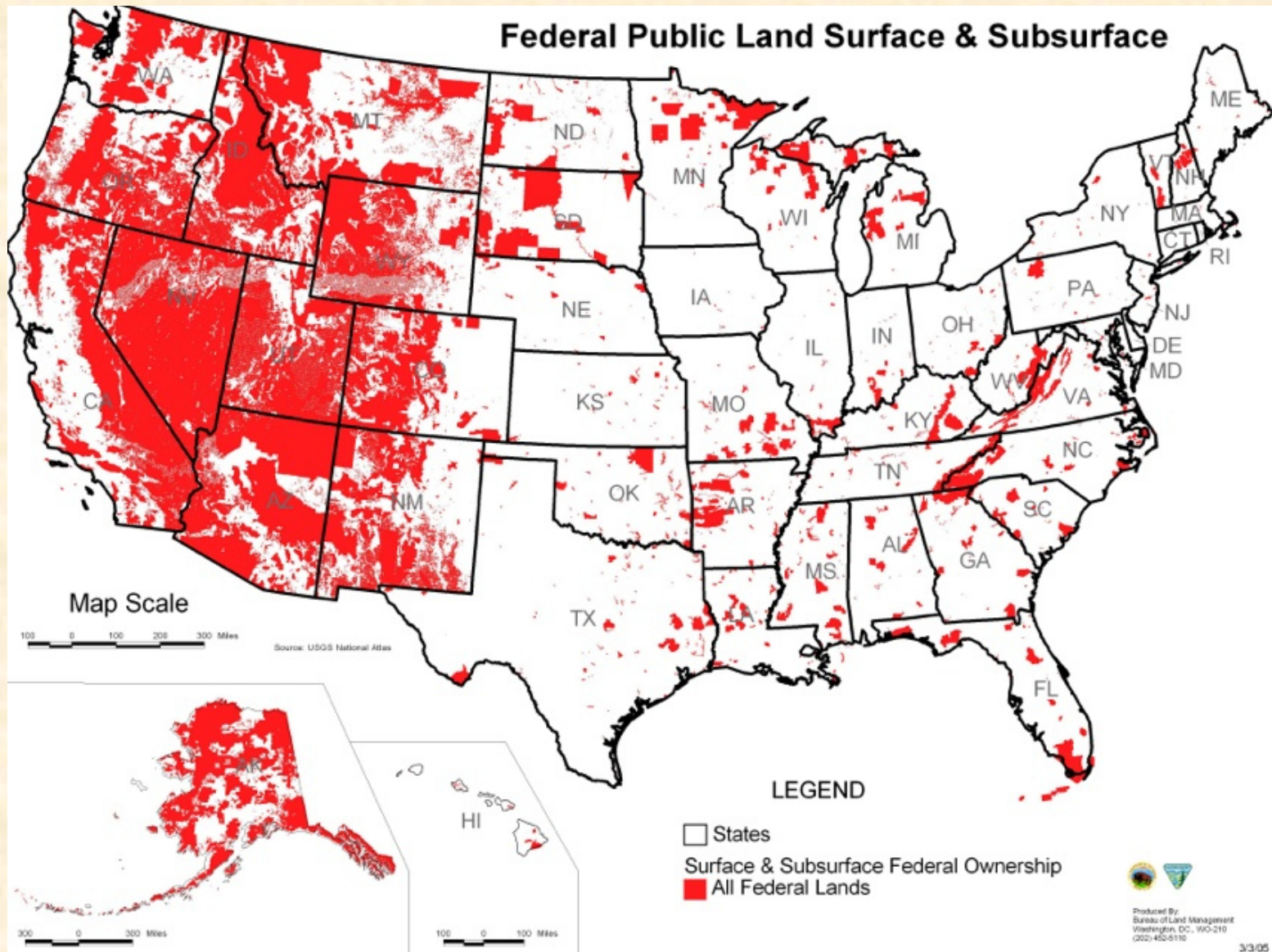


# Introduction to Mining Law



## Federal Public Land Surface & Subsurface



# Percentage of Federal Ownership

- Idaho – 61.6%
- Montana -29%
- Wyoming – 48%
- North Dakota – 3%
- Nevada – 80%
- Kansas – 0.32%

# Top Issues of Concern

- Are the minerals locatable under the General Mining Law of 1872?
- Was the claim located on land open for mineral entry?
- Has the claim been properly located?
- Has there been a discovery of a valuable mineral?
- Has the claim been properly maintained?



