing includes any act or activity that causes:

- the killing or destruction of;
- the severing of trunks or stems of; or
- any other substantial damage to some or all of the native vegetation in an area.

When this is considered, even driving over vegetation (including grasses and regrowth) could be considered clearing.

Under the Environmental Protection (Clearing of Native Vegetation) Regulations 2004, clearing that is the result of carrying out prospecting or exploration under an authority granted under the Mining Act are exempt from requiring a Native Vegetation Clearing Permit.

This exemption does not apply to clearing of native vegetation in Environmentally Sensitive Areas (ESAs), which are areas of native vegetation that are specially protected due to their landscape, vegetation, or wildlife values. It is an offence to clear native vegetation within an ESA without a clearing permit. More information regarding ESAs can be found [here](#).

If clearing of native vegetation is proposed and the clearing is not eligible for an exemption, then a clearing permit will be required. Further information on applying for a clearing permit can be found [here](#).

1.4.2 Dieback management

If proposed activities are within a dieback risk zone, the department will require submission of an acceptable Dieback Management Plan (DMP). All exploration activities must then comply with the commitments made in the management plan. Where a DMP is required, it must include:

- a map showing any known dieback infested areas. If a dieback survey of the area has not been undertaken by qualified personnel, then all native vegetation must be considered at risk; and
- commitments that:
 - work will only be undertaken in dry soil conditions (dry soil conditions are defined as conditions where the ground is too dry for soil to adhere to vehicle parts or shoes);
 - vehicles and drilling equipment will be washed down or brushed prior to entry and exit to the proposed exploration site, and Clean on Entry Points will be located away from surface water features and sensitive areas; and
 - all exploration staff and drillers will be inducted and training will be provided in relation to the management of dieback must be made.

Further information on dieback management can be found [here](#) and [here](#).

1.4.3 Environmental management and rehabilitation

It is the department's expectation that the relevant environmental management and rehabilitation commitments in the PoW application be committed to. Where an answer of 'no' has been selected, adequate justification must be provided, otherwise this will trigger a request for further information.

1.5 Fibrous and radioactive materials

If the proposed activities are likely to intersect with fibrous or radioactive materials, further details regarding the activities and commitments relevant to environmental and safety management may be requested.

A relevant material management plan that has been developed in accordance with the department's Mines Safety requirements must be formulated and made available to the department upon request.

More information on [fibrous materials](#) and [radioactive materials](#) can be found on the department's website.

1.6 Additional supporting information

In some cases, it may be necessary to provide further information to fully explain the proposed activities or convey the necessary information for an efficient assessment of the application. The PoW Spatial system includes a 'notes' function, where additional relevant information can be included.

Where this information cannot be adequately presented in the PoW submission, a cover letter can be attached to the PoW submission to briefly describe the proposal and provide any additional information that will assist in the assessment of the PoW. A cover letter can also be used to provide more detailed information about the receiving environment (i.e. flora and fauna). Cover letters should be limited to matters where additional information is required as extraneous details may delay assessments.

1.6.1 Additional environmental information

In many circumstances, PoW applications present a low risk to the environment and only require the standard information requested in the application form. However, the department has a legal obligation to ensure that no significant environmental impacts would result from a PoW, unless the proposal has been referred to the EPA for consideration (see 1.3.1).

To ensure the department meets its obligations, the department may request additional information or commitments from the applicant to ensure the impacts will not be significant and are minimised where possible. This is most likely to occur when the proposed works intersect sensitive environmental features or conservation significant species, or where significant environmental impacts resulting from the proposed activities are possible due to their nature or scale. In some instances this may require the provision of baseline biological surveys or management plans to support the application.

Potential triggers for the provision of biological surveys and/or management plans include:

- priority or Threatened Ecological Communities (PECs, TECs);
- isolated habitats / short-range endemics (e.g. isolated ridges);
- conservation significant flora or fauna (including both vertebrate and invertebrate fauna);
- significant infill drilling, regardless of known sensitivities; and
- high cumulative disturbance.

Where an application meets these triggers and may need to be supported by additional information, applicants are encouraged to consult with the department prior to submission in order to determine information requirements.

1.6.2 Biological surveys

Where biological surveys or management plans have been provided previously with another PoW, applicants can reference the Registration ID of the previous PoW in the application, rather than providing the documents again. All baseline surveys or management plans used to support a PoW application need to be current and relevant to the proposed activities.

Where required, biological surveys should detail the presence of conservation significant species, locations of these species and potential impacts of the activities proposed in the PoW. In order for impacts associated with the PoW to be accurately assessed, surveys provided should be relevant to the application area and be able to demonstrate reliability of the survey data, with consideration given to suitability of survey methods, data analysis, timing of survey or time since survey was undertaken.

Further information on developing biological surveys can be found in the EPA's [technical guidance documents](#).

Where a survey is provided, the PoW should include a summary of the survey and implications for the proposed activities, as well as management strategies to be implemented to reduce impacts.

1.6.3 Management Plans

Management plans may be required when the applicant needs to explain in more detail how activities will be managed to minimise the impact. Where a management plan is required, consideration should be given to inclusion of the following matters:

- project description;
- environmental and/or heritage objectives;
- environmental and heritage values within the area;
- roles and responsibilities of employees/contractors when in the field;
- environmental experience of staff or consultants that will be identifying conservation significant flora and fauna;
- descriptions of procedures for conducting proposed activities and rehabilitation;
- descriptions of environmental management procedures (e.g. weed control, waste management, hazardous materials, response plan for pipeline failure, etc.);
- main findings from surveys and desktop searches that have identified potential impacts to sensitive features (e.g. heritage sites, flora, fauna, and ecological communities) that may be impacted; and
- a risk assessment that considers the potential impacts to sensitive features, initial risk and management actions that will be undertaken to minimise or avoid these impacts and the residual risk.

