



CONTACT INFORMATION  
Mining Records Curator  
Arizona Geological Survey  
416 W. Congress St., Suite 100  
Tucson, Arizona 85701  
602-771-1601  
<http://www.azgs.az.gov>  
[inquiries@azgs.az.gov](mailto:inquiries@azgs.az.gov)

The following file is part of the JABA, Inc. Tombstone Mining Records

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0084

Volume 7 ; Book 5

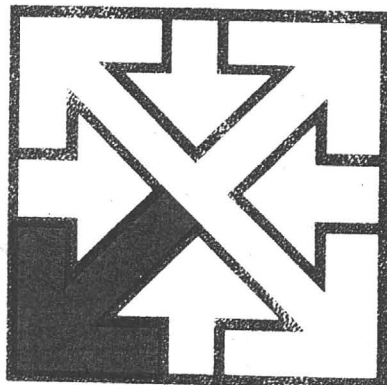
# **TOMBSTONE**

Mining District

Cochise County

ARIZONA

Misc. Claim Groups (R to S)



**Southwestern  
Exploration  
Associates**

**Mineral Exploration &  
Natural Resource  
Consultants**

**Tucson, Arizona**



Rocky Group

94124

1003

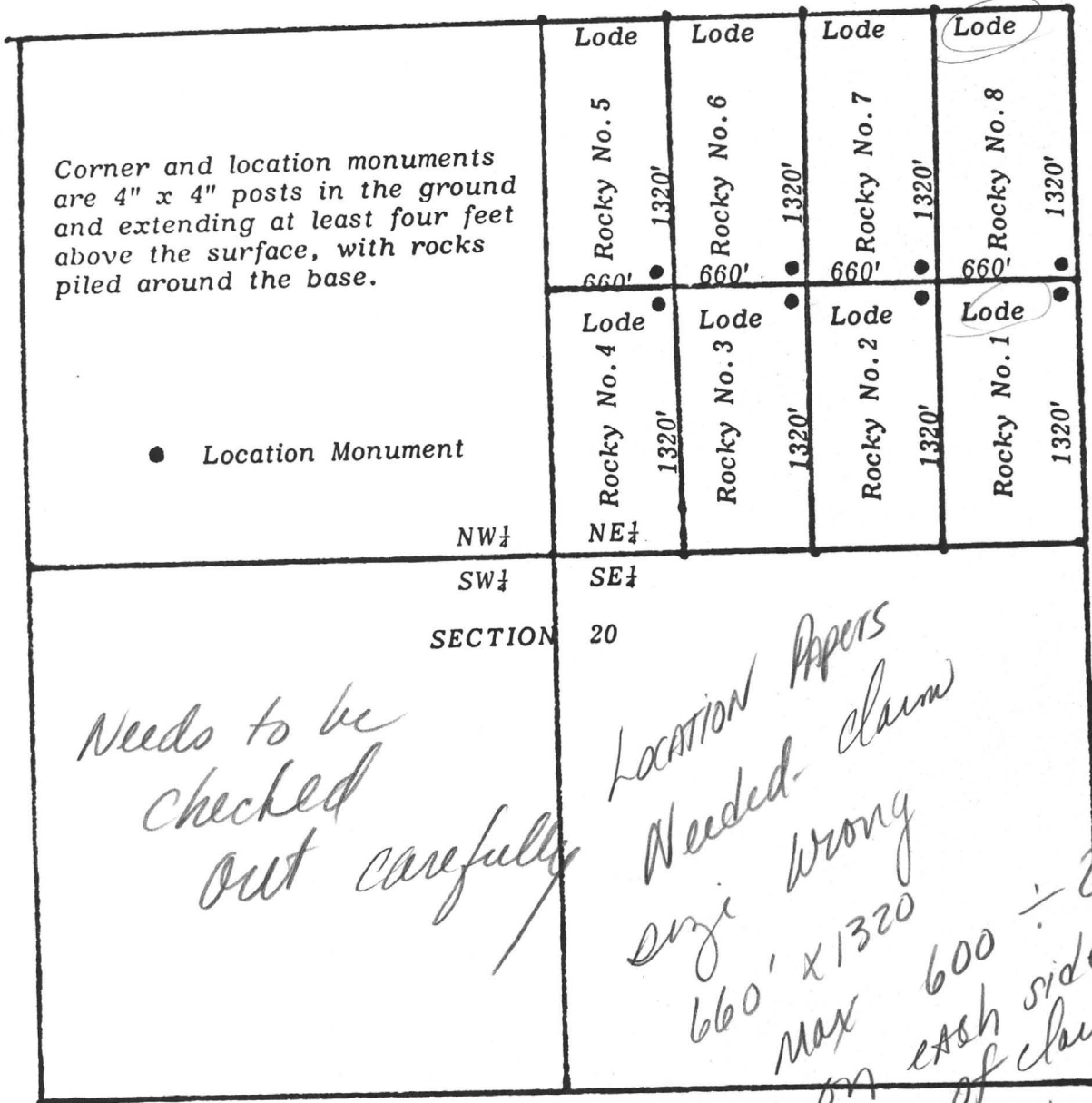
RECEIVED  
B.L.M. AZ STATE OFFICE

APR 7 1980

10:00 A.M.  
PHOENIX, ARIZONA



P L A T



A MC 94124

Section 20, Range 22 East, Township 20 South, G&SRBM  
Cochise County, Arizona  
Tombstone Mining District

Scale - 1" = 880'

Arizona  
STATE OF NEW MEXICO

County of COCHISE } ss. I hereby certify that the within instrument was filed and recorded AUG 9 1982 12:00 PM M.  
In Docket No. 1610 Page 393, at the request of Robert E. Cattany

A MC 181859

Fee No.: 15019 1004

When recorded mail to:  
Robert E. Cattany  
4530 E. River Rd.  
Tucson, Az. 85718

Witness my hand and official seal.

**CHRISTINE RHODES**

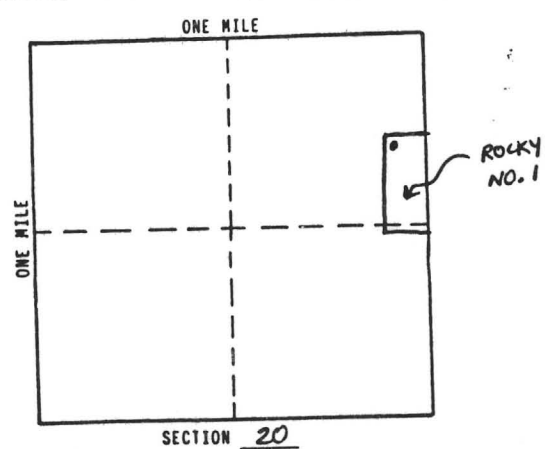
Christine Rhodes  
Deputy Recorder

Indexed:  
Compared:  
Photostated:  
Fee: \$5.00  
I.R.S.: \$

**MINING CLAIM LOCATION NOTICE & MAP**

1. ☐ Location ☐ Amendment ☒ Relocation  