# General Mining Law of 1872

- All valuable mineral deposits in lands belonging to the United States . . . shall be free and open to exploration and purchase . . . by citizens of the United States . . .
- Self-initiated right
- Rooted in western mining traditions, old Spanish law and English common law.
- Promoted Entrepreneurship, Competition, Economic Growth and Settlement of the American West
- Still prevalent today

# Types of Claims

- Lode
- Placer
- Mill Site
- Tunnel Site

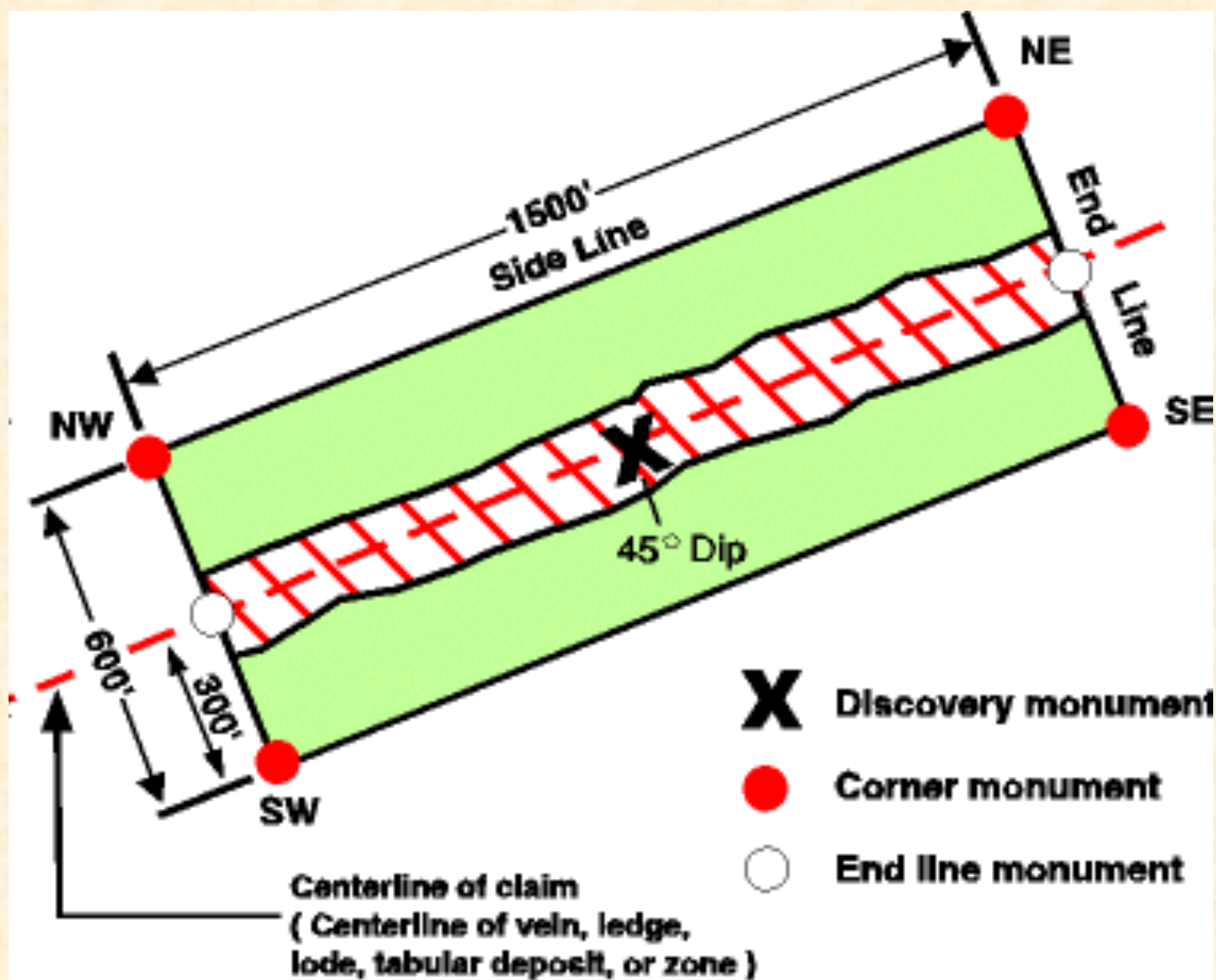
# Lode Claims

- 30 U.S.C. § 23; 43 C.F.R. § 3832.22
- Mining claims upon veins or lodes of quartz or other rock in place
- Maximum of 1500 feet along the length of the claim and 300 feet on either side of the middle of the vein, with parallel end lines
- Essentially a rectangle or parallelogram of approximately 20 acres.



