DEPARTMENT OF MINERAL RESOURCES
STATE OF ARIZONA
PHOENIX, ARIZONA

FRANK P. KNIGHT, DIRECTOR

LAWS AND REGULATIONS GOVERNING MINERAL RIGHTS in ARIZONA

by
VICTOR H. VERITY

4th Edition
Revised May, 1957

10

Price 30¢

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Citations to laws and regulations are abbreviated as follows:

Revised Statutes of Arizona—ARS

United States Code Annotated—USC

Code of Federal Regulations—CFR

INTRODUCTION

THIS BOOKLET was first compiled by J. E. Busch and published in 1946 in response to the demand for a simplified statement of mining law. This 4th edition is a complete revision by Victor H. Verity, made necessary by changes in the law. It is limited to the Federal and State mining laws as they apply within the State of Arizona. The essence of the more important features of the mining laws is set forth with a minimum of citations to the laws and regulations. Citations to court decisions have been omitted as this booklet is intended to be a field manual for guidance of the prospector and miner.

If the instructions contained herein are followed, it should be possible to avoid the common errors that are frequently made when attempting to locate a mining claim and maintain its validity. However, the laws and regulations are changing constantly. Therefore, should the holder of mining claim have a legal problem he is urged to consult an attorney. Only information concerning general laws is available from the Department of Mineral Resources which cannot answer legal problems dealing with specific cases.

The Department keeps informed on new and pending legislation, changes in freight rates, tariffs, trade agreements, taxation, and other factors which affect the mining industry. Those interested should make inquiry of the Department of Mineral Resources, Minerals Building, Fairgrounds, Phoenix, Arizona, for information beyond the scope of this booklet.

The accompanying map of Arizona shows major land withdrawals and reservations. However, it does not attempt to accurately indicate their many small, irregular boundaries because such land withdrawals and restorations occur almost daily.

The Department gratefully acknowledges the valuable aid and counsel freely given by attorneys and by Federal and State officials.

FRANK P. KNIGHT, Director

MINING LAW GENERALLY

The intent of the mining laws and the leasing acts, both state and federal, is to develop the mineral resources on the public domain and state land. The law and public sentiment are on the side of the bona fide mining locator who stakes a claim with a serious intention of prospecting for minerals. The best way to demonstrate his good faith is to properly locate the claim and to maintain and work it in full accordance with all legal requirements.

Approximately 71% of the land in the State of Arizona is owned or controlled by the Federal Government, including Indian Reservations, and is subject to the provisions of the Federal laws. The State of Arizona is the owner of a little less than 14% and, for the most part, the acquisition of mining rights in such lands is subject to the State laws, entirely apart from the Federal statutes. The remaining land, constituting a little over 15%, is privately owned, but in much of it the minerals have been reserved by the Federal Government and the location of mining claims is subject to the Federal laws. Frequently, however, the private landowner owns the minerals contained therein and in such cases the mining laws do not apply.

The Federal mining laws are found in Title 30 (Mineral Lands and Mining) and Title 43 (Public Lands) of the United States Code Annotated, and the Regulations are in Title 43 (Public Lands) of the Code of Federal Regulations. State laws on minerals, oil, and gas are found in Titles 27 and 37 of the Arizona Revised Statutes.

The Federal mining laws now in force are founded on legislation enacted in 1872, under which the Federal Government provided for disposition of all its mineral lands by location and patent. 30 USC § 21; 43 CFR § 185. Since

that date, there have been three major changes in the basic mining law. These are:

1. The Leasing Act of 1920. 30 USC § 181.

This act provides for the acquisition of mining rights by lease from the Federal Government of deposits of certain minerals, namely: oil, oil shale, gas, potassium, sodium, phosphate, and coal. Due to the scarcity or seemingly complete absence of some of these substances in Arizona, with the possible exception of oil and gas in the northeastern portion, the Leasing Act has had a limited application in this state. Furthermore, the geological formations in the northeastern part of the state which seem most promising for discovery of oil and gas are within the extensive Navajo and Hopi Indian Reservations, where neither the Leasing Act nor the general mining laws apply.

2. The Multiple Mineral Development Act of 1954. 30 USC § 521; 43 CFR § 186.

The general purpose of this act is to permit use of public lands for mining operations under the mining laws, and leasing operations under the mineral leasing laws. It is often referred to as Public Law 585 and became effective August 13, 1954. It applies to public domain and to patented lands wherein the United States has retained mineral rights. Up to the present time the act has found little application in Arizona. Further comments on this act will be found on page 48 of this booklet.

3. The Multiple Surface Use Act of 1955. 30 USC § 611; 43 CFR § 185.120.

This act, commonly referred to as Public Law 167, amended the general mining laws by limiting the rights of the holder of an unpatented mining claim in his use of the surface and surface resources. It is an important and far-

reaching law that applies to all unpatented mining claims on public domain of the United States and land in which the United States has reserved minerals, and every locator of a mining claim should be familiar with its terms. Details will be found on page 49.

WHO MAY LOCATE A MINING CLAIM

Any citizen of the United States, or anyone who has declared his intention to become a citizen, an association of citizens, or a qualified corporation may locate a mining claim upon public domain of the United States. The location of a mining claim by an alien or transfer to an alien is not absolutely void, but is voidable.

The statutes of Arizona provide that a mineral claim may be located upon State land by any citizen of the United States, partnership or association of citizens, or corporation organized under the laws of the United States or of any state or territory thereof.

There is no limitation on the number of mining locations that can be made by a qualified locator on Federal or State lands within Arizona.

LANDS SUBJECT TO LOCATION

In General

The location notice, as well as the mineral discovery, must be upon vacant, unreserved, unappropriated public lands of the United States, or upon lands in which the United States has retained the minerals, or upon State lands.

In recent years the determination of whether lands are open to mining location has become exceedingly complex. It is impossible to make a general statement in this booklet that will serve the purpose of instructing a mining locator as to whether or not a specific tract of land is open to min-

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ing location. This fact can be determined only by consulting the public records of the county, state, and the United States. The county records begin with the recording of a patent. They do not show the proceedings prior to issuance of the patent such as withdrawal from and restoration to mineral entry.

Records of the Bureau of Land Management, United States Department of the Interior, in Phoenix, Arizona, must be examined for information as to the status of public domain of the United States. Personnel of the Bureau is not available to search the records nor is such information supplied by mail. The records are open to the public at specified hours. Unless a person is experienced in such matters it is advisable to employ a competent abstractor or attorney to make the search.

Inquiries may be directed to the State Land Department, Phoenix, Arizona, to ascertain if State lands are open to mineral location and lease.

The records of the Recorder's office in the various counties of the State may be consulted to determine if recorded patents from the United States, or recorded deeds of sales by individuals, have reserved minerals, or whether the same were conveyed to the purchaser. In some instances this information may not be apparent from the recorded instruments and it may still be necessary to consult the records of the Bureau of Land Management or go to the statutes under which the patent was issued.

It is of the utmost importance that when a mining claim is located the exact description by legal subdivisions be ascertained, and the records examined by a qualified person to determine the mineral status. Failure to do so may result in expenditure of time and money on an invalid location. Also, though some lands may be open to mineral entry, they

may be subject to special restrictions, in addition to those imposed by the Multiple Surface Use Act of 1955.

Of equal importance is a careful inspection of the land for evidence of prior mining locations. No record is made at the United States Bureau of Land Management until a claim is patented, with the exception of placer claims on land withdrawn for a power site. A notice of location of a mining claim recorded in the County Recorder's office may meet all legal requirements, yet the description will often be in such general terms that it is impossible to determine its situs on the ground.

National Forests

National forests are open to mining location but with some exceptions. Areas withdrawn for administrative, recreational, experimental, and other uses may be closed entirely to mining. In some areas mining claims, even though located prior to the Multiple Surface Use Act of 1955, may include only so much of the surface as is reasonably necessary to carry on mining operations, by reason of special legislation or regulations in order that scenic beauty might be retained such as along the Hitchcock highway from Tucson to Mt. Lemmon, and along the Grand Canyon highway. The nearest forest ranger should be consulted for details.

Grazing Districts

There are four grazing districts in Arizona on public domain of the United States, established under the provisions of the Taylor Grazing Act. (43 USC § 315). Notwithstanding issuance of a grazing lease, the lands remain open to mining location. The grazing lessee has no vested rights in the land, and his lease is subject to cancellation.

Under the provisions of the Taylor Grazing Act, exchanges of land are authorized both with the states and

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No.
Book_____ Page_____
Date:_____ Fee_____
Request of:

STATE OF ARIZONA)
) ss.
COUNTY OF _____)

I hereby certify that the within instrument was filed for record in_____County, State of Arizona

Witness my hand and Official Seal:

_____
County Recorder

By_____
Deputy

State of Arizona

Notice of Mining Location

Type B Claim

On State Lands Only

(Filed under Section 27-232 B. ARS)

TO ALL WHOM IT MAY CONCERN:

This Mining Claim, the name of which is the_____

Mining Claim, situate on lands belonging to the State of Arizona, and being a form of valuable mineral deposit, was entered upon and located for the purpose of exploration and lease by_____

(Locator must insert either "a citizen of the United States" or "who has declared his intention of becoming a citizen of the United States.")

the undersigned, on the_____day of_____, 19_____, _____claim_____acres thereof, and have marked the same on the ground as follows:_____

(Give legal description)

or beginning at: _____

(Make the starting point a corner of a rectilinear subdivision of survey.) at a_____(post, stone or other monument) where this notice is posted; thence_____feet to a_____ thence_____feet to a_____ thence_____feet to a_____ thence_____feet to the place of beginning, containing_____ acres, all in_____

(Give legal description)

in the County of_____, in the State of Arizona.

All done under the provisions of Chapter 2, Article 3, Title 27, Arizona Revised Statutes.

Dated and posted on the ground this_____day of_____, 19____.

_____

_____

_____

NOTE — The claim must conform to survey by rectilinear subdivisions. No claim may exceed 20 acres in area.

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STATE OF ARIZONA)
) ss.
COUNTY OF _____)

I hereby certify that the within instrument was filed for record in_____County, State of Arizona

Witness my hand and Official Seal:

_____
County Recorder

By_____
Deputy

Notice of Mining Location

LODE CLAIM

On State Lands Only

TO ALL WHOM IT MAY CONCERN:

This Mining Claim, the name of which is the_____ Mining Claim, situate on lands belonging to the State of Arizona, and in which there are valuable mineral deposits, was entered upon and located for the purpose of exploration and lease by_____

(Locator must insert either "a citizen of the United States" or "who has declared his intention of becoming a citizen of the United States.")

the undersigned, on the_____day of_____, 19____

The length of this claim is_____, feet, and_____ claim_____, feet in a_____direction and_____ feet in a_____direction from the center of the discovery shaft, at which this notice is posted, lengthwise of the claim, together with_____feet in width of the surface grounds, on each side of the center of said claim. The general course of the lode deposit and premises is from the_____to the_____.

The claim is situated and located in the_____Mining District, in_____County, in the State of Arizona, about_____ in a_____direction from_____

_____(Location by legal subdivision).

The surface boundaries of the claim are marked upon the ground as follows: Beginning at_____

at a point in a_____direction_____feet from the discovery shaft (at which this notice is posted), being in the center of the_____end line of said claim; thence_____feet to a_____, being the_____corner of said claim; thence _____feet to a_____, being at the _____corner of said claim; thence_____feet to a_____at the center of the_____end of said claim; thence_____feet to a_____being at the _____corner of said claim; thence_____feet to a_____at the_____corner of said claim; thence_____feet to the place of beginning.

