STATE OF ARIZONA
DEPARTMENT OF MINERAL RESOURCES
MINERAL BUILDING, FAIRGROUNDS
PHOENIX, ARIZONA 85007
ARIZONA MINERAL MUSEUM

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JOHN H. JETT, DIRECTOR

LAWS AND REGULATIONS GOVERNING MINERAL RIGHTS in ARIZONA

by

VICTOR H. VERITY

7th Edition
Revised June, 1970

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CONTENTS

Citations to laws and regulations are abbreviated as follows:
Arizona Revised Statutes—A.R.S.
United States Code—U.S.C.
Code of Federal Regulations—CFR
43 CFR as renumbered; see Federal Register June 13, 1970

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. The 4th edition, made necessary by changes in the law, was a complete revision by Victor H. Verity. The last three revisions, including this 7th edition, were written by him in the light of intervening problems and law changes.

The scope of the booklet is limited to the Federal and State mining laws as they apply within the State of Arizona. The essences of the more important features of the mining laws are 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 a 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. It cannot give answers to 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, Mineral 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 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.

JOHN H. JETT, 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 is 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 and due regard for the rights of the surface owner whether it be the United States, the State or a private party. Any destruction of surface resources should, in all cases, be limited to that which is necessary to determine the existence of an ore body. Needless destruction of surface resources in this era of awakening consciousness of the environment is almost certain to create conflicts. Mere excavation of a certain volume of material which is not expected to determine the mineral potential, or even whether mineralization exists, often raises a serious question in the mind of the surface owner as to the good faith of the locator.

Approximately 72 percent of the land in the State of Arizona is owned or controlled, as in the case of Indian reservations, by the Federal Government, and is subject to the provisions of the Federal laws. The State of Arizona owns approximately 13 percent 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. However, as a result of exchanges of land between the State and the United States under the provisions of the Taylor Grazing Act, many instances will be found where the mineral and surface estates have been separated. It is common to find minerals subject to the Federal mining law and the surface owned by the State. The remaining land, constituting about 15 percent, 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, 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 Title 27 (Minerals, Oil and Gas) and Title 37 (Public Lands) of the Arizona Revised Statutes. Regulations adopted by the State Land Department are filed with the Arizona Secretary of State.

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 U.S.C. § 21 et seq.; 43 CFR Part 3800.) Since 1872 there have been three major changes in the basic mining law. These are:

1. The Leasing Act of 1920.

This act provides for the acquisition of mining rights by lease from the Federal Government of deposits of oil, oil shale, gas, potassium, sodium, phosphate, and coal. For details see page 46 of this booklet.

2. The Multiple Mineral Development Act of 1954.

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. Further comments will be found on page 52 of this booklet.

3. The Multiple Surface Use Act of 1955.

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. Details will be found on page 53.

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 mineral discovery and the posted location notice of a mining claim must be upon public lands of the United States, or upon lands in which the United States has retained the minerals, or upon State lands. However, not all such lands are open to mining location.

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 mining location. This fact can be determined only by consulting the public records of the county, state, and the United States. Although copies of location notices are required to be recorded in the office of the recorder in the county in which the claims are situated, the county records, as they pertain to land ownership, begin with the recording of a patent (deed) from the United States or a deed from the state. They do not show the statutes nor administrative proceedings relating to mineral status prior to issuance of patent, such as withdrawal from and restoration to mineral entry.

Records of the Bureau of Land Management, United States Department of the Interior, 3022 Federal Bldg., Phoenix, Arizona 85025, must be examined for information as to the status of public domain of the United States. Personnel of the Bureau are 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, State Office Building, Phoenix, Arizona 85007, to ascertain if State lands are open to exploration under a prospecting permit or mineral claim location.

The records in the County Recorder's office in the various counties of the State may be consulted to determine if recorded patents from the United States or deeds from the State of Arizona have reserved minerals. This information is not always apparent from the recorded instruments, and it may be necessary to consult the records of the Bureau of Land Management or the statutes under which the patent was issued or even decisions of the courts.

It is of the utmost importance that 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.

A notice of location of a mining claim which has been recorded in the County Recorder's office may meet all legal requirements as to form, yet the description will often be in such general terms that it is impossible to determine its situs on the ground. Therefore, in addition to the title search in the records, a careful physical inspection of the land must be made 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 that location notices of unpatented mining claims on land withdrawn for a power site must be filed with the Bureau.

Notwithstanding passage of legislation which may limit or even prevent the acquisition of mineral rights in public domain of the United States or in State land, mining rights may have vested in locators by reason of locations made prior to the effective date of such legislation, and these vested rights are not affected thereby. In such instances, the date is often all-important and is another factor that must be taken into

consideration when searching the records for determination of mineral rights.

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. Mining claims in some areas, even though located prior to the Multiple Surface Use Act of 1955, by reason of special legislation or regulation may include only so much of the surface as is reasonably necessary to carry on mining operations, in order to retain scenic beauty such as along the Hitchcock Highway from Tucson to Mt. Lemmon, Oak Creek Canyon and 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 U.S.C. § 315 et seq.; 43 CFR Parts 2200, 4122.) 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.

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.

Land Exchanges

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

Stock-Raising Homesteads

All minerals in lands patented under the Stock-Raising Homestead Act of December 29, 1916 are reserved to the Federal Government, together with the right to "prospect for, mine and remove the same." A great many stock-raising homestead patents covering land in Arizona were issued, and conflicts are constantly arising between ranchers and miners, usually due to a lack of information about the provisions of the law. A development which may give rise to further conflicts has been the subdivision of stock-raising homesteads for residential sites near Arizona's rapidly growing cities. Some stock-raising homesteads in and around Tucson and Phoenix were included in land withdrawn from mineral entry in 1962. See page 19. Details of the act are given on page 50.

Agricultural Homesteads

Only a very limited number of mineral substances found in lands covered by an agricultural homestead patent may be acquired under the general mining laws or the Leasing Act. Practically all minerals belong to the owner of the land. See page 51 for details.

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 mineral entry and the conditions under which mining shall be conducted. (43 U.S.C. § 154; 43 CFR § 3816.1.) Mining locations in some areas may be entirely prohibited. In other areas they may be made subject to restrictions which will be incorporated into any mineral patent that 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 subject to lease under such restrictions as will prevent interference with the activities of the National Park Service, the U.S. Biological Survey (Fish and Wildlife Service), and the Bureau of Reclamation. (43 CFR § 3100.0-3(d)(5).) 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 U.S.C. § 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, both lode and placer, under the general mining laws; but all power rights to such lands were retained by the United States.

The locator of a mining claim on land reserved for such purposes must, within 60 days of location, file a copy of the notice of location with the U.S. Bureau of Land Management at Phoenix. A placer claimant 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 of a hearing on the locator, 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 on both lode and placer claims must be filed with the Bureau of Land Management.

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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

Notice of Nonliability For Labor or Materials Furnished

NOTICE IS HEREBY GIVEN to all persons that_____ and_____ or _____, Arizona, are the owners of the herein-described mining claims situated in the_____ Mining District, _____County, Arizona.

That the said mining claims are now in the possession of and being operated by_____whose address is_____pursuant to a MINING LEASE AND OPTION executed_____, 19_____, copies of which are in the possession of the parties above named, to be in force for a period of_____years expiring_____ unless sooner terminated in accordance with the terms thereof.

That_____and_____are not operating said mining claims or mines thereon and are not purchasing supplies or materials therefor and will not be liable for labor performed or materials or merchandise furnished in the operation or development of said mines or mining claims; that the said mining claims will not be subject to a lien therefor nor will_____and_____be responsible for any debts of said_____, their agents or assignees working said claims or mines.

The names of the mining claims, together with the book and page of recording in the office of the County Recorder of_____ County, Arizona, are as follows:

Name of Claim	Docket	Page

_____, Arizona, _____ 19_____.

_____

_____

State of Arizona)
) ss.
County of_____)

Subscribed and sworn to before me this_____day of_____19____.

_____
Notary Public

My commission expires:

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 U.S.C. § 450z) and regulations issued thereunder (43 CFR § 3826.5), the lands within this monument are open to mining 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 prospecting and location but are subject to State law, not Federal. State mineral laws are discussed in detail beginning at page 60.

City of Prescott Watershed

Mining locations made after January 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 U.S.C. § 482a; 43 CFR § 3824.1.)

Game Refuges and Ranges

State game refuges are generally open to location of mining claims. The Kofa and Cabeza Prieta Federal Game Ranges are open to location under the general mining laws. The Gila River Waterfowl Area project in Maricopa County is open to leasing under the Mineral Leasing Act. See page 21 for Federal refuges closed to mineral entry.

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. 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 48, 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 a given 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.