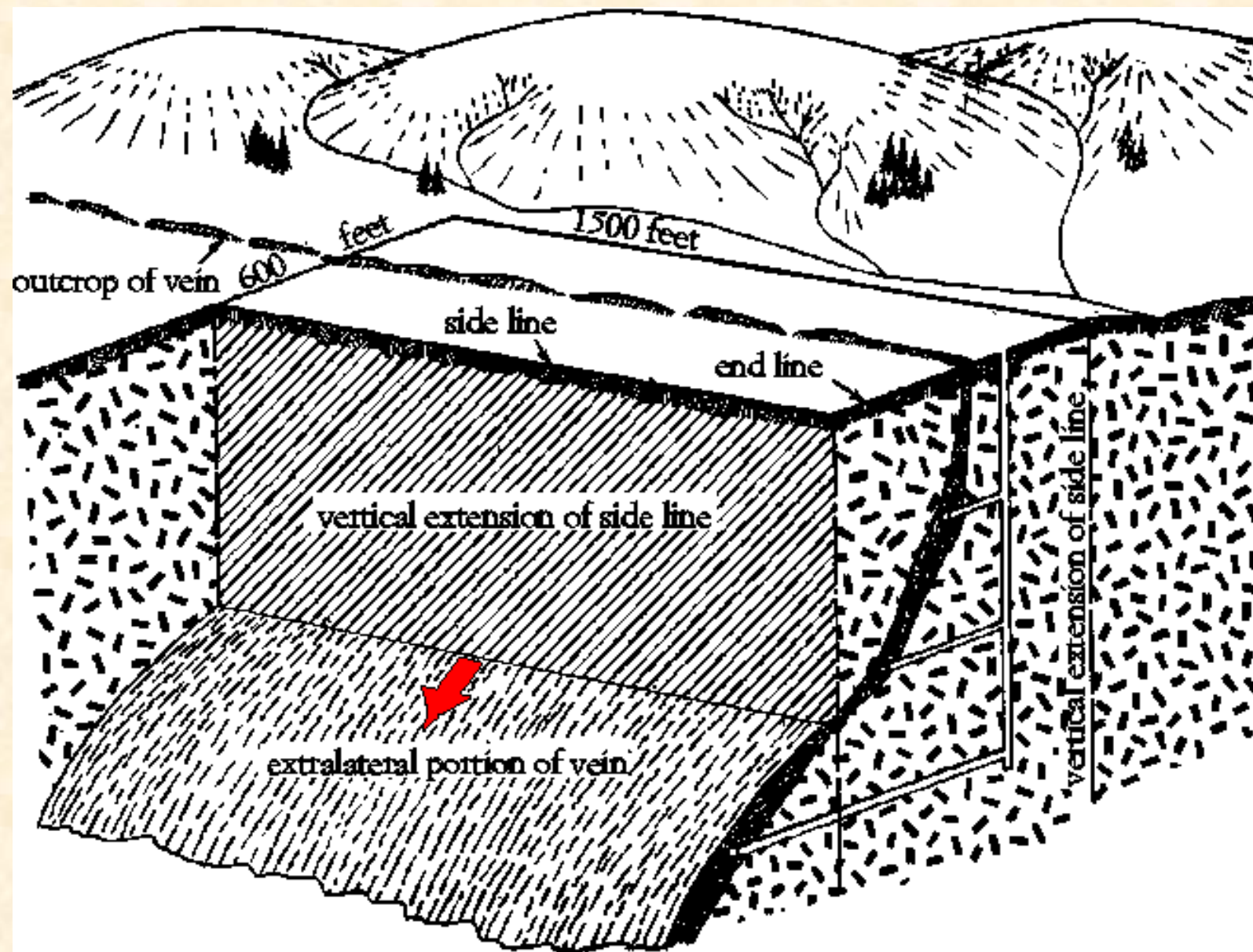






# Extralateral Right

- Rights to follow a vein outside the vertical side lines of a lode claim
- Three requirements:
  - Lode claim must have parallel end lines;
  - The vein must be on a continuous downward course; and
  - The apex of the claim must be within the claim boundaries.