Dated and posted on the grounds this_____day of_____, 19____

_____

_____

_____

Form No. 24—Notice of Location—Lode Claim—

with private persons. These exchanges may be made with or without reservation of minerals. Therefore, it is necessary to check on the status of each tract of land to determine ownership of the minerals and whether or not the same may be located. Information regarding grazing leases may be had from the corresponding District Grazing Office, the address of which may be obtained from the Bureau of Land Management in Phoenix.

Stock-Raising Homesteads

All minerals in lands patented under the Stock-Raising Homestead Act of December 29, 1916 (43 USC. § 291) are reserved to the Federal Government, together with the right to "prospect for, mine and remove the same." The miner will be limited in his surface rights to such lands to uses which are reasonably necessary for mining purposes. The owner of the surface can require the miner to furnish bond to cover possible damages to cultivated crops and permanent improvements such as houses, barns, fences, corrals, tanks, etc. If the mining operation is an open pit, the mining operator is required to pay for damages to the surface. A great many Stock-Raising Homestead patents were issued covering land in Arizona, and conflicts are constantly arising between ranchers and miners, generally due to a lack of information about the provisions of the law. Details of the act are given on page 46.

Agricultural Homesteads

In 1909 the Federal Government began reserving coal in homestead patents. By the terms of the Agricultural Entry Act of 1914 as amended (30 USC § 121) it is provided that patents issued under the various agricultural land laws (this includes Desert Land Entries and Enlarged Homesteads) shall contain a reservation to the United States of oil, gas, phosphate, nitrate, potash, sodium, sul-

phur and asphaltic minerals. These substances, except for sulphur and asphaltic minerals, if found in Arizona, will be subject to the provisions of the Leasing Act of 1920. Therefore, with these two exceptions, lands in Arizona which were patented under the various agricultural land laws are closed to location of mining claims under the general mining laws.

Reclamation Withdrawals

Public domain of the United States in Arizona may be withdrawn for reclamation purposes and much of it has already been included in such withdrawals along the Colorado, Gila, Salt, and Bill Williams Rivers, with some tributaries. Withdrawals are described as "First form" when intended for construction of dams, canals, obtaining building materials, etc. "Second form" withdrawals apply to lands to be irrigated. However, these areas do not necessarily remain closed to entry under the general mining laws. It is within the discretion of the Secretary of the Interior to determine whether or not an area withdrawn for reclamation purposes shall be restored to mining entry and the conditions under which mining shall be conducted. (43 USC § 154; 43 CFR § 185.36). In some areas, mining locations may be entirely prohibited, while in others, mining claims may be located, subject to restrictions, and these restrictions will be incorporated into any mineral patent which may be issued. The office of the State Supervisor of the Bureau of Land Management at Phoenix is authorized to receive applications for "Restoration of Withdrawal" and, after consulting the Bureau of Reclamation, if the latter office does not report adversely, may grant such restoration and designate the restrictions applicable to mining operations.

Lake Mead Recreation Area

The Lake Mead Recreation Area is covered by several withdrawals. Mining operations are not prohibited but are

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Request of:

STATE OF ARIZONA)
) ss.
CUONTY OF _____)

I hereby certify that the within instrument was filed for record in_____County, State of Arizona

Witness my hand and Official Seal:

_____
County Recorder

By_____
Deputy

Request of Mining Claimant for Copy of Notice

Pursuant to the provisions of Section 5 of the Act of July 23, 1955 (69 Stat. 367; 30 USC 611), and to the applicable regulations thereunder (43 CFR 185.120), the undersigned hereby requests a copy of any notice to mining claimants which may be published by the Secretary of the Interior of the United States or his designated representative, as provided in Section 5 of said act, affecting any of the lands hereinafter described:

1. The undersigned,_____, whose address is_____, located the following described claim(s) prior to enactment of the Act of July 23, 1955 and claims rights in the vegetative surface resources or other surface resources as defined in said act.

2. The mining claim(s) is/are situate in_____County, Arizona, and are identified as follows:

Name of mining claim	Date of location	Locator or Purchaser+	Location notice recorded	
			Docket	Page

3. The above described mining claim(s) is/are embraced in Section(s) _____, Township_____, Range_____, G. & S.R.M., of the public land surveys.

*4. The mining claim(s) will probably be embraced in the following section(s) when the public land surveys are extended to the land covered by said mining claim(s). Section(s)_____, Township_____, Range _____, G. & S.R.M.

5. The undersigned is a locator or purchaser of said mining claim(s) as indicated above.

Date_____

_____
Mining Claimant

+Insert in this column opposite the name of each claim the word "locator" or the word "purchaser" to show the nature of the mining claimant's interest.

*If the area where the claims are located has not been surveyed, use paragraph 4. In lieu of paragraph 4 the mining claim may be described by a tie by courses and distances to an established United States mineral monument.

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Request of:

STATE OF ARIZONA)
) ss.
COUNTY OF .....)

I hereby certify that the within instrument was filed for record in.....County, State of Arizona

Witness my hand and Official Seal:

.....
County Recorder

By.....
Deputy

Affidavit of Labor Performed and Improvements Made

STATE OF ARIZONA)
) ss.
COUNTY OF.....)

_____, being duly sworn, deposes and says that he is a citizen of the United States and more than twenty-one years of age, and resides at_____ in_____County, Arizona, and is personally acquainted with the hereinafter described mining claims situated in the_____ _____Mining District, _____ County, Arizona, the location notices of which are recorded in the office of the County Recorder of said County as follows:

Name of Claims	Recorded	
	Docket	Page

That between the_____day of_____, 19_____, and the_____day of_____, 19_____, at least_____ _____dollars worth of work and improvements were done and performed upon said claims, not including the location work, by and at the expense of_____(owner) (lessee) of said claims for the purpose of complying with the laws of the United States pertaining to annual work, and_____ _____ _____ _____ _____

were the men employed by said (owner) (lessee) and who labored upon said claims, did said work and improvements, the same being as follows:

_____ _____ _____ _____ _____ _____

Subscribed and sworn to before me this_____ day of_____, 19_____.

My commission expires: _____
Notary Public

subject to lease under such restrictions as will not interfere with the activities of the National Park Service, the U. S. Biological Survey (Fish and Wildlife Service), and the Bureau of Reclamation. (43 CFR § 199.70) For details, inquiries should be made to Lake Mead Recreation Headquarters at Boulder City, Nevada, or to the U. S. Bureau of Land Management at Phoenix, Arizona.

Power Sites

By the terms of the "Mining Claims Rights Restoration Act of 1955 (30 USC § 621), all public lands of the United States already or thereafter reserved for power development or power sites were opened to entry for location and patent of mining claims under the general mining laws, but all power rights to such lands to be retained by the United States.

The locator of a placer claim on land reserved for such purposes must, within 60 days of location, file a copy of the notice of location with the United States Land Office (in Arizona this is located at Phoenix) and shall not conduct mining operations for a period of 60 days after the date of filing such notice. Within this latter 60-day period the Secretary of the Interior may serve notice on the locator of a hearing, following which placer mining may be allowed or completely prohibited, or permitted with certain restrictions. Within 60 days after the expiration of any assessment year, a statement as to the assessment work done or improvements made must be filed in the Land Office.

Organ Pipe Cactus National Monument

This national monument in Pima County, south of Ajo, is an exception to the general rule that national monuments are closed to mining. By specific legislation (16 USC § 450z) and regulations issued thereunder (43 CFR § 185.33h) the lands within this monument are open to min-

ing location with the exception of administrative sites, recreation areas and sources of water supply. Only mineral rights are granted by patent, and surface use is restricted to the right to occupy and use so much of it as may be required for purposes reasonably necessary to mine and remove the minerals. Before trails or roads may be constructed a permit must be obtained from the Director of the National Park Service. Carrying of firearms within the monument is prohibited.

Coronado National Memorial

The Coronado National Memorial situated in Cochise County within the Coronado National Forest is open to mining location under conditions similar to the law and the regulations pertaining to the Organ Pipe Cactus National Monument.

State Lands

Lands owned by the State of Arizona are open to location, but subject to the State mining laws, not Federal. The State mineral lands may be leased but not purchased nor patented. State mineral laws are discussed in detail beginning at page 56.

Railroad Lands

Various acts of Congress granted public lands to the transcontinental railroads for the purpose of aiding in the construction of railroads across the United States. In some instances minerals were excepted from the grant, and in other cases the railroad acquired the minerals. The "Santa Fe" was granted land, including minerals, along its right of way in northern Arizona. The records of the Bureau of Land Management in Phoenix should be examined to determine mineral status in the original grants and any exchanges made with the Federal Government. Inquiries may

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STATE OF ARIZONA)
)ss.
COUNTY OF .....)

I hereby certify that the within instrument was filed for record in .....County, State of Arizona.

Witness my hand and Official Seal:

.....
County Recorder

By.....
Deputy

Notice of Lode Mining Claim Location

(On Public Domain of the United States)

NOTICE IS HEREBY GIVEN that the.....lode mining claim was located by.....
on....., 19.... This claim is .....feet in length along the vein or lode and ..... feet in width on each side of the location monument at which this notice is posted. This claim, the general course of which is....., is situated in the.....~~Mining District situated in the~~.....Mining District, ...County, Arizona, about

This claim runs from the location monument or stake, ...feet in a.....direction to the.....center end monument, or stake, and.....feet in a .....direction from the location monument, or stake, to the.....center end monument, or stake, and is also marked by two corner monuments, or stakes, at each end of the claim, one on each side of and.....feet from the center end monuments, or stakes, making the claim in the form of a parallelogram.

.....
Locator

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Request of:

STATE OF ARIZONA)
)ss.
COUNTY OF .....)

I hereby certify that the within instrument was filed for record in .....County, State of Arizona.

Witness my hand and Official Seal:

.....
County Recorder

By.....
Deputy

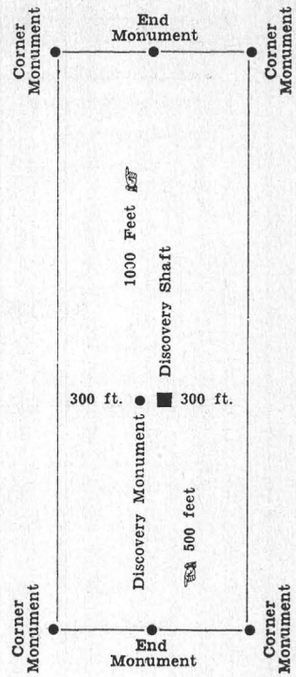
Notice of Placer Mining Claim Location

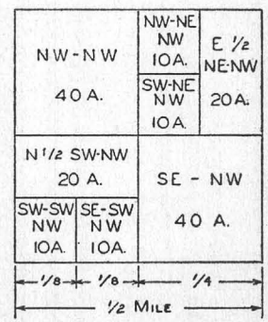
(On Public Domain of the United States)

NOTICE IS HEREBY GIVEN that the.....placer mining claim was located by.....
on....., 19.... This claim is situated in the.....Mining District in.....
County, Arizona, about.....

The area of this claim is.....acres and embraces the .....of Section....., T....., R....., G. & S. R. M., and is marked on the ground as follows: Beginning at the location monument or post at which this location notice is posted, being the.....corner; thence .....feet to a monument or post at the .....corner; thence.....feet in a.....direction to a monument or post at the.....corner; thence.....feet in a.....direction to a monument or post at the .....corner, thence.....feet in a.....direction to the point of beginning.

