

Circular No. 3

LOCATION OF LODE AND PLACER MINING CLAIMS IN COLORADO

The purpose of this circular is to furnish brief information pertinent to the location of mining claims in the State of Colorado. The United States Mining Laws concerning lode and placer mining, except for certain modifications, are applicable in Colorado. For a copy of Federal regulations, contact the Bureau of Land Management,

GENERAL

Land Subject to Location

Vacant public surveyed or unsurveyed lands are open to prospecting, and upon discovery of mineral location, are subject to location, as are also lands in the national forests in the public-land states, lands entered or patented under the stock-raising homestead law (title to minerals only can be obtained), lands entered under the agricultural laws but not perfected, where prospecting can be done peaceably, and lands within the railroad grants for which patents have not been issued. Mineral lands in the forest reserves are subject to location and entry under the general mining laws in the usual manner. In general, the mineral deposits in Indian reservations are only subject to lease. Withdrawals usually bar locations under the mining laws. State owned lands may be leased from the State Board of Land Commissioners.

Status of Lands

Since location notices are filed in the office of the county clerk and recorder, information regarding vacant land that is open to prospecting should be obtained from the county clerk of the county in which the location is to be made. The office of the Cadastral Engineer of the Regional Bureau of Land Management will have records showing patented land and land for which patent has been applied.

Definition of Mineral

Under mining laws whatever is recognized as a mineral by standard authorities, whether metallic or other substance, when found in public lands in quantity and quality sufficient to render the lands valuable on account thereof, is treated as coming within the purview of the mining laws. Deposits of coal, oil, gas, oil shale, sodium, phosphate and potash belong to the United States and are not subject to location under United States mining laws.

Manner of Initiating Rights under Locations

The rights to mineral lands, owned by the United States, are initiated by prospecting for the minerals thereon, and, upon the discovery of mineral, by locating the lands upon which discovery has been made. It is not required that the mineral showing be of sufficient size or grade to be mined at a profit. Good faith as an element in the initiation of mining rights under Federal and State laws, is absolutely essential to the validity of such rights, may not be dispensed with, and lack of it vitiates any attempt to initiate such right.

Who May Make Locations

Any citizen of the United States or those who have declared their intentions to become such, including minors who have reached the age of discretion and corporations organized under the laws of any State, may make mining locations. Agents may make locations for qualified locators.

Nature of Mining Claims

Mining claims are of two distinct classes: lode and placer; and in addition, there are tunnel sites and mill sites.

LODE CLAIMS

Length of Lode Claims 34-43-101, CRS 1973

The length of any lode claim hereafter located may be equal to but not exceed fifteen hundred (1500) feet along the vein.

Width of Lode Claims 34-43-102, CRS 1973

The width of all lode claims hereafter located may equal, but not exceed three hundred (300) feet on each side of the middle of the vein or crevice, and the owner or owners of any lode claim or claims heretofore located and having a less width, desirous of securing the benefit of this section may file an additional width as herein provided; provided, however, that such additional certificate does not interfere with existing rights of others at the time of filing of the same, and no such additional certificate or other record thereof shall preclude the claimant or claimants from proving such titles as he or they may have held under previous location.

Said lateral measurements cannot extend beyond three hundred (300) feet on either side of the middle of the vein at the surface, i.e.—four hundred (400) feet cannot be taken on one side and two hundred (200) feet on the other side. No lode located can exceed a parallelogram fifteen hundred (1500) feet in length and six hundred (600) feet in width.

Discovery

No lode claim shall be located until after the discovery of a vein, lode or crevice within the limits of the claim.

Number of Claims that Can Be Located

There is no limitation to the number of lode claims one person or an association of persons may locate.

Location Certificate—Contents 34-43-103, CRS 1973

The discoverer of a lode shall, within three months from the date of discovery, record his claim in the office of the recorder of the county in which such lode is situated, by a location certificate which shall contain:

First—The name of the lode.

Second—The name of the locator.

Third—The date of location.

