MINING LAW IN THE WEST
General Mining Law of 1872
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- Rooted in western mining traditions, old Spanish law and English common law.
- Self initiation process which promoted entrepreneurship, competition, economic growth and settlement of the American West
- Still prevalent today
Locatable Minerals Under the General Mining Law:

Recent Examples: Copper, Silver, Gold, Lead, Garnet, Yogo Sapphires, Jade, Platinum, Palladium, Rhodium, Nickel, Chromite, Cobalt, Rare Earth Minerals, Diamondiferous Kimberlites, Lamproites, Uranium, Bentonite, Limestone suitable for cement production or metallurgical grade, Gypsum, Unique Silica Sands

Not Currently Locatable (Leaseable Minerals): Oil, Gas, Coal, Geothermal, Phosphate, Sodium, Potassium, Sulfur, Gilsonite, Trona, Common Varieties of Sand, Clay or Gravel, Saleable Minerals
What type of Claim is Appropriate?

- Lode Claims

Wyoming Law limits width to 300 feet on either side of discovery shaft, which shall be equally distant from each sideline of the claim. W.S. 30-1-110.
What type of Claim is Appropriate?

- Lode Claims – Extralateral Rights
What type of Claim is Appropriate?

- Placer Claims
What type of Claim is Appropriate?

- Mill Sites
- Tunnel Sites
How do I Locate My Mining Claim?
How to Locate Your Mining Claim
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- Comply with both federal and state law
- Post notice of location on site
  - Statutes require posting at point of discovery
- Mark claim boundaries in accordance with state law
- Record Certificate of Location in County and then file with BLM

MCA 82-2-101:

- Stone and Mound
  - 2'x4'+
  - 4'6''+
  - 6''x6''x18'' (2/3 buried)
- Post
  - 4X4''+
  - 1''+
- Blazed Tree
  - 8''+ diameter
  - 4 sides
- Boulder
  - 3''+
How to Locate Your Mining Claim

- Wyoming:
  - **Lode Claims**—Post notice at point of discovery and mark boundaries with “six (6) substantial monuments of stone or posts, hewed or marked on the side . . . one (1) at each corner, and one (1) at the center of each side line.” W.S. 30-1-103.
  - **Placer**—Post notice in conspicuous location on claim and mark boundaries with “substantial posts or stone monuments at each corner of the claim.” W.S. 30-1-110.
How to Locate Your Mining Claim

- North Dakota:
  - **Lode Claims**—Requires “eight substantial posts hewed or blazed on the side and plainly marked with the name of the lode and the corner, end, or side they represent . . .” (Stone monuments are okay if the ground does not permit sinking of posts). NDCC 38-02-07.
How to Locate Your Mining Claim

- Each Claim Must Have a Discovery!
  - Prudent Man Test
  - Marketability Test
How to Maintain Your Mining Claim

- **DON’T FORGET—SEPTEMBER 1ST!!!!!**
- 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
  - Annual work requirement
  - File waiver documents
  - File affidavit
What rights are Included with my Claim?


- Multiple Use Act of 1955—The surface rights of unpatented claim owners are limited to mining activities and mineral deposits.

Patented vs. Unpatented Claims

- Patented claims are fee property

- Effect of the Patent

- A moratorium has been placed on the patenting of mining claims
How do you Transfer Mining Claims?

- For unpatented claims, generally use quitclaim
- Use full description of the claims
  - Patented Claims:
    - Recommend using claim name, township, range, section, and mineral survey number.
  - Unpatented Claims:
    - Recommend using claim name, BLM serial number, township, range, section where each claim is located.
- Record Transfer with County and File with BLM
Questions?