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NO. 5

THE LOCATION, REPRESENTATION AND PATENTING OF MINERAL LANDS IN MONTANA

PROSPECTING AND LEASING OF COAL, OIL,
OIL SHALE, GAS, PHOSPHATE AND
SODIUM DEPOSITS

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No. 2. Directory of Montana Metal and Coal Mines.

No. 3. Mechanical Ore Sampling in Montana (by H. B. Pulsifier).

No. 4. Geology and Oil and Gas Prospects of Central and Eastern Montana (with a geologic map). (By C. H. Clapp, Arthur Bevan, and Gerald S. Lambert).

No. 5. The Location, Representation, and Patenting of Mineral Lands in Montana.

Prospecting and Leasing of Coal, Oil, Oil Shale, Gas, Phosphate, and Sodium Deposits. (By A. E. Adami).

PREFACE.

This bulletin deals mainly with interpretations of the federal and state mining laws as related to the discovery, location, representation, and patenting of mineral land in the state of Montana. Considerable space has been given to rules and regulations pertaining to the Leasing Act, as approved by Congress on February 25, 1920, which relates to the mining and prospecting of mineral deposits of coal, phosphate, oil, oil shale, gas and sodium. The last part of the bulletin includes many sections of the mining laws of Montana as taken from the Revised Codes of 1921. These sections treat with the laws of location and representation, and laws which apply to the actual mining of mineral deposits, and mine operations.

This work has been written with the intentions of supplying the prospector and locator of mineral deposits with such information as will aid him in complying with the laws from the time of discovery to such time as a patent is obtained, and to inform any qualified applicant as to the general procedure, necessary to prospect and lease lands containing mineral deposits as covered by the Leasing Act.

The information contained in this bulletin has been obtained from the Regulations of the United States Land Office, and from the various treatises on mining laws, namely, Lindley on Mines, Morrison's Mining Rights, Howell on Lode and Placer Claims, Ricketts on Mines, and Shamel on Mining, Mineral and Geological Law.

The writer wishes to acknowledge his indebtedness to these treatises, and to Dr. C. H. Clapp and Prof. W. T. Scott for their kind assistance in the preparation of this work.

The writer is especially indebted to Mr. Samuel Barker, Jr., E. M., and to Mr. E. B. Howell, LL. B., who have given their valuable time to reading the bulletin besides offering many valuable suggestions, and contributing knowledge gained from practice in their professions.

A. E. ADAMI.

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THE LOCATION, REPRESENTATION, AND PAT- ENTING OF MINERAL LANDS IN MONTANA.

Mineral Land: Definition.

Land which has been classified as more valuable for its mineral deposits than for other purposes is called mineral land. In many cases land which is yet unclassified by the land department of the government may be more valuable for its mineral content than for other purposes and might therefore be called mineral land. In case of dispute, the final decision as to the true character of the land is made by the federal land department, or by the different courts.

Unappropriated land, upon or within which mineral is found, is not classed as mineral land unless the deposits are of sufficient size and value to warrant the expenditure of time and money for the purpose of prospecting and developing the deposits, and unless the land proves more profitable for mining than for other purposes.

Land Subject to Location in Montana:

All mineral land on the public domain of the United States within the State of Montana, whether surveyed or unsurveyed, is open to location. Following is Section 2319 of the Revised Statutes of the United States, as enacted on May 10, 1872, and which is still in force:

"All valuable mineral deposits in lands belonging to the United States, both surveyed and unsurveyed, are hereby declared to be free and open to exploration and purchase, and the lands in which they are found to occupation and purchase, by citizens of the United States and those who have declared their intention to become such, under regulations prescribed by law, and according to the local customs or rules of miners in the several mining districts, so far as the same are applicable and not inconsistent with the laws of the United States."

A valid location can also be made on a forest reservation.

State Lands: Location on

In Montana lode or quartz claim location may be made on mineral land owned by the state. A locator of state land must comply with the regular laws of the state pertaining to the location of claims, except that no notice of location need be recorded in the office of the County Clerk and Recorder, but should be filed with the Register of State lands. After one year the locator must purchase the claim at not less than \$10.00 per acre, or lease the same from the State Board of Land Commissioners. The land must be mineral land and be more valuable for mining than for other purposes. A lode or quartz claim may not be located on any coal or oil lands belonging to the state. (See page 55.)

Lands not Subject to Location in Montana:

Any land which has been reserved by the government for military purposes, school purposes, for Indian reservations, or for public parks cannot be located for mineral. If a reservation has been abandoned by the government and restored to the public domain it is again subject to location.

Locations on Forest Reservations are not included in the above exceptions. A special act was passed by Congress dated March 3, 1891, withdrawing certain lands from the public domain for forest reservations, but in 1898 Congress passed another law whereby all mineral land in such forest reservations is subject to location and entry as mining claims.

Following is a list of Indian Reservations opened to the public, and therefore subject to location according to the mineral laws of the state:

Fort Belknap, Montana, June 10, 1896. (Minimum price per acre \$10.00) Blackfeet Reservation, Montana, June 10, 1896. Flathead Reservation, Montana, April 23, 1904. Crow Indian Reservation, Montana, April 27, 1904. (Price of mineral land as provided by law, but in no case less than \$4.00 per acre.)

Land which has been granted to a railroad, and for which title passed to the railroad company, is no longer free and open to location.

School Lands:

Congress has reserved Sections 16 and 36 in each township in the State of Montana, and has granted the same to the state for the maintenance of public schools, providing, however, that these sections have been classified by proper authority as non-mineral in character. The classification of the school sections is usually made immediately after they have been surveyed and approved. If the land is found to be mineral in character, it is not included in the grant, and is, therefore, open to location. If the land has been otherwise appropriated, or if a mineral location has been made before the land has been surveyed, it is likewise not included in the grant.

Agricultural Land:

Where a patent has been issued for a homestead, and title thus granted, it is impossible for a valid mineral location to be made, unless fraud has been committed in obtaining the agricultural patent. In case of fraud, a suit by the United States to vacate and annul patents, must be brought within six years after the date of issuance of patent, otherwise the patent is good. (Act March 3, 1891). If a valuable mineral deposit has been discovered on agricultural land for which patent has been issued, the deposit may not be located by a third party. Such a deposit can be worked or prospected only subject to the wishes of the owner under patent.

Before Patent is Issued:

If a homestead is applied for in the local land office, and patent has not been issued, it will be possible for a valid mineral location to be made providing, however, that sufficient mineral can be found. In case of dispute between the agricultural and mineral locators, it is necessary to have the Land Office determine the character of the land, and if

any portion of the land in conflict is proved to be mineral land by the legal authorities, it will be open to location, and the homestead entry for that portion in conflict will be cancelled.

Locations: Who may locate—

Citizens:

Any citizen of the United States or anyone who has declared his intention to become a citizen may locate mineral land for the purpose of prospecting and developing the same.

Aliens:

An alien may locate a claim in the State of Montana, and can hold, prospect, or develop it, and his rights will be protected by the laws in so doing, providing that he otherwise complies with the state laws governing the location of mining claims, and all ore that is discovered and mined may be sold or otherwise disposed of as desired by the alien locator. The Montana law states that:

“Any person who discovers, upon the public domain of the United States, within the State of Montana, a vein, lode, or ledge of rock in place, bearing gold, silver, etc., as a placer deposit of gold or other deposit of minerals having a commercial value, which is subject to entry and patent under the mining laws of the United States, may, if qualified by the laws of the United States, locate a mining claim upon such vein, lode, or ledge or deposit, etc.”

In several cases, as decided by the courts, it has been held that a location by an alien is not void but voidable. ¹The right of an alien to hold a mineral location may be contested by the Government only, and an alien may, therefore, hold a claim indefinitely by right of location. Should the alien later declare his intention to become a citizen, his location would become valid, and his rights would date back to the time of location. An alien may purchase a patented claim in Montana, or acquire title to the same otherwise, in which case he has the same rights as any citizen.

Corporations:

Any association or partnership composed of citizens and corporations, organized under the laws of any state, or of the United States, may locate mining claims. A corporation is not legally considered an association, and therefore it may not locate a placer claim of more than twenty acres.

A valid location may be made by an agent for another person or persons, including corporations and partnerships. A minor, regardless of sex, may also locate a claim and hold the same.

United States Mineral Surveyors, officers, clerks, and employees of the General Land Office, may not locate nor patent a mining claim.

Number of Locations Allowed:

The number of locations that one person may make is unlimited by the state law, but as a prospector or locator is usually limited with capital and time, the number of claims that he may legally hold is more

¹Howell on Lode and Placer Claims, page 7.

or less limited thereby. It is necessary that \$100.00 be spent on each claim each year, or in case of a group of claims, the annual work for all of the claims may be performed under certain conditions, on any one of the claims if not less than \$100.00 is spent for each claim so represented. This annual work is also known as "Representation Work". (See Location Page 20.)

Kinds of Claims:

Lands may be located, under certain conditions, for mining purposes as lode, placer, tunnel, millsite, coal, oil, oil shale, gas, phosphate or sodium claims.

Lode Claims:

Lode claims are understood to be mining claims on which valuable mineral has been found in place, and any mineral land on the public domain of the United States which has not been otherwise appropriated may be located as a lode claim. By the phrase "mineral in place" is meant mineral which is fixed or enclosed in the country rock.

The terms "vein", "lode", "lead", "ledge", are used synonymously by the prospector and locator, and hence may be considered synonymous when making locations, although from a geological standpoint, these terms are not identical in meaning.

A vein is a tabular or sheet-like mineral deposit found in connection with some pre-existing fissure or cavity. A lode or lead has been formed in connection with a series of nearly parallel, closely spaced fractures, and may therefore, consist of several veins. A ledge refers to a vein having a large and prominent outcrop.

Placer Claims:

A placer claim may be a claim located on mineral land containing mineral deposits in a loose state, that is not in place. Mineral deposits found in a loose state may be rightly called placer deposits. According to the laws of the United States, the following minerals may be located as placer deposits: alum, asphaltum, diamonds, guano, gypsum, kaolin or china clay, marble, mica, onyx, slate, building stone and limestone for fluxes or smelting purposes. Clay used for manufacturing brick is not considered a mineral, and such clay deposits must be located as agricultural land. Abandoned tailings may be located as a placer deposit.

Tunnel Claims:

A tunnel claim is one located for the purpose of prospecting mineral land by means of a tunnel. All veins cut by the tunnel are subject to location and development by the prospector providing no prior rights to the vein existed before beginning the tunnel. A tunnel may not be driven through any ground which was located by another party prior to the date the tunnel was started, nor may it be driven through any ground for which another person has a patent. Following is section 2323 of the Revised Statutes of the United States, as passed on May 10, 1872, regarding tunnel claims:

"When a tunnel is run for the development of a vein or lode, or for the discovery of mines, the owners of such tunnel shall have the right

of possession of all veins or lodes within 3,000 feet from the face of said tunnel on the line thereof, not previously known to exist, discovered in such tunnel, to the same extent as if discovered from the surface; and locations on the line of said tunnel of veins or lodes not appearing on the surface, made by other parties after the commencement of the tunnel, and while the same is being prosecuted with reasonable diligence, shall be invalid, but failure to prosecute the work on the tunnel for six months shall be considered as an abandonment of the right to all undiscovered veins on the line of such tunnel."

By "face" is meant the working face of the tunnel when it is entirely under ground or actually under cover.

Millsites:

A millsite is a tract of land not exceeding five acres, located on non-mineral land but not contiguous to one's lode location. If the millsite is located with a lode claim it may be used in connection with the lode claim for mining and milling purposes. A millsite may also be located by an owner of a quartz mill or other reduction plant, who does not own a mine or lode claim in connection with the reduction plant.

Section 2337, Revised Statutes of the United States, as passed May 10, 1872, states:

"Where non-mineral land, not contiguous to the vein or lode, is used or occupied by the proprietor of such vein or lode for mining and milling purposes, such non-contiguous surface ground may be embraced and included in an application for patent for such vein or lode, and the same may be patented therewith, subject to the same preliminary requirements as to survey and notice as are applicable to veins or lodes; but no location hereafter made of such non-adjacent land shall exceed five acres, and payment for the same must be made at the same rate as fixed by this chapter for the superficies of the lode. The owner of a quartz mill or reduction works, not owning a mine in connection therewith, may also receive a patent for his millsite, as provided in this section."

It is absolutely necessary that the land claimed as a millsite be non-mineral in character, and therefore, it should not contain any veins, lodes, or ledges valuable for mineral. By "contiguous" is meant adjoining, adjacent, touching. A claim and millsite with only one corner in common has been held as not contiguous.

Coal Land on State Land:

All known or classified coal land now owned or acquired later by the State of Montana is reserved from location and can only be leased from the State by paying a royalty of not less than ten cents per ton to the State. State coal lands are so classified by the United States Geological Survey and by the State Board of Land Commissioners.¹

Coal Claims on Government Land in a State: (See page 42.)

Oil and Gas Land: On State Land—

All state lands are subject to sale, or lease but all coal, oil and gas contained therein is reserved by the state. (See page 56.)

On Government Land:

By an act passed in Congress in 1903 oil lands were located as placer claims and the annual assessment work on a group of claims not exceed-

¹Laws of 1909, Chapter 147. See pages 56 and 57.

ing five in all, lying contiguous and owned by the same person or corporation, was done on any one claim, provided that the work performed developed the adjoining claims.

By an act as approved by Congress on February 25, 1920, all lands containing coal, oil, and gas, owned by the United States, are subject to lease only by citizens of the United States and under certain conditions by citizens of a country which grants similar privileges to American citizens.¹

Stone Claims: On Government Land:

Lands which are chiefly valuable for building stone are subject to location under the provisions of the law relating to placer claims.

On State Land:

Land which is chiefly valuable for building stone found on state land may be leased from the State Land Commissioners upon a royalty basis only. (See page 56.)

LOCATION OF LODE CLAIMS.

Following are the various steps from the time of discovery to that of applying for patent:

1. Discovery of mineral.
2. Posting Notice of Location.
3. Establishing corners within thirty days.
4. Performing discovery work within sixty days.
5. Filing certificate of location within sixty days.
6. Performing annual assessment work.
7. Applying for patent after \$500 has been expended for development work.

Valid Location:

Before making a mineral location, the locator should first ascertain whether or not the land is mineral land on the public domain of the United States, or on State land; second, should discover whether or not the land is open to location, and third, should make a discovery of mineral before posting the location notice.

Discovery:

By discovery of a lode location is meant the finding and locating of a vein, lode, or ledge of rock in place, bearing gold, silver, cinnabar, lead, tin, copper, or other valuable minerals. When the land is unclassified, the discovery of a vein, lode, or ledge has to be of such character that the land, in the opinion of the locator, will prove more valuable for mining than for any other purposes. A discovery of mineral such as gold or other valuable mineral deposits, is also necessary in making a placer location.

"To constitute a valid discovery upon a lode mining claim, three elements are necessary: (1) There must be a vein or lode of quartz or other rock in place; (2) The quartz or other rock in place must carry gold or some other valuable mineral deposit; and (3) the two preced-

¹See Page 38 for Leasing Act.

ing elements when taken together must be such as to warrant a prudent man in the expenditure of time and money to develop a valuable mine". (41-L. D. 320).

Location Notice: What it should contain—

After making the discovery it is necessary for a locator to post a Notice of Location which can be in a written or printed form, containing (a) name of the claim, (b) name of locator or locators, (c) the date of location, which shall be the date of posting the notice, (d) and the approximate dimensions of the area of the claim intended to be appropriated.

Many prospectors or locators have the opinion that it is absolutely necessary to obtain a printed form for a Notice of Location. This need not be the case as the laws of the State of Montana specify that the notice may be written or printed.