2. ☐ Placer ☐ Lode ☐ Millstone  
3. The name of this claim is: ROCKY NO. 1  
The name and address of the locator is ROBERT CATTANY  
4530 E. RIVER RD. TUCSON, AZ. 85718  
4. The location of the claim is in Section 20, Township 20S Range 22E  
G. & S.R.B. & M., COCHISE County, New Mexico.  
The NW corner of the claim is 550 feet in a WEST direction.  
and 1400 feet in a SOUTH direction from THE NE CORNER  
OF SECTION 20 T20S R22E  
5. The type of Location monument is 1 1/2" x 5' PVC PIPE  
The type of corner monuments are 1 1/2" x 5' PVC PIPE  
6. The bearing and distance between the corners of the claim are beginning at the NW  
corner of the claim, adjacent to this location monument, 600 feet in a EAST  
direction to the NE corner, then 1500 feet in a SOUTH  
direction to the SE corner, then 600 feet in a WEST  
direction to the SW corner, then 1500 feet in a NORTH  
direction to the point of beginning.  
7. If amending, relocating or previously recorded, this claim was recorded in Docket 1409 Page  
293, TOMBSTONE Mining District, COCHISE County, New Mexico.

1 inch = 2000 feet



The date of the location of this claim is MAY 14, 1982  
Robert E. Cattany MARY HAAN  
Signature of Locator(s)/agent Witness

RECEIVED  
AUG 11 1982  
COUNTY CLERK  
COCHISE COUNTY, ARIZONA

STATE OF Arizona  
County of COCHISE  
In Docket No. 1610

I hereby certify that the within instrument was filed and  
recorded AUG 9 '82 - 12:00 PM M.  
at the request of Robert E. Cattany

Witness my hand and official seal.

