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Subject 3861 - SURVEYS AND PLATS

1. Explanation of Material Transmitted: This release is a new manual Section which provides an overview of the requirements for obtaining a mineral survey of a mining claim or mill site before applying for a patent. It is not a manual covering the actual survey process.
2. Reports Required: None.
3. Materials Superseded: None.
4. Filing Instructions: File as directed below.

REMOVE:

None

INSERT:

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(Total: 8 Sheets)

Assistant Director
Energy and Mineral Resources

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.01 Purpose. This Manual Section provides an overview of the requirements for obtaining a mineral survey of a mining claim or mill site before applying for a patent. It is not a manual covering the actual survey process.

.02 Objectives. The objective of this manual section is to inform Bureau managers, adjudicators, and prospective mineral patent applicants of the general statutory and regulatory requirements concerning a mineral survey. For additional information and requirements, consult the Branch of Cadastral Survey.

.03 Authority.

A. General Statutes. 30 U.S.C. 29 and 39 (Sections 2325 and 2334 of the Revised Statutes) and 60 Stat 1100.

B. Regulations. 43 CFR 3861.

.04 Responsibility.

A. Assistant Director for Support Services. The Assistant Director for Support Services exercises the Director's statutory responsibility for all official surveys of the public land. This oversight for survey actions is exercised through the Division of Cadastral Survey.

B. Chief Cadastral Surveyor. The Chief Cadastral Surveyor for each State is delegated the authority to perform and approve official surveys of the public land, including mineral surveys of mining claims.

.05 References. Chapter X of the Manual of Surveying Instructions 1973, BLM Technical Bulletin 6, USDI, BLM, 1973, page 333.

.06 Policy. (See Manual Section 3860.)

.07 File and Records Maintenance. Mineral survey records are permanent records managed in accordance with the Bureau's record system. (See Manual Section 1272.)

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.08 Service Charges. The Bureau's costs of preparing and approving the field notes of survey and plat of survey are cost reimbursable. The applicant pays a deposit as specified on Form 3860-5, Application for Survey of Mining Claims, to cover the costs incurred by the Branch of Cadastral Survey when processing the survey notes and plats.

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.1 Surveys of Mining Claims - General.

.11 When Survey is Required. All lode mining claims must be surveyed, as they are described by metes and bounds descriptions and do not conform to the public land survey system. Placer mining claims and mill sites located by metes and bounds, or located on unsurveyed lands, require a mineral survey.

.12 Application for Survey. After a mining claim or site has been properly located and recorded, an application for survey may be submitted to the proper State Office. An application is filed using Bureau form 3860-5, Application for Survey of Mining Claim. The Branch of Cadastral Survey is responsible for processing the application and issuing the order for survey.

.13 Survey Standards. All mineral surveys are performed in accordance with Chapter X, Manual of Surveying Instructions 1973.

.14 Disposition of Survey Plat and Approved Field Notes. When a mineral patent is issued, one copy of the survey plat and the field notes are attached to, and become a part of, the mineral patent issued to the patentee. This forms the official record of the legal description and exact location of the patent.

.15 Relocations and Breaks in Title. If the claims contained in a mineral survey are relocated, a new mineral survey is required for the new locations. The same applies if a break has occurred in the chain-of-title, for any reason, since the mineral survey was approved.

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.2 Surveys of Mining Claims - Specific.

.21 Features to be Surveyed.

A. Exterior Boundaries. The exterior boundaries of the claim.

B. Number of Feet. The number of feet claimed along the vein or lode.

C. Direction. The direction of the vein or lode.

D. Point of Discovery. The number of feet of vein or lode claimed in each direction from the point of discovery or other well-defined place on the claim.

.22 Conflicts With Surveyed Claims. Intersections of the survey with conflicting prior mineral surveys are to be noted in the field notes and platted.

.23 Conflicts With Unsurveyed Claims. Conflicts with unsurveyed claims, where the applicant does not claim the ground in conflict, are to be shown by actual survey.

.24 Claim Area. The total area of the claim, as marked by the exterior boundaries, is to be stated, as well as the total area in conflict with an existing mineral survey.

.25 Exclusions. The survey plat and field notes are submitted by the applicant for patent as part of the application for mineral patent. Even though the mineral survey may show conflicts with prior unpatented mineral surveys or unpatented mining claims, it is the option of the applicant to include or exclude these conflicting portions in his application. However, if the applicant owns the claims in conflict, he must state which portions of his claims are to be excluded from the survey. The right of possession as to the conflicting ground is determined during the required 60-day publication period for bringing forward any adverse claims against the applicant. (See 43 CFR 3862.4 and 3871.)

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.3 Certificate of Expenditures and Improvements.

.31 Filing of Certificate of Expenditures. At the time of application for patent, or no later than the end of the 60-day publication period required by 30 U.S.C 29 and 43 CFR 3862.4, the applicant must file a certificate issued by the Branch of Cadastral Survey stating:

A. Expenditures and Improvements. That not less than \$500 of expenditures and improvements have been made upon each claim contained in the application by the applicant and/or his grantors.

B. Expenditures on Contiguous Claims. If the application contains several contiguous claims held in common, that expenditures amounting to at least \$500 of improvements have been made on or for the benefit of each claim contained in the application, or for the benefit of the entire claim group (number of claims held x \$500).