.....
Locator





NW ¼ SECTION

Mining Partnership and Grubstake

A mining partnership differs from the ordinary general partnership inasmuch as a sale of his interest by a mining partner will not dissolve the partnership. Neither does death of a partner terminate the partnership for the successor to the deceased becomes the partner of the survivor. In both general and mining partnerships one partner may bind the other for obligations incurred in the conduct of the business.

A "grubstake" is an agreement between two or more persons whereby one party usually furnishes money or money and supplies, and the other party prospects for minerals and locates mining claims. The parties are tenants in common of the claims thus located, and the agreement may even constitute a mining partnership. Since such agreements are usually verbal it is difficult to determine what was intended if a dispute arises. Grubstake agreements should be reduced to writing and clearly state the exact terms on which the parties have agreed.

be directed to the Atchison, Topeka and Santa Fe Railway Company at Los Angeles, California or Albuquerque, New Mexico, concerning terms of lease or sale. The Santa Fe has sold substantial amounts of this land but in most instances reserved the minerals. Deeds of record in the offices of the various County Recorders should be examined to determine the conditions under which minerals were conveyed or reserved by the railway company.

City of Prescott Watershed

Mining locations made after Jan. 19, 1933 within approximately 3600 acres in the Prescott municipal watershed are subject to certain restrictions named in the law as to surface use, timber, prospecting, etc. Valid claims in existence on the above date and thereafter maintained can proceed to the usual unrestricted patent. (16 USC § 482a, CFR § 185.34)

Game Refuges

State game refuges are generally open to location of mining claims but large tracts of land in Federal game refuges in this state are closed to mining.

Stock Driveways

Locations may be made in stock driveways but are partially restricted.

LANDS NOT OPEN TO LOCATION

Throughout Arizona there are large areas of United States public domain that are not open to mining location. In recent years the withdrawals have become so numerous that it would be beyond the scope of this booklet to give a complete list and, furthermore, these areas change from day to day and a published list rapidly becomes obsolete. Therefore the following comments, supplemented by the map at

page 40, are intended to convey only a general idea of lands not open to mining location in order that the prospector may be alert to such a possibility and make the recommended investigations as to the exact legal description of the land and check through the County, State, and Federal offices to determine if he may locate a valid mining claim in the area.

If a claim is located on land not open to mining location, the subsequent reopening of the area to mineral location does not validate the claim. This principle applies to withdrawals for reclamation, power sites, recreational areas, military reservations, Indian Reservations and similar areas.

National Parks and Monuments

Such areas include the Grand Canyon National Park and the following national monuments: Grand Canyon, Petrified Forest, Chiricahua, Saguaro, Wupatki, and many others in different parts of the state that have been established for scientific, historical, educational, scenic, or recreational purposes.

All lands within these areas are withdrawn from location or entry under any of the public land laws, including the mining laws. An exception is the Organ Pipe Cactus National Monument in Pima County where mining locations are permitted with restrictions, as previously explained on page 13.

Recreational or Other Public Uses

These are areas outside of the national parks or monuments set aside for public use. A state, county or municipality may petition for the use of such land. (43 USC § 869). As a general rule, after receipt of a petition to establish an area for recreational or other public use, the Bureau of Land Management withdraws the contemplated area

Water and Water Rights

In an arid state such as Arizona, water rights are based upon prior appropriation. In the early history of the state these rights were acquired by prior beneficial use alone but are now regulated by State laws with which there must be strict compliance to obtain water rights.

However, water developed by extension of mine workings and percolating water is not the type of water that is contemplated by the Arizona statutes relating to appropriation. The mine operator may use such water for mining and milling and such other purposes as he may deem appropriate. Should it become necessary to obtain water from other sources, such as a flowing stream or a spring, even though found upon the mining claims, an attorney should be consulted. Instructions and forms for making application for water rights may be had from the State Land Department at Phoenix.

Roads, Rights-of-way and Waste Disposal

Should difficulty be experienced by the mining locator regarding use of existing roads or establishment of new ones, rights-of-way for pipe and power lines, or room for disposal of waste and tailings on privately-owned lands, it is generally preferable to work out a mutually satisfactory solution with the surface owner. However, if agreement cannot be reached, there are provisions in the statutes for exercise of the right of eminent domain to acquire land for waste and tailings disposal, for establishment of roads, etc.

Corporation Commission and Stock Sales

Anyone seeking to raise money through the sale of stock must first secure permission from the Arizona Corporation Commission. The law and regulations are given in pamphlet form, obtainable from the Commission upon request.

men's compensation for both occupational accidents and diseases. Although the statute does not require that industrial insurance be carried unless there are three or more employees, nevertheless, every operator should familiarize himself with the provisions of the law and consider the advantages of carrying such insurance to protect himself against possible personal liability. Complete information may be obtained from the Industrial Commission of Arizona at Phoenix.

Labor Laws

The statutes pertaining to labor in mines in Arizona will be found in the booklet issued by the State Mine Inspector's Office. Information may also be obtained from the Industrial Commission of Arizona.

The mine operator must not employ a male under 18 years of age or a female for underground work.

Taxes

In Arizona an unpatented mining claim not being operated is not assessed for taxes. However, buildings and other improvements placed upon the mining claim are generally assessed and taxed even though the mine itself is not operating.

A patented mining claim not being operated is assessed at a nominal value and the tax thereon is usually relatively small.

An operating mine whether it be patented or unpatented is valued by the Arizona State Tax Commission. The County Assessor in the county where the mine is located is notified of this valuation. Taxes are computed thereon according to tax rates applicable to other property in the same tax district.

from all forms of entry. During such time all mining locations are prohibited. The lands may be leased or sold by the United States to the petitioning body. The statute expressly provides that each patent or lease so issued shall contain a "reservation to the United States of all mineral deposits in the lands conveyed or leased and of the right to mine and remove the same, under applicable laws and regulations" to be established by the Secretary of the Interior. Until such regulations are issued, the area is closed to location of mining claims.

An example of such a recreational area is the Tucson Mountain Park, leased to the Pima County Board of Supervisors. The Phoenix Mountain Park is somewhat different because the lands therein were purchased from the United States by the city under a special act of Congress, with a mineral reservation, and a provision that mining must be done under regulations of the Interior Department. In the case of both Parks, however, such regulations have never been issued. Therefore, the Park areas remain closed to mining.

Other forms of recreational withdrawals are the campsites in the national forests. These are usually of small area and not mineralized.

Experimental Forests and Ranges

Examples are the Sierra Ancha Experimental Forest within the Tonto National Forest in Gila County, and the Santa Rita Experimental Range in the Coronado National Forest in Pima County, where research is done on grass land ranges. The Sierra Ancha is closed to all forms of entry including both the mining and the leasing laws. The Santa Rita Range is closed to mining location but subject to the Leasing Act.

Military Reservations

The Federal Government has created numerous military reservations throughout the western states, particularly since the beginning of World War II, which have been closed to mining locations. Some of the withdrawals for military purposes in Arizona are Fort Huachuca, Luke, Williams, Yuma, and other air bases; Williams and other gunnery and bombing ranges. The Williams range includes most of the Cabeza Prieta Game Refuge.

Reclamation Withdrawals

If, by the terms of an order withdrawing lands for reclamation purposes the area is closed to mining entry, unless the Secretary of the Interior, acting within the discretion granted to him by law, declares the land open for entry under the mining laws, as explained on page 12, it is not possible to locate a valid mining claim.

Agricultural Homesteads

The first agricultural homesteads did not reserve minerals to the United States. Beginning in 1909 coal was reserved. Then, under the Agricultural Entry Act of 1914, as explained on page 11 of this booklet, a limited number of other minerals were reserved but which, for the most part, were later made subject to the provisions of the Leasing Act of 1920. Therefore, as a practical matter, it will be seen that most of the minerals commonly found in this state are not open to location under the mining laws if they occur on agricultural homesteads. In such case mineral rights must be obtained by direct negotiation with the landowner. Nevertheless, it is of the utmost importance that every patent be examined to determine the precise terms of any mineral reservations contained therein.

should be made to the State Land Department for a commercial lease specifying the intended uses.

GENERAL INFORMATION

Community Property and Conveyance of Mining Claims

Although Arizona is a "community property" state, the law does not require a spouse's signature on a conveyance of an unpatented mining claim by the other spouse. However, it is recommended that both join in the conveyance. Both must join in the conveyance of patented claims or in the assignment of a mineral lease on State land.

No-Lien Notice

The owner of a mining property should protect himself against liens by posting a non-liability notice as provided in ARS § 33-990, when the property is being worked by others. The law requires that the owner shall conspicuously post the notice at the collar of all working shafts, tunnels and entrances to the mine and boarding houses, on or before the day the lessee or those working the claim begin operations. A copy must be recorded in the office of the recorder of the county in which the mine is located within 30 days from the date of the lease, bond or option. Failure to post such a notice renders the property liable for labor and material liens.

Mine Safety Rules

Any mine operator upon starting operations should inform himself immediately on the State mine safety laws and regulations. These may be obtained in booklet form from the office of the State Mine Inspector, Phoenix, Arizona.

Workmen's Compensation

An employer hiring three or more workmen is subject to the provisions of the Arizona statutes relating to work-

erations are being diligently prosecuted on the expiration date thereof shall continue in effect for a period of two years and so long thereafter as the above-described substances are procured and produced in paying quantities.

Competitive Lease

When State lands are located within a known geological structure of a producing oil or gas field, the lands shall be leased only by sealed bids.

Upon receipt of an application to lease, or whenever, in the opinion of the department, there is a demand for the purchase of leases of such lands, the department shall offer the tract or tracts to the highest qualified bidder submitting a sealed bid, on the basis of a cash bonus. A call is published for sealed bids in which the department specifies the royalty to be demanded, but not less than 12½%, plus an annual rental of $1.00 per acre which shall be credited on royalty payments for each year.

Each lease shall be for a term of five years and as long thereafter as oil, gas or other hydrocarbon substances are procured and produced in paying quantities.

Full details may be obtained as to royalty and other conditions of such leases by writing to the State Land Department at Phoenix.

Lease of State Lands for Commercial Purposes and Rights-of-Way

State mineral leases grant the lessee the right "to use as much of the surface as required for purposes incident to mining." State oil and gas leases stipulate "the lessee shall have the right to use as much of the surface of the lands as reasonably necessary for its operations under the lease." Should the lessee require additional State land for such purposes as waste and tailings disposal, roads, etc., application

Small Tracts for Residence and Other Uses

The Secretary of the Interior, in his discretion, is authorized to sell or lease a tract of vacant, unreserved public lands, not exceeding five acres, if the land is chiefly valuable for residence, recreation, business, or community site purposes. (43 USC § 682a; 43 CFR § 257.1). Patents to such land shall contain a reservation to the United States of all minerals. However, the right to prospect for, mine and remove the same is subject not only to the mining and leasing laws but to such regulations as the Secretary may prescribe. If no regulations are issued, the land, for all practical purposes, is closed to mining. Rules and regulations have been issued under which leasing-act minerals on small tracts may be leased but rules and regulations have not been issued for other minerals under the general mining laws, and therefore the lands remain closed to location of mining claims. However, because of the need for strategic and fissionable source materials as well as other minerals important to the economic and industrial welfare and security of the Nation, the Secretary of the Interior may authorize any Federal agency to enter the land for exploratory purposes to determine the nature and extent, if any, of such minerals. See page 21 concerning uranium on certain withdrawn lands.