Classification Act of 1964

A 1964 law creating the Public Land Law Review Commission stated that it was necessary to have a comprehensive review of the public land laws, rules and regulations of the United States and to determine whether and to what extent revisions thereof are necessary. It was "declared to be the policy

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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_____,

I, (We) 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 I, (We) 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—

of Congress that the public lands of the United States shall be (a) retained and managed or (b) disposed of, all in a manner to provide the maximum benefit for the general public." (P.L. 88-606; 43 U.S.C. §§ 1391-1392.) Two other laws became effective concurrently with the one creating the Commission. One, commonly known as the "Classification Act," provides that the Secretary of the Interior shall develop and promulgate regulations containing criteria for classification of lands to provide for disposal or interim management pending the implementation of recommendations to be made by the Commission. (P.L. 88-607; 43 U.S.C. § 1411 et seq.) The other law authorized and directed the Secretary to dispose of public lands "that have been classified for disposal." (P.L. 88-608; 43 U.S.C. § 1421 et seq.)

Publication of notice in the Federal Register by the Secretary of a proposed classification has the effect of segregating the land from disposal under the mining and mineral leasing laws, except to the extent that the notice (or subsequent modification thereof) specifies that the land shall remain open for disposal under the mining or mineral leasing laws. The segregative effect of the proposed classification shall continue for two years from the date of publication (unless sooner terminated) and may be extended for another two-year period.

The authorizations and requirements of Public Laws 88-607 and 88-608 expire December 31, 1970 (6 months after the submission to Congress of the final report of the Public Land Law Review Commission) unless further extended, but segregations for disposal continue for the period of time allowed by Public Law 88-607, and sales given public notification under 88-608 prior to its expiration, may be consummated.

National Parks and Monuments

Such areas include the Grand Canyon and Petrified Forest National Parks and the following national monuments: 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 U.S.C. § 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 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 (effective 1927) that mining must be done under such rules and regulations as the Secretary of the Interior shall prescribe. In the case of both parks, such regulations have never been issued. Therefore, the park areas remain closed to mining.

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

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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

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 3510.0-3), 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 claims(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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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

Wilderness Areas

A National Wilderness Preservation System was established by legislation which became effective September 3, 1964 (P.L. 88-577; 16 U.S.C. §§ 1131-1136). The system is to be composed of federally owned areas designated by Congress as "wilderness areas." The act gave immediate wilderness status to areas classified as "wilderness," "wild," or "canoe" at least 30 days before that date. Primitive areas on public domain of the United States are to be reviewed over a 10-year period for determination of suitability or nonsuitability for classification as wilderness and inclusion in the system, but no additions are to be made except on act of Congress.

Mining activity, including all forms of prospecting and staking of claims, will be permitted until December 31, 1983, subject to such regulations as may be prescribed by the Secretary of Agriculture, after which the lands in wilderness areas will be withdrawn from mineral entry. The bill provides that claims located during this period will entitle the claimant to only such use of the surface as is reasonably required in connection with mining operations. It calls for the restoration of the surface of the land disturbed to the extent practicable after prospecting, location and discovery work and, in those cases where claims go to patent, the government would grant title only to the mineral deposit.

Wilderness areas in Arizona which were incorporated into the system are the following: Mazatzal, 205,137 acres, and Superstition, 124,117 acres, both in the Tonto National Forest. Wild areas so incorporated were: Chiricahua, 18,000 acres, and Galiuro, 52,717 acres, both in the Coronado National Forest; and Sierra Ancha, 20,850 acres, in the Tonto National Forest.

Primitive areas in the State to be reviewed for possible classification as wilderness areas are: Blue Range, Apache National Forest, 180,139 acres; Mount Baldy, Apache National Forest, 7,106 acres; Pine Mountain, Prescott National Forest, 16,399 acres; and Sycamore Canyon, Coconino, Kaibab and Prescott National Forests, 49,575 acres.

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 Range.

Reclamation Withdrawals

If an area is withdrawn for reclamation purposes, it is not possible to locate a valid mining claim 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 11.

Agricultural Homesteads

Most of the minerals commonly found in this state, if they occur on agricultural homesteads, are not open to location under the mining laws. Nearly all of the few minerals reserved by the United States are subject to the Leasing Act and not to location under the general mining law. See page 51 for details.

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 U.S.C. §

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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 Ariozna

Witness my hand and Official Seal:

.....
County Recorder

By.....
Deputy

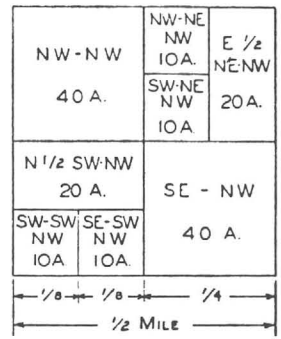
Notice of Placer Mining Claim Location

(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



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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 Ariozna

Witness my hand and Official Seal:

.....
County Recorder

By.....
Deputy

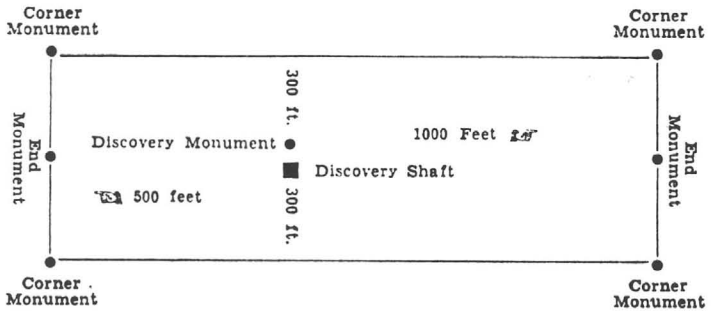
Notice of Lode Mining Claim Location

(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, _____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



682a; 43 CFR § 2730.0-3.) Patents to such lands 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, for all practical purposes the land 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; therefore the lands remain closed to location of mining claims. 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 of such minerals. See page 22 concerning uranium on certain withdrawn lands.

Tucson and Phoenix Withdrawals

Subject to valid existing rights, the mineral interests of the United States which had been reserved in patents or other conveyances issued under the land laws (such as Stock-Raising Homesteads) were withdrawn from appropriation under the mining and mineral leasing laws and from disposal under the Materials Disposal Act of 1947 as to specific lands in and around Tucson and Phoenix described in two acts which became effective October 5, 1962 (P.L. 87-747 and P.L. 87-754).

Indian Reservations

Indian reservations in Arizona total more than 19,600,000 acres or approximately 27 percent 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 U.S.C. § 463).

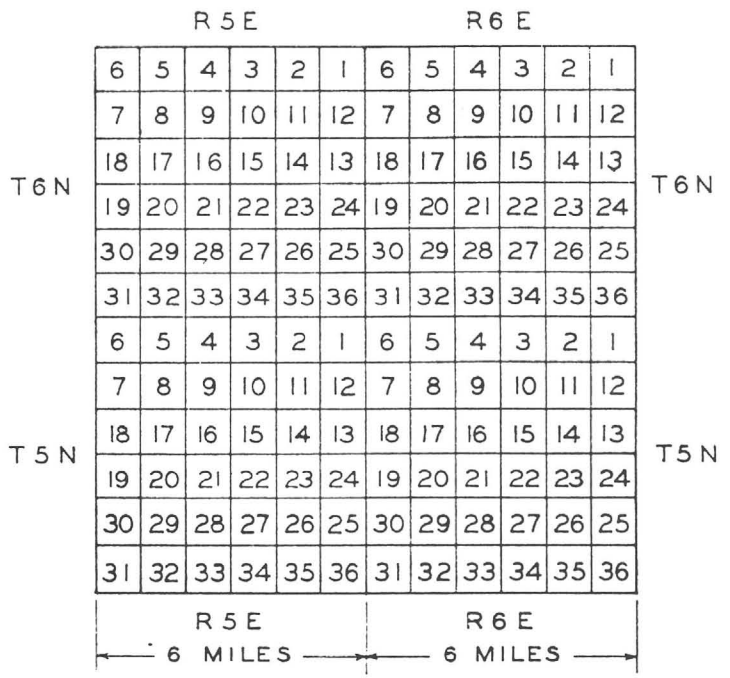
In general, Indian tribal lands may, with the approval of the Secretary of the Interior, be leased for mining purposes, by authority of the tribal council or other authorized spokesmen for such Indians, for terms not to exceed 10 years and so long thereafter as minerals are produced in paying quantities. (25 U.S.C. § 396 (a); 25 CFR Part 171, esp. § 171.10.) There are two reservations, San Carlos and Hualapai, where, following procedures established in the Indian Reorganization Act of 1934 (25 U.S.C. § 477), only the consent of the tribal council is necessary for a mineral lease with a term of no more than 10 years; but for a term longer than 10 years (presumably 10 years and as long thereafter as minerals are produced in paying quantities), the approval of the Secretary of the Interior or his duly authorized representative is needed.