Fourth—The number of feet in length claimed on each side of the center of the discovery shaft.

Fifth—The general course of the lode as near as may be.

Locators can not exercise too much care in defining their location, and a description of the claim or claims located should be by reference to some natural object or permanent monument as will identify them.

When Location Certificate Void 34-43-104, CRS 1973

Any location certificate of a lode claim which shall not contain the name of the lode, the name of the locator, the date of location, the number of lineal feet claimed on each side of the discovery shaft, the general course of the lode, and such description as

shall identify the claim with reasonable certainty, shall be void.

Certificate Shall Contain But One Location 34-43-105, CRS 1973

No location certificate shall contain more than one location, whether the location be made by one or several locators. And if it purports to claim more than one location it shall be absolutely void, except as to the first location therein described, and if they are described together, or so that it can not be told which location is first described, the certificate shall be void as to all.

Manner of Locating Claims 34-43-106, CRS 1973

Before filing such location certificate, the discoverer shall locate his claim by:

First—Sinking a discovery shaft upon the lode to a depth of at least ten (10) feet from the lowest part of the rim of such shaft at the surface, or deeper, if necessary to show a well defined crevice. Any open cut, crosscut or tunnel which shall cut a lode at the depth of ten (10) feet below the surface, shall hold such lode, the same as if a discovery shaft were sunk thereon, or an adit of at least ten (10) feet in along the lode from the point where the lode may be in any manner discovered, shall be equivalent to a discovery shaft.

The locator of any mining claim in lieu of the sinking of the discovery shaft may at his option, within the period allowed for the recording of the location certificate, file in the office of the county clerk of the county in which such claim is located, a map which shall be attached to said location certificate, which map shall be of a scale of approximately one inch equals five hundred feet, prepared from an actual field survey and shall show the following:

- (a) The name and address of the discoverer of the claim.
- (b) The legal subdivisions of the land upon which the claim is located, if such land be surveyed.
- (c) The claim pattern with courses and distances of the boundary lines, and reference to the nearest section or quarter-section corner of the public land survey, if surveyed, or reference to a permanent monument, if unsurveyed, by which the location of the claim on the ground can be readily and accurately ascertained.

Second—By posting at the point of discovery on the surface a plain sign or notice containing the name of the lode, the name of the locator, and the date of discovery.

Third—By marking the boundaries of the claim.

Marking Boundaries 34-43-107, CRS 1973

Such boundaries shall be marked by six (6) substantial posts hewed or marked on the side or sides which are in toward the claim, and sunk into the ground, one at each corner and one at the center of each side line. Where it is practically impossible on account of bedrock to sink such posts, they may be placed in a pile of stones, and where in marking the surface boundaries of a claim any one or more of such posts shall fall by right upon precipitous ground, where the proper placing of it is impracticable or dangerous to life or limb, it shall be legal and valid to place any such posts at the nearest practicable point, suitably marked, to designate the proper place.

To Hold Lode—Crosscut—Tunnel—Adit 34-43-108, CRS 1973

Any open cut, crosscut or tunnel which cuts a lode at the depth of ten feet below the surface, shall hold such lode, the same as if a discovery shaft were sunk thereon, or an adit of at least ten feet in along the lode from the point where the lode may be in any manner discovered, shall be equivalent to a discovery shaft.

Sixty Days to Sink Discovery Shaft 34-43-109, CRS 1973

The discoverer shall have sixty days from the time of uncovering or disclosing a lode to sink a discovery shaft thereon.

What Location Includes—Extralateral Rights 34-43-110, CRS 1973

The location or location certificate of any lode claim shall be construed to include all surface ground within the surface lines thereof, and all lodes and ledges throughout their entire depth, the top or apex of which lie inside of such lines extended downward, vertically, with such parts of all lodes or ledges as continue by dip beyond the side lines of the claim, but shall not include any portion of such lodes or ledges beyond the end lines of the claim or the end lines continued, whether by dip or otherwise or beyond the side lines in any manner than by the dip of the lode.