Indian Reservations

Indian Reservations in Arizona total more than 19,400,000 acres or approximately 27% of the State's area. All reservations are now closed to location of mining claims under the general mining laws. There may be valid claims in existence which were located when such lands were open for location, particularly on the Papago Reservation which was closed to location of mining claims as recently as May 27, 1955 (25 USC § 463).

In general, Indian tribal lands may be leased with the consent of the respective tribes and the approval of the Secretary of the Interior. (25 USC § 396 a-f; 25 CFR § 186). There are two reservations, San Carlos and Hualapai, where the tribe, under the provisions of the Indian Reorganization Act of 1934 has assumed full control of its mineral leasing, and only the consent of the tribal council is necessary for a lease. The lands allotted in severalty and held by individual Indians, or heirs, subject to the provision they may not be encumbered or alienated without the consent of the Secretary of the Interior, may be leased for mining purposes with the consent of the Indian owners and the approval of the Secretary of the Interior, or his authorized representative.

On the Gila River Reservation there is no provision in the tribal constitution for granting mineral leases on tribal lands. At present there is no law which will permit mineral leasing on tribal lands of the Colorado River Reservation. On the Hopi Reservation there is no provision at present for obtaining rights to prospect or lease for minerals for the reason that the tribe has adopted a policy of prohibiting such activity.

For details of prospecting and leasing procedure, communicate with the Bureau of Indian Affairs Phoenix Area Office, P. O. Box 7007, Phoenix, Arizona, or with the superintendent on each reservation. The Phoenix office does not have jurisdiction over Navajo lands in Arizona. Agency headquarters from which the reservations are administered in Arizona are as follows:

Colorado River Indian Agency, Parker, Arizona
Fort Apache Indian Agency, Whiteriver, Arizona
Hopi Indian Agency, Keams Canyon, Arizona
Navajo Indian Agency, Window Rock, Arizona

value shall be the gross proceeds, or gross value, at the place of sale or use, less the actual cost of transportation from the place of production to the place of sale or use, less taxes, if any, levied and paid upon the production thereof."

In the case of sand, rock and gravel to be used in the construction of roads, buildings or other structures, the royalty shall be the amount as determined by the Commissioner under reasonable rules and regulations promulgated by him, but not more than five cents per cubic yard.

Lease of State Lands for Oil and Gas

Leases for oil and gas on State land are acquired by direct application to the State Land Department, not through the location of mineral claims. Details are contained in Title 27, Chapter 4, Article 2, of the Arizona Revised Statutes beginning at § 27-551.

Noncompetitive Lease

When State lands are not located within any known geological structure of a producing oil and gas field, the person making the first application for the lease shall be issued a lease without competitive bidding. Not more than 2,560 acres of land confined to an area of six miles square shall be included in any one lease.

Annual rental is $1.25 per acre, payable partly in advance and partly within 90 days after discovery of oil or gas in paying quantities. A noncompetitive lease requires payment of royalty of 12½% of the market value of all oil, gas and other hydrocarbons produced, saved, sold and removed from the lands at the well as of the time of sale or removal, as the department may elect.

The term is for five years and as long thereafter as oil, gas or other hydrocarbon substances are procured and produced in paying quantities. A lease upon which drilling op-

3. *Rights conferred on lessee*:

a) The lease confers the right to extract and ship minerals, mineral compounds and mineral aggregates from the claim located within planes drawn vertically downward through the exterior boundary lines thereof. In the case of leases made pursuant to Type A locations of mineral claims on veins or lodes, the lease shall confer extralateral rights in the discovery vein only, similar to those given locators upon the public domain of the United States.

b) To use so much of the surface as required for purposes incident to mining.

c) Of ingress to and egress from other state lands, whether or not leased for purposes other than mining.

4. *Other Provisions of Every Mineral Lease*:

a) The lessee must perform annual labor, as required by the laws of the United States, upon each claim or group of claims in common ownership, commencing at the expiration of one year from the date of location, and furnish proof thereof to the Commissioner.

b) Lessee must fence all dangerous mine workings, and there are also additional requirements not necessary to mention in this booklet.

5. *Rental.* Minimum rental for a mineral lease is $15 per claim per year payable in advance which is credited on a royalty of 5% of the net value of the minerals produced from the claim. Net value is defined as "gross value after processing, where processing is necessary for commercial use, less the actual cost of transportation from the place of production to the place of processing, less cost of processing and taxes levied and paid upon the production thereof. In case of minerals not processed for commercial use, the net

Pima Indian Agency, Sacaton, Arizona
San Carlos Indian Agency, San Carlos, Arizona
Papago Indian Agency, Sells, Arizona

The former Truxton Canyon or Hualapai Indian Agency is now a subagency under the jurisdiction of the Colorado River Indian Agency.

Game Refuges

Mining locations may not be made within the Grand Canyon National Game Preserve. This covers approximately the area occupied by that portion of the Kaibab National Forest which lies north of the Colorado River. The Imperial National Wildlife Refuge and that portion of the Cabeza Prieta Game Refuge which is included in the Williams gunnery and bombing range withdrawal are also closed to mining entry.

Administrative Sites

Ranger stations, inspection stations, border patrol stations, etc., are not subject to location.

Uranium on Certain Withdrawn Lands

A cooperative arrangement for the issuance of uranium prospecting permits and mining leases on Government lands under the jurisdiction of Federal agencies not having authority to issue such permits and leases has been announced by the Atomic Energy Commission and the Department of the Interior. This will apply to such lands as military reservations and reservoir areas. Details were published in the Federal Register for March 5, 1957.

Spanish Land Grants

The lands in a valid Spanish Land Grant are not open to mining location.

SUBSTANCES WHICH MAY BE LOCATED UNDER THE FEDERAL AND STATE MINING LAWS

Public Domain of the United States

Deposits of coal, oil, gas, oil shale, sodium, phosphate, and potash cannot be located under the general mining laws but may be acquired under the leasing laws from the United States. All other minerals, except the common varieties of sand, stone, gravel, pumice, pumicite, cinders, clay, and similar surface resources, may be located under the mining laws. The acquisition of the common varieties of sand, stone, etc., is by lease under the terms of the Material Disposal Act. For further details see page 50.

Lands of the State of Arizona

Valuable mineral deposits on State lands may be located as "mineral claims." The term "mineral" includes mineral compound and mineral aggregate. Oil and gas are covered by special legislation. However, a lease must be obtained before minerals, oil and gas may be extracted.

Mining Locations in General

The manner in which mining claims are located varies according to whether they are on public domain of the United States and land where minerals have been reserved by the United States, or on land owned by the State of Arizona. In some respects the procedure is the same or nearly so, but in others it differs greatly. To avoid confusion it is essential that each system of location be described separately.

MINING LOCATIONS ON PUBLIC DOMAIN OF THE UNITED STATES

Lodes and Placers

A valid mining claim upon public domain of the United States within the State of Arizona or on lands where the United States has reserved the minerals, must be located

are confined within planes drawn vertically downward through the exterior boundary lines. The locator must:

1. Mark the location upon the ground by erecting a monument or placing a post extending at least three feet above the surface of the ground at each angle corner of the claim, as nearly as possible.

2. Place in each monument, or on each post, a memorandum stating the name of the locator, the name of the claim and designating the corner by reference to cardinal points.

3. Within 30 days thereafter, file for record in the office of the County Recorder of the county in which the claim is located, a notice of location which shall set forth:

   a) The name of the locator.

   b) The name of the claim.

   c) The date of location.

   d) The legal description of the land claimed.

4. Location or discovery work is not required on Type B.

Under either of the two types of location, one copy of the location notice of each claim, together with the County Recorder's certificate of recordation, shall be filed in the office of the State Land Commissioner within 30 days after the date of location.

Mineral Lease

1. *Preferred Right.* The locator of a Lode or Type A claim has a preferred right to a mineral lease within 90 days after date of location. A preferred right is not granted to a Type B locator.

2. *Term.* Every mineral lease of State lands shall be for a term of 20 years.

Location of a Lode or Type A Mineral Claim With Extralateral Rights

1. The statute (ARS § 27-232 A) provides: "If the mineral deposit is a vein, lode or ledge, it may be located in the manner provided for the location of mineral claims upon the public domain of the United States." The manner in which a claim on a vein or lode shall be located on public domain is described on page 25. A location made in this manner entitles the locator to extralateral rights on the discovery vein only. A form available from the State Land Department for the location of a lode claim on State land will be found at the end of this booklet.

2. For a lode or Type A location, the locator shall be required to perform the discovery work required by law for mining claims under the laws of the United States within the 90-day period or an equivalent amount of development drilling of a reasonable value of $100 on each claim. The development drilling may be centrally located and need not be upon each individual claim, but shall be so located as to be part of a plan of development for the group, and in no event shall the minimum requirement prescribed for each individual claim be dispensed with.

3. The locator must submit to the State Land Commissioner satisfactory proof of the performance of discovery work within such reasonable time as the Land Commissioner prescribes. A lease will not be issued until this is done.

Location of a Type B Mineral Claim Without Extralateral Rights

Any "mineral claim" may be located in conformity with the lines of the public land survey, embracing not more than 20 acres. (ARS § 27-232 B). A form for this type of location will be found at the end of this booklet and is available from the State Land Department. Mining rights

either as a lode claim or a placer claim. With reference to lode locations, the Federal statutes describe "Mining claims upon veins or lodes of quartz or other rock in place, . . ." (30 USC § 23). Concerning placer locations, the statute reads "Claims usually called 'placers,' including all forms of deposit, excepting veins of quartz, or other rock in place, . . ." (30 USC § 35). A well defined vein confined within the walls of country rock is located as a lode claim. Valuable mineral particles occuring in loose, unconsolidated material, such as, for example, gold in sand and gravel, is located as a placer claim. When the fact situations are not so clean-cut it often becomes difficult to determine whether a deposit should be located as a lode or a placer. Nevertheless, the locator must make a decision, and he does so at his peril, at the inception of the location before he has had time to explore the deposit to determine its geological characteristics. His problem is further complicated by the court decisions, sometimes conflicting, rendered in borderline cases.

The test to apply is whether the deposit is a vein, lode, ledge, zone or belt of mineralized rock lying within boundaries clearly separating it from the neighboring rock. If so, it should be located as a lode claim. If not, then as a placer claim. This rule is not infallible, but it is the best rule of thumb that can be offered the mining locator for guidance in the field.

Whether the mineral in a deposit is metallic or nonmetallic does not determine the type of location. The nature of the mineral occurrence determines the correct type of claim.

The courts have given a liberal construction to the mining laws, having in mind that they are intended for the benefit of the practical prospector and miner. However, there must be substantial compliance with the statutes.

Assuming the land is open to mineral entry, the four requirements to locate a mining claim are:

1. Discovery.
2. Location or posting.
3. Recording a copy of location notice.
4. Marking boundaries and performing location work.

Discovery

A "discovery" of mineral is the foundation upon which the whole mining law is based. It is the inception of title to a mining claim. The courts have uniformly held that until discovery has been made there is no valid claim. The "discovery" need not be commercial ore but should be such as to justify a prudent man in the spending of his time and money in an effort to develop a mine. However, the mineral may have such low values as to be worthless for all practical purposes and does not then meet the test of a discovery within the meaning of the law.

The discovery of mineral must be within the boundaries of the claim but need not be on the center line. If the discovery is not near the location notice it is advisable to state in the notice the distance and direction to the discovery.