All lands allotted to Indians in severalty (with exceptions not applicable in Arizona) may be leased by the allottee for mining purposes for any term of years as may be deemed advisable by the Secretary of the Interior who is authorized to make necessary rules and regulations to carry out the purpose of the statute (25 U.S.C. § 396; 25 CFR Part 172). The regulations (25 CFR § 172.12) provide that the term shall be the same as for tribal lands, i.e., not to exceed 10 years and as much longer as the substances specified in the lease are produced in paying quantities (25 CFR § 171.10).

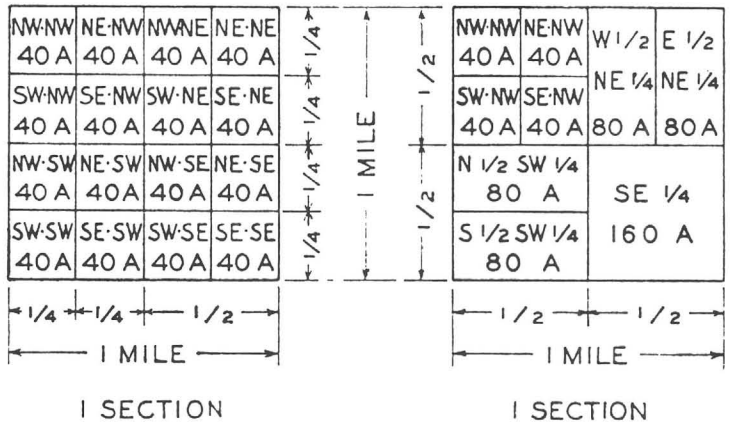
For details of prospecting and leasing procedures for reservations other than the Navajo, communicate with the United States Bureau of Indian Affairs, Phoenix Area Office, 124 West Thomas Road, Phoenix, Arizona 85013, or with the superintendent on each reservation. The Navajo area office with jurisdiction over Navajo lands in Arizona is at Window Rock, Arizona 86515. Agency headquarters from which the reservations are administered in Arizona are as follows:

Colorado River Indian Agency, Parker, Arizona 85344
Fort Yuma Indian Subagency (Cocopah and Quechan), Winterhaven, California 92283

Fort Apache Indian Agency, Whiteriver, Arizona 85941



FOUR TOWNSHIPS WITH 36 SECTIONS EACH



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 Meridian — usually written G&SRM. 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 "S 1/4"—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 the

line numbered thus $8\frac{3}{10}$ or $8\frac{3}{10}$.

All of the foregoing is illustrated by the maps on the 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 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 "1/4" chiseled on the stone.)

San Carlos Indian Agency, San Carlos, Arizona 85550

Papago Indian Agency (Papago and San Xavier), Sells, Arizona 85634

Hopi Indian Agency (Hopi and Kaibab-Paiute), Keams Canyon, Arizona 86034

Pima Indian Agency (Ak-Chin and Gila River), Sacaton, Arizona 85247

Salt River Indian Agency, Scottsdale, Arizona 85251

Navajo Indian Agency, Navajo Area Office, Window Rock, Arizona 86515
Chinle Subagency, Chinle, Arizona 86503
Fort Defiance Subagency, Fort Defiance, Arizona 86504
Tuba City Subagency, Tuba City, Arizona 86045

Truxton Canyon Indian Agency (Camp Verde, Havasupai, Hualapai and Yavapai - Prescott), Valentine, Arizona 86434

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. Application made in 1957 for oil and gas leases in this preserve were rejected in 1958 but later granted with special conditions attached to insure that well drilling would not damage the area for wildlife. The Gila River Water Fowl Area and the Cibola National Wildlife Refuge are closed to entry under the general mining laws but open to leasing under the Mineral Leasing Act. The Havasu Lake National Wildlife Refuge, the Imperial National Wildlife Refuge, and that portion of the Cabeza Prieta Game Range which is included in the Williams gunnery and bombing range withdrawal are closed to mining entry.

This is not a complete list of the game refuges, ranges and wildlife management areas in Arizona. There may be others in which mining locations under the general mining laws are prohibited or restricted. They may or may not be open to leasing

under the Mineral Leasing Act of 1920. The status of each area should be ascertained before attempting to locate claims. This information may be obtained from the records of the Bureau of Land Management at Phoenix.

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. (10 CFR § 60.9.)

Petrified Wood

Petrified wood was removed from location under the mining law by a 1962 amendment to the Multiple Surface Use Act (see page 53) in which "petrified wood" is defined as agatized, opalized, petrified or silicified wood, or any material formed by the replacement of wood by silica or other matter. (30 U.S.C. § 611.)

Spanish Land Grants

The lands in a valid Spanish Land Grant are not, as a general rule, open to mining locations, since mines were considered to be a part of the area granted. These grants have given rise to many complex legal questions, and the title to each one must be examined to determine the status of mineral ownership, as there may be exceptions to the general rule.

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 usually preferable to work out a mutually satisfactory solution with the surface owner. 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, pipe lines, and transmission lines.

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.

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.

Any mine or mining claim from which any coal, mineral or mineral substance, other than clay, sand, building stone or any mineral or mineral substance normally processed into artificial stone, has been extracted for commercial purposes at any time during a period of three years prior to the first Monday in January of the tax year, the improvements thereto and the mills and smelters operated in conjunction therewith within the State, and the personal property used thereon, are to be taxed on an assessed valuation of 60 percent of market value.

The assessed valuation is determined by the Department of Property Valuation and reviewed by the State Board of Property Tax Appeals. The rate of taxation for State purposes is set by the State Tax Commission and taxes are levied and collected in each county.

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.

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 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.

Even though the water might not be subject to appropriation, it is required by statute that no well shall be drilled for the development and use of groundwater without first filing notice of intention to drill with the State Land Department in the form prescribed and furnished by the Department.

Mexico-United States Border

By a presidential proclamation in 1907 all public lands within 60 feet of the international boundary between Mexico and the United States were reserved from entry under the public land laws.

Railroad Lands

The Congress of the United States granted public lands to the transcontinental railroads for the purpose of aiding in the construction of railroads across the country. In general, mineral lands, excepting iron and coal, were excluded from the grants. Nevertheless, where patent to the "non-mineral" land was issued to the railroads, they acquired title to the minerals as well. The Santa Fe railroad has sold substantial amounts of such land but in most instances retained the minerals. The right to exploit minerals owned by the railroads is obtained by lease or purchase. However, the records for each tract of land must be examined to determine the status of mineral ownership, not only as regards the original grant but also of any subsequent exchanges with the Government.

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

Public Domain of the United States

Nearly all mineral substances found on public domain of the United States which is open to mining location may be located under the general mining laws. The following are exceptions: deposits of coal, oil, gas, oil shale, sodium, phosphate, and potash, which may be acquired only under the leasing laws from the United States. See page 46 for details of the Leasing Act. The common varieties of sand, stone, gravel, pumice, pumicite, cinders, clay, and similar surface resources may no longer be acquired by location under the general mining laws. These substances are obtained by purchase from the United States under the terms of the Materials Disposal Act. For details see page 54.

Lands of the State of Arizona

Exploration rights on lands owned by the State may be obtained through a prospecting permit for a maximum term of five years with an exclusive right to a mineral lease upon proof of discovery of valuable mineral (see page 63). A valuable mineral deposit on State land may be located as a "mineral claim." Oil and gas are covered by special legislation (see page 70). Prior to the extraction of any minerals, oil or gas from State land, a lease must be obtained from the State Land Department. The term "mineral" does not include "common mineral products, materials and property," otherwise known as "common varieties," but a lease to extract these deposits may be obtained from the State Land Department (see page 69).

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 (or lands in which minerals have been reserved by the United States) or on land owned by the State of Arizona. In some respects the procedure is similar, but in others it differs greatly. Great care must be taken to determine whether the land is public domain or State land, in order to apply the correct location procedure.

MINING LOCATIONS ON PUBLIC DOMAIN OF THE UNITED STATES

Lodes and Placers in General

A valid mining claim within the State of Arizona upon public domain of the United States or on lands where the United States has reserved the minerals must be located either as a lode claim or a placer claim. Lode claims are "Mining claims upon veins or lodes of quartz or other rock in place . . ." (30 U.S.C. § 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, shall be subject to entry . . ." (30 U.S.C. § 35.) A well-defined vein confined within walls of country rock is located as a lode claim. Valuable mineral which occurs as particles in loose, unconsolidated material such as gold in sand and gravel is located as a placer claim. When the fact

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, Room 431 Capitol Building, Phoenix, Arizona 85007.