Following are several forms of notices of location that comply with the requirements of the State of Montana :

NOTICE OF LOCATION.

Notice is hereby given that the undersigned locator..... ha..... discovered a vein, lode, or ledge of rock in place, bearing gold, silver, cinnabar, lead, tin, copper, or other valuable minerals; that the same is hereby located and claimed under the provisions of the laws of the United States and the State of Montana, and that said discovery is at or near where this Notice of Location is posted.

The name of the claim is the Lode Mining Claim, and is situated in the County of, State of Montana.

The approximate dimensions of area of the claim hereby appropriated are as follows: feet in a direction andfeet in a direction along the course of the vein, lode or ledge from the point of discovery, and feet on each side from the center of the vein, lode or ledge; the same being feet wide by feet in length.

This notice of location is dated and was posted on the claim at or near the point of discovery this day of A. D. 192.....

Witnesses : Locators and claimants :
.....
.....
.....

A brief form for Notice of Location which complies with all of the requirements of the State of Montana is as follows :

NOTICE OF LODE LOCATION.

Notice is hereby given that the undersigned ha..... discovered a vein, lode, or ledge of rock in place bearing valuable mineral deposits, and ha..... this day of, A. D. 192..... located same as the Lode Mining Claim by posting this location notice at or near the point of discovery.

The approximate dimensions of the area of the claim located are:..... feet in a direction, and feet in a direction along the vein, lode, or ledge from the point of discovery and feet on each side of the middle of the vein or lode.

Locators and claimants:

.....
.....

Posting of Notice of Location:

The Notice of Location must be posted in such a manner that it can be readily seen or found by persons passing. Common methods are to tack the notice in a small box and nail the box to a tree ,or to a post placed in the ground, or second, to place the notice in a tin can which is nailed to some tree or post, or third, to place the notice in a can on a pile or rock, etc. This notice should be posted in all cases at the point of discovery or at least within a few feet of the discovery.

Marking Location on the Ground: How and when—

Within thirty days after posting the Notice of Location, it is necessary to mark the location so that the boundaries can be traced. This is usually accomplished by establishing some form of monument, whether of stone or wood, at each corner of the claim. Whatever kind of monument is used must be marked with the name of the claim and the number of the corner or cardinal point. (Points of compass, i. e. the N. E. corner, the S. W. corner, etc.)

Corners: Kind

The corners of a claim may be (1) a tree at least eight inches in diameter and blazed on four sides; (2) a post at least four inches square by four feet six inches in length, set one foot in the ground, unless solid rock should occur at less depth, in which case the post should be set upon such rock, and surrounded in all cases with a mound of earth or rock at least four feet in diameter and two feet high, (3) a stump four inches square and surrounded by a similar mound, (4) a stone at least six inches square by eighteen inches in length, set two-thirds of its length in the ground with a mound of earth or stone along side at least four feet in diameter and two feet high, or (5) a boulder at least three feet above the natural surface of the ground on the upper side.

The corners may be placed where desired and also on any land previ-

ously located. Until a claim is patented, it is advisable to protect the corners by replacing them if they are destroyed, thus definitely marking the boundaries.

Size of Claims Located: Section 2320, Revised statutes.

"Mining claims upon veins or lodes of quartz or other rock in place bearing gold, silver, cinnabar, lead, tin, copper, or other valuable deposits, heretofore located, shall be governed as to length along the vein or lode by the customs, regulations, and laws in force at the date of their location. A mining claim located after the tenth day of May, eighteen hundred and seventy-two, whether located by one or more persons, may equal, but shall not exceed, one thousand five hundred feet in length along the vein or lode; but no location of a mining claim shall be made until the discovery of the vein or lode within the limits of the claim located. No claim shall extend more than three hundred feet on each side of the middle of the vein at the surface, except where adverse rights existing on the tenth day of May, eighteen hundred and seventy-two, render such limitation necessary. The end lines of each claim shall be parallel to each other."

According to the above section a locator may place his corners so that he shall have fifteen hundred feet along the vein and three hundred feet on each side of the center of the vein at the surface. This is the maximum size of a claim. There are no restrictions as to the minimum size of a claim. An ideal location is shown in figure 1 or figure 2.

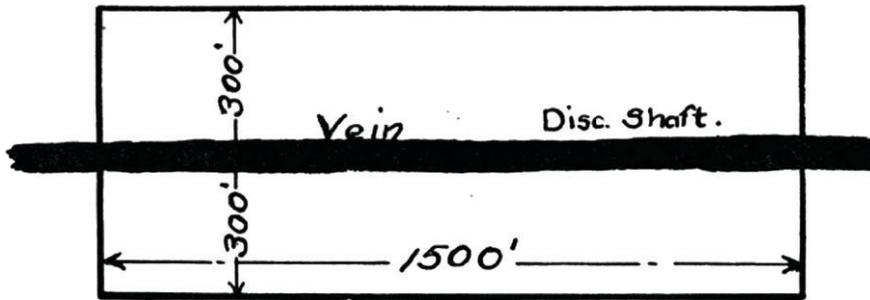


Fig. No. 1.

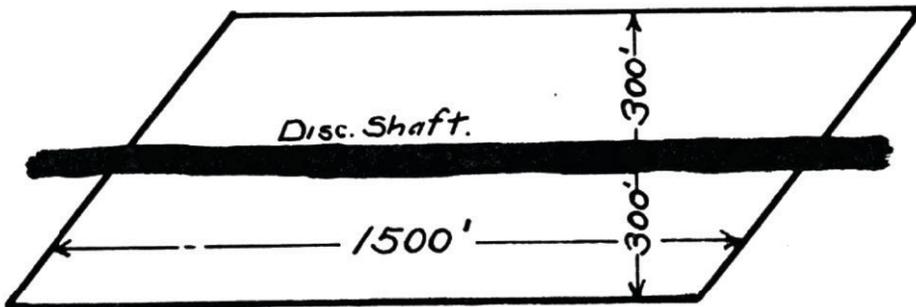


Fig. No. 2.

In figures 1 and 2, the end lines and side lines are parallel. It is not necessary to have the side lines parallel, but no point on a side line may be more than 300 feet from the center of the vein. It is not necessary

for the vein to be equidistant from the side lines, nor is it necessary for the end lines of a location to be parallel. Figure 3 shows a valid location claiming fifteen hundred feet along the vein, with end lines parallel, and side lines three hundred feet or less from the center of the vein.

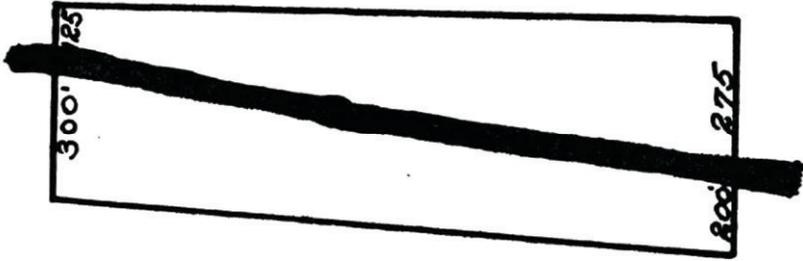


Fig. No. 3.

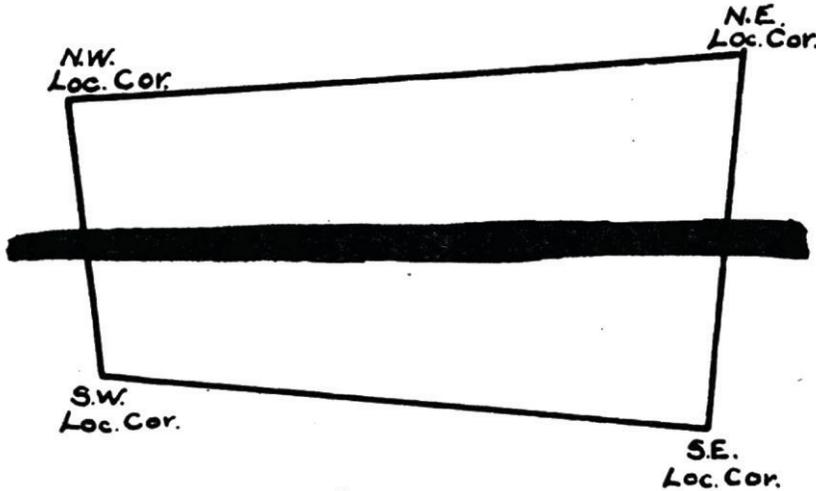


Fig. No. 4.

Figure 4 may be the shape of a valid location but before the same can be patented it will be necessary to make both end lines parallel, and the side lines not more than 300 feet from the center of the vein at any point.

In locating a claim the prospector or locator seldom places his corners so that he has an ideal location, or his end lines parallel, but his rights to prospect and develop such a claim are duly protected if he otherwise complies with the laws of location. A claim is seldom located by making accurate measurements as the distances are usually stepped off. Thus a location is not invalid because its length is slightly greater than 1500 feet or its width more than 300 feet on each side of the middle of the vein, but when making application for patent the dimensions must be corrected accordingly, to comply with government statutes.

It should not be understood from the above statement that a locator

may wilfully stake out a claim with excessive dimensions in order to hold additional land or deprive a third person from making a location. A location that exceeds the maximum size or one with the actual measurements greater than stated in the notice of location is void only as to the excess, and the excess may be located by a third party.

Discovery work on lode claims:

After posting the notice of location, and establishing the corners, a certain amount of work must be performed within a definite period, either by sinking a shaft, or driving a tunnel, or by cuts or trench work. The object of this work is to prevent the appropriation of land for speculative purposes. It is known as Discovery Work and must be performed within sixty days after the date of location.

The discovery shaft, tunnel, cut, etc., must be upon unappropriated ground, and it is necessary that mineral be found in place in the discovery. If a vein or lode is discovered, it is necessary that the apex of the vein or lode shall lie within the boundaries of the location. A location is not valid without a discovery of mineral. The discovery work may be performed at any point along the vein within the boundaries of the location.

Overlapping Locations:

Locations may overlap, and the corners may be placed on another claim, but the discovery work must be performed on ground which does not conflict with any other location, and it must be on unappropriated public domain.

Discovery Shaft:

The discovery work may be performed by sinking a shaft to a depth of at least ten feet vertically below the lowest point of the collar of the shaft, and not less than 150 cubic feet of material must be excavated, and the vein exposed. The Montana law does not state any horizontal dimensions for a discovery shaft.

If the vein is exposed or cut at a less vertical depth than ten feet, and before 150 cubic feet of material is excavated, the locator may excavate the balance of the material at another point on the claim, but in any case not less than 75 cubic feet of material must be excavated at the point of discovery.

Discovery Cut or Tunnel:

The discovery work may be performed in a cut or tunnel, and in Montana, 150 cubic feet of material must be excavated, and not less than 75 cubic feet must be excavated at the point of discovery. For each location, there must be a discovery, and the required discovery work must be performed on each location.

Certificate of Location:

The State of Montana requires that the notice of location be filed for record with the county clerk and recorder of the county in which the claim is located, within sixty days after location. This record is known as the Certificate of Location, and in order to comply with the laws

of the State it must contain (1) the name of the claim, (2) the name of the locators, (3) the date of the location, (4) a description of the claim with reference to some natural object or permanent monument so as to identify it, (5) the direction and distance claimed along the lode or vein each way from the discovery and the width claimed on each side of the middle of the vein. Certificates of Location must be verified before a Notary Public, or other officer authorized to administer oaths, by the locator or an authorized agent.

Following is a form of Certificate of Location which must be filed with the county clerk of the county in which the claim is situated:

CERTIFICATE OF LOCATION
of the

..... Lode Mining Claim.

Know All Men By These Presents, that the undersigned, on the day of, A. D. 19..... did discover a vein or lode, bearing gold, silver, or other valuable metals, and on the same day did locate the same as the Lode Mining Claim, by posting a Notice of Location at the point of discovery, said notice containing the name of the claim, the name.....of the undersigned as locator....., date of location, and approximate dimensions of the claim intended to be appropriated, and that within thirty days after above mentioned date, the undersigned did distinctly mark boundaries of said lode claim by establishing duly marked monuments at each corner of said claim as follows:

Corner No. 1 the Corner of this claim is a marked
Corner No. 1Lode.

Corner No. 2 the..... Corner of this claim is a marked
Corner No. 2 Lode.

Corner No. 3 the Corner of this claim is a marked
Corner No. 3Lode.

Corner No. 4 the Corner of this claim is a marked
Corner No. 4Lode.

That within sixty days after the above mentioned date of location the following discovery work was performed at which point the vein or lode was discovered, the total excavation amounting to cubic feet.

That the undersigned locator..... claim feet in a

¹NE or NW, etc.
²Describe briefly tree, post, boulder, etc.
³NE, NW, etc.
⁴Shaft, tunnel, or cut, and dimensions of each.

..... direction and feet in a direction along the course of the vein measured from the point of said discovery and feet on each side of the center of the vein.

That the following references are made to some natural object or permanent monument as will identify the claim:

- (1) 5.....
- (2)
- (3)

The following claims are adjoining, to-wit:—On the north..... the Lode Mining Claim. On theEast theLode Mining Claim. On the South..... theLode Mining Claim. On theWest theLode Mining Claim.

This claim is situated in the Mining District, County of, State of Montana.

That the name... of the locator..... and the claimant..... follow; and the undivided interest in the above described location claimed by each of the undersigned is indicated by the fraction set after each name:

Locators	Interest
.....
.....
.....

Verification of Location Certificate:

STATE OF MONTANA, }
 County of..... } ss.

6.....
 being first duly sworn, on oath says: That he is..... the locator..... and claimant..... of the Lode Mining Claim, and that he has read the said Certificate of Location and that the matters and things stated therein are true of his own knowledge.

Subscribed and sworn to before me this day of A. D. 19.....

.....
 Notary Public for State of Montana.

Note: Printed forms for Notice of Location and Certificate of Location can be purchased at the different news stands and newspaper offices in the State.

⁵State approx. direction and dist. to some sec., corner, patented mining claim corner, intersection of gulches, permanent peaks, hills, shafts, tunnels, intersection of streams, towns, RR stations etc.

⁶Name of locator or authorized agent, or officer of corporation.

Annual Labor, Representation Work, Assessment Work:

Performing the necessary work of location and discovery, recording the certificate of location, and verifying the same, entitles the locator or claimant to hold the claim until noon of the first day of July succeeding the date of location, but for each period of one year thereafter at least \$100.00 must be spent for labor or improvements on the claim.

Example: If a claim is located on March 10, 1922, the first annual work or assessment work must be performed between noon on July 1, 1922 and noon July 1, 1923. If a claim is located on July 10, 1922, the first annual work must be performed during the period from noon July 1, 1923 and noon, July 1, 1924.

Following is an amendment to Act of January 22, 1880.

"That the period within which the work required to be done annually on all unpatented mineral claims located since May 10, 1872, including such claims in Alaska, shall commence at 12 o'clock meridian on the 1st day of July succeeding the date of location of such claim; Provided further, That on all such valid existing claims, the annual period ending December 31, 1921, shall continue to 12 o'clock meridian July 1, 1922." (Approved August 24, 1921.)

Work may begin on the last day of the period within which the annual work must be performed and it must be continued without interruption until completed. Continuous work gives one the right of possession, which until lost, does not make a claim subject to relocation by another person.

Annual Labor on Group of Claims:

When a number of claims are held in common, and are contiguous, the total expenditure that would be necessary to hold all the claims in such a group may be made upon any one claim, provided such work benefits the claims of the entire group. Failure to perform the annual work will subject the claim or claims to relocation unless the locator resumes work before another party locates the same. Locations with only one corner in common are held not to be contiguous.

When Annual Work Ends:

Annual Labor must be performed until the claim is patented or at least until after the issuance of the Register's Certificate. If the Register's Certificate is thereafter cancelled and the annual labor has not been performed, the claim is subject to relocation.

