

Process for Significant Land and Resource Transactions and Commercial Projects

General Guidance

Land transaction (transaction) typically involves land disposals, exchanges, withdrawals, designations, and acquisitions.

Resource transaction (transaction) includes the sale of resources such as timber, sand, and gravel, and also the sale or lease of coal and oil and gas extraction. Additionally, resource transactions involve the permitting of rights-of-way for solar and wind projects for energy transmission.

Significant land and resource transaction (significant transaction) is any transaction involving \$10,000 or more in land and/or resource value.

Each significant transaction will, as early in the transaction planning stage as practicable, include a Cadastral Survey review of the adequacy of boundary evidence where any part of the transaction is within 1/4 mile of a boundary.

Commercial Project (project) typically involves rights-of-way, transmission corridors, extraction of oil, gas, or other valuable minerals, and permanent capital improvements, e.g., structures and utilities infrastructure, by a commercial entity at the invite of an agency or by self-initiative.

Significant commercial project (significant project) is any commercial project involving \$10,000 or more in land, resource, and/or capital improvement.

Each significant commercial project will, as soon as practicable after the Authorizing Office receives notice, include a Cadastral Survey review over the adequacy of boundary evidence where any part of the project is within 1/4 mile of a boundary.

All transactions and projects within a protraction diagram or potentially impacting a body of water will include a Cadastral Survey review. Interstate transactions and projects requiring a Cadastral Survey review will be submitted to Cadastral Survey for each state. Cadastral Survey may designate a lead.

Boundary is any demarcation, surface or subsurface, fee, administrative, or special, between (a) fee ownerships, (b) areas governed by different management or ownership regime, e.g., land subject to mineral entry adjoining land with special designation such as National Landscape Conservation System (NLCS) or withdrawal boundaries.

Cadastral Survey is used to mean the BLM State Office Chief Cadastral Surveyor and his or her delegate with jurisdiction where a transaction or project is located.

Early in the planning of any transaction or project, a determination of the value will be made and documented in the serial case file. This determination is made by the Authorizing Official (AO). Upon the determination that a transaction or project is significant, a completed Boundary Evidence Worksheet signed by the AO will be submitted to Cadastral Survey. For transactions and projects that are determined to be not significant the documentation will be filed in the serial case file with a copy to Cadastral Survey.

Pending final approval of the “Department of the Interior Standards for Federal Lands Boundary Evidence” (600 DM 5), the instructions and guidance in the “Department of the Interior Standards for Indian Trust Lands Boundary Evidence” (303 DM 7) and the accompanying BLM Manual and Handbook, 9672 and H-9672-1 will be followed as closely as practicable, except where superseded on subjects contained in this IM.

If the land description of the significant transaction or project does not conform to the Public Land Survey System (PLSS), a land description will be agreed to by the AO and Cadastral Survey for Boundary Evidence Worksheet purposes.

Costs associated with preparation of the Boundary Evidence Worksheets and Certificates will be determined in accordance with Cost Recovery regulations and the accounts set up thereunder, benefiting activity, or commercial entity(s). It is expected special accounts will be utilized to cover the costs when appropriate.

The AO will ensure compliance with National Environmental Policy Act (NEPA) and other legal and policy requirements. The BLM is reluctant to direct survey resources in those geographical areas previously surveyed adequately for land management purposes. The protective and preserving process outlined in the standard stipulation will support enduring maintenance of the PLSS and preserve BLM administered land boundaries and areas after surface disturbances have taken place.

Standard Stipulation - Protection of Survey Corner and Boundary Line Markers¹:

Evidence of the Public Land Survey System (PLSS) and related Federal property boundaries² will be identified and protected prior to commencement of any ground-disturbing activity.³ This will be accomplished by contacting Bureau Land Management (BLM) Cadastral Survey to coordinate data research, evidence examination and evaluation, and locating, referencing or protecting monuments of the PLSS and related land boundary markers from destruction. In the event of obliteration or disturbance of the Federal boundary evidence the responsible party shall immediately report the incident, in writing, to the Authorizing Official. BLM Cadastral Survey will determine how the marker is to be

¹ The costs to replace PLSS monuments can vary substantially, and in extreme cases could cost as much as \$10,000 per single monument. One PLSS corner can determine the location of boundary lines from 2 to 2 dozen parcels (in developed and high value areas more than 2 dozen separate land parcels). It is difficult to quantify damages because a PLSS corner is obliterated or lost to public and private landowners when transactions or projects are based on approximate boundaries. The damage done is usually in direct proportion to the amount of capital investment/value of natural resources and capital investment on each parcel.

² As directed in 43 CFR 3809.420 - Surface Management - (b)(9) *Protection of survey monuments*. To the extent practicable, all operators shall protect all survey monuments, witness corners, reference monuments, bearing trees and line trees against unnecessary or undue destruction, obliteration or damage. If, in the course of operations, any monuments, corners, or accessories are destroyed, obliterated, or damaged by such operations, the operator shall immediately report the matter to the authorized officer. The authorized officer shall prescribe, in writing, the requirements for the restoration or reestablishment of monuments, corners, bearing and line trees.

³ It is unlawful for the unauthorized alteration or removal of any Government survey monument or marked trees: “Whoever willfully destroys, defaces, changes, or removes to another place any section corner, quarter-section corner, or meander post, on any Government line of survey, or willfully cuts down any witness tree or any tree blazed to mark the line of a Government survey, or willfully defaces, changes, or removes any monument or bench mark of any Government survey, shall be fined under this title or imprisoned not more than six months, or both” (108 Stat. 1796, 2146; 18 U.S.C. 1858). The willful destruction of monuments and corners of an official mineral survey is within the purview of this statute.

restored. In rehabilitating or replacing the evidence the responsible party will be instructed to use the services of a Certified Federal Surveyor (CFedS), procurement shall be per qualification based selection⁴, or reimburse the BLM for costs. All surveying activities will conform to the Manual of Surveying Instructions (Manual) and appropriate State laws and regulations. Local surveys will be reviewed by Cadastral Survey before being finalized or filed in the appropriate State or county office. The responsible party shall pay for all survey, investigation, penalties, and administrative costs.⁵

In light of changing resource values, new information, and policy, the preparation of the Boundary Evidence Worksheet and Certificate may involve site visits by Cadastral Survey to supplement or validate existing data (including information related to ongoing activities) or to gather new information in order to make an informed Worksheet/Certificate.

⁴ Procurement of surveying services shall be per the Federal Acquisition Regulations and the Brooks Act governing Federal procurement of certain architectural and engineering services.

⁵ Applicable to collection of costs from responsible parties is indirect costs. Each year a new indirect cost rate is determined that typically ranges from 17-19%. This cost is applied to all collections related to unauthorized use.