**CHRISTINE RHODES**  
County Recorder

Christine Rhodes  
Deputy Recorder

See No.: 15020

Indexed:

Compared:

Photos: 1

Fee: \$

I.R.S.: \$

When recorded mail to:

Robert E. Cattany  
4530 E. River Rd.  
Tucson, Az. 85718

## MINING CLAIM LOCATION NOTICE & MAP

1. ☐ Location

☐ Amendment

☒ Relocation

2. ☐ Placer

☐ Lode

☐ Millsite

3. The name of this claim is: ROCKY NO. 2

The name and address of the locator is ROBERT CATTANY

4530 E. RIVER RD. TUCSON, AZ. 85718

4. The location of the claim is in Section 20, Township 20S Range 22E

G. & S.R.B. & M., COCHISE County, New Mexico.

The NE corner of the claim is 550 feet in a WEST direction.

and 1400 feet in a SOUTH direction from THE NE CORNER

OF SECTION 20 T20S R22E

5. The type of Location monument is 1 1/2" X 5' PVC PIPE

The type of corner monuments are 1 1/2" X 5' PVC PIPE

6. The bearing and distance between the corners of the claim are beginning at the NE

corner of the claim, adjacent to this location monument, 600 feet in a WEST

direction to the NW corner, then 1500 feet in a SOUTH

direction to the SW corner, then 600 feet in a EAST

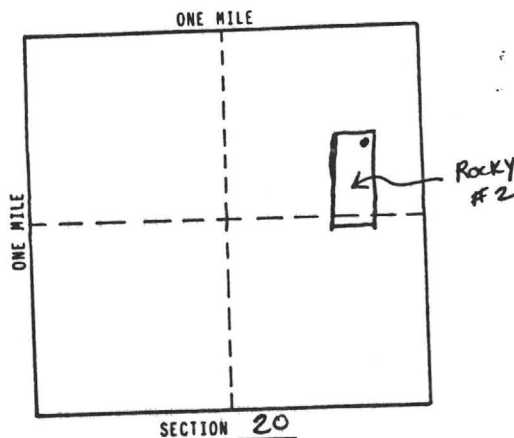
direction to the SE corner, then 1500 feet in a NORTH

direction to the point of beginning.

If amending, relocating or previously recorded, this claim was recorded in Docket 1409 Page

295, TOMBSTONE Mining District, COCHISE County, New Mexico.

1 inch = 2000 feet



The date of the location of this claim is MAY 19, 1982

Robert E. Cattany  
Signature of Locator(s)/agent

MARY HAAN  
Witness

STATE OF ARIZONA

County of COCHISE

In Docket No. 1610

I hereby certify that the within instrument was filed and recorded AUG 9 82 12 00 PM at the request of Robert E. Cattany

Witness my hand and official seal.

**CHRISTINE RHODES**

Christine Rhodes  
Recorder

Lee No.: 15021

Indexed:

Compared:

Photostated:

Fee: \$ \$5.00

L.R.S.: \$

When recorded mail to:

Robert E. Cattany  
4530 E. River Road  
Tucson, Az. 85718

## MINING CLAIM LOCATION NOTICE & MAP

1. ☐ Location

☐ Amendment

☒ Relocation

2. ☐ Placer

☐ Lode

☐ Millsite

3. The name of this claim is: ROCKY NO. 3

The name and address of the locator is ROBERT CATTANY

4530 E. RIVER RD TUCSON, AZ 85718

4. The location of the claim is in Section 20, Township 20S Range 22E

G. & S.R.B. & M., COCHISE County, New Mexico.

The NW corner of the claim is 1650 feet in a WEST direction.

and 1400 feet in a SOUTH direction from The NE CORNER

OF SECTION 20 T20S R22E

5. The type of Location monument is 1 1/2" x 5' PVC PIPE

The type of corner monuments are 1 1/2" x 5' PVC PIPE

6. The bearing and distance between the corners of the claim are beginning at the NW

corner of the claim, adjacent to this location monument, 600 feet in a EAST

direction to the NE corner, then 1500 feet in a SOUTH

direction to the SE corner, then 600 feet in a WEST

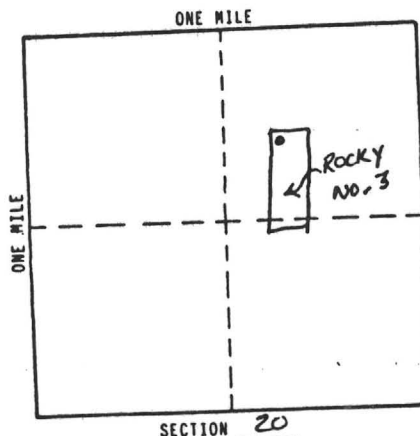
direction to the SW corner, then 1500 feet in a NORTH

direction to the point of beginning.

