

# EXPLANATION OF "LOCATION" Continued

[Federal Lands Open to Mining](#)  
[Staking a Mining Claim or Site](#)  
[Claimant's Rights](#)

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## Federal Lands Open to Mining

There are federally administered lands in 19 States where you may locate a mining claim or site. These States are Alaska, Arizona, Arkansas, California, Colorado, Florida, Idaho, Louisiana, Mississippi, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oregon, South Dakota, Utah, Washington, and Wyoming. In these States, the BLM manages the surface of public lands and the Forest Service manages the surface of National Forest System lands. The BLM is responsible for the subsurface on both public lands and National Forest System lands.

You may prospect and locate claims and sites on lands open to mineral entry. Claims may not be staked in areas closed to mineral entry by a special act of Congress, regulation, or public land order. These areas are withdrawn from the operation of the mining laws.

Areas withdrawn from location of mining claims include National Parks, National Monuments, Indian reservations, most reclamation projects, military reservations, scientific testing areas, most wildlife protection areas (such as Federal wildlife refuges), and lands withdrawn from mineral entry for other reasons. Lands withdrawn for power development may be subject to mining location and entry only under certain conditions. Mining claims may not be located on lands that have been

1. designated by Congress as part of the National Wilderness Preservation System,
2. designated as a wild portion of a Wild and Scenic River, or
3. withdrawn by Congress for study as a Wild and Scenic River. There is usually a 1/4-mile buffer zone withdrawn from location of mining claims on either side of a river while the river is being studied for inclusion in the Wild and Scenic Rivers System.

Additions to the National Wilderness Preservation System are withdrawn to mining claim location at the time of designation by Congress. Mining activities are permitted only on those mining claims that can show proof of a discovery either

1. by December 31, 1983, or
2. on the date of designation as wilderness by Congress.

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## Staking a Mining Claim or Site

Federal law simply specifies that claim boundaries must be distinctly and clearly marked to be readily identifiable on the ground. The mining laws allow States to establish their own laws regarding the manner in which mining claims and sites are located. Most States have statutes and regulations adding to the Mining Law of 1872, as amended, concerning the actual staking and recording of mining claims. Staking requirements include the placement, size, and acceptable materials for a corner post or a discovery monument. Check with the proper State agency(s) before locating claims. State agencies may include the State geological survey, the State mineral resource department, or the State lands commission.

Generally, staking a mining claim includes:

1. erecting corner posts or monuments and
2. posting a notice of location on a post or monument in a conspicuous place (see Figures 1 and 2)

The conspicuous place on the claim is usually the point of discovery. Several States also require side-line or end-line posts or monuments for claims. Claims and sites described by legal subdivision in some States do not require the erection of corner monuments (see Figure 2). However, all claims and sites must have a location (sites) or discovery (claims) monument. Be sure to check what the law requires in the State where the claims and sites are to be located.

For a specific tract of land, check the official land records at the BLM State or District Office responsible for administering the land area. Rather than looking randomly through the records for lands open to location, it is better to restrict your search to a general area of interest. Topographic map(s) of the area (published by the U.S. Geological Survey) provides the legal description (meridian, township, range, section, lot) of such lands. Visit the local BLM office or BLM State Office and check maps, the BLM Master Title Plats, mining claim records, and files. Ultimately, it is up to the locator to determine if there are prior existing claims on the ground.

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## **Claimant's Rights**

If a claim or site meets all the Federal and State requirements, the claimant has a possessory right to develop and extract the minerals. However, the claim or site cannot be used for other purposes. The claimant has the right to use so much of the surface of the claim or site as is reasonably necessary for mining and milling purposes, including

1. access across federally managed surface to and from the claim,
2. use of as much of the timber on the claim as is necessary for the mining operation, and
  - a. construction of fences and gates to protect the immediate area of operations and equipment.

Also allowed are temporary and permanent structures for storing equipment, housing for full-time employees, and testing and processing facilities. See the approval requirements for structures and occupancy in the Surface Management section of this pamphlet.

Mining claims and sites are considered real property. The interests in them and associated rights may be bought, sold, transferred, leased, rented, willed, or inherited.

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The above information was taken from the BLM Website on June 28, 2002. If there have been changes to BLM policy or regulations since then, some of the information above may be outdated. You may want to visit the [BLM site](#) to see if there have been any changes.