With the passage of years, easily found surface showings of minerals are becoming relatively scarce. The prospector is generally confronted with the necessity of locating his claim over ground which looks promising but without an actual discovery. There is no prohibition in the law against making such a location. However, his possessory right (pedis possessio) depends upon actual possession of each claim and due diligence in trying to make a discovery thereon. To what extent the courts will protect him in that possession is not easily answered for it depends on the facts of each case.

State lands subject to mineral lease include lands not under lease for any purpose or lands presently leased for agricultural or grazing purposes. Land leased for commercial or homesite purposes is not open for mineral location. A mineral lease may not be granted on top of an existing mineral lease; neither may a location be made on lands covered by an existing mineral lease.

The State at all times retains title to and ownership of the land. A mining claim on State land may never be patented and there are no placer claims on State land, as in the case of claims on public domain of the United States.

The issuance of oil and gas leases on State land is done under the provisions of Arizona statutes and not under the Federal Leasing Act of 1920. All State lands are subject to leasing for oil and gas.

Instructions and forms pertaining to location of mineral claims and application for mineral leases may be obtained from the State Land Department, State Office Building, Phoenix, Arizona.

Location of Mineral Claims

The right to locate mineral claims and conduct mining operations on State lands is governed by ARS, Title 27, Chapter 2, Article 3, beginning at § 27-231. One "who discovers a valuable mineral deposit on any state land may enter upon and locate the deposit as a mineral claim." The term "mineral" included mineral compound and mineral aggregate.

There are two methods of locating a "mineral claim" on State land, one with and one without extralateral rights. The procedure to be followed in each case is as follows:

would still be locatable under the mining laws. If a deposit of building stone should be found that has some property giving it distinct and special value, within the meaning of the act, it should be located as a placer claim in accordance with the provision of a statute relating to building-stone entry under the mining laws. (30 USC § 161). To determine how other deposits should be located, the general rules relating to lodes and placers apply.

However, until such time as the Bureau of Land Management issues rulings for specific materials or the courts resolve the questions through litigation, there is apt to be a difference of opinion as to what is or is not locatable by a mining claimant. Where there is doubt, the mining locator should consider the advisability of not only locating claims but also making application under the terms of the Material Disposal Act, hoping for a prompt resolution of the question before expiration of the time in which he must complete all acts of location on his claims.

ACQUISITION OF MINING RIGHTS ON STATE LAND

The term "State land" as herein used means land owned by the State of Arizona together with the minerals therein. The acquisition of mineral rights on State land is governed by legislation found in Title 27 of the Arizona Revised Statutes. The Federal mining laws do not apply except as they may be incorporated by specific reference thereto. This is a fact of which many prospectors are unaware.

Although mining claims may be located on State land, the act is only a part of the procedure leading to issuance of a mineral lease. The greatest interest which a locator may acquire in State land is a leasehold for 20 years with a preferred right to renewal.

There is urgent need for a revision of the mining law to protect the locator for a reasonable time while he endeavors to make a discovery. However, under the present law a discovery on each and every claim is an indispensable requisite to its validity.

In practice, the other acts of location often precede a discovery, but the location is valid only from the date of discovery. Therefore, it is possible that another person may come upon the ground prior to discovery, in a manner sanctioned by law, and upon making a discovery himself, locate a valid claim, thus extinguishing the attempted location of the first locator. A mining claim without a discovery is always subject to question by the locator of a conflicting claim, or by the Government in a proper action to have the claim declared null and void and, of course, can never be patented.

Since the type of discovery and the manner of locating differ as between lodes and placers, each will be described separately.

LODE CLAIMS

Location

The following steps must be performed to locate a lode claim on public domain of the United States within the State of Arizona:

1. Make a discovery of "mineral in place," that is, enclosed within the surrounding country rock. Detached pieces of mineral that are scattered throughout or on top of the soil, commonly called "float," do not constitute a discovery which will validate a lode location.

2. Erect at or contiguous to the point of discovery a conspicuous monument of stones not less than three feet in height, or an upright post securely fixed and projecting at least four feet above the ground. (More often than not, the

"point of discovery" is in reality nothing more than the spot at which the location notice is posted. In patent proceedings, the Bureau of Land Management has accepted a discovery at any place on the claim—not necessarily at the point of posting the location notice.)

3. In or on the monument or post there must be posted a location notice, signed by the name of the locator. The notice, a form of which is included at the end of this booklet, shall contain:

a) The name of the claim located.

b) The name of the locator. (The discoverer can locate for himself, or for himself and others, or for others.)

c) The date of the location.

d) The length and width of the claim in feet, and the distance in feet from the point of discovery to each end of the claim. The maximum length is 1,500 feet and the maximum width 600 feet, and not more than 300 feet on either side of the point of posting. A sketch of the claim on the margin or back of the location notice, showing dimensions and names of contiguous claims, is very helpful for identification purposes but is not required by law.

e) The general course of the claim.

f) The locality of the claim with reference to some natural object or permanent monument whereby the claim can be identified. If the claim can possibly be tied in to a public survey marker by distance and direction it is advisable to do so, giving also the number of the section, township, and range in which the claim is situated. This is

of Agriculture Forest Service entitled "What is the New Multiple-Use Mining Law?"

A difficult question is posed by the act wherein it states that "common varieties" of sand, stone, gravel, pumice, pumicite, or cinders may not be acquired by location of mining claims, but that "common varieties" does not include such materials which are valuable because the deposit has some property giving it distinct and special value. Shall the prospector locate the deposit as a mining claim or proceed under the Material Disposal Act which may involve competitive bidding?

Regulations have been issued by the Department of the Interior (43 CFR § 185.120), § 185.121 of which reads in part as follows: (b) 'Common varieties' as defined by decision of the Department and of the courts include deposits which, although they may have value for use in trade, manufacture, the sciences, or in the mechanical or ornamental arts do not possess a distinct, special economic value for such use over and above the normal uses of the general run of such deposits." A footnote to the section reads as follows: "Thus, while marble would not be a common variety of stone, ordinary building stone or sand and gravel or pumice or limestone used in building would be."

The Forest Service regulations (36 CFR § 251.4) provide for disposition under the Materials Disposal Act of "common varieties of sand, stone, gravel, pumice, pumicite, and cinders . . . and . . . other mineral materials, including clay, from such lands where the mineral materials are not of such quality and quantity as to be subject to disposal under the United States mining laws."

The report of the Senate Interior Committee pointed out that limestone suitable for use in production of cement, metallurgical or chemical grade limestone, and gypsum,

are unaffected by the published notice. If the examination discloses doubt as to validity of the claim, then a hearing will be held before officials of the Bureau of Land Management.

At any hearing which might be held, it will be incumbent upon the claimant to prove validity of the location by showing there has been an adequate discovery, that location work has been done, monuments erected, and all other legal requirements have been met, including performance of annual assessment work. On the basis of testimony presented by the Government agency and the claimant, the Bureau will make a decision. If in favor of the claimant, he retains the same surface rights he had prior to passage of the act. If the Bureau decides against the claimant, his mining claim is not invalidated, but is subject to the provisions of the Multiple Surface Use Act.

The hearing and any appeal that may be made from the Bureau's decision shall follow the rules of practice of the Department of the Interior with respect to contests affecting public lands of the United States.

Any inquiry into the validity of a mining location under the procedure established by this act is only for the purpose of determining surface rights. However, there is nothing in the act which prevents the United States from attacking the validity of the claim through the established procedure or at time of patent. Such attack would be on the basis of failure to make discovery or other lack of compliance with the requisites of the mining law. Furthermore, there is nothing in the law to prevent another locator from challenging the validity of a conflicting claim at any time.

Copies of the regulations may be obtained from the U. S. Bureau of Land Management, Phoenix. An easy to understand bulletin has been issued by the U. S. Department

especially important in view of the provisions of the Multiple Surface Use Act, the details of which are given on page 49.

Recording

Within 90 days from the time of location, record a copy of the location notice in the office of the Recorder in the county where the claim is situated.

Marking Boundaries and Performing Location Work

a) Monument the claim on the ground so that its boundaries can be readily traced. This is done by erecting six substantial posts projecting at least four feet above the surface of the ground, or by substantial stone monuments at least three feet high, one at each corner of the claim and one at the center of each end line. Although not a legal requirement, it is advisable to identify each corner of the claim, such as "N.E. Cor. Daisy".

End lines must be parallel if the locator is to acquire extralateral rights in a vein or lode. If side lines are not straight lines, monuments must be erected at angle corners.

b) Sink a location or "discovery" shaft on the claim to a depth of at least eight feet from the lowest part of the rim of the shaft at the surface or deeper, if necessary, to a depth where mineral in place is disclosed in the shaft. (This shaft should measure not less than 4 ft. x 6 ft. in cross section.) Any open cut, adit, or tunnel is equivalent, as location work, to a shaft sunk from the surface, provided it is equal in amount of work to a shaft 8 ft. deep by 4 ft. wide by 6 ft. long, and provided a lode or mineral in place is cut at a depth of 10 ft. from the surface. (Particular at-

tention is called to the fact the face of an open cut must measure at least 10 feet high. Many locators are under the impression that it need be only 8 feet.)

The term "location shaft" is preferable to "discovery shaft" to avoid confusion with a discovery of mineral which may or may not be in the shaft.

As pointed out under the topic of "discovery," the Bureau of Land Management in patent proceedings accepts a discovery at any point on the claim and does not require that it be in the so-called "discovery" shaft. This is a sensible application of the law, particularly in view of recent developments in the field of geophysics whereby ore bodies have been discovered at depths ranging from a few hundred to more than a thousand feet below the surface. The only practical way to make a discovery at such depths is by drilling. It would completely defeat the purpose of the mining laws to require the sinking of a shaft on each claim merely for the purpose of finding mineral.

For the locator's own protection there should be full compliance with the law and it is advisable to record the location notice and perform all other acts of location as rapidly as possible without necessarily taking advantage of the full statutory period of 90 days.

Relocation

The location of an abandoned or forfeited claim shall be made in the same manner as other locations except that the relocator may perform the location work by sinking the original location shaft eight feet deeper than it was originally, or if the original location work consisted of a tunnel or open cut, he may perform the location work by extending the tunnel or open cut by removing therefrom 240 cubic feet of rock or vein material.

of such notice. The request shall contain: 1) Name and address of the person requesting a copy; 2) date of location; 3) book and page of recording of the location notice, and it is also advisable to include the book and page of amended notices of location; 4) the section or sections of the public land surveys which embrace the mining claim.

A form for making such a request will be found at the end of this booklet.

What does a claimant do after notice is given? He has 150 days after the date of first publication to do one of three things:

1. He may ignore the notice. In such case the United States obtains the right to manage and dispose of the surface resources. The locator does not lose his mining rights but they are subject to the provisions of the Multiple Surface Use Act just as though the claim had been located after July 23, 1955.

2. He may execute a waiver to surface rights. Here again his mining rights will be just as though the claim had been located after passage of the act.

3. He may file a verified statement containing the following information: a) Date of location; b) book, page and place of recording the notice of location; c) the section or sections of the public land surveys which embrace the claim; d) whether he is a locator or purchaser under such location; e) his name and address and names and addresses, so far as he knows, of any other person or persons claiming any interest in the claim.