What Will Count as Annual Labor:

The expenditure of \$100.00 for annual labor may be for sinking a shaft, driving a tunnel or cross cut, erecting machinery or a building for mining purposes, building of roads, cost of powder, fuse, supplies, or even horse hire when used on the claim for operating a whim or pulling cars. A watchman's service may count for annual labor where the improvements on a claim are valuable. Machinery, boilers, and supplies, brought on the claim, and then removed or not used will not count as a part of the annual labor.

Affidavit of Annual Labor: Time for same—

The State of Montana does not require a locator to make an affidavit as to the annual labor or work performed, but the law states that the owner of the lode or placer claim who performs, or causes to be performed, the annual work or improvement in order to prevent forfeiture of the same, may within twenty days after the annual labor file with the county clerk an affidavit of his own, or of one of the persons who performed the work. This affidavit is accepted by courts as prima facie evidence that the work has been performed.

Co-owners:

When there is more than one locator each must contribute his share of the required amount spent for annual labor but when one of the locators or co-owners fails or refuses to contribute his share, his interest may become forfeited.

Forfeiture of Co-owners Interest: "Advertising Out"

Upon the failure of any one of several co-owners to contribute his share of the required expenditures, the co-owners who have performed the labor or made the improvements as required, may, at the expiration of the year, notify the delinquent co-owner in writing or notice by publication in a newspaper, published nearest the claim, for at least once a week for ninety days; and if, upon the expiration of ninety days after such notice in writing, or upon the expiration of one hundred eighty days after the first newspaper publication and notice, the delinquent co-owner shall have failed to contribute his proportion to meet such expenditures or improvements, his interest in the claim by law passes to his co-owners who have made the necessary expenditures. When a locator or claimant alleges ownership of a forfeited interest, under the above provisions, the sworn statement of the publisher as to the facts of publication, giving dates and a printed copy of the notice published, should be furnished and the claimant must swear that the delinquent co-owner failed to contribute his proper share within the period fixed by the statutes.¹

Forfeiture:

In order to hold a mining claim of any kind in the State it is necessary to comply with the requirements of the law in regard to (1) making a discovery, (2) posting the location notice, (3) establishing the monuments at the corners, (4) performing the discovery work, (5) recording the certificate of location and verifying the same, (6) and performing the annual assessment or representation work. If any one of the above mentioned requirements are neglected or not complied with, the locator or claimant may lose or may forfeit his rights to the claim provided that another locator has taken up the said claim after the expiration of the time allowed for any one of the above mentioned requirements.

A forfeited claim is subject to relocation, but a forfeiture is not complete until another party has located the said claim. A locator who did

¹Land Office Regulations.

not comply with the requirements of the law within the period so stated, but who at some later date, possibly several months thereafter, did complete the necessary work before there were any adverse rights, remains the rightful owner of the claim, and his title to the same dates back to the time of location.

Forfeiture does not apply when an owner is forceably prevented from performing his annual labor.

Abandonment:

Abandonment is a voluntary act on the part of a locator or locators relinquishing his, or their, rights to the claim, that is, with the intention of deserting the claim and thus allowing other parties to relocate and work the said claim peacefully. An abandoned claim is subject to immediate relocation.

If the owner encourages another party to locate the claim or states before witnesses that he intends to leave the claim with the intention of not returning, it is an abandonment.

Amended Location:

A locator may, at any time, amend his location, and make any change in the boundaries which does not involve a change in the point of discovery as shown by the discovery shaft. An "Amended Location Notice" must be posted at the original point of discovery the corners must be marked "amended" in addition to the previous markings, and an amended certificate of location conforming to the requirements of an original certificate, must be properly filed and verified.

A defect in a recorded certificate of location may be secured by filing an amended certificate of location.

No additional discovery work need be performed to hold an amended location, thus differing from a relocation.

Relocation:

Any claim which has been forfeited or abandoned may be relocated, and the laws pertaining to a location must be complied with as though it were an original location. (See Location of Lode Claim, Page 12).

For each relocation there must be a discovery although the original discovery point may be adopted, and the original discovery shaft sunk until 150 cubic feet of material is excavated, or the discovered tunnel can be advanced the required amount. The same points may be used for the corners and the same corners may be used after being remarked. A locator or claimant may relocate his own claim for any purpose except to avoid the performance of the annual labor, or he may relocate his own claim and change the boundaries or the point of discovery, or both, but he must comply otherwise with all requirements of the law in regard to an original location.

If for some reason a locator made a valid location but did not perform the necessary annual work within the time so specified, the claim is subject to relocation by another party, but where the time has expired for doing the required annual work, and the original locator again

intends to work the claim, and does actually resume work, it is not necessary to relocate his claim to hold the same, provided that the rights of other parties have not intervened.

Patenting a Lode Claim:

The annual labor or assessment work must be performed each year, unless by a special act of Congress the same is eliminated, this being the case for several years during the recent war. In order to avoid the annual work or in order to secure title from the government, it is necessary to patent one's claim. Patent may be applied for after at least \$500.00 has been spent on the claim, or when, for a group of claims, at least \$500.00 has been spent on each claim in the group, or the equivalent of \$500.00 for each claim in the group may be spent upon any one of the claims so desired, in which case the work must be so performed that all the claims in the group will be developed thereby.

As the services of the U. S. Mineral Surveyor will be required, it is advisable for a locator or claimant to seek his advice or the advice of an attorney as soon as the patent is desired. All official surveys of mining claims, in application for patent, are executed by U. S. Mineral Surveyors who are appointed by the United States Surveyor General for the State.

Only Citizens May Secure Patent

It is absolutely necessary that a claimant be a citizen of the United States, or one who has declared his intention to become such, before patent will be granted by the Government.

How to Obtain Patent:

An application for an order of survey is made by the claimant or his attorney to the Surveyor General of the State in which the claim or claims are located. The application may include the name of the Mineral Surveyor whom the claimant desires to make the necessary survey. The Mineral Surveyor named in the application must have no interest whatsoever in the claim or claims to be surveyed. The application must be accompanied by the location notice, or by a certified copy of the Certificate of Location, obtained from the County Clerk and Recorder of the county in which the claim is situated, and by the sum of \$30.00 for office expenses in the Surveyor General's Office. When a group of claims is to be surveyed for patent, the sum of \$30.00 for the first claim, and \$20.00 for each additional claim is required for office expenses.

The Surveyor General will then issue an order for the survey naming therein the Mineral Surveyor. The order is sent direct to the Mineral Surveyor who in turn makes the necessary surveys as prescribed in the Manual of Instructions for the Survey of Mineral Lands.

A Mineral Surveyor cannot act as an attorney and a Mineral Surveyor at the same time. After the survey is completed, and the necessary returns forwarded to the Surveyor General, including reports, plat, and field notes, it is checked, and if approved, the Surveyor is so notified, and his duty in connection with the survey thereby ceases.

One plat and one copy of the original field notes are prepared by the Surveyor General. The plat is sent to the General Land Office where ten lithographic copies are made from the original. One copy is given to the claimant for posting on the claim together with a notice of intention to apply for patent; seven copies and the original field notes are retained by the Surveyor General; one copy, and a copy of the field notes are sent to the claimant to be filed by him with the Register of the Land Office to be finally transmitted by that officer, with other papers in the case, to the General Land Office; and one copy is to be sent by the Surveyor General to the Register of the proper land district, to be retained on his files for future reference. Copies of all plats beginning with Survey No. 9200 may be purchased from the Surveyor General for fifty cents each.

The claimant must post a copy of the plat, with a notice of intention to apply for patent, on the claim before filing his application for patent. At least two disinterested witnesses must sign an affidavit that the notice and plat have been posted on the claim. After the application for patent has been published for a period of sixty days, and after the necessary plats, notes, and affidavits, have been properly posted and filed, and upon payment of five dollars per acre for lode claims, and two dollars and fifty cents for placer claims, a register's certificate will be issued to the applicant, provided, that no contests are filed against the claim and fraud has not been committed.

Following is Section 2325 of the Revised Statutes, regarding the patenting of mineral lands:

"A patent for any land claimed and located for valuable deposits may be obtained in the following manner: Any person, association, or corporation authorized to locate a claim under this chapter, having claimed and located a piece of land for such purposes, who has, or have, complied with the terms of this chapter, may file in the proper land office an application for a patent under oath, showing such compliance, together with a plat and field notes of the claim or claims in common, made by or under the direction of the United States surveyor-general, showing accurately the boundaries of the claim or claims, which shall be distinctly marked by monuments on the ground, and shall post a copy of such plat, together with a notice of such application for a patent, in a conspicuous place on the land embraced in such plat previous to the filing of the application for a patent, and shall file an affidavit of at least two persons that such notice has been duly posted, and shall file a copy of the notice in such land office, and shall thereupon be entitled to a patent for the land, in the manner following: The register of the land office, upon the filing of such application, plat, field notes, notices, and affidavits, shall publish a notice that such application has been made, for the period of sixty days, in a newspaper to be by him designated as published nearest to such claim; and he shall also post such notice in his office for the same period. The claimant at the time of filing this application, or at any time thereafter, within the sixty days of publication, shall file with the register a certificate of the United States surveyor-general that five hundred dollars' worth of labor has been expended or improvements made upon the claim by himself or grantors; that the plat is correct, with such further description by such reference to natural objects or permanent monuments as shall identify the claim, and furnish an accurate description, to be incorporated in the patent. At the expiration of the sixty days of publication, the claimant shall file his affidavit, showing that the plat and notice have been posted in a conspicuous place on the claim during such period of publication. If

no adverse claim shall have been filed with the register and the receiver of the proper land office at the expiration of sixty days of publication, it shall be assumed that the applicant is entitled to a patent, upon the payment to the proper officer of five dollars per acre, and that no adverse claim exists; and thereafter no objection from third parties to the issuance of a patent shall be heard, except it be shown that the applicant has failed to comply with the terms of this chapter. This section was amended January 22, 1880, as follows:"

When Made by Authorized Agent:

"That section twenty-three hundred and twenty-five of the Revised Statutes of the United States be amended by adding thereto the following words: 'Provided, that where the claimant for a patent is not a resident of or within the land district wherein the vein, lode, ledge, or deposit sought to be patented is located, the application for patent and the affidavits required to be made in this section by the claimant for such patent may be made by his, her, or its authorized agent, where said agent is conversant with the facts sought to be established by said affidavits: And Provided, That this section shall apply to all applications now pending for patents to mineral lands.'"

Form for Application to U. S. Surveyor General for Surveys of Mining Claims:

.....
....., 19...

United States Surveyor-General,

Sir:, claimant... hereby make... application for an official survey, under the provisions of Chapter 6, Title 32, of the Revised Statutes of the United States, and regulations and instructions thereunder, of the mining claim known as the....., situated in..... mining district, county..... in section....., township No., Range No..... Said claim is based upon a valid location made on, 19....., and duly recorded on, 19....., and is fully described in the duly certified copy of the record of the location certificate, filed herewith. Said certificate contains the name of the locator, the date of location, and such a definite description of the claim by reference to natural objects or permanent monuments as will identify the claim, and said location has been distinctly marked by monuments on the ground, so that its boundaries can be readily traced. request that you send.....an estimate of the amount required to defray the expenses of platting and other work in your office, required under the regulations, that may make proper deposit therefore, and that thereupon you will cause the survey to be made by, United States mineral surveyor, and proper action to be taken thereon by your office, as required by the United States mining laws and regulations thereunder.

....., Claimant.

P. O. Address.....
.....County.
.....

Adverse Claim: Section 2326 Revised Statutes.

"Where an adverse claim is filed during the period of publication, it shall be upon oath of the person or persons making the same, and shall show the nature, boundaries, and extent of such adverse claim, and all proceedings, except the publication of notice and making and filing of the affidavit thereof, shall be stayed until the controversy shall have been settled or decided by a court of competent jurisdiction, or the adverse claim waived. It shall be the duty of the adverse claimant, within thirty days after filing his claim, to commence proceedings in a court of competent jurisdiction, to determine the question of the right of possession, and prosecute the same with reasonable diligence to final judgment; and a failure so to do shall be a waiver of his adverse claim. After such judgment shall have been rendered, the party entitled to the possession of the claim, or any portion thereof, may without giving further notice, file a certified copy of the judgment roll with the register of the land office, together with the certificates of the surveyor-general that the requisite amount of labor has been expended or improvements made thereon, and the description required in other cases, and shall pay to the receiver five dollars per acre for his claim, together with the proper fees, whereupon the whole proceedings and the judgment roll shall be certified by the register to the Commissioner of the General Land Office, and a patent shall issue thereon for the claim, or such portion thereof as the applicant shall appear, from the decision of the court, to rightly possess. If it appears from the decision of the court that several parties are entitled to separate and different portions of the claim, each party may pay for his portion of the claim with the proper fees, and file the certificate and description by the surveyor-general, whereupon the register shall certify the proceedings and judgment roll to the Commissioner of the General Land Office, as in the preceding case, and patents shall issue to the several parties according to their respective rights. Nothing herein contained shall be construed to prevent the alienation of a title conveyed by a patent for a mining claim to any person whatever."

This section was amended by Act of March 3, 1881, as follows:

"That if, in any action brought pursuant to section twenty-three hundred and twenty-six of the Revised Statutes, title to the ground in controversy shall not be established by either party, the jury shall so find, and judgment shall be entered according to the verdict. In such case costs shall not be allowed to either party, and the claimant shall not proceed in the land office or be entitled to a patent for the ground in controversy until he shall have perfected his title."

This section was further amended by Act of April 26, 1882, as follows:

"That the adverse claim required by section twenty-three hundred and twenty-six of the Revised Statutes may be verified by the oath of any duly authorized agent or attorney in fact of the adverse claimant cognizant of the facts stated; and the adverse claimant, if residing at the time being beyond the limits of the district wherein the claim is situated, may make oath to the adverse claim before the clerk of any court of record of the United States or the State or Territory where the adverse claimant may then be, or before any notary public of such State or Territory."

When there is any dispute over the rights of possession of the land it is necessary for the adverse claimant to file his adverse claim during the sixty day period of publication, and commence proceedings to determine the question of rights of possession within thirty days thereafter, but if no adverse claim is filed before the time for publication expires, application is then made for title to the ground, such application being accompanied by a sum equivalent to \$5.00 per acre or fraction thereof for lode claims, and \$2.50 per acre or fraction thereof for placer claims,

for which the Register will issue a duplicate receipt. The returns of the survey with the required approval of the Surveyor-General are then furnished to the Commissioner of the General Land Office in Washington, D. C., who upon approving the application, will issue the patent, which is a conveyance from the United States Government.

After the purchase price of the land has been accepted by the Land Office, for which a Register's certificate has been issued, no annual work need be performed.