7. If amending, relocating or previously recorded, this claim was recorded in Docket 1409 Page

291, TOMBSTONE Mining District, COCHISE County, New Mexico.

1 inch = 2000 feet



SECTION 20

The date of the location of this claim is MAY 17, 1982

Robert E. Cattany  
Signature of Locator(s)/agent

Witness MARY HAAN

HSCQ 5/81

Arizona  
STATE OF NEW MEXICO

County of COCHISE

In Docket No. 1409

I hereby certify that the within instrument was filed and  
ss. recorded AUG 9 '82 12:00 PM  
at the request of Robert E. Cattany

Witness my hand and official seal.

**CHRISTYNE RHODES**  
County Recorder

Christy Rhodes  
Deputy Recorder

See No.: 15022

Indexed:

Compared:

Photostated:

Fee: \$ 35.00

L.R.S.: \$

When recorded mail to:  
Robert E. Cattany  
4530 E. River Rd.  
Tucson, Az. 85718

## MINING CLAIM LOCATION NOTICE & MAP

1. ☐ Location

☐ Amendment

☒ Relocation

2. ☐ Placer

☐ Lode

☐ Millsite

3. The name of this claim is: Rocky NO. 4

The name and address of the locator is ROBERT CATTANY

4530 E. RIVER RD. TUCSON AZ. 85718

4. The location of the claim is in Section 20, Township 20S Range 22E

G. & S.R.B. & M., COCHISE County, New Mexico.

The NE corner of the claim is 1650 feet in a WEST direction.

and 1400 feet in a SOUTH direction from The NE CORNER

OF SECTION 20 T20S R22E

5. The type of Location monument is 1 1/2" x 5' PVC PIPE

The type of corner monuments are 1 1/2" x 5' PVC PIPE

6. The bearing and distance between the corners of the claim are beginning at the NE

corner of the claim, adjacent to this location monument, 600 feet in a WEST

direction to the NW corner, then 1500 feet in a SOUTH

direction to the SW corner, then 600 feet in a EAST

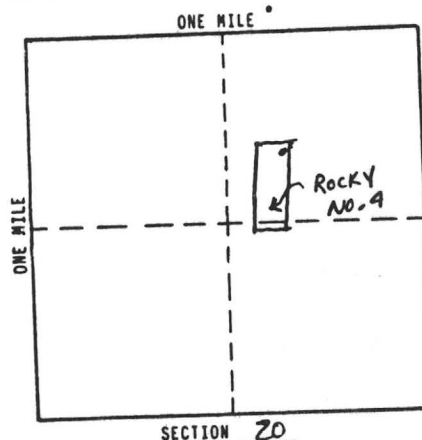
direction to the SE corner, then 1500 feet in a NORTH

direction to the point of beginning.

7. If amending, relocating or previously recorded, this claim was recorded in Docket 1409 Page

299, TOMBSTONE Mining District, COCHISE County, New Mexico.

1 inch = 2000 feet



SECTION 20

The date of the location of this claim is MAY 19, 1982

Robert E. Cattany  
Signature of Locator(s)/agent

Witness

MARY HAAN

HSC0 5/81

Arizona  
STATE OF NEW MEXICO  
County of COCHISE  
In Docket No. 1409

I hereby certify that the within instrument was filed and  
ss. recorded AUG 9 '82 - 12 00 PM.  
Page 397, at the request of Robert E. Cattany

Witness my hand and official seal.

When recorded mail to:

