The following is an example of past work done under the supervision of an attorney.

[For attorney review; draft legal memo written for client, landmen, and engineers based on Federal law, state law, Pete Lien & Sons, Inc. v. Zellmer, 2015 S.D. 30, 865 N.W.2d 451, and research on best practices]

1. **PHYSICAL LOCATION.**

    a. After finding a location of interest and locating the boundaries of the aliquot parcel/subdivision, 4 wooden posts or cairns (monuments) with the claim name and claimant info shall be placed at the corners of the intended claim. Attorney requires that pictures of each monument be taken after it is set in the ground and that these photos be sent to Attorney and Client.

        i. “[t]he location must be distinctly marked on the ground” (30 U.S.C. § 28)

        ii. For each monument:

            1. ALL monuments must have the name of the claim and which corner/side each respective monument represents, physically engraved or plainly marked on each side that faces towards the claim.

            2. ONE monument (our discovery monument) must have a copy, in a weatherproof container, of the claimant's name/contact info, the date of discovery, the length/width of the claim in reference to the discovery monument, a copy of the certificate of location (once filed), and a copy of the BLM certification with the claim number (once received).

        iii. The only cost associated with this step is the cost of materials and potentially surveying the land.

    b. “[W]here the lands have been previously surveyed by the United States, the entry in its exterior limits shall conform to the legal subdivisions of the public lands. And where placer claims are upon surveyed lands, and conform to legal subdivisions, no further survey or plat shall be required, and all placer-mining claims located after the 10th day of May 1872, shall conform as near as

practicable with the United States system of public-land surveys, and the rectangular subdivisions of such surveys....” (30 U.S.C. § 35)

i. Main relevant points from the above quote:

1. If a placer claim is on land previously surveyed by the US AND conforms to legal subdivisions, no further survey is required.

2. All new placer claims must conform “as near as practicable” to US public-land surveys and the rectangular subdivisions of such surveys.

ii. “federal law requires placer claims to conform "as near as practicable" to existing surveys and *provides for situations where a claim cannot conform to legal subdivisions.*” (Pete Lien, 2015 S.D. 30, ¶ 18. [emphasis added])

c. “Before filing a location certificate pursuant to § 45-4-4, the discoverer shall locate the claim: (1) By erecting a monument at the place of discovery and posting on the monument a plain sign or notice containing the name of the lode, the name of any locator, the date of discovery, the number of feet claimed in length on either side of the discovery, and the number of feet in width claimed on each side of the lode; and (2) By marking the surface boundaries of the claim.” (SDCL § 45-4-2)

d. SDCL 45-4-3 provides: “Surface boundaries shall be marked by eight substantial posts, hewed or blazed on the side or sides facing the claim and plainly marked with the name of the lode[/placer] and the corner, end, or side of the claim that they respectively represent and sunk in the ground; one at each corner and one at the center of each side line and one at each end of the lode[/placer]. If it is impracticable because of rock or precipitous ground to sink such posts, they may be placed in a monument of stone.”

e. “SDCL 45-4-2 and SDCL 45-4-3 define the monument and post requirements in South Dakota. We do not require a new survey or plat; we simply require additional ground work to mark the claim's boundaries — regardless of whether it conforms to legal subdivisions or not.” (Pete Lien, 2015 S.D. 30, ¶ 18.)

f. “South Dakota never had a statute allowing placer claims to be left unmarked, nor has any case law so held.” (Pete Lien, 2015 S.D. 30, ¶ 20.)

2. **CERTIFICATE OF LOCATION/LOCATION NOTICE.** We file a certificate of location with the County Register of Deeds using the Certificate of Location/Location Notice form (Form provided upon request). (~$30 filing fee)

   a. Deadline to file: within 60 days of discovery. (SDCL § 45-4-4)

   b. “a location certificate which shall contain: (1) The name of the lode[/placer]; (2) The name of the locator or locators; (3) The date of location” (SDCL § 45-4-4)

   c. “Your notice or certificate of location must include: (1) The name or number, or both, of the claim or site; (2) The names and current mailing addresses of the locators of the claim; (3) The type of claim or site; (4) The date of location; and (5) A complete description of the lands you have claimed as required in part 3832 of this chapter.” (43 CFR Part 3833)

   d. Federal law "makes the manner of locating mining claims and recording them subject to the laws of the state or territory, and the regulations of each mining district, when they are not in conflict with the laws of the United States." (Kendall v. San Juan Silver Mining Co., 144 U.S. 658, 664, 12 S.Ct. 779, 781, 36 L.Ed. 583 (1892))

   e. “A location and location certificate cover only one claim of twenty acres, and each notice of location must be posted on the single twenty-acre claim it covers. 43 C.F.R. § 3832.11(c)(3).” (Pete Lien, 2015 S.D. 30, ¶ 23.)