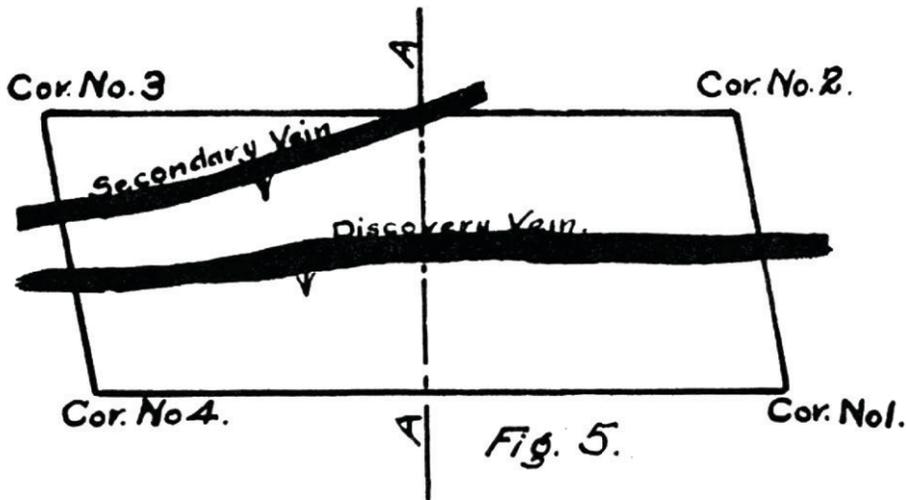
After obtaining patent the owner may sell, transfer, or otherwise dispose of said claim or claims in any manner desired. Upon receiving title from the Government the patentee is granted the exclusive right of possession and enjoyment of all the surface included within his claim, and of all veins, lodes, and ledges throughout their entire depth, the top or apex of which lies inside of his surface boundaries, and he may follow such veins, lodes, or ledges, downward indefinitely even though it may be necessary to pass outside of the vertical boundaries of his side lines. Such rights as granted by the Government, can only apply to such portions of the veins that lie between vertical planes passing through the end lines of the claim which must be parallel. These vertical planes are indefinite in size. (See Section 2322, Revised Statutes, page 29).

Such rights are known as "Extralateral Rights" and due to the many varied opinions and complications pertaining to the same it would not be proper nor possible to discuss the same, even briefly, within the limits of this bulletin.

Following are sketches illustrating what has been said above.

Figure 5 shows an ideal claim with two veins dipping in the same direction and figure 6 shows a section through AA in which an end view is seen.

The owner according to Section 2322, of the Revised Statutes, owns both veins, and can follow each, indefinitely in depth, beyond the vertical plane of the side lines passing through the corners 1 and 4 as shown in figure 5. The owner's rights to follow and mine the vein beyond the side



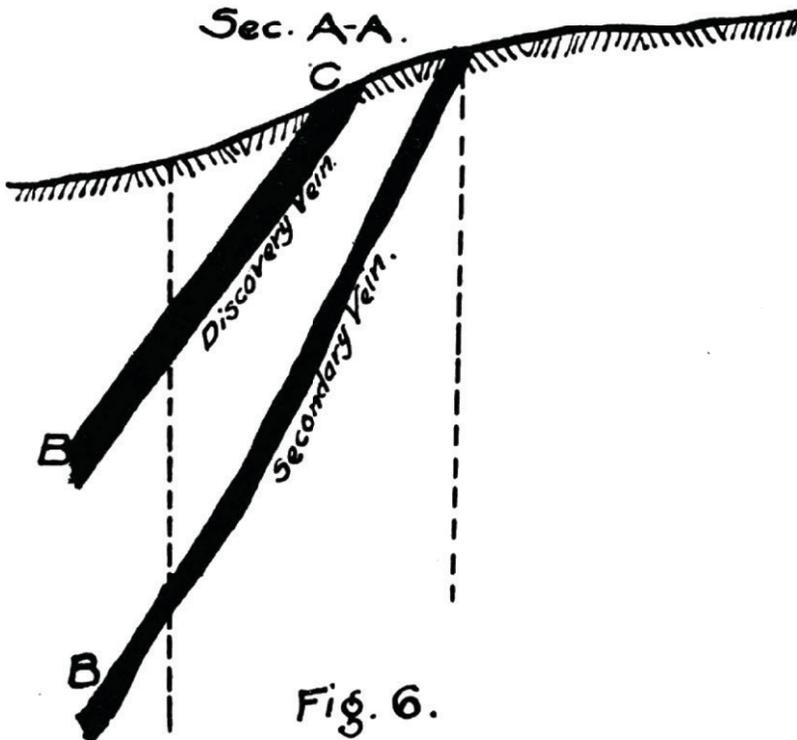


Fig. 6.

lines as at B in figure 6, are known as "Extraside Rights" or "Extralateral Rights." "C," figure 6, is the apex or top of the vein. In order to have any "Extralateral Rights" it is necessary to have the top or apex of the vein within the limits of one's claim, and the vein passing through at least one end line.

Apex should not be confused with outcrop as the latter may or may not be the apex. See figure 7.

AA is an outcrop, that is, where the vein comes to the surface, while "B" is the apex and an outcrop.

An outcrop is the exposed edge of the vein at the surface.

The apex of a vein is the top edge of the vein along its entire course. It may appear at the surface, or in the case of a blind vein, it may be at a considerable distance from the surface.

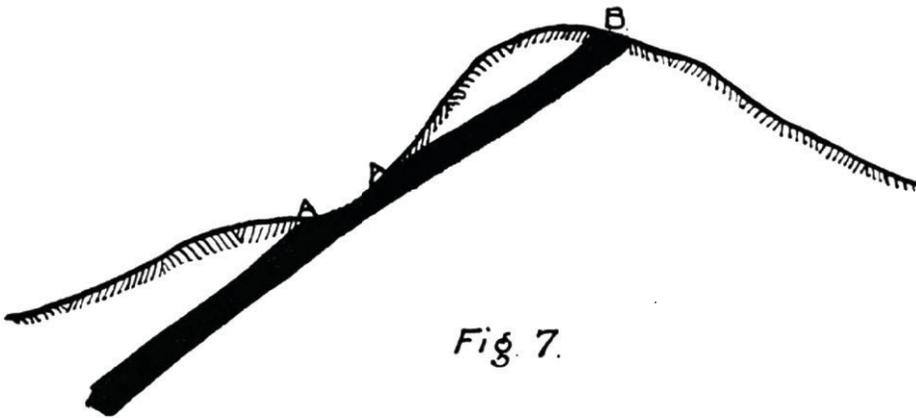


Fig. 7.



Fig. 8.

In figure 8, the outcrop is shown at D and the apex at E.

The claimant may by his extralateral rights, mine all ore in the main vein (figure 5) between the two vertical parallel planes passing through the end lines 1-2 and 3-4, and all ore from the secondary vein between two parallel vertical planes passing through corners 3-4 and the point where the secondary veins crosses the side lines 2-3.

Revised Statutes Pertaining to Rights of Possession and Extralateral Rights:

"Sec. 2322. The locators of all mining locations heretofore made, or which shall hereafter be made, or any mineral vein, lode, or ledge, situated on the public domain, their heirs and assigns, where no adverse claim exists on the tenth day of May, eighteen hundred and seventy-two, so long as they comply with the laws of the United States governing their possessory title, shall have the exclusive right of possession and enjoyment of all the surface included within the lines of their locations, and of all veins, lodes, and ledges throughout their entire depth, the top or apex of which lies inside of such surface lines extended downward vertically, although such veins, lodes, or ledges may so far depart from a perpendicular in their course downward as to extend outside the vertical planes drawn downward as above described, through the end lines of their location, so continued in their own direction that such planes will intersect such exterior parts of such veins or ledges. And nothing in this section shall authorize the locator or possessor of a vein or lode which extends in its downward course beyond the vertical lines of his claim to enter upon the surface of a claim owned or possessed by another."

"Sec. 2336 R. S. Where two or more veins intersect or cross each other, priority of title shall govern, and such prior location shall be entitled to all ore or mineral contained within the space of intersection; but the subsequent location shall have the right of way through the space of intersection for the purposes of the convenient working of the mine. And where two or more veins unite, the oldest and prior location shall take the vein below the point of union, including all the space of intersection.—Act of May 10, 1872."

PLACER LOCATIONS.

A placer claim, that is, a claim containing mineral deposits in a loose state or not in place, may be located in the same manner as a lode claim. See page 12. Mineral deposits which may be located as placer deposits are mentioned on page 10.

The area of one location may vary from twenty acres to one hundred and sixty acres, depending upon the number of locators. A corporation

or any qualified locator may not locate more than twenty acres in one location. A claim containing one hundred and sixty acres may be located by an association of eight locators.

One discovery of mineral is necessary for each location, whether it is a location of twenty acres by an individual or one of one hundred and sixty acres by an association of persons. A location having an area in excess of that allowed by the law, is void only as to the excess.

In Montana it is necessary to make a discovery, post a notice of location, erect corners, perform the discovery work, record the certificate of location, and perform the necessary annual labor for placer claims in the same manner as for lode claims.

The following are the sections of the Revised Statutes of the United States relating to placers:

Section 2329, Revised Statutes: "Claims usually called 'placers' including all forms of deposit, excepting veins of quartz, or other rock in place, shall be subject to entry and patent, under like circumstances and conditions, and upon similar proceedings, as are provided for vein or lode claims; but where the lands have been previously surveyed by the United States, the entry in its exterior limits shall conform to the legal subdivision of the public lands." (Act of July 9, 1870).

Section 2330. "Legal subdivisions of forty acres may be subdivided into ten-acre tracts; and two or more persons, or associations of persons, having contiguous claims of any size, although such claims may be less than ten acres each, may make joint entry thereof; but no location of a placer claim, made after the ninth day of July, eighteen hundred and seventy, shall exceed one hundred and sixty acres for any one person or association of persons, which location shall conform to the United States surveys; and nothing in this section contained shall defeat or impair any bona fide preemption or homestead claim upon agricultural lands, or authorize the sale of the improvements of any bona fide settler to any purchases."

Section 2331. "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 tenth day of May, eighteen hundred and seventy-two, shall conform as near as practicable with the United States system of public-lands surveys, and the rectangular subdivisions of such surveys, and no such location shall include more than twenty acres for each individual claimant; but where placer claims cannot be conformed to legal subdivisions, survey and plat shall be made as on unsurveyed lands; and where by segregation of mineral lands in any legal subdivision a quantity of agricultural land less than forty acres remains, such fractional portion of agricultural land may be entered by any party qualified by law, for homestead or preemption purposes." (Act of May 10, 1872).

A placer claim must be rectangular or square in shape, and it must conform to the subdivisions of the public land, that is, the boundaries must run as nearly as practicable, north and south, or east and west whether on surveyed or unsurveyed land.

No location may exceed twenty acres for one locator. A location greater than twenty acres but not in excess of forty acres must be made by two locators, one greater than sixty acres but not in excess of eighty acres must be made by four locators, and so on.

"Gulch Placers" may be located with the boundaries somewhat irregular, but if possible, the boundaries should run north and south, and east and west, as stated above.

All locations should be compact and regular in form. Long narrow locations or one grossly irregular will not be permitted.

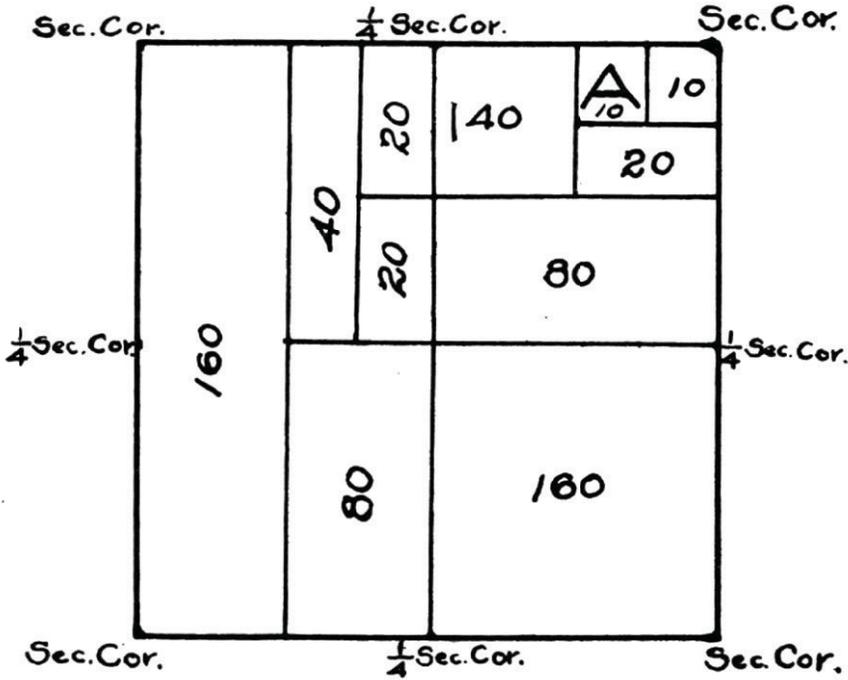


Fig. 9.

Figure 9 illustrates how public lands may be subdivided in order to take up various tracts as placer claims.

Form for Placer Location:

NOTICE OF PLACER LOCATION.

Notice is hereby given that the undersigned locator... and claimant... ha..... on this.....day of....., A. D. 19..... discovered a deposit of gold, or other valuable deposits, having a commercial value, and do..... hereby locate and claim same, which shall be known as Placer Mining Claim, and did on the same day post this notice at the point of discovery.

The dimensions of this claim are feet in a direction, and feet in a direction from the point of discovery, by feet on each side of middle of claim, containing acres.

Witnesses:

Locators and claimants:

.....

.....

Note: For each multiple of twenty acres in the located area or claim, there should be one qualified locator who must sign the notice of location.

This notice of location must be posted on the claim at or near the point of discovery.

Form for Certificate of Placer Location:

CERTIFICATE OF LOCATION

of the

..... Placer Mining Claim.

Know All Men by These Presents, That the undersigned, each of whom is a citizen of the United States, or has declared his intention to become such, did, on the.....day of....., 19....., discover a placer deposit bearing gold, and other minerals having a commercial value, and on the same day did locate and claim the same as the.....Placer Mining Claim, by posting a notice of location conspicuously at the point of said discovery, containing the name of said claim, the name... of the undersigned as locator..., the date of said location, and the approximate dimensions of such claim intended to be appropriated.

This claim is situated in.....Mining District (unorganized), in the County of....., State of Montana. The adjoining claims are as follows, to-wit:

- On the North....., the.....Claim;
- On theEast, the.....Claim;
- On the South....., the.....Claim;
- On theWest, the.....Claim;

Measured from the discovery..... of this claim as a starting point, the following natural objects and permanent monuments are distant as follows, to-wit: is distant..... feet in a..... direction; is distant feet in a.....direction.

Subsequent to the date of said location, to-wit, on the.....day of, 19....., the undersigned did distinctly mark said location on the ground so that its boundaries could be readily traced, in the following manner, to-wit:

Beginning at.....Corner No. 1, which is a.....

 and which is distant..... feet in a
 direction from the point of discovery, and running thence
 First Course: Direction,....., distance.....feet,
 to.....Corner No, 2, which is a.....

 and running thence
 Second Course: Direction,, distance.....feet,
 to.....Corner No. 3, which is a.....

..... and running thence
Third Course: Direction,....., distance.....feet,
to.....Corner No. 4, which is a.....

..... and running thence
Fourth Course: Direction,....., distance.....feet;

.....
to Corner No. 1, the place of beginning.

Within sixty days after posting said notice of location the under-
signed performed the following discovery work, to-wit:

At the point of discovery dug a.....of the
following dimensions, to-wit:.....

.....
constituting in all.....cubic feet of excavation, and said
work has disclosed at the point of discovery a valuable deposit of.....

.....
The undivided interest in the above described location, claimed by each
of the undersigned, is indicated by the fraction set after each name.

.....
.....
.....

Locator.... and Claimant....

STATE OF MONTANA, }
County of..... } ss.

.....being duly sworn on oath
says: That...he...is.....the locator... and
claimant... whose name.....signed to the foregoing

Certificate of Location; that ...he...has.....read the said Certificate, and knows the contents thereof, and that the matters and things therein stated are true of his own knowledge.

.....
Subscribed and sworn to, before me this.....day of.....
A. D., 19.....

.....
Notary Public in and for.....County, State of Montana.

The locators or claimants according to the state laws of Montana, may at their option set forth in the certificate of location a description of the discovery work, the corner monuments and markings thereon, and any other facts showing a compliance with the provision of the law. The certificate of location must be verified as in the case of a lode claim by some one of the locators or by an authorized agent. (See page 17).