Robert E. Cattany  
4530 E. River Rd.  
Tucson, Az. 85718

CHRISTINE RHODES

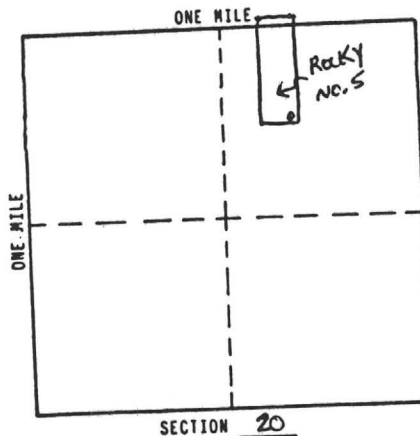
Christine Rhodes  
Deputy Recorder

File No.: 15023  
Indexed:  
Compared:  
Photostated:  
Fee: \$3.00  
I.R.S.: \$

## MINING CLAIM LOCATION NOTICE & MAP

1. ☐ Location ☐ Amendment ☒ Relocation  
2. ☐ Placer ☐ Lode ☐ Millsite
3. The name of this claim is: ROCKY NO. 5  
The name and address of the locator is ROBERT CATTANY  
4530 E. RIVER Rd. TULSON, AZ 85718
4. The location of the claim is in Section 20, Township 205 Range 22E  
G. & S.R.B. & M., COCHISE County, New Mexico.  
The SE corner of the claim is 1650 feet in a WEST direction.  
and 1400 feet in a SOUTH direction from THE NE CORNER  
OF SECTION 20 T205 R22E
5. The type of Location monument is 1 1/2" x 5' PVC PIPE  
The type of corner monuments are 1 1/2" x 5' PVC PIPE
6. The bearing and distance between the corners of the claim are beginning at the SE  
corner of the claim, adjacent to this location monument, 600 feet in a WEST  
direction to the SW corner, then 1500 feet in a NORTH  
direction to the NW corner, then 600 feet in a EAST  
direction to the NE corner, then 1500 feet in a SOUTH  
direction to the point of beginning.
7. If amending, relocating or previously recorded, this claim was recorded in Docket 1409 Page  
301, TOMBSTONE Mining District, COCHISE County, New Mexico.

1 inch = 2000 feet



RECEIVED  
AUG 11 / 45 AM '82  
TOMBSTONE

The date of the location of this claim is MAY 19, 1982  
Robert E. Cattany  
Signature of Locator(s)/agent  
Witness MARY HAAN



Arizona  
STATE OF NEW MEXICO  
County of COCHISE  
Docket No. 1610

I hereby certify that the within instrument was filed and  
recorded AUG. 9 '82 - 12 00 PM.  
at the request of Robert E. Cattany

Witness my hand and official seal.

**CHRISTINE RHODES**  
County Recorder

Christine Rhodes  
Deputy Recorder

File No.: 15024

Indexed:

Compared:

Photostated:

Fee: \$ \$5.00

L.R.S.: \$

Recorded mail to:  
Robert E. Cattany  
530 E. River Rd.  
Tucson, Az. 85718

## MINING CLAIM LOCATION NOTICE & MAP

1. ☐ Location

☐ Amendment

☒ Relocation

2. ☐ Placer

☐ Lode

☐ Millsite

3. The name of this claim is: ROCKY NO. 6

The name and address of the locator is ROBERT CATTANY  
4530 E. RIVER RD. TULSON, AZ 85718

4. The location of the claim is in Section 20, Township 20S Range 22E  
G. & S.R.B. & M., COCHISE County, New Mexico.

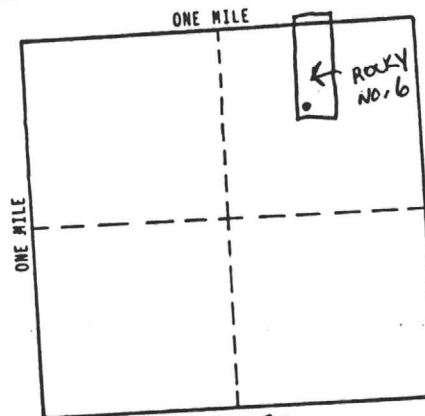
The SW corner of the claim is 1650 feet in a WEST direction.  
and 1400 feet in a SOUTH direction from THE NE CORNER

OF SECTION 20 T20S R22E  
5. The type of Location monument is 1 1/2" x 5' PVC PIPE  
The type of corner monuments are 1 1/2" x 5' PVC PIPE

6. The bearing and distance between the corners of the claim are beginning at the SW  
corner of the claim, adjacent to this location monument, 600 feet in a EAST  
direction to the SE corner, then 1500 feet in a NORTH  
direction to the NE corner, then 600 feet in a WEST  
direction to the NW corner, then 1500 feet in a SOUTH  
direction to the point of beginning.

7. If amending, relocating or previously recorded, this claim was recorded in Docket 1409 Page  
303, TOMBSTONE Mining District, COCHISE County, New Mexico.

1 inch = 2000 feet



RECEIVED  
AUG 11 / 15 PM '82  
COUNTY CLERK

The date of the location of this claim is MAY 19, 1982  
Robert E. Cattany  
Signature of Locator(s)/agent

MARY HAAN  
Witness



Arizona  
STATE OF NEW MEXICO

County of COCHISE

In Docket No. 1610

I hereby certify that the within instrument was filed and

ss. recorded AUG 9 1982 - 12:00 PM M.

at the request of Robert E. Cattany

A MC 181 865

Fee No.: 15025

7010

Indexed:

Compared:

Photostated:

Fee: \$5.00

I.R.S.: \$

When recorded mail to:

Robert E. Cattany  
4530 E. River Road  
Tucson, Az. 85718

Witness my hand and official seal.