If the claimant files a verified statement, the claim will be examined by a mineral examiner from the Forest Service (or other agency, depending on administration of the affected land). If it is found the claim is valid, a stipulation may be entered into, asserting that the locator's rights

It is common knowledge throughout the West that in every mining district there are great numbers of invalid, abandoned, unidentifiable and dormant claims. Usually the only clue as to the boundaries of a claim is a rough description contained in a location notice posted in one monument only. Monuments in all stages of disrepair are so thickly scattered that it is impossible to determine which, if any, mark the corners of a particular claim. Recorded copies of location notices usually do not contain a description that will enable an interested party to identify a claim on the ground. The new act establishes a procedure whereby surface rights to such claims, located prior to July 23, 1955, may be determined.

The procedure is started by the Federal agency which administers the public domain on which the mining claim is located, such as the Forest Service, for example. The Forest Service will request the Bureau of Land Management, whose office for this state is in Phoenix, to publish a notice stating that a determination of surface rights on mining claims will be made. A notice, describing the area by legal subdivisions, will be published in a local newspaper for nine consecutive weeks. Persons in actual possession or working a claim, or whose claims are of record in the County Recorder's office, and described in such a way as to show the lands are within the affected area, and whose names and addresses can be ascertained, will receive notice by personal service or registered mail.

However, it is advisable for a person claiming any right to an unpatented mining claim located prior to the effective date of the act, to make certain that he does receive a copy of any notice to mining claimants which may be published, affecting lands where the claim is located. He may do so by recording in the County Recorder's office where the notice of location is recorded, an acknowledged request for a copy

It is advisable in most instances to dig a new shaft or cut and avoid possible disputes as to what work, if any, was done by the relocator.

Upon relocation, the new locator may use the mineral discovery of the former locator and may adopt the monuments of the prior claim. However, he may not adopt the location or "discovery" shaft or cut. This location work must be done by the new locator.

Amendment

The location notice may be amended at any time and the monuments changed to correspond with the amended location, but no change shall be made which will interfere with the rights of others. The original discovery point must be retained. The amended location notice must be posted and a copy recorded. The notice should be entitled "Amended Location Notice" and should contain the statement: This is an amendment of the _____lode (or placer) claim, located _____ 19____, and of record in Book_____, Page_____, Office of the Recorder of _____County.

PLACER CLAIMS

In General

The classic example of a placer is the occurrence of gold particles in gravel and sand. However, other minerals, both metallic and nonmetallic, may be located as placers. Some flat-lying deposits, though contained within the country rock, may be located as a placer, but if the same mineral were in a distinct vein or lode, it should be located as a lode claim.

Mining rights in a placer claim are confined to vertical planes passed downward through its boundaries without extralateral rights.

Under certain circumstances a placer claim may be prospected for lodes and a lode claim located over the placer claim. If there are known lodes within the placer claim, the owner of the placer claim must declare such lodes when making application for patent and otherwise comply with the patent laws. Should the known lodes not be declared, they are open for location as lodes, even after patent issues for the placer claim. On the other hand, if there are no known lodes at the time of patent, but their existence is subsequently disclosed, the placer patent conveys all valuable minerals both lode and placer.

Some substances that formerly were located as placers are now specifically excluded from mining locations by the Multiple Surface Use Act of 1955. For details see page 49.

Size of Claim

A placer location shall not include more than 20 acres for each individual claimant but there is no limit to the number of claims that an individual or association of individuals may locate.

A group of individuals may locate an "association" placer claim with a maximum of 160 acres. Thus two individuals may locate an association placer claim of 40 acres, three individuals 60 acres, etc., up to a maximum of 160 acres by eight individuals in a single claim. However, all locators must be bona fide. If "dummy" locators are used, the validity of the claim may be questioned should a conflict arise.

Location

A placer claim on public domain of the United States within the State of Arizona shall be located as follows:

1. Make a discovery of placer material. Discovery of mineral in place in a vein or lode will not validate a placer location.

Except for the minerals in a deposit which may be located under the general mining laws, a mining claim, prior to patent, is subject to the right of the United States to manage and dispose of the surface resources, both vegetative and mineral as well as the right of the United States, its permittees, and licensees, to use so much of the surface as may be necessary for such purposes and for access to adjacent land. However, such use must not endanger or materially interfere with prospecting, mining, or processing operations or uses reasonably incident thereto.

In the event the United States disposes of timber from the claim and subsequently the locator requires more timber for his mining operations than is available to him from the claim, he is entitled, free of charge, to be supplied with timber from other areas which shall be substantially equivalent in kind and quality with the timber disposed of by the United States.

The need for a conservation measure of this type arose from the fact that thousands of mining claims had been or were being filed each year, not for bona fide mining purposes, but for acquisition of timber, homesites, grazing, water, and control of power sites. Frequently the alleged discovery consisted merely of the common varieties of sand, stone, etc. To prevent these abuses, representatives of the mining industry and the Government collaborated in drafting the new act providing for multiple surface use of unpatented claims. The rights of an owner to patent his claim are not diminished by the new law, and when patent issues he acquires full ownership of the surface as well as the minerals.

The act does not apply to lands in any national park, national monument, or Indian Reservation.

"block pumice" which occurs in nature in pieces having one dimension of two inches or more.

Authorization is given to the Secretary of the Interior or the Secretary of Agriculture, depending on which department administers the land in question, under such rules and regulations as the Secretary may prescribe, to dispose of mineral materials including, but not limited to, common varieties of the following: sand, stone, gravel, pumice, pumicite, cinders, and clay, and also vegetative materials including, but not limited to, timber, grass, and cactus. The mineral materials may be disposed of under the Materials Act of 1947 as amended (30 USC § 601) only upon payment of adequate compensation to be determined by the Secretary and, where appraised at over $1,000, must be advertised and sold to the highest bidder.

The Timber and Stone Act (43 USC § 311), which provided for the sale of lands chiefly valuable for stone, was specifically repealed effective August 1, 1955.

Any mining claim located under the mining laws of the United States, after the act became effective July 23, 1955, shall not be used, prior to issuance of patent, for any purposes other than prospecting, mining or processing operations and uses reasonably incident thereto. The mining claimant may use timber on the claim only to the extent required for his prospecting, mining, or processing operations and uses reasonably incident thereto, including buildings, and to provide clearance for such operations or uses. However, except to provide clearance, the cutting or removal of timber must be in accordance with sound principles of forest management. It is advisable, therefore, that prior to cutting of timber that the department administering the land be consulted. In most instances this will be the National Forest Service of the Department of Agriculture.

But one discovery of mineral is required to support a placer location, whether it be of 20 acres by an individual, or of 160 acres or less by an association of persons. However, in the event of a contest, or in patent proceedings, such a discovery may not conclusively establish the mineral character of all the land within the claim. The locator may find it necessary to show a discovery on each legal subdivision, the smallest of which is 10 acres.

2. Post a location notice signed by the locator which shall contain:

a) The name of the claim.

b) The name of the locator.

c) The date of location.

d) The number of acres claimed. The location should conform to the United States public land surveys. However, the Interior Department has ruled that where strict conformity is impracticable, such as a placer in the bed of a meandering stream, the ground may be located otherwise, provided the claim will fall within a square tract of a given area, depending on the size of the claim.

e) A description of the claim with reference to some natural object or permanent monument that will identify the claim. If at all possible to do so, a corner of the claim should be tied in by direction and distance to the nearest public survey marker.

A form for use in locating a placer claim will be found at the end of this booklet.

Recording

Record a copy of the location notice with the Recorder of the county in which the claim is located, within 60 days after the date of location. (This compares with a 90-day

period allowed for lode claims.) When a placer claim is located on lands reserved for power sites, a copy of the location notice must be filed with the United States Bureau of Land Management, Phoenix, Arizona, within 60 days after date of location, as explained on page 13.

Marking Boundaries and Performing Location Work

Mark the boundaries of the claim with a post or monument of stone at each angle of the claim. A monument of stone shall be at least three feet in height and four feet in diameter at the base. When a post is used it shall be at least four inches in diameter by four feet six inches in length, set one foot in the ground and secured by a mound of stone or earth. Where it is practically impossible on account of rock or precipitous ground to sink posts, they may be placed in a pile of stones. If it is impossible to erect and maintain a post or monument of stone, a witness post or monument may be used and placed as near the true corner as the nature of ground will permit.

Neither the Federal nor Arizona statutes specify the time in which marking of the boundaries must be done, but ARS § 27-207 seems to indicate an intent that monuments or posts should be erected at the time of posting the location notice. By analogy to lode locations, it may be argued that 60 days should be allowed, inasmuch as this is the period within which a placer location notice must be recorded. However, since there is room for doubt, the boundaries should be marked promptly to avoid possible disputes.

The Arizona statutes, insofar as they apply to public domain of the United States, make no provision for location or "discovery" work on a placer claim. However, the Federal law provides in substance that a placer shall be subject to entry and patent under like circumstances and conditions as a lode claim. Arizona has made provision for per-

under the general mining laws. The two operations shall be conducted, so far as reasonably practicable, in a manner compatible with such multiple use and provision is made for the resolution of conflicts.

Due to the vague manner in which mining locations are frequently described, it is often impossible to determine the exact locality of such claims. The act sets forth a procedure under which a Leasing Act lessee may require mining claimants to come forth and reveal any interests which may be adverse to the lessee. Failure of a mining claim owner to establish his rights does not result in a forfeiture of his claim but will subject the mining claim to a reservation to the United States of all leasing-act minerals.

THE MULTIPLE SURFACE USE ACT OF 1955

(30 USC § 611; 43 CFR § 185.120)

This is commonly known as Public Law 167 and is important and far-reaching legislation that applies to all unpatented mining claims on public domain of the United States. Every owner of an unpatented mining claim should be familiar with its terms. It amended the general mining laws by limiting the rights of the holder of an unpatented mining claim in his use of the surface and surface resources.

Deposits of common varieties of sand, stone, gravel, pumice, pumicite, or cinders may not be acquired by location of mining claims. However, this does not prevent a mining location based upon the discovery of some other mineral occurring with these common varieties. An example would be gold associated with gravel, which may be located as a placer claim. The act expressly provides that "common varieties" do not include deposits of such materials which are valuable because the deposit has some property giving it distinct and special value and does not include so-called

However, nothing in the 1949 legislation impaired any vested rights.

Forms for the bond and instructions relating thereto may be obtained from the United States Bureau of Land Management in Phoenix.

MULTIPLE MINERAL DEVELOPMENT ACT OF 1954

(30 USC § 521; 43 CFR § 186)

This legislation, commonly known as Public Law 585, applies to public domain and lands wherein the United States has retained mineral rights. A brief explanation is necessary to understand the need for such legislation. The Leasing Act of 1920 did not close the public lands to location of all minerals under the mining laws. However, it was determined by the Secretary of the Interior that those lands which were under lease or were known to contain leasing-act minerals were not subject to location under the mining laws. Lands not leased and not known to contain leasing-act minerals, when located by a valid mining claim, precluded the granting of a lease even though leasing-act minerals might subsequently be discovered therein.

With the discovery of uranium on the Colorado Plateau, great numbers of mining claims were located on land previously leased for oil and gas. This vitally important source of fissionable material could not be mined as a leasing-act mineral nor by the locator of a mining claim under the general mining laws. The need for corrective legislation became apparent and Congress first passed temporary measures validating mining claims on leased land followed by enactment of the Multiple Mineral Development Act in 1954, the general purpose of which is to permit the full utilization of the same tract of land for the extraction of leasing-act minerals as well as those minerals subject to location

formance of location work on lode claims. Therefore, it is advisable to do the location work on a placer claim, equal in kind and amount to a lode claim, as insurance against possible conflicts and litigation and also to demonstrate good faith.