Discovery Work and Annual Labor:

The same amount of discovery work is required for a placer claim as a lode claim, that is, the excavation of at least 150 cubic feet of material in which the mineral deposit has been disclosed. (See Lode Claim, Page 17).

The annual labor, which is the same as a lode claim must be performed in order to hold the placer location whether it be for a location of twenty acres or for a location by an association of eight locators for one hundred sixty acres.

Patenting Placer Claim:

A patent for a placer claim may be applied for in the same manner as a lode claim. (See Section 2325, Revised Statutes. Page 24.)

Vein or Lode Within Placer Claim:

“Sec. 2333. Where the same person, association, or corporation is in possession of a placer claim, and also a vein or lode included within the boundaries thereof, application shall be made for a patent for the placer claim, with the statement that it includes such vein or lode, and in such case a patent shall issue for the placer claim, subject to the provisions of this chapter, including such vein or lode, upon the payment of five dollars per acre for such vein or lode claim and twenty-five feet of surface on each side thereof. The remainder of the placer claim, or any placer claim not embracing any vein or lode claim shall be paid for at the rate of two dollars and fifty cents per acre, together with all costs of proceedings; and where a vein or lode, such as described in section twenty-three hundred and twenty, is known to exist within the boundaries of a placer claim which does not include an application for the vein or lode claim shall be construed as a conclusive declaration that the claimant of the placer claim has no right of possession of the vein or lode claim; but where the existence of the vein or lode in a placer claim is not known, a patent for the placer claim shall convey all valuable mineral and other deposits within the boundaries thereof.”

No person may legally prospect for a vein or lode, or locate a vein, if discovered, within the boundaries of a valid placer location without the consent of the placer claimant.

If a vein is discovered within the boundaries of a valid placer location by the placer claimant it will not be necessary to locate the vein as a

regular lode location, but when an application is made for a patent for the placer claim, the fact that the vein or lode exists within its boundaries should be stated, and an application for a patent for the vein or lode should then be included with the placer application. If a vein is known to exist, and it is not so stated in the application, the placer claimant will have no rights to the vein. The title to a vein found after the placer patent is issued, remains with the owner of the claim. No extralateral rights are granted for such a vein.

When a valuable vein is discovered within the lines of a placer location before an application is made for patent, it would be advisable for the placer claimant to locate the vein by making a regular lode location covering a tract twenty-five feet on each side of the vein, and not to exceed fifteen hundred feet in length, in order to avoid any possible future disputes. When such a vein is properly located and patented, extralateral rights are granted, otherwise no extralateral rights are attached to veins found within the placer location.

Placer claims must be paid for at the rate of two dollars and fifty cents per acre or fraction thereof provided they do not contain any veins or lodes. In case of a known vein the regular price of five dollars per acre for a strip of ground twenty-five feet on each side of the vein is required.

When forty-acre tracts are subdivided into ten-acre tracts, they must be in square form, and with the boundaries of the tracts running north and south, and east and west. Entry for such ten-acre tracts may be made after the usual proceedings without any additional surveys or plats, when on surveyed government land.

A tract of ten acres, as in "A." figure 9, page 31, may be described as the N. W. $\frac{1}{4}$ of the N. E. $\frac{1}{4}$ of the N. E. $\frac{1}{4}$ of the section in which the claim is located.

Forfeiture, Abandonment, Relocation, Co-Owners of Placer Claims:

The rules relating to forfeiture, abandonment, relocation, and rights of co-owners apply in the same manner for placer locations as for lode locations. (See pages 21 and 22).

Tunnel Claims: Location.

(See Section 2323, Revised Statutes, page 10).

After a tunnel has been started and enters cover, a location notice for the tunnel is required to be posted at or near the mouth of the tunnel. This notice should contain (1) the name or names of the locator or locators claiming the tunnel right, (2) the course and direction of the proposed tunnel, (3) the height and width of the tunnel and (4) the course and distance from the face to some natural and permanent objects in the vicinity. When the notice is posted, the claimant should establish the boundary lines by stakes or monuments placed along such lines at proper interval, and extending to the end of the proposed tunnel, that is, 3,000 feet from the first working face. These lines are so staked that there will exist definite boundaries within which prospecting or locating

of any previously unknown veins or lodes is prohibited while work on the tunnel is being prosecuted with reasonable diligence. (L. O. Reg.).

A copy of the tunnel location notice must be filed with the County Clerk and Recorder, to which notice must be attached a sworn statement or declaration of the owners, claimants, or projectors of such tunnel, setting forth the facts in the case; stating the amount expended by themselves and their predecessors in interest in prosecuting the work thereon; the extent of the work performed, and that it is bona fide their intention to prosecute work on the tunnel so located and described with reasonable diligence for the development of a vein or lode or for the discovery of mines, or both. This notice of location must be duly recorded, and, with the said sworn statement attached, kept on the Recorder's files for future reference.

Work must be performed in the tunnel with reasonable diligence. If the work in the tunnel is not performed for a period of six months, the right to all undiscovered veins on the line of the tunnel shall be considered as abandoned, and other locators may stake out lode claims on the surface which may contain such undiscovered veins.

The laws of Montana do not make known any requirements in regard to the location of a tunnel claim and the foregoing have been taken from Land Office Regulations.

No Patent for Tunnel Claim:

A tunnel claim cannot be patented, but all veins or lodes that are cut while driving the tunnel may be located by staking out the boundaries of a lode claim as prescribed by the laws for a regular lode location, and such lode claims may then be patented in the usual way. Money spent in driving the tunnel may be counted as annual labor in making application for patent for such lode claims as include the veins and lodes as cut by the tunnel.

Labor on Tunnel Claim:

By an Act of Congress, approved February 11, 1875, Section 2324, of the Revised Statutes, was amended, so that where a person or company has driven a tunnel for the purpose of developing a lode or lodes, the money so expended in the tunnel shall be taken and considered as expended on such lode or lodes, and that the owner or claimant shall not be required to perform any work on the surface of such lode or lodes in order to hold the same as required by laws pertaining to annual labor. (See page 20).

Staking Lode Claims on Surface:

The method for locating or staking out a lode claim which includes such vein or lode as cut by a tunnel right seems to have provoked many different opinions. The laws of location do not state any definite point as to where the location corners, or the discovery on any claim should be; that is, a location is not void if the discovery point is near one end line, or in the center of the claim, or even close to some corner, and it would therefore seem logical and valid to locate a claim on either

side of the tunnel for a distance of 1500 feet along the vein and in any direction, the distance to be measured in all cases from the tunnel, or to locate 1500 feet along such vein or lode so that a portion of the claim may lie on either side of the tunnel.

Millsites: Location of (See page 11).

Millsite claims may be located and recorded in the same manner as other claims except that no discovery work is required. When a millsite is located in connection with a lode claim, the certificate of location shall describe by appropriate reference such lode claims. (See location of Lode Claims, page 12).

Form for Millsite Location:

NOTICE OF MILLSITE LOCATION.

Notice is hereby given, that the undersigned claimant... and owner... of the.....Lode Claim, or.....Quartz Mill or Reduction Works, situated in the County of....., State of Montana, did, on this.....day of.....A. D. 19....., locate five acres of non-mineral land as the.....Millsite.

That, the approximate dimensions of area are..... feet by.....feet.

That this notice was posted on the same date at the..... Corner No. 1, from which the.....Corner No. 2 is approximatelyfeet in a.....direction, thence..... feet in a.....direction to.....Corner No. 3, thence.....feet in a.....direction to..... Corner No. 4, thence.....feet in a.....direction to the place of beginning.

Witnesses :

Locators and claimants:

.....
.....
.....

A certificate of location and a verification of the same must be filed with the County Clerk and Recorder of the County in which the millsite is located and must comply with all the requirements necessary in filing for a lode claim. (See page 18).

The millsite may be used in connection with the lode claims appurtenant thereto. It must be used for the erection of a mill, houses for workmen, warehouses, or other mining and milling purposes. No annual labor need be performed on a millsite.

Patenting Millsites:

An application for patent to a millsite may be included in the application for patent for the lode claim appurtenant thereto.

An application for patent to a millsite may also be made by an owner of a quartz mill or other reduction plant provided he does not own a

lode claim. He may make an application in the same manner as for a mining claim, and receive patent by paying \$5.00 per acre or fraction thereof but there must be no adverse rights.

Millsite for Owner of Patented Claims:

The owner of a patented lode claim may, by an independent application, secure a millsite if good faith is shown in its use or occupation in connection with the lode and no adverse claim exists.¹

¹Land Office Regulations.

Timber and Timber Lands:

By an Act of Congress, approved June 3, 1878, permission was granted to all persons who are residents of Montana, to cut and remove, for building, agricultural, mining, or other domestic purposes, any timber or other trees growing or being on the public lands, which were mineral and not subject to entry under existing laws of the United States, except for mineral entry, subject to such rules and regulations as the Secretary of the Interior may prescribe for the protection of the timber, etc. The above provisions do not extend to railroad corporations.

Timber may be cut on unpatented mining claims and used in connection with the same. Timber on patented claims may be cut and used as the owner sees fit.

Timber may be cut and used for mining purposes by a locator or claimant of a valid location on a forest reserve, and timber may also be cut and removed from a forest reservation by obtaining permission from the local forest ranger or supervisor and paying stumpage for the timber.

The Act of June 4, 1897, provides that: "The Secretary of the Interior may permit, under regulations to be prescribed by him, the use of timber and stone found upon such reservations, free of charge, by bona fide settlers, miners, residents, and prospectors for minerals, for fire wood, fencing, building, mining, prospecting, and other domestic purposes as may be needed by such persons for such purposes; such timber to be used within the state or territory respectively where such reservations may be located."

LEASING ACT.

Coal, Phosphate, Oil, Oil Shale, Gas, Sodium.

The Leasing Act as approved by Congress on February 25, 1920, is an act which relates to the mining and prospecting of mineral deposits of coal, phosphate, oil, oil shale, gas and sodium.

Lands Affected:

Any land containing such deposits as mentioned above, and owned by the Government, including those in National Forests, and lands entered or patented with such deposits reserved under laws to the United States, but excluding (1) land acquired under the act known as the "Appalachian Act," as approved March 1, 1911, and (2) those in National Parks, and (3) lands withdrawn or reserved for Military or Naval uses or purposes,

and (4) any land patented without such mineral deposits reserved to the United States, and (5) Indian Reservations, are affected by the passage of this act.

Title to Such Lands: Permit and Lease:

Title to such deposits on any Government lands cannot be obtained. A permit must be obtained from the Secretary of the Interior to prospect Government lands for such deposits, and a lease must be obtained to mine the deposits after the same have been found.

Who May Receive a Permit or Lease:

Only citizens of the United States, association of citizens, or any corporation, organized under the laws of the United States, or of any state or territory, may obtain permits or leases.

Cities or municipalities may obtain a permit to prospect for coal, oil, oil shale, or gas, or a lease to mine coal, oil, oil shale, or gas, but not for phosphate or sodium.

Aliens:

Aliens or citizens of another country may not own any interest by stock ownership, stock holding, or stock control, in any lease acquired under the Leasing Act unless his country grants similar or like privileges to citizens or corporations of the United States. An alien may not obtain a direct holding of a lease. Under certain conditions, American corporations, with alien stockholders, may obtain a lease.

Number of Leases Allowed:

Only one coal, phosphate, or sodium lease may be held during the life of such lease in any state, by any person, association, or corporation.

Only three gas or oil leases in any one state, and not more than one lease within the geologic structure of the same producing oil or gas field can be held by any one person, association, or corporation.

Only one oil shale lease can be obtained by any person, association, or corporation.

Unlawful Rights of Persons or Corporations:

A corporation may not hold an interest in more than the maximum number of leases, either by direct holding as a lessee, or indirectly as a stockholder in other corporations holding leases.

A corporation holding the maximum number of leases, for any kind of the above mentioned mineral deposits, may not hold any interest in any other association, or corporation having similar leases.

A person with a direct holding of a lease of any kind may hold an interest as a member of an association, or as a stockholder of a corporation holding a similar lease if the combined area embraced in the direct holding of a lease, and the area covered by other interests, does not exceed the maximum number of acres allowed for the respective kinds of mineral for any one lessee. Thus an individual may hold stock in any number of corporations holding oil or gas leases, provided his stock interests do

not represent a greater acreage than 2,560 acres in the same producing structure, or 7,680 acres in the same state. An individual may hold three leases directly for oil or gas, and one lease for coal, sodium, phosphate, or oil shale, and, at the same time hold a stock interest in a corporation having leases, provided his direct and indirect holdings do not exceed the maximum area for one person.

Any interests which are illegally held shall be forfeited to the United States by proceedings in the United States District Courts.

Interests Acquired by Descent, Will, Judgment, Etc.:

Any interest acquired by descent, will, judgment, or decree may be held for two years after its acquisition.

Lawful Combined Interests for Pipe Lines—Railroad:

Any number of lessees may combine their interests for the purpose of constructing and operating a refinery, or constructing and operating a common pipe line, or railroad, to be operated and used by them jointly in the transportation of oil from their wells, or from the wells of other lessees, or in the transportation of coal, provided application is made to the Secretary of the Interior, and permission is granted to combine such interests.

Unlawful Combined Interests:

Any land or deposits leased by any lessee which may be controlled by any unlawful trusts or combinations by the consent of the lessee, or any agreement made to control prices or output, or control an excessive area as provided, shall be forfeited by regular court proceedings.

Cancellation of Prospecting Permits:

Permits to prospect any government land may be cancelled by the Secretary of the Interior if the prospecting work is not carried on in a diligent manner, and according to the terms and conditions stated in the permit.

Application for Permits or Leases:

Application for permits, addressed to the Commissioner of the General Office, should be filed in the local land office for the district in which the lands or deposits desired for prospecting or leasing, are situated.

Permits and Leases on Land Patented With Mineral Rights Reserved:

When the surface rights have been disposed of by the government and the mineral rights reserved, a preference right for a prospecting permit or a lease in case of discovery, will be granted to the holder of such surface rights as stated under the various headings for each particular deposit.

A prospecting permit or lease which shall apply to all deposits of coal, phosphate, oil, oil shale, gas, or sodium, may be granted to any qualified person, association, subject to such conditions as are or may later be provided.

Right of Way for Pipe Lines:

Any qualified applicant will be granted a right of way through the public lands or forest reserves for a pipe line for the transportation of oil or natural gas, provided that the pipe line shall be constructed, operated and maintained as a common carrier. The right of way shall be for the tract of ground occupied by the pipe and 25 feet on each side, under such regulations as to the survey, location, application, and the use, as may be prescribed by the Secretary of the Interior.

Every lease of oil land shall provide that the lessee, assignee, or beneficiary, if owner, or operator, or owner of a controlling interest in a pipe line, or of any company operating the same, shall at reasonable rates and without discrimination convey the oil of the Government, or of any citizen or company not the owner of a pipe line, operating a lease or purchasing oil or gas as provided in the Leasing Act. If the above provisions are not complied with, a grant for a pipe line right of way will be forfeited.

Right of Way Over Lands Held Under Permit or Lease:

The Secretary of the Interior reserves the right to permit upon just terms, such easements, or rights of way, over any land, or through any tunnels, on any lands leased, occupied, or even subject to lease or occupation, as may be necessary to prospect or work any deposits described in the Leasing Act and likewise for the shipment and treatment of material produced.

Reserving of Surface Rights of Lands Leased:

The Secretary of the Interior may reserve as much of the surface rights in any one lease as will not be necessary for the use of the lessee in prospecting or working the deposit, and may lease, sell, or otherwise dispose of the same. When any surface rights are reserved by the Secretary of the Interior, such reservations must be stated in the lease.

Assigning, Sub-Leasing:

No lease shall be assigned or sub-let except with the consent of the Secretary of the Interior.