Workmen's Compensation

An employer hiring three or more workmen is subject to the provisions of the Arizona statutes relating to Workmen'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, 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, 2933 North Central Avenue, Phoenix, Arizona 85012.

Labor Laws

The statutes pertaining to labor in mines in Arizona will be found in a 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. A patented mining claim not being operated and buildings and improvements on either kind of claim not being operated, are to be taxed on an assessed valuation of (a) 18 percent of market value or (b) 25 percent of market value if used for commercial purposes or rented for residential use.

gas and provide for the issuance of well drilling permits, spacing of wells, and pooling of interests. (A.R.S. § 27-501 et seq.)

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 should be made to the State Land Department for a commercial or right-of-way 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 nonliability notice as provided in A.R.S. § 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 after the date of the lease, bond or option. Failure to post such a notice renders the property liable for labor and material liens. A form for no lien notice is included at the end of this booklet.

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. In doubtful cases the identical ground has been covered by both lode and placer mining claims.

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 test to apply is whether the deposit is in place in a vein, lode, ledge, zone or belt of mineralized rock lying within boundaries clearly separating it from the surrounding rock. If so, it should be located as a lode claim. If not, it should be located as a placer claim. This rule is not infallible but is the best rule of thumb that can be offered the mining locator for guidance in the field. The disseminated copper porphyry deposits are customarily located and patented as lodes in Arizona.

Federal and State Legislation

The Federal mining law (30 U.S.C. § 23) provides that a mining claim shall not exceed 1,500 feet in length along the vein or lode and shall not extend more than 300 feet on each side of the middle of the vein at the surface. The State may make regulations, if not in conflict with the laws of the United States, governing the location, manner of recording and amount of work necessary to hold possession of a mining claim, subject to the following requirements:

> The location must be distinctly marked on the ground so that its boundaries can be readily traced; records of mining claims shall contain the name or names of the locators, date of location, and such a description of the claim or claims located by reference to some natural object or permanent monument as will identify the claim. (30 U.S.C. § 28.)

Thus, about the only thing the Federal law definitely establishes is the maximum length and width of a mining claim. All of the mining states have adopted legislation supplementing the Federal laws, and no two states have identical provisions. Hence, it is necessary to ascertain the requirements of each state for the making of a valid location.

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 requirements to locate a mining claim are:

1. Discovery.
2. Location by posting location notice.
3. Record a copy of location notice.
4. Mark boundaries.
5. Perform location work.

Discovery

A "discovery" of mineral is the foundation upon which the entire mining law is based. It is the inception of title to a mining claim. The courts have uniformly held that a discovery on each and every claim is an indispensable requisite to its validity.

Federal mining law does not define "discovery" and no precise standards have been established by the Department of the Interior. Over a period of many years the federal courts, including the United States Supreme Court, declared that the discovery need not be commercial ore but should be of such a character that a person of ordinary prudence would be justified in the further expenditure of his labor and means, with a reasonable prospect of success, in developing a valuable mine. Until comparatively recent years the validity of mining claims was sustained and mineral patents granted on proof of existence of mineralization which under present-day rulings of the Department of the Interior would be inadequate to sustain patent or even the validity of an unpatented claim. There has been developed within the Department in more recent years a

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 12 1/2 percent 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 operations 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 qualified bidder submitting the highest 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 12 1/2 percent, plus an annual rental of $1 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 as to royalty and other conditions of such leases may be obtained from the State Land Department at Phoenix.

Production and Conservation

The State laws cover production and conservation of oil and

royalty must not be less than the true appraised value of the materials. The regulations provide that the appraisal will be made before lease issuance when the mineral materials are in their undisturbed, natural condition.

5. The department may terminate the lease at the end of any year during which production in paying quantities was not had from the leased premises.

In addition to the limitations on the lease itself the department is required to have the person leasing the premises furnish a bond to guarantee restoration of the surface of the land and assure prompt payment to the surface owner or lessee of any damages to "grasses, forage, crops and improvements." The department may also require the posting of a cash deposit or surety bond to guarantee payment of royalties.

The holder of a lease has a preferential right of renewal if he is not delinquent in rental or royalty payments on the expiration date of the lease. Application for renewal exercising this preferential right must be made between 30 to 60 days prior to the expiration date of the lease.

The new statute expressly provides that leases in effect on March 1, 1967 remain subject to the provisions of the older law. However, the State Land Department has taken the position that the royalty provision of the old law is unconstitutional and declared a sand and gravel lease under the old law to be void. The lessee has appealed and the matter is pending in the courts.

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

more stringent discovery rule applicable to many nonmetallics which is generally referred to as the "test of marketability." To justify possession, the mineral locator or applicant for patent has been required to show that by reason of accessibility, good faith in development, proximity to market, existence of present demand, and other factors, that the deposit was of such value that it could be mined, removed and disposed of at a profit. This test is now being applied to metallic as well as nonmetallic deposits. More recently the current market price has been invoked by the Department as one of the elements to determine the value of a mineral deposit in a mining claim.

Numerous opinions of the Solicitor of the Department of the Interior have stated: To constitute a valid discovery upon a lode mining claim there must be a discovery on the claim of a lode or vein bearing material which would warrant a prudent man in the expenditure of his labor and means, with a reasonable prospect of success, in developing a valuable mine; it is not sufficient that there is only a showing which would warrant further exploration in the hope of finding a valuable deposit.

The Department of the Interior is becoming increasingly more strict in the application of its tests to determine the adequacy of a mineral discovery for patent procedures and for testing the validity of mining claim locations. It behooves the mining claim owner to be wary of initiating patent proceedings until such time as sufficient exploration work has been completed to clearly demonstrate the existence of a valuable mineral deposit. If there is a failure to supply such proof, not only will the patent be denied but the mining claims may be declared invalid.

In this age of rapidly increasing population and heavily increased land use, it may be expected that the tests applied to determine the validity of a mining claim will become increasingly more strict rather than less stringent.

The use of Geiger counters and scintillometers in the search for uranium raises an interesting question. Do the readings alone obtained on such instruments constitute a discovery of valuable mineral in a vein or lode sufficient to support a valid mining location? Until this matter has been resolved by the courts or by legislation, the locator should be prepared to support

his statements regarding such readings by assays and actual sample evidence of mineralization.

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. The discovery need not be in the so-called "discovery shaft." It may be in a drill hole and of course may be on an outcrop of a lode.

With the passage of years, easily found surface showings of minerals are becoming relatively scarce. The prospector is usually 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. 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.

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 and thus extinguish the attempted location of the first locator. The validity of a mining claim without a discovery may be challenged by the Government in a proper action to have the claim declared null and void and, of course, the claim 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:

taxes levied and paid upon the production thereof. In case of minerals not processed for commercial use, the net 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."

5. *Miscellaneous Obligations of the Lessee:*

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. There are additional requirements not necessary to mention in this booklet.

Lease of State Lands for Common Mineral Products

Under special legislation effective March 1, 1967, "common mineral products, materials and property" were excluded from the existing location and leasing provisions. These "common mineral products" include cinders, sand, gravel and associated rock, fill-dirt, common clay, disintegrated granite, boulders and loose float rock, waste rock and materials of similar occurrence commonly used as aggregate, road material rip-rap, ballast, borrow, fill and for similar purposes.

A lease may be obtained from the State Land Department for the severance, extraction or disposition of these common mineral products, subject to the following limitations:

1. The lease shall comprise not more than a legal subdivision of 40 acres or lot of the public land survey.

2. The term of the lease shall be of not more than 10 years.

3. Rental of not less than one dollar per acre is payable in advance to the department.

4. A royalty to the department is payable at the time of severance, extraction or disposition. Under the regulations of the Department, severance takes place at the time the material is removed beyond the boundaries of the leased premises. This

a better right to a mineral lease of his claim than that held by a subsequent locator.

There is no statutory authority for any distinction between the preferential right granted. The only Arizona Supreme Court decision construing the meaning of a "preferential" right as it pertains to state mineral leases arose in a situation where the locator had located a Type B claim. The Court made no distinction between the preferential right for Type A vis-a-vis a Type B claim and confirmed that the locator did have a "preferential right"—which right was described as being a "better and superior right" than one held by any subsequent mineral locator.

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

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 is 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.

d) The lessee, if not delinquent in payment of rents and royalties, may terminate the lease at any time upon giving the Commissioner 30 days' notice in writing.

4. *Rental.* Rental for a mineral lease is $15 per claim per year. It is payable in advance at the time of application for lease and at the beginning of each yearly period thereafter. The State's royalty is five percent 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 costs of processing and

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.

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 in 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, 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 its dimensions and the 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 expecially important in view of the provisions of the Multiple Surface Use Act, the details of which are given on page 53.