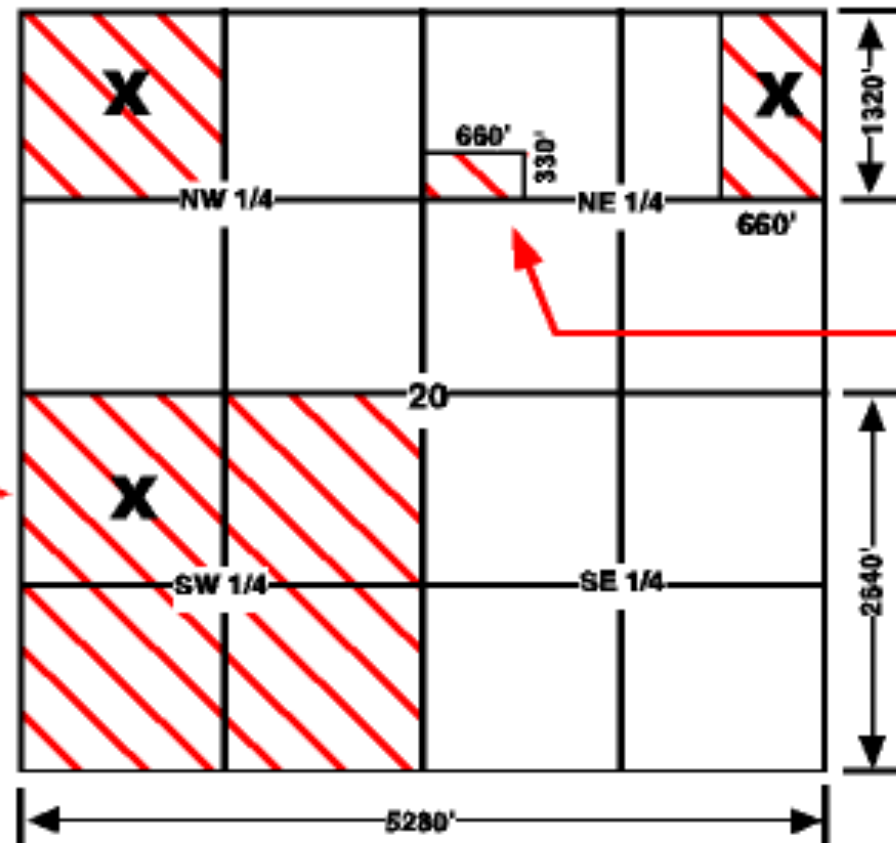
# Placer Claims

- 30 U.S.C. § 35; 43 C.F.R. § 3832.21; 43 C.F.R. § 3832.22
- A deposit not fixed in rock, such as river sands or gravels bearing gold or other valuable minerals, or valuable minerals hosted in soils, alluvium (deposited by water), eluvium (deposited by wind), colluvium (deposited by gravity), talus, or other rock not in its original place;
- Limited to 20 acres
- Association Placer Claims



**MOUNT DIABLO MERIDAN (MDM)  
T10S, R21E, Section 20**

**ONE SECTION ( 1 sq. mile = 640 acres )**



**40 ACRE PLACER CLAIM  
( 2 Locators ) NW1/4 NW1/4  
SEC. 20, T10S, R21E, MDM**

**160 ACRE PLACER CLAIM  
( 8 Locators ) SW1/4  
SEC. 20, T10S, R21E, MDM**

**20 ACRE PLACER CLAIM  
( 1 Locator ) E1/2 NE1/4 NE1/4  
SEC. 20, T10S, R21E, MDM**

**5 ACRE MILL SITE  
( All Types )  
S1/2 SW1/4 NW1/4 NE1/4  
SEC. 20, T10S, R21E, MDM**



# Mill Sites

- 43 C.F.R. § 3832.31
- Nonmineral land used for activities reasonably incident to mineral development on, or production from, the lode or placer claim
- Dependent Mill Site – supports a particular lode or placer claim or group of claims
- Independent Mill Sites – supports nearby claims
- Up to 5 acres







