

Application and Order for Survey

4-1 Purpose: Except in special instances, such as lands selected by the Native Corporations under the Alaska Native Claims Settlement Act, a mining claim may be held indefinitely as a location by performing the annual assessment work and making the necessary affidavits and recordings. However, once a valuable mineral deposit has been proven to exist, it may be desirable to obtain absolute fee title (patent) to the claim which, except in special cases, includes not only the mineral estate, but the surface as well. Patent not only assures possession of the property, but will facilitate financing as well.

Unless the claim is described by legal subdivisions as in the case of placers and mill sites, an official survey by a United States Mineral Surveyor under the direction and with the approval of the Bureau of Land Management is the first step in obtaining a patent.

Almost universally, the location survey has not been made with sufficient accuracy or detail to provide the necessary description for patent. The patent survey will, in addition to permanently monumenting and witnessing the location on the ground, show all conflicts with prior mineral surveys, fee lands with mineral rights, and prior locations that the claimant wishes to exclude. It will also show all the workings on the claims, both by the claimant and by others, if any. The survey itself confers no rights; patent must follow.

4-2 Selecting a Mineral Surveyor: A list of approved and active mineral surveyors may be obtained from any State Office, or from the Director, Bureau of Land Management, at Washington, D.C. Mineral surveyors' appointments cover all states where the mining laws are applicable.

Usually, it will be advantageous to select a mineral surveyor close to the project, or one who

has worked in the area and has a knowledge of existing surveys. All mineral surveyors are not equally experienced. Their appointment means that they have met certain qualifications and have satisfactorily demonstrated a knowledge of mineral survey procedures.

More than one mineral surveyor should be consulted before making a selection. His proposed method of making the survey, his availability and time schedule, as well as fees should be discussed. Fees should be a secondary consideration and may be on a time and expense basis or a flat contract price. If a flat price is to be decided, the mineral surveyor will probably want to first make an examination of the property. In any event, the arrangement between the mineral surveyor and the claimant is a matter of private contract, and the Bureau of Land Management will not be responsible.

Even after a survey has been started, the claimant may discharge a mineral surveyor and select another, but such action will call for an amended order for survey.

4-3 Selecting an Attorney: An attorney-at-law to act as agent for the claimant in the patent proceedings is not necessary; the claimant can make the application for patent himself.

However, an attorney well-versed in mining law can be a big asset and arrangements should be made prior to the survey so that he will be available for consultation. The mineral surveyor will know of attorneys with whom he has previously worked and may be able to make recommendations. The attorney's fee may be negotiated. If the claimant is a large corporation, it may have staff attorneys or landmen that can handle the patent application.

The mineral surveyor may not assist in the patent proceedings. His help may be required in determining the net area of the claim from the area statement in the mineral surveyor's field

notes. There is no objection to the mineral surveyor interpreting his notes, and assisting in this regard.

4-4 Application for Survey: Must be made by claimant(s) or his agent on current Form 3860-5 (see appendix). Instructions are on the back of the form.

1. The name of the applicant (claimant) should be given exactly as it is to appear in the patent, together with his post office address.

2. Group name (if any). If the claims are known by a group name, it may be placed here. If they do not have a group name, it may be omitted.

3. Name(s) of claim(s) should appear exactly as they are given in the location certificate, e.g., Molly No. 1 should not be given as Molly #1. The date the claim was first located and recorded in the present chain of title must be given; the dates of amendment are only the last amendment made.

4. The location of the claims by section, township and range (stating that it is unsurveyed if based on protracted survey lines), county and state must be given. If not within a national forest, "None" should be used in the blank provided.

5a. To support the application, furnish two copies of the location notice (or last amended location with the original location and recordation date shown thereon). One copy must be certified by the custodian of the records where mining claims are locally recorded (usually the County Clerk and Recorder).

5b. The claim must be monumented on the ground so that the mineral surveyor can identify it.

6. In accordance with the instructions, a deposit in the proper amount must be made to cover the costs of the Bureau of Land Management in processing the survey.