Recording

Within 90 days from the time of location, cause to be recorded a copy of the location notice in the office of the Recorder in the county where the claim is situated. When a mining 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 12.

Marking Boundaries and Performing Location Work

a) Monument the claim on the ground within 90 days from the time of location 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.

The statute does not further define a "substantial post." It is suggested that the same size be used on a lode claim as for a placer claim (see page 36) as there appears to be no logical reason why a post on one type of claim should be different from the other. Of interest is the statutory requirement for a "wooden or metal post at least four inches in diameter," to mark the site of a drill hole done in lieu of conventional excavation for location work (see page 31). In recent years it has become common practice to use 2 x 2's or even lath location "posts" to mark the boundaries of lode claims. There is no statutory authorization nor have the Arizona courts passed on the adequacy of such markers.

b) Within 120 days from the time of location, 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

having been submitted, the commissioner shall issue a mineral lease to the applicant for the mineral claim or claims covered by the application. From and after the date of issuance of the mineral lease the mineral claim or claims covered by such mineral lease shall be deemed to be excluded from the prospecting permit.

The duration, conditions, rental and royalty provisions for a mineral lease have not been changed and are the same whether the lease is based upon a prospecting permit or the location of mineral claims. If it is desired to obtain extralateral rights, it is necessary to follow the procedure for location of Type A mineral claims.

Lease of State Lands for Valuable Minerals

The act of location of a mineral claim for valuable minerals does not result in the right to mine and remove the valuable minerals. The locator must secure from the State Land Department a mineral lease which sets forth his rights and obligations, and mining operations must be conducted in accordance with the terms of the lease. The particulars of this section deal with leases for "valuable" minerals and not the "the common mineral products" which are covered separately at page 69. It would appear, further, that a mineral lease for "valuable minerals" would not confer a right to the "common mineral products" on the property.

The principal statutory provisions applicable to leases for valuable minerals are:

1. *Preferred Right.* The locator of a lode mining claim or claims has a preferred right to a mineral lease within 90 days after date of location.

The State Land Department has adopted regulations which describe the preference as follows:

> The locator of a Type A claim . . . shall have a preferred right to a mineral lease of his claim within ninety days after the date of location.

Whereas, the right granted to the locator of a Type B claim is described as follows:

> The locator of a Type B mining claim . . . shall have

must make application for renewal and submit proof of expenditures at the end of the first year. The last three annual periods for which a prospecting permit may be renewed shall be subject to an annual rental of one dollar per acre for the land for which the renewal application is filed. The permittee may relinquish all or any part of a prospecting permit at any time, but no part of the advance rental may be refunded. In addition to an affidavit of expenditure filed by the permittee when making application for renewal, other proof in support of such expenditures may be required as the commissioner by regulation may prescribe.

While the mineral exploration permit is in force, no person except the permittee and the authorized agents and employees of the permittee shall be entitled to explore for valuable mineral on the State land covered by the permit. The permittee shall have those surface rights necessary for prospecting and exploration for mineral and may remove from the land only that amount of mineral required for sampling, assay and metallurgical test purposes. The permittee shall have the right of ingress to and egress from the land covered by the permit across other State lands along routes approved by the commissioner.

An exploration permit may be assigned in whole or in part by the permittee, but such assignment shall not be effective until a copy is filed with the department and approved by the commissioner.

The permittee shall have the exclusive right to apply for and obtain a mineral lease or leases to the land. In order to obtain a mineral lease it is necessary that a valuable mineral deposit be found upon State land within the permit area and within a rectangular subdivision of twenty acres, more or less, or lots. The permittee may apply to the commissioner for a mineral lease upon the State land within such rectangular subdivision or lot and such land, for the purpose of the application and any mineral lease issued pursuant to such application, shall constitute a mineral claim without extralateral rights and shall be deemed to have been located as of the date of filing the application for the mineral lease. Upon receipt of an application from the permittee for a mineral lease and satisfactory proof of discovery of a valuable mineral deposit

mineral in place is disclosed in the shaft. The shaft should have a cross section of at least 4 ft. x 6 ft.

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.

An open cut, adit or tunnel, equal in amount of work to a shaft eight feet deep and four feet wide by six feet long is equivalent as location work to a shaft sunk from the surface.

Federal mining law does not specify how or where the discovery must be made on a mining claim. The Bureau of Land Management in patent proceedings accepts a discovery at any point on the claim, including discoveries made by diamond or churn drilling, 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 deep shaft on each claim merely for the purpose of finding mineral.

c) In lieu of the requirements of subdivision b) hereof, the locator of a lode claim, within one hundred twenty days from the time of location may:

1. Do location work consisting of drilling not less than ten feet in depth in any one hole, costing at least one hundred dollars for the actual doing of such drilling at the point where done. Work performed by the locator himself or equipment furnished be him shall be credited to such cost at the prevailing rate in the district for the type of work or equipment so done or furnished by the locator. Such drilling may be done at one or more points within a claim or a group of contiguous claims not exceeding ten, providing all of such claims are so located that the entire area of the group can be contained within the exterior limits of a square three thousand feet long by three thousand feet wide, located by the same locator, if the drilling so done for the group aggregates not less than ten

feet in depth for each claim or fractional claim in the group, and if the cost of the work so done for the group aggregates at least one hundred dollars for each claim or fractional claim in the group.

2. Cap each drill hole intended as location work and mark it with a wooden or metal post at least four inches in diameter placed within five feet of the hole, which marker shall be at least forty-eight inches in height above the ground, shall be firmly imbedded in the ground, and shall have securely fixed to it a notice containing the name of the claim on which located, the names of the contiguous claims, if any, for which it is claimed as location work, the locator, the depth of the hole and the date or dates the hole was drilled.

3. Make and record in the office of the county recorder of the county in which the claim or claims are located, an affidavit by the person on whose behalf such drilling was done or by some person for him knowing the facts, setting forth the position and depth of the drill hole or holes, and if done for more than one claim, the contiguous claims for which it was done, to which affidavit shall be attached a plat to scale showing the names and the boundaries of the claims and location of the drill hole or holes.

4. The drilling of location holes, as required by this subsection, shall be done either by diamond, rotary or churn drills or by any other drilling equipment capable of collecting a continuous core of bedrock at least seven-eighths inches in diameter or a representative sample of bedrock cuttings from a hole at least two inches in diameter.

Failure to do all the things within the times and at the places specified in a) and b) or c) shall be an abandonment of the claim, and all right and claim of the discoverer and locator shall be forfeited. (A.R.S. § 27-203.)

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 periods allowed.

The State Land Commissioner in his discretion may require the applicant for a mineral exploration permit to file a surety bond conditioned upon the prompt payment to the owner and lessee of the surface of State Land to be covered by the permit, or across which the permittee exercises the right of ingress and egress for any loss to such owner or lessee from damage or destruction caused by the permittee, to grasses, forage, crops and improvements upon such State lands. The commissioner may also require the permittee to furnish bond, in a reasonable amount, conditioned that the permittee will guarantee restoration of the surface of the land described in the mineral exploration permit to its former condition upon any partial or total relinquishment of such lands, or the cancellation or expiration of the permit other than by issuance of a mineral lease. If the prospecting permit culminates in a mineral lease, the operations which may be conducted by the mineral lessee do not require that the surface of the land be restored to its former condition.

Within fifteen days after mailing of the notice, the applicant shall pay to the department as rental for the permit two dollars per acre for the land designated in the notice and, if required, shall file a bond. Upon payment of the rental and filing of the required bond, the commissioner shall issue to the applicant a mineral exploration permit. If the applicant shall fail to make the payment or furnish the bond within the period of fifteen days, the application shall be deemed cancelled.

Every mineral exploration permit shall be for a term of one year from the date of issuance, subject to four annual renewals for an aggregate of not to exceed five years. The permit shall terminate automatically at the end of each annual term unless prior to expiration the permittee shall have filed with the department an application for renewal for the ensuing annual period. At the time of making application for renewal the permittee must file an affidavit showing expenditures in exploration for mineral deposits not less than ten dollars for each acre covered by the permit during the first two years and thereafter during the last three annual periods not less than twenty dollars for each acre. The initial rental fee of two dollars per acre paid at the time of obtaining the permit covers the first two years of the life of the permit even though the applicant

grants the prospector a term of years in which to make his search and submit proof of discovery. Such a law had become a necessity due to the many problems, both physical and economic, that must be overcome in the present-day exploration for minerals at depth and often hidden completely by alluvium.

The term "exploration" means activity conducted upon State land to determine the existence or nonexistence of a valuable mineral deposit including but not limited to geological, geochemical or geophysical surveys conducted by qualified experts, and drilling, sampling and excavation, together with the costs of assay and metallurgical testing of samples from the land.