MILL SITE

This is a tract of nonmineral land of five acres that may be located for "mining or milling" uses. Its location must be upon vacant and unappropriated public domain. It may adjoin a side line of a lode claim, providing the mill site is nonmineral land. Should it be located adjacent to the end line of a lode claim, the nonmineral character of the land may be challenged, for the question arises whether or not the vein, on its strike, enters the mill site.

At the time patent is sought for a mill site it must be actually in use for mining or milling purposes.

Both the Federal and State laws are silent as to the manner of locating a mill site. However, a location notice should be posted, and a copy recorded. No annual assessment work is required.

TUNNEL LOCATION

A tunnel location is expressly provided for in the Federal statutes. It is not a mining claim. It gives the locator a right to drive a tunnel a maximum distance of 3,000 feet from the portal along the line of the tunnel site as marked on the surface. Any veins cut in driving the tunnel which do not appear on the surface, and not previously known to exist, may then be located by the tunnel operator by lode claims. The right to veins so discovered relates back to the time of location of the tunnel site.

MAINTENANCE OF TITLE

The following remarks apply to maintenance of title to lode and placer claims located on public domain of the United States within the State of Arizona.

Annual Work Requirement

The Federal statutes require that on each claim, until patent has been issued, not less than $100 worth of labor shall be performed or improvements made during each year. The assessment year ends at noon July 1. However, if the work is in progress but not completed at the end of the assessment year, the requirements of the law will have been met if the owner remains in possession and diligently prosecutes his work to a conclusion. Assessment work is not required for the assessment year in which the claim was located. Location work is entirely distinct from assessment work and may not be substituted for the latter.

On a group of contiguous claims of common ownership it is possible to perform the work and improvements on one or more of the claims, but for the benefit of all the claims in the group. For example, in a five-claim group, $500 worth of work and improvements may be made on one claim only. However, this work must tend to develop or benefit all the claims in the group. The mere fact that the claims are contiguous is not enough to satisfy the requisites of the law. What will tend to develop or benefit all the claims in the group is a question of fact in each particular instance. The work may be performed on an adjoining patented claim if it meets the test of actually benefiting and developing the unpatented claims in the group.

A single placer claim, whether it be 20 acres located by one person or 160 acres located as an association placer by eight persons, requires only $100 annual expenditure.

The act further provides that any person who has acquired from the United States the mineral deposits in such lands has the right to mine and remove the same. He may re-enter and occupy so much of the surface as may be necessary for all purposes reasonably incident to the mining or removal of the minerals upon one of three conditions: 1. Upon securing the written consent or waiver of the homestead entryman or patentee, 2. Upon payment to the owner of the agreed value of damages to cultivated crops and permanent improvements, 3. In lieu of either of the foregoing provisions, upon the execution of a good and sufficient bond to the United States for the use and benefit of the entryman or owner of the land to secure payment of damages to cultivated crops or permanent improvements.

It is of course preferable to come to a private agreement with the homestead owner rather than resort to the posting of a bond. However, if the efforts to negotiate fail, the mining claimant has an absolute right to post a bond, the amount of which will be determined by the Bureau of Land Management, and upon posting such bond may re-enter the land to conduct mining operations.

The original Stock-Raising Homestead Act did not make the mining claimant liable for damage to grass or other forage—only for damage done to cultivated crops. However, by supplemental legislation enacted in 1949 (30 USC § 54), it was provided that "any person who . . . prospects for, mines, or removes by strip or open pit mining methods, any minerals from any land included in a stock raising or other homestead entry or patent, and who has been liable under such an existing Act only for damages caused thereby to the crops or improvements of the entryman or patentee, shall also be liable for any damage that may be caused to the value of the land for grazing by such prospecting for, mining, or removal of minerals."

is a vein or lode within the meaning of the law such as to entitle the claim owner to extralateral rights. In many instances, owners of adjoining claims have entered into "side-line agreements" whereby their respective rights were confined by planes passed vertically downward through the side lines, thus eliminating the possibility of costly litigation in an attempt to establish extralateral rights.

In the event a question of extralateral rights arises, each case must be decided upon its own facts. It is not possible in a booklet of this size to do more than make a very general statement.

STOCK-RAISING HOMESTEAD

The Stock-Raising Homestead Act of December 29, 1916 (43 USC § 291; 43 CFR § 168.1), provides that all entries made and patents issued under its provisions shall contain a reservation to the United States of all minerals in the lands so entered and patented, together with the right to prospect for, mine, and remove the same. The mineral deposits in such lands are subject to disposal under the provisions of the Federal mining laws. Any person qualified to locate a mining claim may enter upon the land for the purpose of prospecting for minerals and locating mining claims, and it is not a trespass. The prospector must not damage or destroy the permanent improvements or cultivated crops by reason of such prospecting. Every care should be exercised to respect the rights of surface holders.

To avoid misunderstanding, it is advisable for the prospector to inform the surface owner of his intention to prospect the land and to locate mining claims. Travel by vehicle should be restricted to established roads wherever possible. The prospector should avoid unnecessary damage to grass or other forage, and keep away from water holes when his presence there will prevent stock from coming in to water.

There is no limitation on how long a mining claim may be held so long as assessment work is performed as required by statute. Assessment work is not required after issuance of the "Manager's Final Certificate of Mineral Entry" in patent proceedings.

What May be Applied as Annual Work

Annual work may be underground or on the surface. It may be done off the claim if clearly of benefit or value to it. An example would be a crosscut driven for the evident purpose of intersecting a vein at depth. And this is allowable even where the portal of the crosscut is not within the claim itself (or group). However, it must be kept in mind at all times that work which is performed off the claims is presumed not to benefit the claims. If questioned, the burden of proof is upon the party claiming the work to establish the fact that this work did in fact tend to develop and benefit the claim or group of claims.

The question often arises as to whether monies spent or work done, do, in fact, benefit the claims. The mere taking of samples, for instance, while necessary data on which to base an opinion as to whether or not mining work should be conducted, does not in fact develop or tend to develop mineral and some cases have held that it cannot be credited to annual work. The party desiring to take credit for expenditures should be careful to eliminate all doubtful items and make certain that sufficient money is spent on actual development work to remove all possible doubt as to having met the statutory requirement.

Allowable expenditures include:

Buildings, if upon the claim and actually used for mining purposes.

Expenses of a watchman, provided his services are necessary for the preservation of the property.

The Arizona Supreme Court has declared that the services of an individual making occasional trips to the property to see if everything was all right are not expenses which can be applied toward the annual assessment work requirement.

Machinery, tools, etc. essential to the development of the claim.

Timber used for mine purposes.

Roadways, both on and off the property, if for the benefit of the property.

Surface cuts and trenches, if measurable, and not merely sample trenches.

Diamond, churn, and rotary drilling.

This list is not complete. There are other items of labor and improvements which meet the test.

Some expenses which may not be applied as annual work are:

Geophysical prospecting.

Expenses of surveying.

Assaying.

Attorney's fees.

Traveling expense.

Construction or repairs to a mill.

Annual work is not cumulative. In other words, if twice the amount required by statute is done in one year, the excess cannot be applied to the succeeding year. However, it is sometimes more economical or convenient to perform two years' work as one continuous job. This may be done by performing the work at the close of the current assessment

PATENT TO MINING CLAIMS

A mining claim, until patent has been issued, is a title which is never complete and must be maintained by the annual expenditure in work and improvements as required by law. Should the owner of an unpatented mining claim desire to acquire the absolute title and, at the same time, clear the record so far as possible adverse claims are concerned, then he should make application for a patent from the Government of the United States.

Of first importance is the fact that there must have been a discovery of mineral in place on each and every claim. Discovery on one claim, no matter how extensive or valuable, cannot be credited to other claims in the group which lack discovery.

At least $500 worth of improvements must be made upon each claim or, if done on one or more claims for the benefit of a group of contiguous claims, then the work done must be of a value not less than $500 per claim and of such a nature that it tends to benefit all the claims in the group.

Full information regarding patent procedure may be obtained by writing to the United States Bureau of Land Management, Phoenix, Arizona.

EXTRALATERAL OR APEX RIGHTS

By specific provision in the mining law of 1872, the locator of a lode claim is given the right to follow the vein on its downward course beyond the side lines of his mining claim. End lines must be parallel, and extralateral rights are confined within planes passed vertically downward through these end lines.

The nature of many ore bodies, such as disseminated copper porphyries, makes it very difficult or even impossible to prove by testimony of experts whether or not the deposit

State statutes by which the owner performing the work may make a demand upon his co-partner for his proportional contribution. Should the co-owner fail to do so, the partner paying for the work may "advertise out" his delinquent partner. The statutory provisions must be strictly followed to terminate the interest of a co-owner.

Relocation by Delinquent Owner

The law does not forbid a delinquent owner from relocating his claim after the expiration of the "assessment year". The ground is then open to relocation, but the original owner has no superior rights as against others who might desire the claim. He cannot remain in possession if the work be unperformed and exclude all others. However, if he resumes his work prior to an intervening right and continues diligently until the work is fully done, the law will protect him as against a new locator. Miners generally frown upon the practice of relocating to avoid doing annual work and such practice often leads to trouble and litigation far more costly than the work expenditure.

As a practical matter, however, it is to the advantage of the owner of a mining claim, who has not performed the assessment work as required by law, to perform such work, rather than relocate the claim. If a relocation is made, the old shaft or cut, which may previously have been made on the original claim, cannot be adopted. A relocation of the ground whether by the former locator or a stranger, makes it necessary that all of the acts required by the statutes for the location of a mining claim be performed. This includes the digging of a shaft or an open cut or the sinking of the old shaft or extension of the old open cut. Under present conditions the cost of the work will generally exceed the $100 expenditure required for assessment work.

year and then continue past noon July 1 into the next assessment year, doing the required amount for the second year after noon hour July 1.

Annual work may be done by the locator or owner or someone in privity with him, or by one who has an equitable interest. Thus a lessee may do the work and, in fact, is generally obligated to do so by the terms of the lease. A stockholder may do the work on claims held by his company. However, labor or improvements by a trespasser or a stranger to the title will not inure to the benefit of the claimant.

Annual assessment work is not required upon a millsite nor upon a tunnel location. However, failure to prosecute the work on a tunnel for six months constitutes an abandonment of the right to all underground veins on the line of the tunnel.

Geophysical Exploration

The cost of geophysical exploration and investigation is not applicable toward the annual assessment work requirement. In many instances the results obtained are at least as valuable and informative to the claim owner as the driving of a tunnel or sinking of a shaft. However, it has been stated that such efforts leave no physical evidence on the claims and, while valuable as a prospecting tool to show the miner where work should be done, it is not the work itself as contemplated by the law.

Bombing and Gunnery Ranges

Owners of valid mining claims upon any land withdrawn for national defense purposes are relieved of annual work thereon until the end of the assessment year during which the withdrawal is vacated by the President or by Act of Congress.

PUBLIC LAND SURVEY

Anyone seeking land, whether as a mining location or otherwise, should understand the survey system. It is the basis for title descriptions.

Lands are surveyed into townships six miles square. Surveys start from an initial point from whence a base line is carried east and west, and a guide meridian north and south. In Arizona these are known as the Gila and Salt River Base and Meridian—usually written G&SRB&M. Townships are numbered consecutively north and south and ranges east and west, according to the distance and direction from the initial point. Thus, Kingman is in T 21 N, R 17 W; St. Johns is in T 13 N, R 28 E; Bisbee is in T 22 S, R 24 E; Yuma is in T 8 S, R 23 W.

