

4498

182  
W.S.P.

N  
W.S.P.

DEPARTMENT OF THE INTERIOR,

GENERAL LAND OFFICE,

WASHINGTON, D. C.,

June 26. 1900.

ADDRESS ONLY THE  
COMMISSIONER OF THE GENERAL LAND OFFICE.

United States Surveyor-General,

Denver, Colorado.

Sir:

On June 17, 1899, this office, considering certain defects in mineral survey No. 12577, for the Silver Pine and other lode claims, wherein the deputy mineral surveyor had reported a conflicting patented mining claim to occupy a different position from that shown by the survey upon which patent had issued, and had shown the conflict in accordance with the reported corrected position of the patented claim, said:

When a mining claim has been surveyed and patented in accordance therewith, the land described therein is disposed of and so long as the patent is outstanding, the jurisdiction of the Department in regard to that particular tract is terminated. It, therefore, follows that land thus patented cannot be properly included in a subsequent patent, merely because years afterwards a deputy mineral surveyor in making a subsequent survey reports to have found the true corners of the old survey to occupy a different position from that reported in the survey which was the basis for patent of the old claim. And the same thing is true as to reported discrepancies as to the length and courses of lines of prior approved surveys.

Where such a state of things actually exist, the owner of the new claim applied for, who desires to include an area in his claim, which as a matter of fact is not embraced in the lines of the old claim as staked upon the ground, should procure the surrender of the old patent by the proper method, through the courts if necessary, and then show in a new patent of the old claim its true position as staked and thus eliminate from the patent the area desired not in conflict.

From communications received in this office from H. W. Reed, Ouray, Colorado, and others, and from personal interviews with parties interested in mining claims in your State, it appears that

-2-

on June 20, 1999, you issued as a circular from your office the extract above quoted.

It was not intended that you should make such use of the office letter referred to. Aside from the danger of making an extract of a decision an official circular for general use by the public, it would have been a more regular procedure on your part to have first submitted the proposed circular to this office for approval.

However, the occasion of this letter is that it has been reported to this office that you are now engaged in preparing a new set of connected diagrams of mining claims showing the locus of each claim in accordance with its tie and survey, and that it is your purpose in cases of future applications for surveys to accept these new connected diagrams as determining the positions of all previous surveys and the apparently remaining vacant public land; the inference being that you proposed to destroy the old set of diagrams as fast as the new could be completed to take their places.

The connected diagrams in your office are not official in the sense of fixing with absolute certainty the position of mineral surveys with reference to each other yet they are made up from the approved surveys and should agree therewith. As to the old set, they may hereafter serve a useful purpose and should not therefore be destroyed.

Very respectfully,

*W. A. Richards*  
Assistant Commissioner.