Relinquishment of Lease:

The lessee may, in the judgment of the Secretary of the Interior, be permitted to make a written relinquishment of all rights to a lease and if accepted shall be released of all further obligations. A lessee may also surrender any portion of the area in a lease which may be described by legal subdivisions.

Methods for Working Deposits:

Each lease shall contain the following provisions, provided that the provisions do not conflict with the laws of the state in which the leased land is situated:

1. Skill and care in the operation of the property.
2. Safety and welfare of miners.
3. Prevention of undue waste.

4. Working day of 8 hours for underground miners except in case of emergency.
5. Non-employment of any boy under sixteen years of age, or of any female without regard to age, in any mining operations below the surface.
6. Regulations to insure the fair and just weighing or measurement of coal mined by each miner.
7. Complete freedom of purchase for all workmen.
8. Payment of wages at least twice a month.
9. Sale of production to the United States and to the public at reasonable prices.
10. Protection of the interests of the United States.
11. Prevention of monopoly.
12. Safe-guarding of the public welfare.

COAL LANDS.

Permit and Lease:

A permit may be obtained from the Secretary of the Interior by any qualified applicant including municipalities, to prospect on government land for coal, or to explore such deposits, or to determine if the coal can be mined at a profit.

Such permits will be granted for a period of two years for a tract of land not exceeding 2,560 acres (4 sections).

Discovery of Coal by the Permittee—Lease:

If coal is discovered by any qualified permittee within the two-year period, and can be mined in commercial quantities, a lease will be granted without competitive bidding by the Secretary of the Interior for all or any part of the land included in the permit. The application for a lease should be filed in the proper district land office before the expiration of the period of the permit.

Railroads:

A company or corporation operating a common carrier railroad may hold a permit or lease for coal deposits, provided the coal is for its own use for railroad purposes. Such company or corporation may not hold more than one permit or lease for each 200 miles of its road, operated by steam within the state in which the coal deposits are located. Spurs, switches, and branch lines built to connect the leased area with the railroad, shall not be included in the above mileage.

Areas Leased:

Coal lands will be divided into 40-acre tracts or multiples thereof by the Secretary of the Interior upon the petition of any qualified applicant for a lease, but no tract will be leased which contains more than 2,560 acres (4 sections).

Method of Leasing:

Leases may be obtained by competitive bidding or by any other method adopted by the Secretary of the Interior, provided that a notice of such

lease has been given for 30 days in a newspaper in the county in which the land, or coal deposits are situated.

Application for Leases for Land Occupied and Improved:

The Secretary of the Interior is authorized in awarding leases to consider, and recognize equitable rights of persons who, prior to February 25, 1920, have improved, occupied, or claimed the lands offered for leasing.

Leasing Additional Land.

When a deposit held under any valid lease shall be worked out in three years, the Secretary of the Interior may lease to the lessee an additional tract of land or coal deposits, upon the same conditions as the original lease, but the combined area of the unworked deposits in the original lease, and the area of the additional lease must not exceed 2,560 acres.

Consolidation of Leases:

A number of lessees may surrender their original leases, and then consolidate their leases by including in a new lease such areas, not to exceed 2,560 acres of adjoining land, provided the same is approved by the Secretary of the Interior.

Non-contiguous Land:

The Secretary of the Interior may allow a single lease for non-contiguous coal land not exceeding 2,560 acres, which may be operated as a single lease.

Royalties and Rentals:

The amount of royalty will be specified in the lease but it will not be less than five cents per ton of 2,000 pounds mined. An annual rental must also be paid in advance. Such rental will be specified in the lease, and will not be less than twenty-five cents per acre for the first year, fifty cents an acre for the second, third, fourth, and fifth years, and not less than one dollar per acre for each year thereafter during the period of the lease.

All rentals for any year will be credited against the royalties as they accumulate for that year.

Period of Lease:

A lease may be granted for intermediate periods provided the deposits are worked continuously and in a diligent manner, except when interrupted by strikes or other causes not attributal to the lessee. At the end of twenty years the Secretary of the Interior may make any changes in the terms and conditions of the lease as he determines, unless provided otherwise by law. The Secretary of the Interior may permit the suspension of operations under such lease for a period not to exceed six months at any one time when market conditions are such that the mine cannot operate except at a loss.

License to Cities and Individuals for Domestic Purposes:

Cities may obtain a limited license or permit from the Secretary of the Interior for the purpose of mining coal and disposing of the same

to the residents of the city for household use. The land is to be selected within the same state in which the city is located. The amount of land allowed in a permit is as follows: Not more than 320 acres for a city having less than 100,000 population, and not more than 1,280 acres for a city having 100,000 to 150,000 population, and not more than 2,560 acres for a city having a population greater than 150,000. When such a limited license or permit is granted, no royalty or rental is charged provided the coal is sold to the residents without profit. When a limited license or permit is held by a city, it will in no way interfere with a regular lease held by the city for coal land as provided in the Leasing Act.

Individuals or associations of individuals may obtain a limited license or permit to prospect, mine, and take coal from public lands for their own use without the payment of royalty or rental. Under no conditions may coal mined under such a limited license be sold.

A corporation may not obtain a limited license or permit.

PHOSPHATE LANDS.

Government land containing deposits of phosphate may be leased by the Secretary of the Interior to any qualified person through advertisement, competitive bidding, or any other method that he may adopt.

Size of Lease—Shape:

No lease may be obtained for more than 2,560 acres (4 sections) which must be described by legal subdivision when on surveyed land. All leased land must be in compact form and its length must not be more than two and one-half times its width.

Lease on Unsurveyed Land:

If a lease is applied for on unsurveyed land, the land will be surveyed by the Government at the expense of the applicant, in accordance with the rules and regulations prescribed by the Secretary of the Interior, and the lands leased must conform to legal subdivisions.

Royalties and Rentals:

All royalties shall be specified in the lease by the Secretary of the Interior, but in no case shall they be less than two per cent of the gross value of the output of phosphates or phosphate rock at the mine.

An annual rental, payable in advance, shall be fixed by the Secretary of the Interior but in no case shall it be less than 25 cents per acre for the first year, 50 cents per acre for the second, third, fourth and fifth years, and \$1.00 per acre for each and every year thereafter during the life of the lease. Such rentals shall be credited against the royalties for that year.

Period of Lease:

Leases shall be for an intermediate period upon condition of a minimum annual production, except where strikes, not attributable to the lessee, interfere with the operation.

At the end of each 20-year period the Secretary of the Interior may make any readjustments of terms and conditions as he finds necessary, unless otherwise provided by law at the end of such periods.

Suspension of Operations:

The Secretary of the Interior may permit the suspension of operations for a period not exceeding twelve months at any one time when market conditions are such that work cannot be continued except at a loss to the lessee.

Additional Lands:

Any lessee may obtain a permit for additional surface rights not to exceed 40 acres of unappropriated land for the purpose of prospecting, development, extraction, treatment, and removal of such phosphate deposits.

OIL AND GAS LANDS.**Permit for Unappropriated Lands:**

A permit to prospect for oil and gas may be obtained from the Secretary of the Interior by any qualified applicant for a period not exceeding two years upon a tract of unappropriated government land not exceeding 2,560 acres.

No Permits for Land in Known Oil or Gas Field:

No permit will be granted for land within any known geological structure of a producing oil or gas field.

Location of Lands:

Any land for which a permit shall be applied for must be located in a compact form according to legal subdivisions, if surveyed, and in approximately square or rectangular form if on unsurveyed land, the length of which must not be more than two and one-half times its width. In contiguous tracts may be located under certain conditions due to prior locations. All locations must be made before filing an application for a permit.

Preference Right to a Permit:

Any applicant shall be entitled to a preference right to a permit for a period of thirty days, after erecting a monument not less than four feet high and not less than four inches square or in diameter, at some conspicuous place on the land located, and after posting a proper notice in writing on or near such monument. Such notice must contain the date, and hour of posting, name of applicant, a description of the land to be covered by the permit by reference to courses and distances from the monument and from any other natural object and permanent monuments as will identify the land, stating the area in acres thereof, and also stating that an application for a permit will be made within thirty days after posting such notice.

Terms and Conditions of Permit:

Within 90 days after receiving permit, the corners of the land included in the permit must be marked with substantial monuments and a notice,

stating that a permit has been granted and giving also, a description of the land included in the permit, must be posted at some conspicuous place.

Work Required:

Drilling operations must begin within six months from the date of permit.

Within one year, one or more wells, not less than six inches in diameter, must be drilled to a depth of not less than 500 feet each, unless valuable deposits of oil are discovered at less depth.

Within two years one or more wells to a depth of not less than 2,000 feet must be drilled unless valuable deposits are sooner discovered.

A permit may be extended for a period of two years by the Secretary of the Interior when the permittee has not been able to prospect the ground properly.

Location of Wells:

No wells may be drilled for oil or gas within 200 feet of the outer boundaries of the land covered by a permit or lease, unless the adjoining lands have been patented or title otherwise held by private owners.

Precautions when Drilling:

A permit shall be granted only upon the conditions that all necessary precautions will be taken to prevent the waste of any oil or gas developed in the land, and to prevent any water from entering the wells drilled, which may in any way cause or injure the oil or gas deposits. A permit shall be forfeited if the above precautions are not observed while drilling.

Extension of Life of Permit:

If the permittee is unable, with the exercise of diligence, to test the land within two years, an application for an extension of time, not to exceed two years may be filed during the period of the permit. Reasons must be given for applying for such extension of time.

Discovery of Oil or Gas:

When oil or gas is discovered on lands covered by a valid permit, the permittee shall be entitled to lease one-fourth of the land held under the permit, or in any case, the permittee shall be entitled to lease 160 acres if there are that many acres within the permit.

The permittee shall also be entitled to a preference right to lease the remainder of the land covered by his prospective permit, but the same may be obtained only by competitive bidding, or by any other method prescribed by the Secretary of the Interior.

Royalty Before Applying for Lease:

The royalty on all oil or gas produced upon lands held by a permit will be twenty per cent of the gross value until such time as the permittee makes application for a lease for the one-quarter of the permit area.

Description of Land Selected for Lease:

All lands selected for leasing must be in compact form and described by legal subdivision of the public land surveys.

When tracts are selected on unsurveyed land they shall be surveyed by the government in proper manner and at the expense of the applicant for a lease.

Life of Lease:

Leases shall be for periods of twenty years and the lessee may also have a preference right to renew his lease for periods of ten years upon terms prescribed by the Secretary of the Interior.

Royalties and Rental upon Leased Land:

The royalty charged upon leased lands included in the one-fourth of the original permit will be five per cent in amount of oil or gas, or in actual value of the production.

The royalties in all other leases for oil or gas shall be determined by competitive bidding, or by other methods as prescribed by the Secretary of the Interior, but shall not be less than twelve and one-half per cent in amount or value of production.

The annual rental for all leases for oil or gas lands shall be one dollar per acre, payable in advance, and the rental paid will be credited against the royalties as they accumulate for that year.

Reduction of Royalty:

Whenever the average daily production of any oil well does not exceed ten barrels the Secretary of the Interior is authorized to reduce the royalty on future production, provided that the wells cannot be successfully operated upon the royalties fixed in the lease. The royalty upon any gas lease will likewise be reduced when the production decreases so that the well cannot be operated except at a loss.

Leasing of Land in a Producing Oil or Gas Field:

All land or deposits within the known geological structure of a producing oil or gas field may be leased to the highest qualified bidder for an area not exceeding six hundred and forty acres. Such area shall not exceed in length two and one-half times its width.

The royalty on such deposits will not be less than twelve and one-half per cent in amount or value of production, and the annual rental not less than one dollar per acre.

Preference Right of Owner of Surface:

A preference right to a permit and to a lease in case of discovery, will be granted to any one who has entered, or patented an agricultural tract with the mineral rights reserved, provided the land was not withdrawn or classified as oil or gas land at the time of entry. A like permit and lease will be granted to an assignee where the assignment was made prior to January 1, 1918. Such a permit or lease will not be granted on lands included in any railroad grant.

A joint application for a permit not to exceed 2,560 acres may be made by the holders of such lands within an area not greater than a township (36 sections). The royalty and conditions of a lease, in case of discovery will be the same as stated before.

Application by Other Persons:

An application for a permit for entered or patented lands, where the oil and gas has been reserved may be filed by a person other than the entryman or owner of the land, provided that the applicant serve personal notice of such application upon the owner or owners of the land. Upon receiving such notice, the owner of the land must file an application within thirty days in the proper local land office, if he desires to exercise his preference right, if any, to a permit for such land. The preference right applicant must furnish evidence that personal notice was served on the owner, and that the party served is the owner of the land involved.

Government to Extract Helium from Gas:

The Government reserves the right to extract helium from all gas produced from land permitted, leased, or otherwise granted under the provisions of the Leasing Act.

OIL SHALE LANDS

The Secretary of the Interior is authorized to lease any deposits of oil shale belonging to the United States to any qualified person or corporation, and under such rules and regulations as he may prescribe.

Size of Lease:

No lease shall be granted for an area exceeding 5,120 acres (8 sections) which must be described by legal subdivision. When the land is unsurveyed it will be surveyed by the government, but at the expense of the applicant for lease.

Period of Lease:

A lease will be granted for indeterminate periods upon such conditions as the Secretary of the Interior may include, relative to the methods of mining, development, and prevention of waste.

Royalties and Rental:

The royalty charged for an oil shale lease will be specified in the lease, and the annual rental, payable at the beginning of each year, will be fifty cents per acre. The rental paid will be credited against the royalties. The royalties may be readjusted at the end of each twenty year period.

In order to encourage production of petroleum products, the payment of the annual rental and royalty may be waived by the Secretary of the Interior for the first five years of such lease.

Claims Held Under Former Laws:

Any person having a valid claim under existing laws of January 1, 1919, and who relinquishes the same to the United States, will be entitled to a lease for such area of the land relinquished as shall not exceed 5,120 acres (8 sections).

Anyone who has been found guilty of fraud, or who has knowledge of fraud, or who has been dishonest shall not be entitled to such a lease.

Only one lease shall be granted to any person, association or corporation.

SODIUM LANDS**Permit:**

A permit to prospect for deposits containing sodium as chlorides, sulphates, carbonates, borates, silicates, or nitrates, for a period of two years, shall be granted to any applicant for an area not to exceed 2,560 acres, in a reasonably compact form, by legal subdivision if surveyed; if unsurveyed by metes and bounds description.

Lease:

If a valuable discovery of such deposits is made within two years, the permittee shall be entitled to a lease for one-half of the land included in the permit, but not to exceed 1,200 acres according to legal subdivisions. If the land containing such deposits is unsurveyed, it will be surveyed by the government at the expense of the permittee. The permittee has also a preference right to lease the remaining one-half of the land included in his permit.

Royalty:

The lands shall be leased at a royalty of not less than twelve and one-half per cent of the amount or value of the production.

Known Deposits of Sodium:

Lands known to contain deposits of sodium and not held by permits or leases, may be leased through the Secretary of the Interior by advertisement, competitive bidding, or as he may adopt, and in any area not to exceed 2,560 acres.

Rental:

The annual rental shall be paid in advance at a rate of fifty cents per acre for the first calendar year or fraction thereof, and one dollar per acre per annum thereafter. Rentals shall be credited against the royalties for each year.

Period of Lease:

Leases shall be for indeterminate periods subject to readjustment at the end of each twenty year period.

Additional Lands:

An additional forty-acre tract of unoccupied, non-mineral land may be rented to a permittee or a lessee of sodium deposits at the rate of twenty-five cents per acre, for camp sites, refining works, and other purposes connected with and necessary to the proper development and the use of the deposits covered by the permit or lease.

MINING LAWS OF MONTANA

REVISED CODES OF 1921.