Each township is subdivided into 36 sections, each 1 mile square (the boundaries of which run due north and south, and east and west, in a regular and uniform township). At the corners of each section since 1912 the surveyor sets an iron pipe with a brass cap whereon is stamped the township, range, and section corners. At each half-mile on every section line a smaller pipe is set whereon the cap is stamped "S¼"—or the corner of a quarter-section, often called a quarter-corner. A line on the cap will be N-S, or E-W, and the sections on either side of line numbered thus 8|9 or $\frac{3}{10}$.

All of the foregoing is illustrated by the maps on opposite page. Four townships are shown, and the numbering of the sections within the townships. Additional diagrams show how a single section is further sub-divided into 40-acre tracts, and how land within a section may be described.

(Note: Public land surveys made prior to 1912, are marked by stone corners. These are firmly set stones and, for section corners, will be notched on the south and on the east side as many miles as the corner is from the south and the east boundary of the township. Thus, a corner common to sections 15, 16, 21, 22, for example, will have 3 notches on its south side, or edge, and 3 notches on its east side or edge. The quarter-section corners will have "¼" chiseled on the stone.)

gal impediment exists as to prevent the mining claimant from entering upon the surface of its claims, the performance of assessment work may be deferred by the Secretary of the Interior. The claimant must make application to the Secretary for such deferment and must file in the office of the Recorder in the county where the location notices are recorded a notice to the public of the claimant's petition for deferment and the order or decision of the Secretary disposing of such petition.

The annual work requirement has been waived by Congress in certain years, usually on account of wars, and in other years the time for completion has been extended. However, at the time of publication of this booklet such moratoriums are not in effect. Persons in the military service of the United States may be relieved of the requirement for performance of annual assessment work during their period of service or until six months after termination, by reason of special legislation known as the "Soldiers' and Sailors' Civil Relief Act" (50 APP. USC § 565). However, to obtain the benefits of this act, before expiration of the assessment year during which a person enters military service, he must file in the office of the Recorder where the location notices are of record, a notice that he has entered the military service and desires to hold his mining claims under the terms of the act. The benefits of the act may cease upon the termination of war by treaty of peace proclaimed by the President.

A faithful and full performance of the annual work, when the law requires it, is advisable. Enough work should be done to eliminate all doubt as to its sufficiency.

Contribution of Co-owners to Cost of Assessment Work

If a co-owner fails to contribute his share of the cost of annual work there is provision set forth in the Federal and

Recording Affidavit of Performance of Annual Assessment Work

The Federal law does not require recording of an affidavit. However, the State of Arizona has a statutory provision, the essence of which is that within three months after the end of an assessment year, the owner of a claim or someone acting for him, knowing the facts, *may* make and record an affidavit of performance of labor and improvements.

Neither the failure to make nor record such an affidavit will forfeit the claim, but such a record is prima facie evidence of the facts therein stated. The recorded affidavit has the advantage of showing on the official records that all acts have been performed to maintain a continuous chain of title, and the further advantage that it may, and often does, discourage attempted relocation by others. However, a relocator or other person may attack the recorded affidavit to show its falsity.

A form of affidavit is included at the end of this booklet.

Failure to Perform Annual Assessment Work

Failure to perform labor and improvements of a value of $100 annually does not of itself forfeit the claim but does render it subject to loss by relocation. If the claim owner has failed to perform his work in any one year, he may resume his work at any time thereafter and the validity of his claim is maintained as of the date of original location provided the rights of third parties have not intervened. His claim is lost if he fails to do his work and a valid claim is located by another person.

If a mining claim or group of claims is surrounded by lands over which a right-of-way for the performance of annual assessment work has been denied, or such other le-

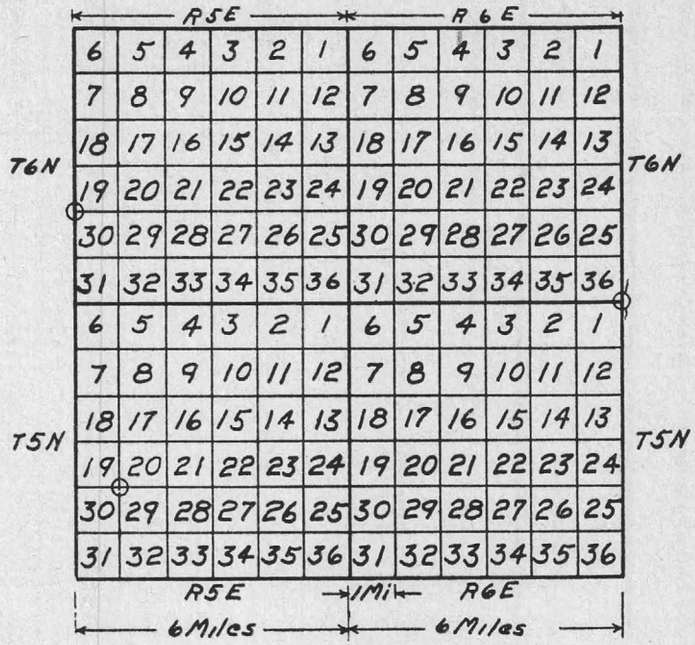
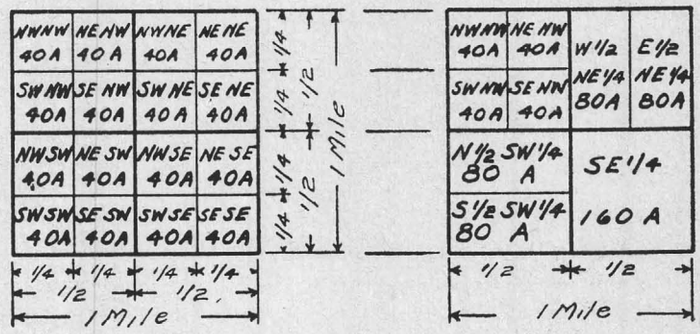
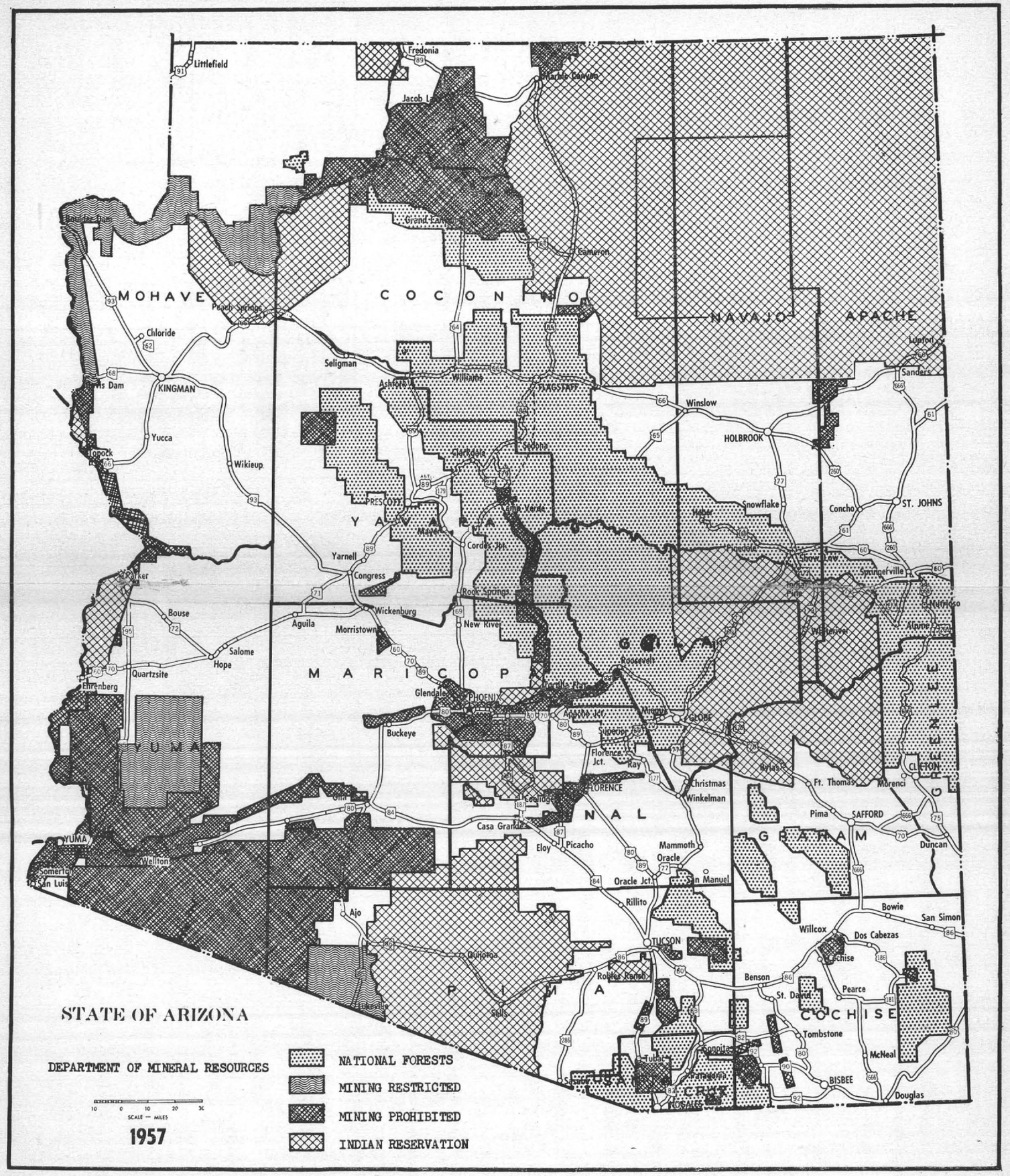


Diagram showing four adjacent townships



Section Section


Littlefield
Fredonia
Marble Canyon
Jacob L
Grand Canyon
Cameron
MOHAVE
COCONINO
NAVAJO
APACHE
Peach Springs
Chloride
Seligman
Williams
FLAGSTAFF
Ashfork
Winslow
Lupton
Sanders
KINGMAN
Yucca
Topock
Wikieup
Oak Creek
Sedona
HOLBROOK
Snowflake
Concho
ST. JOHNS
PRESCOTT
YAVAPAI
Cottonwood
Cordes Jct.
Yarnell
Congress
Parker
Rock Springs
Wickenburg
Bouse
Aguila
Morristown
New River
Salome
Hope
Quartzsite
Ehrenberg
MARICOP
Roosevelt
Glendale
PHOENIX
Apache Jct.
Buckeye
Florence Jct.
Ray
GLOBE
Winkelman
Christmas
FLORENCE
Casa Grande
Eloy
Picacho
Mammoth
Oracle
San Manuel
Oracle Jct.
Rillito
TUCSON
Ajo
Why
Quijotoa
Robles Junction
Benson
St. David
Willcox
Bowie
San Simon
Dos Cabezas
Chiricahua
Pearce
COCHISE
Tombstone
McNeal
BISBEE
Douglas
Sonoita
Patagonia
Nogales
Tubac
Sasabe
Sells
Ajo
YUMA
Wellton
Somerton
San Luis
Bylas
Ft. Thomas
Morenci
CLIFTON
Pima
SAFFORD
Duncan
GRAHAM
GREENLEE
STATE OF ARIZONA
DEPARTMENT OF MINERAL RESOURCES
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1957
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MINING PROHIBITED
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