C. Survey Plat Information. That the plat filed by the applicant is correct and that the field notes of survey furnish an accurate description of the claims sufficient to fully describe the lands to be patented; and that the references contained in the survey to natural objects or permanent monuments will permanently fix the location of the survey.

D. Mining Claim with Mill Site. In the case of a mining claim and a mill site contained within the same application, that at least \$500 of expenditures must be shown to have been expended upon the mining claim.

.32 Mineral Surveyor's Report of Expenditures and Improvements. The Mineral Surveyor's report, concerning the value of all improvements and all actual expenditures by the applicant and/or his grantors, must be included in the estimate of expenditures.

A. Qualifying Expenditures. Qualifying expenditures are those that directly lead to the development of the claim for the purposes of mineral extraction. This include tunnels, drifts, crosscuts, and drilling operations.

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B. Nonqualifying Improvements. Improvements which do not qualify are buildings, machinery, and roads, unless it can be shown that these are clearly associated with extraction activities and lead to the development of the claim for mineral extraction purposes.

C. Previous Improvements. Previous improvements and expenditures made by a former locator who has abandoned the claim cannot be claimed by the person who relocates the mining claim.

D. Insufficient Expenditures. Insufficient expenditures and improvements are curable defects. If the required \$500 of expenditures and improvements was not performed or was insufficient at the time of survey, the mineral surveyor can file a proof of supplemental expenditures and improvements with the Branch of Cadastral Survey. This supplemental proof must be filed before the end of the required 60-day publication period. Failure to complete and file the proof of at least \$500 of expenditures and improvements by the end of the publication period is a fatal defect, and the application for patent must be rejected by decision of the authorized officer.

.33 Amended Mineral Surveys. These are ordered by the Branch of Cadastral Survey by special instructions issued to the mineral surveyor. They are ordered when problems arise concerning the survey.

A. Responsibility of Applicant. The expense of the amended survey, including amendments to the plat and field notes, and any office work required by the Branch of Cadastral Survey, are the responsibility of the applicant.

B. Lines of Original Survey. The amended mineral survey must be made in strict conformity with, or be contained within, the lines of the original survey.

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.4 Mineral Surveyors.

.41 Appointments. Mineral surveyors are appointed by the Director of the Bureau pursuant to 30 U.S.C. 39. Applications for appointment are submitted to the Division of Cadastral Survey, Washington, D.C. An examination is required. Once appointed, a mineral surveyor may survey mining claims in any State and will be placed upon the Bureau's master roster of approved mineral surveyors. Appointments must be renewed every 5 years. Upon a showing of good cause, the Bureau will investigate charges of misconduct concerning the official actions of a Mineral Surveyor, including fees charged, and may suspend or revoke an appointment for failure to discharge official duties properly.

.42 Employment. A mining claimant may only employ an appointed mineral surveyor from the official Bureau roster to execute a mineral survey of his mining claim for the purpose of obtaining a patent.

.43 Payment. The cost of the mineral survey and associated administrative costs are the financial responsibility of the mining claimant. All services and charges are between the mineral surveyor and the mining claimant. The Bureau and the Department will not be involved in settling disputes between the two parties over payment of fees and services provided. However, the fee structure for conducting a mineral survey is subject to review by the Chief, Division of Cadastral Survey.

.44 Duties.

A. Completion of Survey. The mineral surveyor's obligations cease when he has executed the survey and returned the field notes and preliminary plat of survey, with his report, to the appropriate Cadastral Survey office and the survey has been approved. (See 43 CFR 3861.3-1.)

B. Restrictions. Mineral surveyors may not locate mining claims or prepare patent application documents for the applicant. They may not combine the duties of surveyor and notary public in the same case action. Only under special circumstances may the mineral surveyor administer the required preliminary and final oaths of his field assistants. (See 43 CFR 3861.3-1.)

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.45 Field Assistants. The mineral surveyor shall not employ as assistants the mining claimant, the mining claimant's attorney, or any party having a legal interest in the mining claim.

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.5 Posting of the Mining Claim.

.51 Plat and Notice. Before applying for a mineral patent, the mining claimant must post, in a conspicuous place upon the mining claim, a copy of the survey plat and a notice of intent to apply for patent. The notice shall contain the name of the claimant, the date of posting, the name of the claims, the mineral survey number, the mining district (if applicable), the county, and the names of adjoining and conflicting claims as shown on the survey plat.

.52 Proof of Posting. After posting, the claimant shall file with the proper BLM State Office two copies each of the notice of intention to apply for patent, the mineral survey plat, and field notes. These must be accompanied by two copies of a statement, made by at least two credible witnesses, that the plat and notice were posted conspicuously upon the claim, giving the date and place of such posting. (See 43 CFR 3861.7.)

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.6 Cancellation of Mineral Surveys. Mineral surveys are to be cancelled when either the claims or sites are declared abandoned and void under Section 314 of FLPMA (43 U.S.C. 1744) or null and void because of land status conflicts or Departmental contest action. Coordination between adjudication and Cadastral Survey shall be on a regular recurring basis in this regard to ensure that the Bureau's master title plats contain data that is current and not obsolete or misleading.