Any citizen of the United States, partnership or association of citizens, or a corporation organized under the laws of the United States or any state or territory thereof, may apply to the State Land Commissioner for a mineral exploration permit on State land in one or more rectangular subdivisions of twenty acres, more or less, or lots, in any one section. If it is desired to explore land in different sections, a separate application must be made for the land in each section. There is no limit to the number of permits for which application may be made. Application forms are available from the State Land Department. The application must be in writing and contain a description of the land for which the applicant seeks a mineral exploration permit and such other information as the law and the regulations may require. When the application is filed with the State Land Department it shall be accompanied by payment of a filing fee of fifteen dollars. Applications shall be stamped with the time and date of filing with the department, and priority is based upon such time and date. The land shall be deemed withdrawn from location of mineral claims so long as the application is pending.

Not less than thirty nor more than forty-five days from the filing of the application, if the State Land Commissioner shall find that in accordance with the law and the regulations the applicant is entitled to a prospecting permit, the applicant shall be so notified by registered or certified mail the amount of rental to be paid for a mineral exploration permit and whether a bond will be required.

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 or he may substitute the amount and manner of drilling required for an original location, either in new holes or in deepening an existing hole or holes.

It is advisable in most instances to dig a new shaft or cut and avoid possible disputes as to work 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 a prior location (discovery) shaft, cut or drill hole. New 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.

Mineral Rights of a Lode Locator

The locator of a valid lode claim on public domain of the United States which is open to mining location acquires all minerals, including those which may occur as placer-type deposits, but excepting the common varieties of certain substances which occur on the surface and which are obtainable only by purchase under the terms of the Materials Disposal Act. Leasing Act minerals are reserved to the United States. The locator may acquire extralateral rights, as explained on page 46.

PLACER CLAIMS

In General

The classic example of a placer is the occurrence of gold particles in gravel. 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, whereas the same mineral in a distinct vein or lode would be located as a lode claim.

Under certain circumstances a placer claim may be prospected for lodes and a lode claim located over the placer claim. Therefore, if the locator of a placer claim knows of the existence of lodes within his claim boundaries, he should locate the lodes as such, for his own protection. 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 were located formerly as placers are now specifically excluded from mining locations by the Multiple Surface Use Act of 1955. For details see page 53.

Size of Claim

A placer claim 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.

of the locator, b) The name of the claim, c) The date of location, d) The legal description of the land claimed.

Location or so-called "discovery" work is not required on Type B mineral claims, but proof of discovery is necessary.

Filing with State Land Department and Proof of Discovery

Under both Type A and Type B locations, 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 from the date of location.

The Department requires that the locator submit evidence for proof of a valuable deposit of mineral on each claim within 30 days after the time of location and, unless such proof is submitted within 30 days, an order is issued by the Commissioner terminating the rights of the locator. The locator has a period of 90 days after the time of location in which to file an application for a mineral lease, but a lease will not be issued unless the proof shall have been submitted within the said 30-day period.

Prospecting Permit

On March 15, 1961 a bill (A.R.S. §§ 27-251 to 27-256) became effective which gives the prospector on State-owned lands exclusive mineral prospecting rights during the time the permit is in effect, which may be a maximum of five years, and with a right to a mineral lease on lands where a valuable mineral deposit has been discovered. It does not apply to oil and gas or to common mineral products for which there is separate legislation. This law did not change existing State land leasing law under which mineral claims may be located on State land as a preliminary step toward the acquisition of a mineral lease. A person desiring a State mineral lease may now comply with the procedure for location of mineral claims or he may apply for a prospecting permit. The locator of a mineral claim has only the very limited time of 30 days in which to submit proof of discovery of a valuable mineral deposit, whereas the permit

requirements under the amended law relating to lode claims on lands of the United States (A.R.S. § 27-203) and the law allowing drilling discovery work on State land. (A.R.S. § 27-233.) The State requirement provides that development drilling must be of a reasonable value of $100 on each claim, but "may be centrally located and need not be upon each individual claim, but shall be so located as to be a 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." The same law also provides the locator "shall be required to perform the discovery work required by law for mining claims under the laws of the United States." Therefore, if drilling is to be done, a locator would be well advised to follow the particulars set forth on pages 31 and 32.

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. (A.R.S. § 27-232B.) 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 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

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.

Only 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 10-acre subdivision.

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.

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.

The location should conform as nearly as practicable with the United States system of public land surveys and the rectangular subdivision of sections. This is not required where compliance would necessitate the placing of the claim lines upon previously located claims or where the claim is surrounded by prior locations. Strict conformity may not be practicable where a placer deposit occurs in the bed of a meandering stream. Where a placer location by one or two persons can be entirely included within a square 40-acre tract, by three or four persons within two square 40-acre tracts placed end to end, by five or six persons within three square 40-acre tracts, and by seven or eight persons within four square 40-acre tracts, such

locations will be regarded as within the requirements where strict conformity is impracticable.

A form for use in locating a placer claim will be found at the end of this booklet. Placer claims may be amended. See page 33.

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 mining 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. Furthermore, a placer claimant shall not conduct mining operations for a period of 60 days after the date of filing such notice, as explained on page 12.

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 A.R.S. § 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.

All State lands are subject to leasing for oil and gas under the provisions of Arizona statutes and not under the Federal Leasing Act of 1920.

Instructions and forms pertaining to prospecting permits, location of mineral claims and application for mineral and oil and gas 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 A.R.S., 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" includes 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:

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

1. The statute (A.R.S. § 27-232A) 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 28. 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 this type of location on State land will be found at the end of this booklet.

2. For a lode or Type A location, the locator is required to perform the discovery work required by law for mining claims under the laws of the United States within 90 days after the date of location. These requirements are detailed on pages 29-32, but note the difference in time requirement (120 days on public domain as opposed to 90 days for claims on State ground). If the option to perform development drilling as discovery work is taken, confusion may be caused by differences between the

Removal of mineral under a belief that it is locatable may expose the miner to liability for wrongful removal of a mineral that is subject to sale under the Materials Disposal Act.

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 U.S.C. § 161.) To determine how other deposits should be located, the general rules relating to lodes and placers apply.

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.

Although mineral claims may be located on State land, the act of location is only part of a 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.

State lands subject to mineral lease include lands not under lease for any purpose, and lands presently leased for agricultural or grazing purposes. Land leased for commercial or homesite purposes is not open for mineral location according to regulations issued by the State Land Department. However, on the basis of a decision of the Maricopa County Superior Court on January 14, 1963, the department has issued mineral leases and prospecting permits over commercial leases.

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

The Arizona statutes, insofar as they apply to public domain of the United States, make no provision for location or so-called "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 performance 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.

Mineral Rights of a Placer Locator

The locator of a valid placer claim on public domain of the United States acquires all placer minerals excepting the common varieties of certain substances which occur on the surface and which are obtainable only by purchase under the Materials Disposal Act. Leasing Act minerals are reserved to the United States. Mining rights are within vertical planes passed downward through the claim boundaries. There are no extralateral rights. The right to mine minerals from known veins within the placer claim, together with extralateral rights on such veins, may be acquired by location of lode claims on the veins or lodes. See patenting of placer claims, page 45.

MILL SITE

Mill site is the name given to a tract of not more than five acres of nonmineral land used for mining, milling and other operations in connection with a mining claim. The owner of a "quartz mill or reduction works" not owning a mine in connection therewith may also acquire a mill site for his "works." (30 U.S.C. § 42; 43 CFR § 3864.1-1.)

Both the Federal and State laws are silent as to the manner of locating a mill site. However, it must be upon vacant and unappropriated public domain and a location notice should be posted and recorded. No annual assessment work is required.

A mill site may be patented subject to the same preliminary requirements as to survey and notice as are applicable to lodes and placers. A mill site is not valid and patent will not issue unless actual and present use for prescribed purposes is shown.

A mill site may adjoin the boundaries of a mining claim but if adjacent to the end line of a lode claim, proof of nonmineral character may be more difficult as the question arises whether or not the vein, on its strike, enters the mill site.

It may be that one mill site will not be sufficient for the intended uses and it may be necessary to locate, use and patent more than one mill site claim. However, this does not imply a right to one mill site for each mining claim.

TUNNEL LOCATION

A tunnel location is expressly provided for in the Federal statutes (30 U.S.C. § 27). 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.

Locations on the line of such tunnel of veins or lodes not appearing on the surface, made by other parties after the commencement of the tunnel and while the same is being prosecuted with reasonable diligence, shall be invalid; but failure to prosecute the work on the tunnel for six months shall be considered as an abandonment of the right to all undiscovered veins on the line of such tunnel.