7. The mineral surveyor designated must be one with whom prior arrangements have been made for the survey. The Bureau of Land Management may request proof, in the form of a simple letter from the mineral surveyor, that he has agreed to make the survey. The application should then be dated and signed by the applicant(s), if a corporation by the authorized officer, or by the Attorney-in-fact if by an agent acting for the applicant. Proof of authorized signature will not be required by the Bureau of Land Management at this time, but will be

required at the time application for patent is made.

Several claims, generally limited to 50 in number, may be embraced in a single survey provided they are contiguous, i.e., not merely cornering; they must adjoin with common boundaries or overlap. Limiting the number of claims to be embraced in a single survey is arbitrary, but set at approximately 50 in order to facilitate processing. Two groups of claims may be embraced in a single survey if they both adjoin a group previously surveyed for patent and are owned in common.

Occasions have arisen where the group of claims lies in two states. Applications for survey should be made in each state for the claims or portions thereof which lie in that state. A survey number will be assigned in each state for the portion lying within each state, but the survey will be assigned for processing to the State where the majority of the claims lie. (See Surs. Nos. 10631 Montana, 3168 Idaho.)

4-5 Records Search: Prior to applying for the mineral survey, the claimant or his agent should make a search of the county records to determine if the claims are in conflict with other mining claim locations. If so, copies of the location certificates should be obtained for the mineral surveyor. If the claims are prior valid locations and the claimant wishes to exclude them from his patent application, the mineral surveyor will be required to show the conflict as it exists on the ground.

If it is not the desire to exclude such claims, no mention of them will be made in the field notes of the mineral survey, but the mineral surveyor will be aware of them when he goes on the ground.

The claimant should also make a search of the Bureau of Land Management records, particularly the Master Title Plats (M.T. Plats) to determine conflict with prior patents and withdrawals. Connecting sheets, if available, which show in outline all approved mineral surveys, should also be examined for conflicts with prior mineral surveys. The BLM record of unsurveyed locations should also be searched.

The claimant should make certain that his discovery point is on vacant public domain, which includes minerals reserved to the United States where the patent is for the surface only.

If two or more claims are involved, each must have its own discovery and both discoveries

may not be in an area of conflict between two claims.

The length and width of each lode claim must be checked to make certain that statutory length of 1500 feet has not been exceeded and that the right angle distance of no more than 300 feet exists on each side of the presumed course of the vein (lode line).

The acreage of all claims and the length of placers must be checked for excess. If excesses appear to exist the mineral surveyor should be advised of them and directed to survey the claim within the boundaries given so as to eliminate such excess.

While metes and bounds descriptions of lode claims are not mandatory, the description must be such that the locus of the claim can be determined. While a tie to a section is preferable, a tie to another mineral survey, mineral location monument, or triangulation station of the National Geodetic Survey or U.S. Geological Survey is acceptable provided they can be identified with the public land survey. Ties to bench marks are not acceptable.

Irregular claims, such as placer claims or mill sites, must have a metes and bounds description closing within 0.50 feet in 1,000 feet. The acreage of lode claims cannot exceed 20.661 acres. Placers may not exceed 20 acres to each claimant, exclusive of conflict, and mill sites may not exceed 5 acres, exclusive of conflict.

One of the location certificate copies must be certified by the custodian of the local records, usually the County Clerk and Recorder.

If any of the above items are not in order, it will be necessary to require the claimant to file an amended location certificate that will properly describe the claim. If the error in the certificate is small, or there is an obvious clerical error, such as calling for a bearing of N._____W. when it should be N._____E. it will suffice to state in the final field notes that the location certificate is in error.

To aid in determining the locus and relative position of several claims, the claimant may be called upon to furnish a diagram. If the certificate is marginal in detail, it is proper to suggest to the mineral surveyor that an amended location certificate be filed and an amended order for survey obtained before completing his survey. It is also proper to set a time limit for the completion of the survey and filing returns.