Top Not to be Followed Beyond Lines 34-43-111, CRS 1973

If the top or apex of the lode in its longitudinal course extends beyond the exterior lines of the claim at any point on the surface, or as extended vertically downward, such lode may not be followed in its longitudinal course beyond the point where it is intersected by the exterior lines.

PLACER CLAIMS

Discovery

But one discovery of mineral is required to support a placer location, whether it be of twenty (20) acres by an individual, or of one hundred sixty (160) acres by an association of persons. This includes building stone.

Placer Claim Certificate—Recording—Manner of Locating 34-43-112, CRS 1973

A discoverer of a placer claim shall, within thirty (30) days from the date of discovery, record his claim in the office of the recorder of the county in which said claim is situated, by a location certificate which shall contain:

First—The name of the claim, designating it is a placer claim.

Second—The name of the locator.

Third—The date of location.

Fourth—The number of acres or feet claimed; and

Fifth—A description of the claim, by such reference to natural objects of permanent monuments as shall identify the claim. Before filing such location certificate the discoverer shall locate his claim:

First—By posting upon such claim a plain sign or notice containing the name of the claim, the name of the locator, the date of discovery and the number of acres or feet claimed.

Second—By marking the boundaries with substantial posts, sunk into the ground, one at each angle of the claim. (The meanders of placers in unsurveyed townships must be described by metes and bounds.)

Size of Placer Claim

No placer location can exceed twenty (20) acres for each individual or person. An association of persons may locate one claim in common, not exceeding twenty (20) acres for each person and not to exceed one hundred sixty (160) acres for the entire association.

Ten Acre Units Authorized

Authority is given for subdividing forty (40) acre legal subdivisions into ten (10) acre tracts. These ten (10) acre tracts should be considered and dealt with as legal subdivisions.

Conformity to Public Land Surveys

All placer claims shall conform as near as practicable with the United States system of public-land surveys and the rectangular subdivisions of such surveys, whether locations are upon surveyed or unsurveyed land.

Tunnel Sites 34-43-113, CRS 1973

If any person locates a tunnel claim for the purpose of discovery, he shall record the same, specifying the place of commencement and termination thereof, with the names of the parties interested therein.

A tunnel site gives the owner of a tunnel which is run in good faith the possessory right to fifteen hundred (1500) feet of any blind lodes cut, discovered, or intersected by such tunnel, which were not previously known to exist within three thousand (3000) feet from the face or point of commencement of such tunnel. Face of tunnel is construed to mean the point at which the tunnel actually enters cover.

Mill Sites

Mill sites are simply auxiliary to the working of mineral claims and the location for a mill site should be made in substantially the same manner as that of a lode or placer claim. There must be satisfactory proof that land claimed as a mill site is not mineral in character. No assessment work is required on mill sites but without patent they can only be held by using for the purposes for which they were located.

Relocation by Owner 34-43-115, CRS 1973

If at any time the locator of any mining claim, or his assigns, apprehends that his original certificate is defective, erroneous, or that the requirements of the law had not been complied with before filing, or is desirous of changing his surface boundaries, or of taking in any part of an overlapping claim which has been abandoned, or in case the original certificate was made prior to June 1, 1874, and he is desirous of securing the benefits of this article, such locator, or his assigns, may file an additional certificate, subject to the provisions of this article; provided, that such relocation does not interfere with the existing rights of others at the time of such relocation, and no such relocation or other record thereof shall preclude the claimant or claimants from proving any such title or titles as he or they may have held under previous location.

Relocation of Abandoned Claims 34-43-116, CRS 1973

The relocation of abandoned lode claims shall be by sinking a new discovery shaft and fixing new boundaries in the same manner as if it were the location of a new claim;

or the locator may sink the original discovery shaft ten (10) feet deeper than it was at the time of abandonment, and erect new or adopt the old boundaries, renewing the posts if removed or destroyed. In either case a new location stake shall be erected.