# Tunnel Sites

- 43 C.F.R. § 3832.41
- Subsurface right-of-way under federal land open to mineral entry
- Used for access to lode mining claims or to explore for blind or undiscovered veins, lodes, or ledges not currently claimed or known to exist on the surface
- Located by placing a monument at the “face” of the tunnel, and placing a notice or certificate on the monument
- Protected rights within the sidelines of the tunnel and within the 3,000-foot length of the tunnel
- May gain possessory rights to 1,500 feet of a previously unknown vein or lode discovered within 3,000 feet of the face of the tunnel

# Records to be Examined

- BLM
  - Plats
  - Indexes
  - Serial Register Pages
  - Lead File/Case Files
- County
  - Current Ownership
  - Financing Documents
  - FLPMA Required Documents
  - Pending Actions or Outstanding Judgments
- State Mining Agency
  - Compliance with State Regulations
- Secretary of State
  - Secured Interests in Personal Property that may Affect the Subject Claim
- Unrecorded Documents

# Locatable Minerals

- General Mining Law – “except as otherwise provided all valuable mineral deposits” are locatable
- 43 C.F.R. § 3830.11 – the mineral is locatable if:
  - Subject to the General Mining Law;
  - Not Leasable under the Mineral Leasing Acts; and
  - Not salable under the Common Varieties Act
- 43 C.F.R. § 3830.12 – the mineral is locatable if:
  - Recognized as a mineral by the scientific community; and
  - Found on lands open to mineral entry

# Locatable Minerals

- Mineral Leasing Act of 1920 - removed deposits of phosphate, sodium, potassium, oil, oil shale, gilsonite, and gas. 30 U.S.C. § 181.
- Multiple Surface Use Act of 1955 (Common Varieties Act) - removed common varieties of sand, stone, gravel, pumice, pumicite, cinders, and petrified wood (Building Materials). 30 U.S.C. § 611.
  - May be locatable if the mineral has special and distinct value



# Locatable Minerals

Recent Examples in Montana: Copper, Silver, Gold, Lead, Garnet, Yogo Sapphires, Jade, Platinum, Palladium, Rhodium, Nickel, Chromite, Cobalt, Rare Earth Minerals, Diamondiferous Kimberlites, Lamproites, Uranium, Bentonite, Unique Silica Sands

Not Locatable: Oil, Gas, Coal, Geothermal, Common Varieties of Sand or Gravel, water, peat moss, fossils, etc.

# Land Open to Mineral Entry

- Lands that are available for disposal under the public land laws
- Lode or Place Claims located on land not open to location are void
- Withdrawn/Reserved Lands
- National Parks, national monuments, tidelands, Indian reservations, military reservations, federal wildlife refuges, various other laws

# Land Open to Mineral Entry

- Master Title Plats
- Historical Indices

# Location Procedures

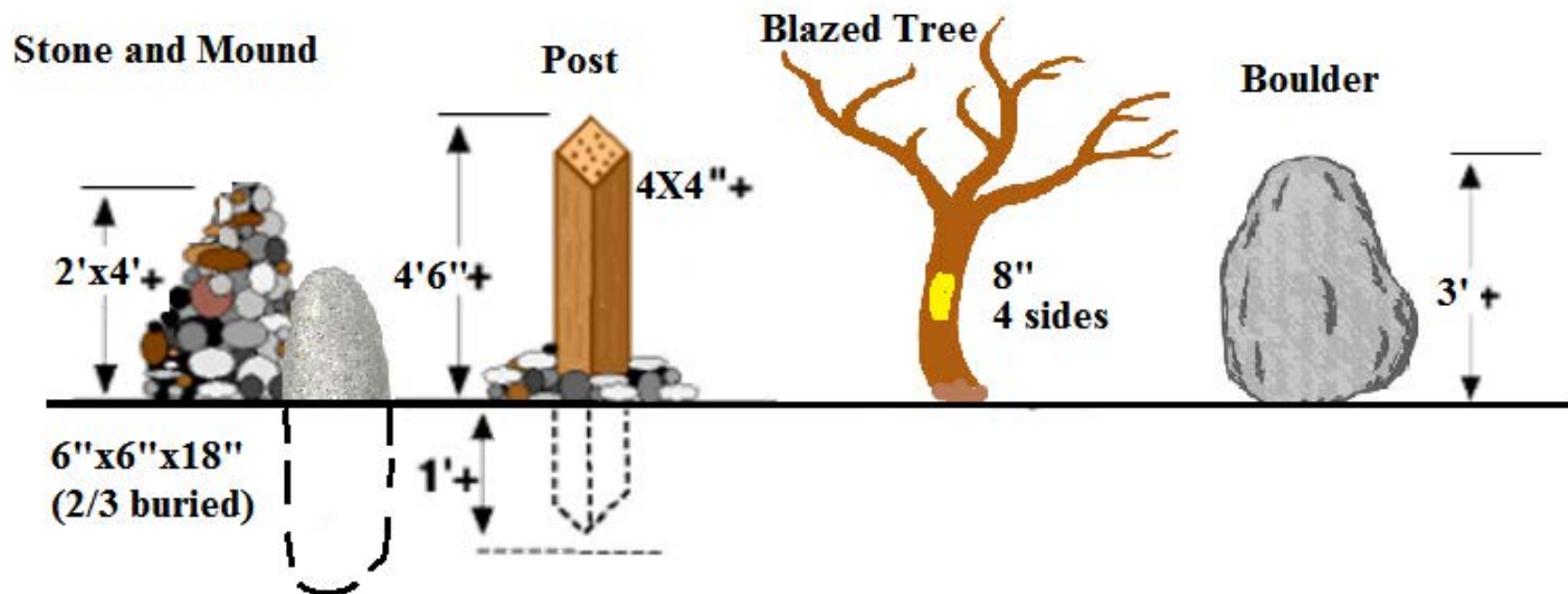
- Must comply with state and federal law
- Each State has its own procedures
  - Some more complicated than others
- Record Certificate of Location in County and then file with BLM