After receipt of the survey order, the Mineral Surveyor should obtain copies of necessary survey records, including MT Plat, the notes of township surveys, conflicting mineral surveys, including the reports as to the condition of corners and survey discrepancies contained under other corner descriptions and supplemental data, Homestead Entry Surveys and Exchange Surveys on Forest Service lands, Small Claims, Homesites, Trade and Manufacturing Sites, Rights-of-Way and Townsites. He should also consult the State and County records for restored section corners and subdivision of sections. A visit with the County Surveyor will often prove profitable.

4-6 Order for Survey: The order for survey is issued by the State Director of the Bureau of Land Management or he may delegate this action to the Chief, Branch of Cadastral Surveys.

The order for survey is issued on current Form 3860-6, (see appendix) or may be in letter form. The information given is essentially the same as contained in the application for survey. The names of the locations must be exactly as given in the location certificates.

The next consecutive survey number is assigned; a number from a cancelled survey or survey order should not be used. Lodes and placers may be included in the same survey. If a mill site is included, it is designated by adding the letter "B" to the survey number; the other claims being designated "A."

A copy of the location certificates should be furnished to the mineral surveyor, and a copy of the order to the claimant; also to the Regional Forester if the claims are within a National Forest, or the National Park Service if within a National Park or Monument.

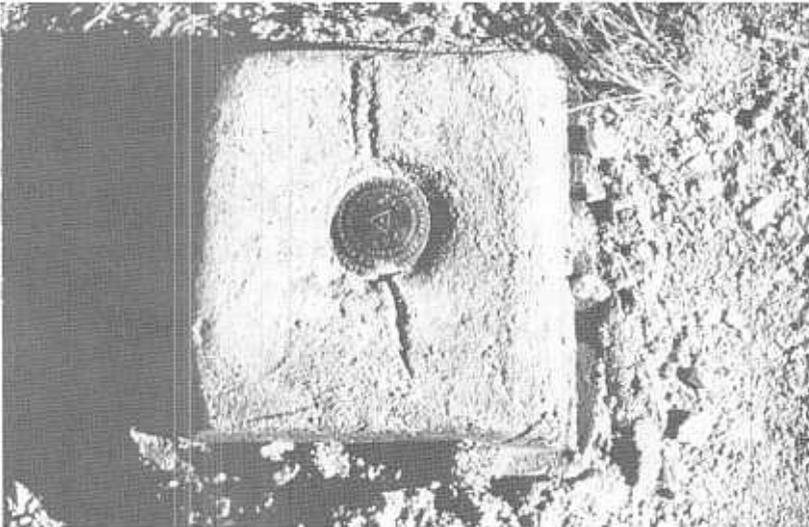
4-7 Amended (or Supplemental) Order for Survey: An amended order is based on an amended application from the claimant. It is usually occasioned by the filing of amended location certificates. The amended application is processed exactly the same as the original application.

An amended order is also called for if there is an addition or deletion of claims from the survey.

A change in mineral surveyor will call for an amended order, but the order to the original mineral surveyor must be cancelled.



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If the claimant sells the claims, an amended order will be required to show the new claimant.

An amended order may be used to authorize the survey of additional expenditures if the survey was approved without \$500 of expenditures being made. (See Sec. 5-21)

4-8 Cancellation of the Survey Order: The most common reason for cancelling a survey order is failure of the mineral surveyor to complete the survey and file his returns. Under these circumstances, both the claimant and the mineral surveyor should be advised 30 days in advance of the action and be requested to show why the order should not be cancelled. If any reasonable explanation is given, the time

should be extended. Lacking reasonable explanation the order will be cancelled, notifying both the claimant and the mineral surveyor, and any excess deposit is returned to the claimant.

Other reasons for cancelling a survey are a request to do so by the claimant, or if the claim has been declared null and void due to a contest brought by the United States.

The mineral survey number of a cancelled survey will not be used again, unless reopened as an amended survey and would then be shown with an "Am." following the mineral survey number.

