



Figure 3-3: The patented mining claim in the Bayhorse (a/k/a Bay Horse) Mining District, Custer County, Idaho: Little Hoosier, Mining Claim, known as Survey #1153. Older documents listed as exceptions to title can be difficult to read or interpret, adding to the challenge of completing adequate due diligence. This map (and the print quality reproduced here) is typical of mining claims maps that show up in many western US title reports or commitments.

remote. The state agency that provided funding for the project agreed with the land trust’s conclusion after performing its own due diligence.

Example

The Complexity of Mineral Rights

One western land trust seeking to conserve land affected by several overlapping mineral rights claims was concerned that placing a conservation easement on land affected by a 10-acre claim might be ineffective in conserving the entire 10 acres if an overlapping claim that included this property had superior rights. As part of its due diligence, the land trust required the landowner to provide an opinion from a qualified attorney specializing in mining law that the land it sought to protect was not diminished by any overlapping claims. The attorney researched all patents and deeds in the chain of title and was able to confirm that the 10-acre claim was patented first and that its use (or restrictions on use) would take precedence over other overlapping claims. The land trust had ordered a title commitment that included the impact of overlapping claims as an exception to title, but following receipt of the mining attorney’s opinion and after conducting its own research, the title company deleted the exception and issued title insurance for the entire 10 acres.