**CHRISTINE RHODES**

County Recorder

Christine Rhodes  
Deputy Recorder

## MINING CLAIM LOCATION NOTICE & MAP

1. ☐ Location ☐ Amendment ☐ Relocation  
2. ☐ Placer ☐ Lode ☐ Millsite

3. The name of this claim is: ROCKY NO. 7

The name and address of the locator is ROBERT CATTANY  
4530 E. RIVER RD. TUCSON, AZ 85718

4. The location of the claim is in Section 20, Township 205 Range 22E

G. & S.R.B. & M., COCHISE County, New Mexico.

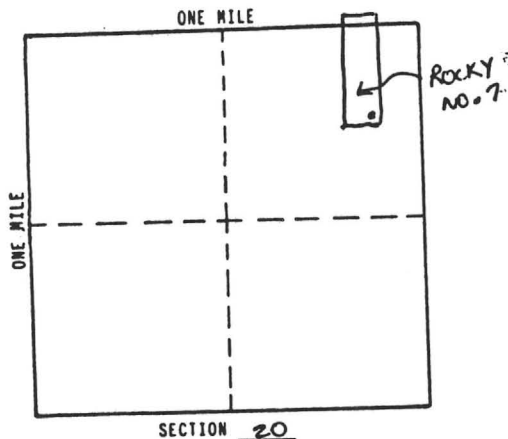
The SE corner of the claim is 550 feet in a WEST direction.  
and 1400 feet in a SOUTH direction from THE NE CORNER  
OF SECTION 20 T205 R22E

5. The type of Location monument is 1 1/2" x 5' PVC PIPE  
The type of corner monuments are 1 1/2" x 5' PVC PIPE

6. The bearing and distance between the corners of the claim are beginning at the SE  
corner of the claim, adjacent to this location monument, 600 feet in a WEST  
direction to the SW corner, then 1500 feet in a NORTH  
direction to the NW corner, then 600 feet in a EAST  
direction to the NE corner, then 1500 feet in a SOUTH  
direction to the point of beginning.

7. If amending, relocating or previously recorded, this claim was recorded in Docket 1409 Page  
305, TOMBSTONE Mining District, COCHISE County, New Mexico.

1 inch = 2000 feet



The date of the location of this claim is MAY 19, 1982  
Robert E. Cattany  
Signature of Locator(s)/agent  
Witness MARY HAAN

HSCD 5/81

STATE OF Arizona } ss. I hereby certify that the within instrument was filed and  
County of COCHISE } recorded AUG 9 '82 - 12:00 PM M.  
In Docket No. 1610 Page 400, at the request of Robert E. Cattany

H MC 181 866

Fee No.: 15026 1011

Witness my hand and official seal.

When recorded mail to:

Robert E. Cattany  
4530 E. River Rd.  
Tucson, Az. 85718

**CHRISTINE RHODES**  
Christine Rhodes  
Recorder

Indorsed:

Compared:

Photostated:

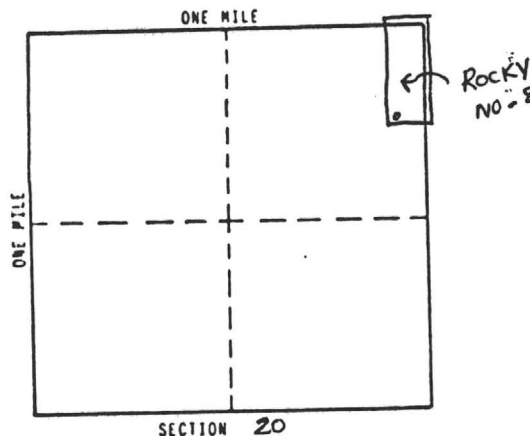
Fee: \$5.00

L.R.S.: \$

## MINING CLAIM LOCATION NOTICE & MAP

1. ☐ Location ☐ Amendment ☐ Relocation  
2. ☐ Placer ☐ Lode ☐ Millsite  
3. The name of this claim is: ROCKY NO. 8  
The name and address of the locator is ROBERT CATTANY  
4530 E. RIVER RD. TULSON, AZ 85718  
4. The location of the claim is in Section 20, Township 20S Range 22E  
G. & S.R.B. & M., COCHISE County, New Mexico.  
The SW corner of the claim is 550 feet in a WEST direction.  
and 1400 feet in a SOUTH direction from THE NE CORNER  
OF SECTION 20 T20S R22E  
5. The type of Location monument is 1 1/2" x 5' PVC PIPE  
The type of corner monuments are 1 1/2" x 5' PVC PIPE  
6. The bearing and distance between the corners of the claim are beginning at the SW  
corner of the claim, adjacent to this location monument, 600 feet in a EAST  
direction to the SE corner, then 1500 feet in a NORTH  
direction to the NE corner, then 600 feet in a WEST  
direction to the NW corner, then 1500 feet in a SOUTH  
direction to the point of beginning.  
7. If amending, relocating or previously recorded, this claim was recorded in Docket 1409 Page  
307, TOMBSTONE Mining District, COCHISE County, New Mexico.

1 inch = 2000 feet



The date of the location of this claim is MAY 19, 1982

Robert E. Cattany  
Signature of locator(s)/agent(s)

MARY HAAN  
Witness

RECEIVED  
AUG 11 / 15 54 1982  
TULSON, ARIZONA

Arizona  
STATE OF NEW MEXICO

County of COCHISE

In Docket No. 1867

I hereby certify that the within instrument was filed and  
ss. recorded AUG 9 1982 - 12:00 PM M.  
In Docket No. 1867 Page 401, at the request of Robert E. Cattany

Witness my hand and official seal.

When recorded mail to:

Robert E. Cattany  
4530 E. River Road  
Tucson, Az. 85718

**CHRISTINE RHODES**

Christine Rhodes  
Deputy Recorder

Indexed:

Compared:

Photostated:

Fee: \$ 3.00

I.R.S.: \$

## MINING CLAIM LOCATION NOTICE & MAP

1. ☒ Location

☐ Amendment

☐ Relocation

2. ☐ Placer

☒ Lode

☐ Millsite

3. The name of this claim is: ROCKY NO. 9

The name and address of the locator is ROBERT CATTANY

4530 E. RIVER RD. TUCSON, AZ 85718

4. The location of the claim is in Section 20, Township 20S Range 22E

G. & S.R.B. & M., COCHISE County, New Mexico.

The SE corner of the claim is 2200 feet in a WEST direction.

and 1400 feet in a SOUTH direction from THE NE CORNER

OF SECTION 20 T20S R22E

5. The type of Location monument is 1 1/2" X 5' PVC PIPE

The type of corner monuments are 1 1/2" X 5' PVC PIPE

6. The bearing and distance between the corners of the claim are beginning at the SE

corner of the claim, adjacent to this location monument, 600 feet in a WEST

direction to the SW corner, then 1500 feet in a NORTH

direction to the NW corner, then 600 feet in a EAST

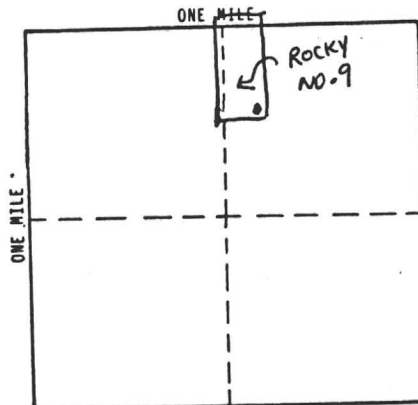
direction to the NE corner, then 1500 feet in a SOUTH

direction to the point of beginning.

7. If amending, relocating or previously recorded, this claim was recorded in Docket 1867 Page

401 Mining District, COCHISE County, New Mexico.

1 inch = 2000 feet



SECTION 20



RECEIVED  
AUG 11 1 45 PM '82  
FEDERAL BUREAU OF LAND MANAGEMENT

The date of the location of this claim is MAY 14, 1982

Robert E. Cattany  
Signature of Locator(s)/agent

Witness

MARY HAAN

HSC0 5/81

Arizona  
STATE OF NEW MEXICO  
County of COCHISE  
In Docket No. 1610

I hereby certify that the within instrument was filed and  
ss. recorded AUG 9 1982 M.  
at the request of Robert E. Cattany

Witness my hand and official seal.