Location and Record of Mining and Millsite Claims.

- Section 7365. Discovery-Notice Marking Boundaries-Sinking Shaft.
- “ 7366. Record of Certificate of Location.
 - “ 7367. Placer Locations Heretofore Made, Effect of.
 - “ 7368. Annual Work-Affidavit-Contents-Record.
 - “ 7369. Millsites.
 - “ 7370. Relocation of Abandoned Claim.
 - “ 7371. Rights of Relocator.
 - “ 7372. Amended Location.
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 - “ 7375. Rights of Third Persons Not Affected.
 - “ 7376. Validating Locations Heretofore Made.
 - “ 7377. Defective Locations Good Against Persons With Notice.
 - “ 7378. Effect of Patent.
 - “ 7379. Amended Locations.
 - “ 7380. Effect of Amended or Additional Declaratory Statement.
 - “ 7381. Location of Mining Claims on State Land.
 - “ 7382. Owners of Mines Have Right-of-way.
 - “ 7383. Right-of-way for Road or Ditch.
 - “ 7384. Proceedings to Obtain Right-of-way.

Section 7365. Discovery—Notice—Marking—Boundaries—Sinking Shaft.

Any person who discovers, upon the public domain of the United States, within the State of Montana, a vein, lode or ledge of rock in place, bearing gold, silver, cinnabar, lead, tin, copper or other valuable deposits, or a placer deposit of gold, or other deposit of minerals having a commercial value which is subject to entry and patent under the mining laws of the United States, may, if qualified by the laws of the United States, locate a mining claim upon such vein, lode, ledge or deposit, in the following manner, viz.:

I. He shall post, conspicuously, at the point of discovery a written or printed notice of location, containing the name of the claim, the name of the locator (or locators, if there be more than one), the date of the location, which shall be the date of posting such notice, and the approximate dimensions of area of the claim intended to be appropriated.

II. Within thirty days after posting the notice of location, he shall distinctly mark the location on the ground so that its boundaries can be readily traced. It shall be prima facie evidence that the location is properly marked if the boundaries are defined by a monument at each corner or angle of the claim, consisting of any one of the following kinds:

(1) A tree at least eight inches in diameter, and blazed on four sides. (2) A post at least four inches square by four feet six inches in length, set one foot in the ground, unless solid rock should occur at a less depth, in which case the post should be set upon such rock, and surrounded in all cases by a mound of earth or stone at least four feet in diameter by two feet in height. A squared stump, of the requisite size, surrounded by such mound, shall be deemed the equivalent of a post and mound. (3) A stone at least six inches square by eighteen inches in length, set two-thirds of its length in the ground, with a mound of earth or stone alongside at least four feet in diameter by two feet in height, or (4) a boulder at least three feet above the natural surface of the ground on the upper side.

Where other monuments, or monuments of lesser dimensions than those above described, are used, it shall be a question for the jury, or for the court where the action is tried without a jury, as to whether the location has been marked upon the ground so that its boundaries can be readily traced. Whatever monument is used, it must be marked with the name of the claim and the designation of the corner, either by number or cardinal point.

III. Within sixty days after posting such notice, he shall sink a shaft upon the vein, lode or deposit, at or near the point of discovery, to be known as the discovery shaft. Such shaft shall be sunk to the depth of at least ten feet, vertically, below the lowest part of the rim of such shaft at the surface, or deeper if necessary to disclose the vein or deposit located, and the cubical contents of such shaft shall be not less than one hundred and fifty cubic feet; provided, that any cut or tunnel which discloses the vein, lode or deposit located at a vertical depth of at least ten feet below the natural surface of the ground and which constitutes at least one hundred and fifty cubic feet of excavation, shall be deemed the equivalent of such shaft, and, provided also, that, where the vein, lode or deposit located is disclosed at a less vertical depth than ten feet, any deficiency in the depth of the discovery shaft, cut or tunnel may be compensated for by any horizontal extension of such working, or by any excavation done elsewhere upon the claim, equaling, in cubical contents, the cubical extent of such deficiency; but in every case at least seventy-five cubic feet of excavation shall be made at the point of discovery.

Section 7366. **Record of Certificate of Location.**—Within sixty days after posting the notice of location and for the purpose of constituting constructive notice of the location, the locator shall record his location in the office of the County Clerk of the county in which such mining claim is situated. Such record shall consist of a certificate of location containing:

1. The name of the lode or claim.
2. The name of the locator or locators, if there be more than one.
3. The date of location, and such description of said claim, with reference to some natural object or permanent monuments, as will identify the claim.

IV. In the case of a lode claim, the direction and distance claimed along the course of the vein each way from the discovery shaft, cut or tunnel, with the width claimed on each side of the center of the vein.

V. In the case of a placer claim, the dimensions or area of the claim, and the location thereon of the discovery shaft, cut or tunnel.

VI. The locator and claimant, at his option, may also set forth, in such certificate of location, a description of the discovery work, the corner monuments and the markings thereon, and any other facts showing a compliance with the provisions of this law.

Such certificate of location must be verified, before some officer authorized to administer oaths, by the locator, or one of the locators, if there be more than one, or by authorized agent. In the case of a corporation, the verification may be made by any officer thereof, or by an authorized agent. When the verification is made by an agent, the fact of the agency shall be stated in the affidavit.

A certificate of location so verified, or a certified copy thereof, is prima facie evidence of all facts properly recited therein.

Section 7367. **Placer Locations Heretofore Made—Effect of.** All placer mining locations or locations of valuable mineral deposits, which have heretofore been recorded in the office of the County Clerk or Recorder, have the same force and effect as though such records had been authorized by law, except in cases where the rights of third persons had been acquired before the passage of this code; and such record is entitled to be admitted in evidence in any court.

Section 7368. **Annual Work—Affidavit—Contents—Record.** The owner of a lode or placer claim who performs or causes to be performed the annual work or makes the improvements required by the laws of the United States, in order to prevent the forfeiture of the claim, may, within twenty days after the annual work, file in the office of the county clerk of the county in which such claim is situated an affidavit of his own, or an affidavit of the person who performed such work or made the improvements, showing:

1. The name of the mining claim, and where situated.
2. The number of days work done, and the character and value of the improvements placed thereon;
3. The date of performing such work, and of making the improvements;
4. At whose instance the work was done or the improvements made;
5. The actual amount paid for work and improvements, and by whom paid when the same was not done by the owner.

Such affidavits, or a certified copy thereof, are prima facie evidence of the facts therein stated.

Section 7369. **Mill Sites.** Mill site claims may be located and recorded in the same manner as other claims, except that no discovery or discovery work is required. Where a mill site claim is appurtenant to a mining claim, the certificate of location of such mill site claim shall describe, by appropriate reference, the mining claim to which it is appurtenant.

Section 7370. **Relocation of Abandoned Claim.** The relocater of an abandoned or forfeited mining claim may adopt as his discovery any shaft or other working, existing upon such claim at the date of the relocation,

in which the vein, lode or deposit is disclosed, but, in such shaft or other working, he shall perform the same discovery work as is required in the case of an original location.

Section 7371. **Rights of Relocator.** The rights of a relocator of any abandoned or forfeited mining claim, hereafter relocated, shall date from the posting of his notice of location thereon, and, while he is duly performing the acts required by law to perfect his location, his rights shall not be affected by any re-entry or resumption of work by the former locator or claimant.

Section 7372. **Amended Location.** A locator or claimant may at any time, amend his location and make any change in the boundaries which does not involve a change in the point of discovery as shown by the discovery shaft by marking the location as amended upon the ground, and filing an amended certificate of location conforming to the requirements of an original certificate of location. A defect in a recorded certificate of location may be cured by filing an amended certificate.

Section 7373. **Relocation by Owner.** A locator or claimant may, at any time, re-locate his own claim for any purpose, except to avoid the performance of annual labor thereof, and, by such re-location, may change the boundaries of his claim, or the point of discovery, or both, but such re-location must comply, in all respects, with the requirements of this law as to an original location.

Section 7374. **Amendment or Relocation Not a Waiver of Acquired Rights.** Where a locator or claimant amends or relocates his own claim, such amendment or re-location shall not be construed as a waiver of any right or title acquired by him by virtue of the previous location or record thereof, except as to such portions of the previous location as may be omitted from the boundaries of the claim as amended or re-located.

As to the portion of ground included both in the original location and the location as amended or relocated, he may rely either upon the original location or the location as amended or re-located, or upon both. Provided, that nothing herein contained shall be construed as permitting the locator or claimant to hold a tract which does not include a valid discovery.

Section 7375. **Rights of Third Persons not Affected.** No amendment or re-location of a mining claim by the locator or claimant thereof shall interfere with the right of any third person existing at the time of such amendment or re-location.

Section 7376. **Validating Locations Heretofore Made.** All mining locations, made and recorded under the laws of this State, heretofore in force, that in any respect have failed to conform to the requirements of such laws, shall, nevertheless, in the absence of the rights of third persons accruing prior to the passage of this Act, be valid if the making and recording of such locations conform to the requirements of this Act.

Section 7377. **Defective Locations Good Against Persons With Notice.** The period of time prescribed by this law for the performance of any act, shall not be deemed mandatory where the act is performed before the rights of the third persons have intervened, and no defect in the posted

notice or recorded certificate shall be deemed material, except as against one who has located the same ground, or some portion thereof, in good faith and without notice. Notice to an agent, who makes a location in behalf of another, shall be deemed notice to his principal and notice to one of several co-claimants shall be deemed notice to all.

Section 7378. Effect of Patent. The issuance of a United States patent for a mining claim shall be deemed conclusive that the requirements of the laws of this State relative to the location and record of such mining claim have been duly complied with; provided, however, that where questions of priority are involved the date of the location shall be an issuable fact where it is claimed to have been prior to the date of the record of the location.

Section 7379. Amended Locations. If at any time the locator of any mining claim heretofore or hereafter located, or his successors or assigns shall apprehend that his original declaratory statement was defective or erroneous, or that the requirements of law had not been complied with, or shall be desirous of changing his boundaries, or taking any part of an overlapping claim which has been abandoned, or in case his original declaratory statement was filed prior to the passage of this law, and he shall be desirous of securing the benefit of this Act, such locator, or his successors or assigns, may file an additional or amended declaratory statement, subject to the provisions of this Act; provided that such relocation or filing of an amended or additional declaratory statement shall not interfere with the existing rights of others at the time of such relocation or filing of the amended or additional declaratory statement, and no such relocation or amended or additional declaratory statement, or other record thereof, shall preclude the claimant or claimants from proving any such title as he or they may have held under the previous location and notice thereof.

Section 7380. Effect of Amended or Additional Declaratory Statement. Any amended or additional declaratory statement which may have heretofore been filed by a locator, or his successors or assigns, shall have the same force and effect and be subject to the same terms and conditions as though the same had been filed under the provisions of the proceeding section.

Section 7381. Location of Mining Claims on State Lands. The location of mining claims upon state land is provided for by sections 1905 and 1906 of the Political Code. (See page 67.)

Section 7382. Owners of Mines have Right-of-way. The owner of a mining claim held under the laws of the United States by patent or otherwise, or under the local laws and customs of the state, has a right-of-way over and across the land or mining claim, patented or otherwise, of another, as prescribed in this chapter.

Section 7383. Right-of-way for Road or Ditch. Whenever a mine or mining claim is so situated that it cannot be conveniently worked without a road thereto, or a ditch to convey water thereto, or a ditch or cut to convey the water therefrom, or without a flume to carry water and tailings therefrom, or without a shaft or tunnel thereto, which road, ditch,

cut, flume, or tunnel must necessarily pass over, under, through, or across any lands or mining claims owned or occupied by another, such owner is entitled to a right-of-way for said road, ditch, cut, flume, shaft, or tunnel over, under, through, and across the lands or mining claims belonging to another, upon compliance with the provisions of this chapter.

Section 7384. **Proceedings to Obtain Right-of-way.** Whenever such owner desires to work a mine or mining claim, and it is necessary to enable him to do so successfully and conveniently that he should have a right-of-way for any of the purposes mentioned in the foregoing sections; and, if such right-of-way has not been acquired by agreement between him and the owner of the land or claims over, under, across, and upon which he seeks to establish such right-of-way, it is lawful for him to present to the judge of the district court a complaint asking that such right-of-way be awarded to him. The complaint must be verified, and contain a particular description of the character and extent of the right sought, a description of the mine or mining claim of the owner, and the mining claim or claims and the lands to be affected by such right-of-way, with the names of the occupants or owners thereof, and may also set forth any tender or offer hereinafter mentioned.

LOCATION OF MINING CLAIMS ON STATE LANDS.

Section 1905. Location of Mining Claims on State Lands.

Section 1906. Proof of Mineral Character of Land.

Section 1891. Lands Valuable for Stone.

Section 1905. **Location of Mining Claims on State Lands.** Locations of mining claims not exceeding six hundred (600) feet in width and fifteen hundred (1500) feet in length, each, may be made upon lands belonging to the State as follows: The discoverer of a body of mineral in either a vein, lode or ledge, or mineral in a placer deposit, shall immediately post conspicuously a notice that he has made such a discovery, on the date stated in such notice, and shall complete such location in all respects as prescribed by the laws of this State for the location of mining claims upon the public lands of the United States, except that no notice of such location need be recorded in the office of the County Clerk, but such notice shall be filed with the Register of State Lands. Such procedure shall empower the locator to retain possession of and operate said claim for the period of one year, at the end of which time he shall be required to purchase said claim at ten dollars per acre or take a lease thereof at such price, or upon such terms as may be agreed upon between him and the State Board of Land Commissioners.

Section 1906. **Proof of Mineral Character of Land.** Before the locator will be allowed to purchase the claim located by him, satisfactory proof at a hearing, if deemed necessary, must be submitted to the State Board of Land Commissioners, that such claim is more valuable for mineral purposes than for any other purpose, and that the same contains a body of mineral in place, or a placer deposit, of sufficient value to justify the operation of the same as a present fact; provided, that no mining claim shall be located upon any coal or oil lands; and, provided, further, that

all hearings under the provisions of this section shall be had before the contest board with like procedure as other contested cases; and provided, further, that no lands classified under Subdivision 4 of the classification in the constitution shall be sold as mineral lands, but the mineral therein may be sold separately from the surface.

Section 1891. **Lands Valuable for Stone.** Whenever it shall appear to the State Board of Land Commissioners that there is a deposit of stone valuable for building, mining, or other commercial purposes upon any section or subdivision of State land, the Board shall not lease the same for any purpose except for the extraction and working of the stone and then upon a royalty basis only, upon such terms as the Board shall prescribe. The Board may lease the remainder of the section or subdivision for agriculture, grazing or other purposes, as may appear for the best interests of the State, as other State lands are leased; but shall provide in all such cases for a right of way across said State land or any adjoining State land for all purposes connected with the working and disposition of the stone.

SALE, LEASES AND RENTALS OF STATE LANDS.

REVISED CODES 1921.

Section 1846. **Coal Lands—What Deemed—Selection.**

Section 1852. **Sale of State Lands—Reservation of Coal, Oil and Gas.**

Section 1882. **Leasing of Land.**

Section 1883. **Lands—How Leased.**

Section 1890. **Rental of Coal Lands.**

Section 1846. **Coal Lands—What Deemed—Selection.** All coal areas in the State after final examination are defined by the United States geological survey, or other authority under the government of the United States, shall be recognized by the authorities of this State as coal lands, until otherwise determined; and no such lands shall be sold, but such lands may be leased by the State to any person or persons, company or corporation, but only on a royalty basis as herein provided; provided, however, that the surface rights of such land may be sold or may be leased for either agricultural or grazing purposes, but any other State lands may be designated as coal lands by the State Board of Land Commissioners, and withdrawn from sale when, in the opinion of the Board, such lands contain coal.