ANNUAL ASSESSMENT WORK

In order to hold possessory title to a lode or placer claim, not less than one hundred dollars (\$100) worth of work must be performed or improvements made thereon annually. Assessment period commences at twelve o'clock meridian of the first day of September succeeding the date of the location of the claim. Where a number of contiguous claims are held in common, the aggregate expenditure that would be necessary to hold all the claims, may be made upon any one claim.

Geological, geophysical and geochemical work may be considered "labor" as pertaining to the annual \$100-per-claim assessment labor requirements on unpatented mining claims. Such surveys must be conducted by qualified experts and "verified by a detailed report filed in the county office in which the claim is located which sets forth fully (a) the location of the work performed in relation to the point of discovery and the boundaries of the claim, (b) the nature, extent and cost thereof, (c) the basic findings therefrom, and (d) the name, address and professional background of the person or persons conducting the work." Such surveys may not be credited for more than two consecutive years or for more than a total of five years on any one claim, and no survey may be repetitive of any previous survey on the same claim. Surveys are also limited to those made on the ground. (S. 2039, September 2, 1958).

Affidavit of Labor 34-43-114, CRS 1973

By **December 31** after any set time or annual period allowed for the performance of labor or making improvements upon any lode claim or placer claim, the person on whose behalf such outlay was made, or some person for him, may make and record in the office of the recorder of the county wherein such claim is situate, an affidavit in substance as follows:

STATE OF COLORADO

ss.

_____ County

Before me, the subscriber, personally appeared _____, who, being duly sworn, saith that at least _____ dollars worth of work or improvements were performed or made upon (here describe claim or part of claim), situated in _____ mining district, county of _____, State of Colorado, between the _____ day of _____, A.D. _____, and the _____ day of _____, A.D. _____ Such expenditure was made by or at the expense of _____, owners of said claim, for the purpose of complying with the law, and holding said claim.

Jurat: (Signature) _____

The affidavit or copy thereof, duly certified by the county recorder shall be prima facie evidence of the performance of such labor or the making of such improvements or both.

Failure to Perform Annual Assessment Work

Failure to make the expenditure or perform the labor required upon a location will subject a claim to relocation unless the original locator, his heirs, assigns, or legal representatives have resumed work after such failure and before relocation.

PATENTS

Patent Not Necessary

One may develop, mine and dispose of mineral in a valid mining location without obtaining a patent, but possessory right must be maintained by the performance of annual assessment on the claim in order to prevent its relocation by another.

Procedure to Obtain Patent

The owner or owners of a valid mining location, or a group of locations, on which not less than five hundred dollars (\$500) has been expended on or for the benefit of each claim may institute patent proceedings therefor in the district office of the Bureau of Land Management. Information as to proper patent proceedings can be obtained from the manager of the district office of the Bureau of Land Management or from the Director of the Bureau of Land Management, Department of the Interior, Washington D. C. 20242.

Withdrawn Land

For information on land withdrawn by the Federal Government, contact the Bureau of Land Management.

Public Law 167

This law places certain limitations on patented and unpatented claims located subsequent to July 23, 1955. In brief this law makes the following provisions:

- (1) Bans the location of mining claims for common varieties of sand, stone, gravel, pumice, pumicite, and cinders, and makes them subject to disposal under the Materials Disposal Act. It will not affect the validity of any mining location based upon discovery of some other mineral occurring in or in association with such deposits. Also, deposits of the above materials which are valuable because of certain properties giving them distinct and special value would continue to be locatable.
- (2) Prohibits the use of mining claims hereafter located and prior to patent, for any purpose other than prospecting, mining, processing, and related activities.
- (3) Authorizes the federal government, on claims hereafter located and prior to patent, to manage and dispose of timber and forage, and bars the claimant from removing or using the timber or other surface resources except as needed for mining activity.
- (4) Provides a procedure under which the federal government can resolve title uncertainties resulting from the existence of abandoned invalid, dormant, or unidentifiable mining claims located prior to the enactment of this measure.

For a copy of this law, contact the Bureau of Land Management.

NOTE: Those sections for which no sources are indicated, are authorized by Federal Statute.