      i. We have to do two notices.

   f. The notice of location/certificate of location must be in a “conspicuous place on the claim or site” (43 C.F.R. § 3832.11 (2014)) (Pete Lien, 2015 S.D. 30, ¶ 12.)

      i. This means that once we file the certificate of location, we must physically put a copy of the certificate of location in a weatherproof container (lamination should work) on a claim monument.

3. **RECORD LOCATION W/ BLM.** We have to record our location with the BLM Mineral & Land Records System (MLRS). ($274 total)

    a. 43 C.F.R. § 3833.1(b) states that "[r]ecording a mining claim or site, filing any other documents with BLM, or paying fees or service charges, as this part requires, does not make a claim or site valid if it not otherwise valid under applicable law." (Pete Lien, 2015 S.D. 30, ¶ 27.)

        i. Recording with the BLM MLRS is required before our claim is valid, and must be approved before any work can be done.

    b. Deadline: within 90 days of the date of location.

        i. “You must record in the proper BLM State Office [or online through the MLRS] a copy of the notice of certificate of location that you recordedor will record in the local recording office by the 90th day after the date of location.” (43 CFR Part 3833)

    c. Once we receive the claim serial number/certification from the BLM, we should attach a copy of such proof physically to our discovery monument and write our serial number on all signs.

4. **MAINTENANCE.** There are two options for annual maintenance as follows: ($200 or $15).

    a. Pay the $200 maintenance fee every year.

        i. Pay online at MLRS by Sept. 1 every year.

        ii. OR, in the alternative, do the following:

    b. File a Small Miner Maintenance Fee Waiver.

        i. File with BLM by Sept. 1.

ii. File an Affidavit of Assessment Work with the BLM and county recorder by Dec. 30.

iii. $15 processing fee.

5. **STATE AND FEDERAL REQUIREMENTS FOR MONUMENTS.**

a. FEDERAL:

i. DISCOVERY MONUMENTS. Federal law requires a discovery monument at the point of initial discovery.

1. This monument must have a copy of the certificate of location physically attached to the post containing (1) the name of the claim, (2) the name of the locator, (3) the date of location, and (4) a map or description describing the area claimed as relevant to the discovery monument.

2. Prior to filing our certificate of location, it would be best practice to physically attach a separate document or a draft of the certificate to the discovery monument as soon as the monuments are set up.

ii. CORNER MONUMENTS. Federal law requires a monument at each corner of the claim.

1. Only requires that each corner monument be physically "significant."

2. The requirements for the information attached to each corner monument are set by state law, not federal.

b. STATE:

i. South Dakota state law primarily mentions lode claims and not placer claims. In the aforementioned case law, the South Dakota Supreme Court was split (2-3 against) on whether SDCL 45-4 applies to placer claims or

only lode claims. In the interest of security, we will treat our work as if SDCL 45-4 also applies to placer claims.

ii. DISCOVERY MONUMENTS.

1. “the discoverer shall locate the claim: (1) By erecting a monument at the place of discovery and posting on the monument a plain sign or notice containing the name of the lode, the name of any locator, the date of discovery, the number of feet claimed in length on either side of the discovery, and the number of feet in width claimed on each side of the lode; and (2) By marking the surface boundaries of the claim.” (SDCL § 45-4-2)

iii. CORNER/SIDE MONUMENTS.

1. South Dakota state law requires that we mark the boundaries of the claim by erecting eight substantial posts/monuments, one at each corner and one at the midpoint of each side of the claim.

    a. Each monument must be plainly marked with the name of the claim.

    b. Each monument must be plainly marked with which corner or side the respective monument represents.

2. South Dakota State/case law requires that the sign/labelling for each monument be oriented to face inwards towards the claimed area. (SDCL § 45-4-3)