Section 1852. **Sale of State Lands—Reservation of Coal, Oil and Gas.** The State Board of Land Commissioners may direct the sale of any State lands, except as provided in this act, * * * and, provided, further, that all leases and conveyances of State lands by the State Board of Land Commissioners shall contain a reservation to the State of all coal, oil and gas contained therein.

Section 1882. **Leasing of Land.** The State Board of Land Commissioners may lease any portion of the land of the state at a rental to be determined after an examination of the land by an appraiser, except as

herein provided. The lessee shall pay the annual rental in advance to the Register of State Lands, who shall receipt for the same. If stone, coal, coal-oil, gas, or other mineral not mentioned herein, be found upon the state land, such land must be leased only for the purpose of obtaining therefrom the stone, coal, coal-oil, gas, or other mineral, for such length of time, and conditional upon the payment to the register of such royalty upon the product as the State Board of Land Commissioners may determine.

Section 1883. **Lands, How Leased.** At every public sale of state lands, each tract of land, except timber lands, for which no bid for its purchase has been received, shall be immediately offered for lease to the highest bidder, as follows: By quarter-sections, or so much thereof as belongs to the state, in the case of lands classified as agricultural (a); by half-sections, in the case of lands classified as agricultural (b); and by sections in the case of lands classified as grazing; and smaller tracts shall not be leased, unless it is deemed impossible to lease as above described, or unless a larger price may be obtained thereby; and no land shall be leased for a longer period than five years, nor for a less rental than the minimum rental fixed by the board, which shall not be less than five per centum per annum of the appraised value of such lands.

Section 1890. **Rental of Coal Lands.** Any person, association, co-partnership or corporation, leasing and operating coal land under the provisions of this act, shall pay to the State the minimum price of not less than ten (10) cents per ton for each and every ton of merchantable coal so mined from said land, to be paid monthly on or before the 25th day of each month, for the coal mined during the preceding calendar month. Should the lessee of such coal land fail to mine during any one year the minimum amount that may be provided for in the term of the lease, he shall, notwithstanding such failure, pay to the State the minimum rental provided for in said lease. Should any person apply to lease any of the coal lands belonging to the State, upon which there are surface or underground improvements placed or made by a former lessee, before a lease shall issue, said applicant shall file in the office of the Register a receipt showing that the price of said improvements, as agreed upon by the parties, or fixed by the State Land Agent, or one of his assistants, has been paid to the owner thereof in full, or shall make satisfactory proof that he has tendered to such owner the price of such surface or underground improvements so agreed upon or fixed; or proof that the owner of such improvements elects to remove them.

MINING PARTNERSHIPS.**REVISED CODES 1921.**

- Section 8050. When a Mining Partnership Exists.
 Section 8051. Express Agreement Not Necessary.
 Section 8052. Profits and Losses, How Shared.
 Section 8053. Liens of Partners.
 Section 8054. Mine-Partnership Property.
 Section 8055. Partnership Not Dissolved by Sale of Interest
 Section 8056. Purchaser Takes Subject to Liens.
 Section 8057. Takes With Notice of Lien, When.
 Section 8058. Contract in Writing—When Binding.
 Section 8059. Owners of Majority of Shares Govern.

Section 8050. **When a Mining Partnership Exists.** A mining partnership exists when two or more persons who own or acquire a mining claim for the purpose of working it and extracting the mineral therefrom, actually engage in working the same.

Section 8051. **Express Agreement Not Necessary.** An express agreement to become partners or to share the profits and losses of mining is not necessary to the formation and existence of a mining partnership. The relationship arises from the ownership of shares or interests in the mine and working the same for the purpose of extracting the minerals therefrom.

Section 8052. **Profits and Losses, How Shared.** A member of a mining partnership shares in the profits and losses thereof in the proportion which the interest or share he owns in the mine bears to the whole partnership capital or whole number of shares.

Section 8053. **Liens of Partners.** Each member of a mining partnership has a lien on the partnership property for the debts due the creditors thereof, and for money advanced by him for its uses. This lien exists notwithstanding there is an agreement among the partners that it must not.

Section 8054. **Mine is Partnership Property.** The mining ground owned and worked by partners in mining, whether purchased with partnership funds or not, is partnership property.

Section 8055. **Partnership Not Dissolved by Sale of Interests.** One of the partners in a mining partnership may convey his interest in the mine and business without dissolving the partnership. The purchaser, from the date of his purchase, becomes a member of the partnership.

Section 8056. **Purchaser Takes Subject to Liens.** A purchaser of an interest in the mining ground of a mining partnership takes it subject to the liens existing in favor of the partners for debts due all creditors thereof, or advances made for the benefit of the partnership, unless he purchased in good faith, for a valuable consideration, without notice of such lien.

Section 8057. **Purchaser Takes With Notice of Lien, When.** The purchase of the interest of a partner in a mine when the partnership is

engaged in working it, takes with notice of all liens resulting from the relationship of the partners to each other, and to the creditors of the partnership.

Section 8058. **How Partnership Bound.** No member of a mining partnership or other agent or manager thereof can, by a contract in writing, bind the partnership, except by express authority derived from the members thereof.

Section 8059. **Majority of Shares Governs.** The decision of the members owning a majority of the shares or interests in a mining partnership binds it in the conduct of its business.

FRAUD IN SELLING MINES, ETC.

Section 11419. Uses of False Pretenses in Selling Mines.

Section 11420. Interference With Samples for Assay.

Section 11421. Making False Samples of Ore.

Section 11419. **False Pretenses in Selling Mines.** Every person who, with intent to cheat, wrong, or defraud, places in or upon any mine or mining claim any ores or specimens of ores not extracted therefrom, or exhibits any ore, or certificate of assay of ore not extracted therefrom, for the purpose of selling any mine or mining claim, or interest therein, or who obtains any money or property by any such false pretenses or artifices, is guilty of a felony.

Section 11420. **Interference With Samples for Assay.** Every person who interferes with, or in any manner changes samples of ores or bullion producing for sampling or changes or alters samples or packages of ores or bullion which have been purchased for assaying, or who shall change or alter any certificate of sampling or assaying, with intent to cheat, wrong, or defraud, is guilty of a felony.

Section 11421. **Making False Samples of Ores.** Every person who, with intent to cheat, wrong, or defraud, makes or publishes a false sample of ore or bullion, or who makes or publishes, or causes to be published a false assay of ore or bullion is guilty of a felony.

SAFETY TO UNDERGROUND MINERS.

REVISED CODES 1921.

Section 11269. Stopping Near Shaft.

Section 11270. Running Cage at Excessive Speed.

Section 11271. Maintaining Buildings Near Mouth of Shaft.

Section 11273. Escapement Shaft.

Section 11274. To What Mines Act Applicable.

Section 11275. Penalty.

Section 3434. Protections and Guard-rails in Case of Shafts
and Underground Openings.

Section 11269. **Stopping Near Shaft.** It is unlawful for any corporation or person operating any mine in this State worked through a vertical or incline shaft to stope within a less distance than twenty-five (25) feet of the said shaft when other work is being carried on below said stoping.

Section 11270. **Running Cage at Excessive Speed.** It is unlawful for any person or corporation operating any mine in this State worked through a vertical or incline shaft, where a cage or other device is used for the purpose of hoisting or lowering men, to run such cage when men are upon the same at a greater speed than eight hundred (800) feet per minute.

Section 11271. **Maintaining Buildings Near Mouth of Shaft.** It is unlawful for any person, company or corporation to erect or maintain any building or inclosure, used for a blacksmith shop or drying room within a distance of fifty (50) feet of the mouth of any tunnel or shaft, unless the same be fire-proof in its construction.

Section 11273. **Escapement Shaft.** It is the duty of any person, company or corporation, who shall have sunk on any mine a vertical or incline shaft to a greater depth than one hundred feet, and who shall have the top of such shaft or hoisting opening covered or enclosed by a shaft or building which is not fire-proof, and who shall have drifted on or along the vein or veins thereof, a distance of two hundred feet or more, after cross cutting to the same, and shall have commenced to stope, to provide and maintain to the hoisting shaft or the opening through which men are let into or out of the mine and the ore is extracted, a separate escapement shaft, raise, or opening, or an underground opening or communication between every such mine and some other contiguous mine, provided, that in case such contiguous mine belongs to a different person, company or corporation, the right to use the outlet through such contiguous mine in all cases when necessary, or in cases of accident, must be secured and kept in force. Where such an escapement shaft or opening shall not be in existence at the time that stoping is commenced, work upon such escapement shaft or opening must be commenced as soon as stoping begins and be diligently prosecuted until the same is completed, and said escapement shaft, raise or opening shall be continued to and connected with the lowest workings in the mine. The exit, escapement shaft, raise or opening provided for in the foregoing paragraphs must be of sufficient size as to afford an easy passage way and if it be a raise, or shaft, must be provided with good and substantial ladders from the deepest workings to the surface. Whenever the exit or outlet herein provided for is not a direct or continuous course, signboards plainly marked showing the direction to be taken must be placed at each departure from the continuous course.

Section 11274. **To What Mines Act Applicable.** This Act shall apply only to quartz mines in which nine or more men are employed underground, and shall not apply to mines not actually extracting ores, by stoping, nor to mines in which the shaft or hoisting opening, or hauling way is not covered by a shaft house, and has no building structure within thirty (30) feet of the shaft or opening nor to mines in which the hoisting shaft or opening shall be covered by or enclosed in a fire-proof shaft or building.

Section 11275. **Penalty.** Every person or corporation failing to comply with any of the above sections punishable by a fine of not less than three hundred dollars nor more than one thousand dollars.

Section 3434. **Protections and Guard-rails in Case of Shafts and Underground Openings.** Underground workings consisting of chutes, manways, and winzes, or any openings kept for ventilating purposes, or for the removal of ore or waste material, shall when necessary be protected by guard-rails, or by a suitable cover known as a grizzly, made of good, substantial timbers or metal bars. Shafts at stations shall be protected by guard-rails at every level. In vertical manways used by employes exclusively for traveling purposes, in addition to proper ladders there shall be suitable landings, placed not to exceed thirty feet apart, and so far as feasible and practicable all such manways or air-courses used as an escape for men must be kept free from all obstructions.

CODE OF SIGNALS IN METAL MINES.

REVISED CODE 1921.

Section 3429. Code of Signals in Metal Mines.

Section 3430. Penalties.

Section 3429. **Signals of.** It is made the duty of the inspector of mines of Montana, and he is hereby required to prepare a complete code of signals for the use in all mines in this state, worked through a shaft of seventy-five feet or more in depth, and employing ten or more men, and cause the same to be made known to each owner or operator of a mine in Montana by printed circular instructions, to the end that a uniform code of mine signals may prevail. The said inspector of mines of Montana may add to or change such code of signals as circumstances may require, but no change of signals shall go into effect until a time specified by him, not less than sixty days nor more than ninety days from the time such change shall be ordered by him; provided, that the code of signals first prepared by him shall be used in all said shaft mines from and after June 1, 1895.

Section 3430. **Penalties.** Any owner or operator of a mine who shall refuse or neglect to cause the signals provided for in the preceding section to be used in his mine, to the exclusion of all other signals, shall be deemed guilty of a misdemeanor, and upon conviction of such refusal or neglect shall be fined in a sum not less than one hundred dollars nor more than five hundred dollars, or by imprisonment in the county jail for a period of not less than thirty days or more than ninety days, in the discretion of the court, for each and every offense.

STATE CODE OF MINE SIGNALS.

Signal Bells.

1 bell hoist, 1 bell stop (if in motion).

2 bells lower men, 3 bells hoist men.

4 bells blasting signal, engineer must answer by raising bucket a few feet and letting it back slowly.

Then one bell hoist men away from blast.

5 bells steam on, 6 bells steam off.

7 bells air on, 8 bells air off. 3-2-2 send down drills, 3-2-3 send down picks.

9 bells danger signal (case of fire or other danger), then ring number of station where danger exists. No person shall ring any bell except the station tender, except in case of danger, or when the main shaft is being sunk. Engineers must slow up when passing stations when men are on cage.

Station Bells.

Bells	Pause	Bells	No. Station	Bells	Pause	Bells	No. Station
2	"	1	1	5	"	4	19
2	"	2	2	5	"	5	20
2	"	3	3	6	"	1	21
2	"	4	4	6	"	2	22
2	"	5	5	6	"	3	23
3	"	1	6	6	"	4	24
3	"	2	7	6	"	5	25
3	"	3	8	7	"	1	26
3	"	4	9	7	"	2	27
3	"	5	10	7	"	3	28
4	"	1	11	7	"	4	29
4	"	2	12	7	"	5	30
4	"	3	13	8	"	1	31
4	"	4	14	8	"	2	32
4	"	5	15	8	"	3	33
5	"	1	16	8	"	4	34
5	"	2	17	8	"	5	35
5	"	3	18	9	"	1	36

Where electric bells are used in connection with other bells.

If cage is wanted ring station signal. Station tender will answer 1 bell.

Reply 1 bell to go up.

Reply 2 bells to go below.

If station is full of ore and station tender is wanted, ring station signal and do not answer back.

If 2-1-2 bells are rung, engineer or station tender does not understand, repeat signal.

In case of danger or accident, ring station signal, station tender will reply 1 bell, ring 9 bells.

One copy of this code should be posted on the gallows frame and one before the engineer.

To be in effect from and after June 1st, 1895.

This code is subject to change under certain conditions.

PROCEDURE TO EXAMINE ADJOINING MINING PROPERTIES

REVISED CODE 1921.

Section 9494. Whenever any person shall have any right to or interest in any lead, lode, or mining claim which is in the possession of another person, and it shall be necessary for the ascertainment, enforcement, or protection of such right or interest that an inspection, examination, or survey of such lead, mine, lode, or mining claim should be had or made; or whenever any inspection, examination, or survey of any such lode or mining claim shall be necessary to protest, ascertain, or enforce the right or interest of any person in another mine, lode, or mining claim, and the person in possession of the same shall refuse, for a period of three days after demand therefore in writing, to allow such inspection, examination, or survey to be had or made, the party so desiring the same may present to the district court, or judge thereof, of the county wherein the mine, lead, lode, or mining claim is situated, a petition, under oath, setting out his interest in the premises, describing the same that the premises are in the possession of a party, naming him, the reason why such examination, inspection, or survey is necessary, the demand made on the person in possession so to permit such examination, inspection, or survey, and his refusal so to do. The judge or court shall thereupon appoint a time and place for hearing such petition, and shall order notice thereof to be served upon the adverse party, which notice shall be served at least one day before the day of hearing. On the hearing either party may read affidavits or produce oral testimony and if the court or judge is satisfied that the facts stated in the petition are true, he shall make an order for an inspection, examination, or survey of the lode or mining claim in question, in such manner, at such time, and by such persons as are mentioned in the order. Such person shall thereupon have free access to such mine, lead, lode, or mining claim for the purpose of making such inspection, examination, or survey, and any interference with such person while acting under such order shall be contempt of court. If the order of the court is made while an action is pending between the parties to the order, the costs of obtaining the order shall abide in the result of the action, but all costs of making such examination or survey shall be paid by the petitioner.

DESTROYING NOTICES--PENALTY

REVISED CODES.

Section 11491. **Every person who intentionally:**

1. Defaces, obliterates, tears down or destroys any copy or transcript or extract from or of any law of the United States or of this State, or any proclamation, advertisement or notification set up at any place in this State by authority of any law of the United States or of this State or by order of any court, before the expiration of the time for which the same was to remain set up; or,

2. Defaces, obliterates, tears or destroys any notice placed or posted on a mining claim, or removes or destroys any stake or monument placed thereon to identify it,

Is punishable by imprisonment in the county jail not exceeding three months or by a fine not exceeding one hundred dollars, or both.

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