# Montana Location Procedures

- Montana law requires posting the notice of location at point of discovery
- Distinctly mark the location on the ground so that its boundaries can be readily traced within 30 days
- Within 60 days after posting the notice of location, the locator shall comply with the federal mining laws
- Within 60 days after posting the notice of location, the locator shall record a certificate of location in the county clerk's office

**MCA 82-2-101:**



# Idaho Location Procedures

- Idaho law requires the posting the notice of location at one corner of the claim
- Before recording the notice of location, must place a substantial monument or a post at least four (4) feet in height and for (4) inches square in diameter at each corner of angle of the claim
- May erect a witness monument

# Location Procedures

- FLPMA Requirements
  - If located prior to October 21, 1976 – must file with the BLM a copy of the official record of the certificate or notice of location, including a description of the location sufficient to locate the claimed land on the ground
  - If located after October 21, 1976 – the filing must be made within 90 days after the date of location
  - Failure to timely file the certificate or notice of location is deemed conclusively to constitute abandonment of the mining claim
  - Instrument must be in proper form
  - Strict compliance required



# Locating Your Claim

- Your Lode or Placer Claim is not valid until you make a discovery within the boundaries of your claim

# Discovery

- Source of locator's title
- Must demonstrate that a discovery of a valuable mineral deposit exists on each and every lode or placer claim
- Prudent Man Test
  - A person of ordinary prudence would be justified in the further expenditure of his labor and means, with a reasonable prospect of success, in developing a valuable mine
- Marketability Test
  - Must be of such value that it can be mined, removed, and disposed of at a profit
- Fact Specific

# Possessory Rights

- Once a claim has been validly located, the locator acquires the exclusive right to possession and enjoyment of the surface and minerals
- The Possessory right must be reasonably related to mining purposes
- Pre 1955
- After 1955

# Amendments and Relocations

- Amendment
  - Relates back to original location date
  - Corrects obvious defect in original location without enlarging rights
  - Usually only used for minor defects
- Relocation
  - Begins new chain of title
  - Must comply with all location procedures



# Surface Inspection

- What's on the ground controls
- Required to determine whether all elements of a valid discovery have been complied with:
  - Discovery
  - Monuments/Boundaries
  - Conflicting Claims

# Maintaining Your Claim

- Current Requirements
  - Annual Maintenance Fees are prospective
  - Must be filed on or before September 1 of each year
  - Failure to timely file results in a conclusive presumption that the lode or placer claim has been abandoned
- Current Annual Maintenance Fees
  - \$155 per claim/site for unpatented lode claims, mill sites and tunnel sites.
  - \$155 for 20 acre placer claim, plus \$155 for every additional 20 acres or portion thereof.
- Small Miner's Exemption

# Law at the time of Location

- You must apply the law at the time of location
- You must apply the law as to each year in regards to filing annual maintenance requirements

# Transfer of Ownership

- Unpatented mining claims are interests in real property
- All State law requirements apply
- Must give BLM notice of the transfer



# Conflicting Claims