The proprietors of a mining tunnel must post a notice of their tunnel location, giving the names of the parties claiming the tunnel right; the actual or proposed direction of the tunnel; the height and width thereof; and the course and distance from the point of commencement to some permanent well-known object in the vicinity. The proprietors must also establish the boundary line on the surface so that, as marked, these lines will define and govern as to the boundaries within which prospecting for lodes not previously known to exist is prohibited while the work on the tunnel is being prosecuted with reasonable diligence.

quality and quantity of the deposit, geographical location, proximity to market or point of utilization, accessibility to transportation, requirements for reasonable reserves consistent with usual industry practices to serve existing or proposed manufacturing, industrial, or processing facilities, and feasible methods for mining and removal of the material. Limestone suitable for use in the production of cement, metallurgical or chemical grade limestone, gypsum, and the like are not 'common varieties.' This subsection does not relieve a claimant from any requirements of the mining laws."

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."

If a mineral material occurs commonly, how is it determined that it "has distinct and special value"? It cannot be said as a matter of law that any given deposit of a mineral substance named in the Multiple Surface Use Act is not a common variety and therefore locatable—it depends on the facts of each particular case. In interpreting these facts, the Interior Department has held that in order to show that a deposit is not a common variety, a mining claimant must establish (1) that the deposit has a unique property and (2) that the unique property gives it a distinct and special value. In applying these criteria there must be a comparison of the deposit under consideration with other deposits of similar materials, and it must be shown that the material under consideration has some property which gives it value for purposes for which the other materials are not suited or, if the material is to be used for the same purposes as other minerals of common occurrence, that it possesses some property which gives it a special value for such uses, which value is reflected by the fact that it commands a higher price in the market place. Differences in chemical composition or physical properties are held to be immaterial if they do not result in a distinct economic advantage of one material over another.

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.

A pamphlet entitled "Multiple Use on Mining Claims" which may be obtained from the U.S. Bureau of Land Management, Phoenix, contains the law and an explanation thereof.

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" do 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 Materials Disposal Act which may involve competitive bidding?

Regulations have been issued by the Department of the Interior (43 CFR Subpart 3710), § 3711.1 of which reads in part as follows:

> "(b) 'Common varieties' 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. Mineral materials which occur commonly shall not be deemed to be 'common varieties' if a particular deposit has distinct and special properties making it commercially valuable for use in a manufacturing, industrial, or processing operation. In the determination of commercial value, such factors may be considered as

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." Location work is entirely distinct from assessment work and may not be substituted for the latter. Assessment work is not required for the assessment year in which the claim is located. By legislation which became effective on August 23, 1958, the assessment year beginning noon July 1, 1958 expired September 1, 1959. Thereafter, each assessment year became a 12-months' period ending noon September 1.

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.

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

The original Federal statutes and the Arizona statutes supplementing the Federal laws did not describe any specific type of labor or improvement that would meet the expenditure requirement of $100 per claim per year. The type of labor and improvements which met the requirements of the Federal law was determined in a great many court decisions. Annual work may be underground or on the surface. It may be done off the claim if clearly of benefit or value to the claim. 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 party desiring to take credit for expenditures should be careful to eliminate all doubtful items and make certain that sufficient money is spent to remove all possible question as to having met the statutory requirement.

Courts have passed upon situations where allowable expenditures have included: 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 undoubtedly meet the test.

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

At any hearing, it will be incumbent upon the claimant to prove validity of the location by showing there has been an adequate discovery, 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.

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 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.

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 receives a copy of any notice to mining claimants 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 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.

In September 1958 a statute became effective which for the first time specifically described certain types of work applicable toward the annual expenditure in labor. This statute (30 U.S.C. § 28-1 & 2) provides that the term "labor" as used in 30 U.S.C. § 28 "shall include, without being limited to, geological, geochemical and geophysical surveys conducted by qualified experts and verified by a detailed report filed in the county office in which the claim is located which sets forth fully (a) the location of the work performed in relation to the point of discovery and boundaries of the claim, (b) the nature, extent, and cost thereof, (c) the basic findings therefrom, and (d) the name, address, and professional background of the person or persons conducting the work. Such surveys, however, may not be applied as labor for more than two consecutive years or for more than a total of five years on any one mining claim, and each such survey shall be nonrepetitive of any previous survey on the same claim."

As used in the new act "(a) The term 'geological surveys' means surveys on the ground for mineral deposits by the proper application of the principles and techniques of the science of geology as they relate to the search for and discovery of mineral deposits;

"(b) The term 'geochemical surveys' means surveys on the ground for mineral deposits by the proper application of the principles and techniques of the science of chemistry as they relate to the search for and discovery of mineral deposits;

"(c) The term 'geophysical surveys' means surveys on the ground for mineral deposits through the employment of generally recognized equipment and methods for measuring physical differences between rock types or discontinuities in geological formations;

"(d) The term 'qualified expert' means an individual qualified by education or experience to conduct geological, geochemical or geophysical surveys, as the case may be."

The mere taking of samples has previously been held by the courts not to meet the annual work requirements of the statute on the theory that mere sampling, while necessary data on which to base an opinion as to whether or not the mining work should be conducted, does not in fact develop or tend to develop mineral.

In the light of the new statute relating to geological and geochemical surveys, it is entirely possible that where such sampling and assaying are related to surveys of that nature, the expenses should be allowed. The same may be said of expenses of surveying which under court decisions interpreting the old statute were not allowed.

Some expenses which may not be applied as annual work are attorneys' fees, travel expense, and 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 year and continuing past noon September 1 into the next assessment year, doing the required amount for the second year after noon hour September 1.

Annual work may be done by the locator or owners or someone in privity with him, or by one who has an equitable interest. A lessee may do the work. 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 mill site 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. Money spent on a tunnel location is considered as spent on the lodes which may have been discovered and located, for the purpose of the annual assessment work requirement.

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.

Bombing and Gunnery Ranges

Owners of valid mining claims upon any land withdrawn for national defense purposes are relieved of annual work

accordance with sound principles of forest management. Therefore, prior to the cutting of timber it is advisable to consult the department administering the land. In most instances this will be the National Forest Service of the Department of Agriculture.

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. 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.

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

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, or of petrified wood, 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 "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; also vegetative materials, including, but not limited to, timber, grass, and cactus. The mineral materials may be disposed of under the Materials Disposal Act of 1947 as amended (30 U.S.C. § 601), only upon payment of adequate compensation to be determined by the Secretary and, where appraised at more than $1,000, must be advertised and sold to the highest bidder. (36 CFR § 251.4; 43 CFR § 3612.2.)

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. Except to provide clearance, the cutting or removal of timber must be in

thereon until the end of the assessment year during which the withdrawal is vacated by the President or by Act of Congress.

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 legal impediment exists as to prevent the mining claimant from entering upon the surface of his 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. (30 U.S.C. § 28b.)

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. 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 requirements 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. U.S.C. § 565). 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.

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 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 and exclude all others if the work is unperformed. 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 usually 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.

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 thereon.

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 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 U.S.C. § 611; 43 CFR Part 3710)

This is commonly known as Public Law 167 and is important, far-reaching legislation that applies to all unpatented mining claims on public domain of the United States. Every owner of

Homesteads) shall contain a reservation to the United States of phosphate, nitrate, potash, oil, gas, or asphaltic minerals, provided the lands are withdrawn or classified for such minerals or are known to be valuable for such deposits. This list was supplemented by the addition of sodium and sulphur in 1933. (30 U.S.C. § 124.) These substances, if found in Arizona and reserved to the United States, will be subject to the provisions of the Leasing Act of 1920, except asphaltic minerals and sulphur which are subject to location under the general mining laws. All other minerals belong to the agricultural patentee. Under the Act of 1914 it is possible to show that the land is nonmineral and obtain patent thereto without a mineral reservation of any kind. The agricultural patent must be examined in each case to determine what minerals, if any, were reserved by the United States.

Any person qualified to acquire the mineral deposits reserved to the United States under the Agricultural Entry Act of 1914 may enter upon the lands with a view of prospecting for minerals, first having obtained the approval of the Secretary of the Interior of a bond or undertaking to be filed as security for the payment of all damages to the crops and improvements on the lands by reason of such prospecting, the measure of any damage to be fixed by agreement of the parties or by a court of competent jurisdiction. Any person who has acquired from the United States the title or right to mine and remove the reserved mineral deposits may re-enter and occupy so much of the surface thereof as may be required for all purposes reasonably incident to the mining and removal of the minerals therefrom, and mine and remove such minerals upon payment of damages caused thereby to the owner of the land, or upon giving a good and sufficient bond or undertaking therefor in an action instituted in any competent court to ascertain and fix damages.

MULTIPLE MINERAL DEVELOPMENT ACT OF 1954 (30 U.S.C. § 521; 43 CFR Part 3740)

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

As a practical matter, 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 the acts required by the statutes for the location of a mining claim be performed. Under present conditions the cost of the work will usually exceed the $100 expenditure requirement for assessment work.