2. Post-approval

Once approved, no amendments can be made to a PoW. Any alterations or expansions of approved activities requires a new PoW application to be lodged and approved.

The department recommends that operators fully utilise activities approved via PoWs prior to seeking new approvals wherever possible. This avoids situations where excessive disturbance is approved in an area that could result in issues such as high cumulative disturbance (see section 1.6).

2.1 Extensions of time to complete works

PoWs are approved for a period of four years from the date of approval. In certain circumstances an extension to this timeframe may be permissible. For example, if a PoW is approved for 100 reverse circulation drill holes and after 3.5 years only 20 drill holes have been completed, the proponent may request an extension of time to complete the remaining 80 drill holes. To obtain an extension of time to complete works beyond the four year period, a written request must be sent to the department prior to the PoW expiry date. Extension requests can be sent to POWP@dmirs.wa.gov.au. This written request should include:

- the relevant PoW Registration ID number(s);
- reason for extension request;
- clear description of the aspects of the PoW to which the extension applies (e.g. 50 per cent of approved activities been conducted and an extension is requested to complete the remaining 50 per cent, etc.);
- procedures to be implemented to ensure the area is appropriately managed during the extension (e.g. procedures to ensure holes remain plugged at the surface, regular inspections of disturbances, etc.);
- a revised timeframe in which the works will be completed (e.g. a specific date, an additional one year, etc.);
- maps which clearly show the location and total area of disturbance to which the extension request applies; and
- detail on the rehabilitation status of completed works, including confirmation drill holes have been temporarily plugged, rehabilitation completed within timeframes and schedule for completion of outstanding rehabilitation.

If an extension is being sought for many PoWs at a time, it is recommended that the above information be provided via an Excel spreadsheet. This will facilitate a more efficient and timely decision on the extension request.

Please note that an extension of time to complete works does not inherently provide an extension of time to complete rehabilitation beyond the timeframe specified in the relevant tenement conditions. An extension of time to complete rehabilitation must be explicitly requested (further detail on rehabilitation extension requests is provided in section 7 of Exploration and Prospecting Rehabilitation Guidance).

Please also note that an approved extension of time to complete works is subject to the relevant tenement(s) remaining live. If an extension is approved beyond the life of the tenement, the operator will be restricted by the life of the tenement, not the date to which the extension was approved.

Appendix 1: PoW pre-submission checklist

1	<input type="checkbox"/>	<p>Proposed activities require approval via a Programme of Work</p> <p>Exploration or prospecting activities using ground-disturbing equipment require an approved PoW, as per sections 46, 63, 70H, and 82 of the Mining Act. If proposed activities are not for exploration or prospecting activities then a PoW is not the appropriate approval pathway.</p>
2	<input type="checkbox"/>	<p>Ensure there are no constraints on the department accepting the application as per the department's Environmental Applications Administrative Procedures</p> <ul style="list-style-type: none"> i. Tenements must be live. ii. If the applicant is not the tenement holder, authority from the tenement holder must be obtained. iii. Activities on miscellaneous licences and general purpose leases must be consistent with the tenure's granted purpose. iv. Where applications intersect private land, surface rights must be granted before a PoW application is submitted. v. If the tenement is located within an Indigenous Land Use Agreement (ILUA) area and required by tenement condition, prior to the submission of a PoW a statutory declaration must be provided as evidence that the licensee has entered into a Heritage Agreement with the relevant ILUA people.
3	<input type="checkbox"/>	<p>Review tenement conditions and protected lands (e.g. reserves)</p> <p>PoW applications that appear to not comply with relevant tenement conditions will likely result in the department seeking further information. Tenement conditions will also often indicate whether any Ministerial or other consents are required (note that the department will parallel process PoWs requiring Ministerial consent but will withhold a decision until consent is granted).</p>
4	<input type="checkbox"/>	<p>Draft PoW application</p> <p>Ensure all sections are completed. If using the hardcopy PoW form, ensure a map is included.</p>
5	<input type="checkbox"/>	<p>Attach any supporting application as required</p> <p>This may include evidence of tenement holder authority, evidence of surface rights or mineral rights or correspondence with other agencies.</p>
6	<input type="checkbox"/>	<p>Consider whether additional environmental information is required</p> <p>Additional environmental information may be required in some circumstances, including baseline biological surveys or environmental management plans. Common triggers for this include: Priority or Threatened Ecological Communities (PECs, TECs); Isolated habitats/short-range endemics (e.g. isolated ridges); Conservation significant flora or fauna (including both vertebrate and invertebrate fauna); Significant infill drilling; High cumulative disturbance. See section 1.6 of the PoW Guidance for more information.</p>
7	<input type="checkbox"/>	<p>Review application prior to submitting</p> <p>If using the PoW-Spatial system, review any warnings.</p>
8	<input type="checkbox"/>	<p>Submit PoW</p> <p>Using the PoW Spatial system is the most efficient submission method. Hardcopy PoW forms can be submitted over the counter at any of the department's offices.</p>
9	<input type="checkbox"/>	<p>Notifying affected stakeholders</p> <p>Notify relevant stakeholders where required by the Mining Act or tenement conditions. This generally includes pastoralists, tenement holders, private land holders, other government agencies, etc.</p>

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