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, he should make application for a patent from the United States Government.

Of first importance is the fact that there must have been a discovery of mineral 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 the work 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.

Patent to a lode claim grants to the applicant the surface and all minerals within the claim. Surface rights may be restricted by reason of applicable provisions of the Stock-Raising and Agricultural Homestead Acts. Leasing Act minerals will be reserved only if the lands were Leasing Act lands at the time of issuance of patent. The same applies to a placer patent except that veins or lodes known to exist in a placer claim at the time of making application for patent must be declared and paid for at the lode rate for a surface width of 50 feet along the length

of the lode within the placer claim. If this is not done, the lode remains open for location even after issuance of patent.

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

EXTRALATERAL OR APEX RIGHTS

By specific provision in the mining law, 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 is a vein or lode within the meaning of the law to entitle the claim owner to extralateral rights. In many instances, owners of adjoining claims have entered into "sideline 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.

LEASING ACT OF 1920

The Leasing Act of February 25, 1920 as amended (30 U.S.C. § 181) establishes a system for leasing from the Federal Government the following minerals: coal, phosphate, sodium, potassium, oil, oil shale, native asphalt, solid and semisolid bitumen, and bituminous rock (including oil-impregnated rock or sands from which oil is recoverable only by special treatment after the deposit is mined or quarried) or gas. These minerals are removed from the operation of the general mining laws. In addition to the statutes, detailed regulations will be found in 43 CFR Groups 3100 and 3500.

It is of course preferable to come to a private agreement with the homestead owner rather than resort to posting a bond. 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 he may re-enter the land to conduct mining operations.

The original Stock-Raising Homestead Act did not make the mining claimant liable for damages to grass or other forage—only for damage to cultivated crops. Supplemental legislation enacted in 1949 (30 U.S.C. § 54) 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 damage 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." Nothing in the 1949 legislation impaired vested rights.

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

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.

AGRICULTURAL HOMESTEADS

The early homestead laws did not reserve minerals to the Government. In 1909 the Federal Government began reserving coal in some homestead patents. (30 U.S.C. § 81.) The Agricultural Entry Act of 1914 (30 U.S.C. § 121; 43 CFR Subpart 3813) provides that patents issued under the various agricultural land laws (this includes Desert Land Entries and Enlarged

Provision is made for limitations upon the acreage that can be held by one permittee or one lessee, both within and without the state, for posting of a bond prior to issuance of a permit; minimum royalty requirements; and, if land has not been legally subdivided, for survey and payment of the cost thereof by the applicant.

Neither the Leasing Act nor the general mining laws apply to the extensive Navajo and Hopi Indian Reservations in the northeastern part of the state which have been the scene of so much activity in oil, gas and coal exploration.

STOCK-RAISING HOMESTEADS

The Stock-Raising Homestead Act of December 29, 1916 (43 U.S.C. § 291; 43 CFR Subpart 3814) 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.

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, on one of three conditions: 1. Upon securing the written consent or waiver of the homestead entryman or patentee, 2. 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.

Guano, although valuable primarily for nitrogen, is subject to the Leasing Act by reason of its phosphate content; and halite or salt due to its sodium content. Sulphur has been made subject to leasing in two states but not in Arizona.

Potash Permits and Leases

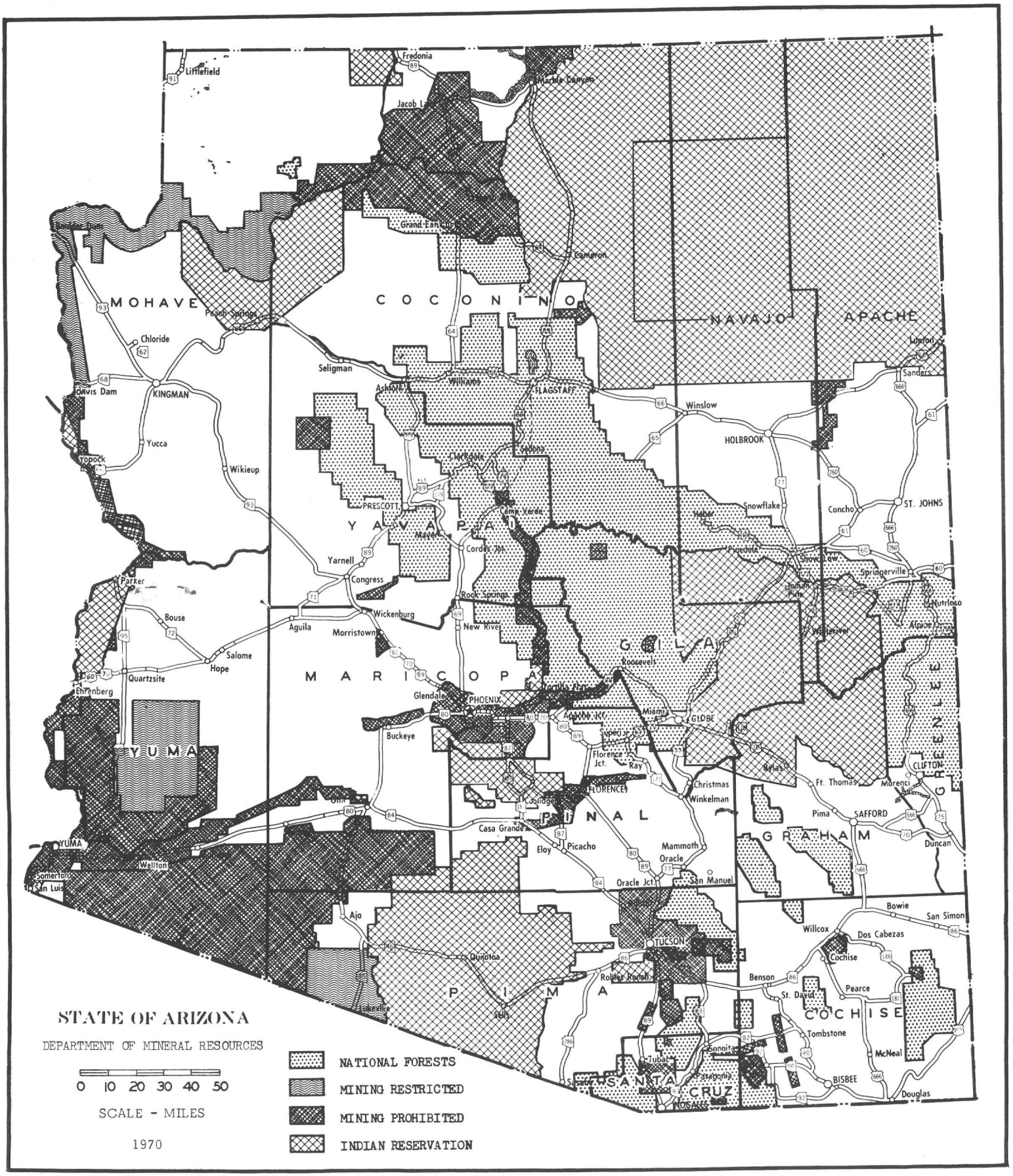
The occurrence of certain potassium minerals on public domain of the United States within the State of Arizona has made it desirable to set forth some of the regulations relating to potash.

The Secretary of the Interior is authorized under such rules and regulations as he may prescribe, to grant to a qualified applicant an exclusive permit to prospect for certain potassium salts for a period of not over two years in an area of not more than 2560 acres of land in reasonably compact form. A permittee pays an annual rental of 25 cents an acre or fraction thereof with a minimum total of $20 per year. No material may be removed from lands under permit except for experimental purposes and to demonstrate the existence of potassium deposits in commercial quantities.

Upon showing to the satisfaction of the Secretary that valuable deposits of one of the potassium salts has been discovered by the permittee and that the land in his permit is chiefly valuable therefor, the permittee shall be entitled to a lease of any or all of the permit land, at a royalty of not less than 2% of the quantity or gross value of the output of potassium compounds and related products, except sodium, at the point of shipping to market. Application for a preference right lease must be filed with the Bureau of Land Management not later than 30 days after the permit expires. It must be accompanied by the first year's rental.

Lands known to contain valuable mineral deposits of leasable potassium compounds are subject to lease by the Secretary by competitive bidding.

A potash lease shall be for a term of 20 years and so long thereafter as the lessee complies with the terms of the lease and upon the condition that at the end of 20 years and each succeeding 20-year extension the Secretary may prescribe reasonable legal adjustment of the terms and conditions.



STATE OF ARIZONA

DEPARTMENT OF MINERAL RESOURCES

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SCALE - MILES

1970

NATIONAL FORESTS

MINING RESTRICTED

MINING PROHIBITED

INDIAN RESERVATION