**CHRISTINE RHODES**  
County Recorder

Christine Rhodes  
Deputy Recorder

Fee No.: 15028

Indexed:

Compared:

Photostated:

Fee: \$ 15.00

I.R.S.: \$

When recorded mail to:

Robert E. Cattany  
4530 E. River Rd.  
Tucson, Az. 85718

## MINING CLAIM LOCATION NOTICE & MAP

1. ☒ Location

☐ Amendment

☐ Relocation

2. ☐ Placer

☒ Lode

☐ Millsite

3. The name of this claim is: ROCKY NO. 10

The name and address of the locator is ROBERT CATTANY

4530 E. RIVER RD. TUCSON, AZ. 85718

4. The location of the claim is in Section 20, Township 20S Range 22E

G. & S.R.B. & M., COCHISE County, New Mexico.

The NE corner of the claim is 2200 feet in a WEST direction.  
and 1400 feet in a SOUTH direction from THE NE CORNER  
OF SECTION 20 T20S R22E

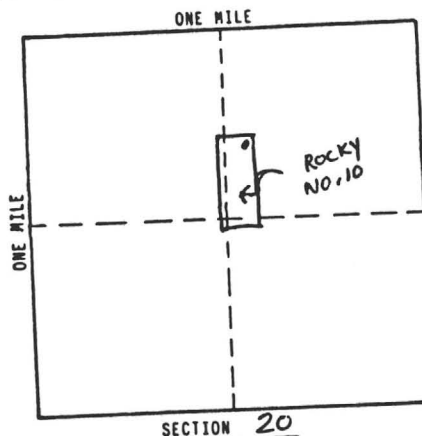
5. The type of Location monument is 1 1/2" x 5' PVC PIPE

The type of corner monuments are 1 1/2" x 5' PVC PIPE

6. The bearing and distance between the corners of the claim are beginning at the NE  
corner of the claim, adjacent to this location monument, 600 feet in a WEST  
direction to the NW corner, then 1500 feet in a SOUTH  
direction to the SW corner, then 600 feet in a EAST  
direction to the SE corner, then 1500 feet in a NORTH  
direction to the point of beginning.

7. If amending, relocating or previously recorded, this claim was recorded in Docket \_\_\_\_\_ Page \_\_\_\_\_  
Mining District, \_\_\_\_\_ County, New Mexico.

1 inch = 2000 feet



RECEIVED  
AUG 11 / 45 AM '82  
COUNTY CLERK

The date of the location of this claim is MAY 19, 1982  
Robert E. Cattany  
Signature of Locator(s)/agent

MARY HAAN  
Witness





371

IN THE COURT OF APPEALS  
STATE OF ARIZONA  
DIVISION II

JAMES STEWART COMPANY, an )  
Arizona corporation; M. SETH )  
HORNE; W.W. GRACE, )

Plaintiffs/Appellees, )

-vs- )

ROBERT E. CATTANY and JUNE )  
CATTANY, husband and wife, )

Defendants/Appellants. )

---

2CA-CIV 4371

Cochise County No. 40466

APPELLANT'S OPENING BRIEF

Robert E. Cattany  
4530 E. River Road  
Tucson, Arizona 85718

Attorney for Appellants

IN THE COURT OF APPEALS  
STATE OF ARIZONA  
DIVISION II

JAMES STEWART COMPANY, an )  
Arizona corporation; M. SETH )  
HORNE; W.W. GRACE, )

Plaintiffs/Appellees, )

-vs- )

ROBERT E. CATTANY and JUNE )  
CATTANY, husband and wife, )

Defendants/Appellants. )  

---

2CA-CIV 4371

Cochise County No. 40466

APPELLANT'S OPENING BRIEF

Robert E. Cattany  
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## STATEMENT OF THE CASE

This case was brought as forcible entry and detainer to determine right to possession of unpatented federal lode mining claims. The complaint was filed on August 19, 1981 and served on the defendants/appellants on August 30, 1981. It was tried before the Court without a jury as a half-day case on September 15, 1981, by the Superior Court of Arizona in and for the County of Cochise. The Court entered its judgment in favor of the plaintiffs/appellees on November 16, 1981.

Defendants/appellants filed a notice of appeal and cost bond on December 16, 1981. No cross appeal was filed.

The Court of Appeals has jurisdiction of this appeal from the Superior Court judgment pursuant to ARS Section 12-2101B.

## MEMORANDUM

In the interest of simplicity, James Stewart Company; M. Seth Horne; and W.W. Grace, appellees herein, will be referred to as "Stewart". Robert E. Cattany and June Cattany, appellants herein, will be referred to as "Cattany". The reporter's Transcript of Proceedings will be abbreviated "TP" followed by a number indicating the page or pages. The Abstract of Record will be abbreviated "AR" followed by a number indicating the number assigned to that item by the clerk. Exhibits will be referred to by their assigned number or letter.

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## STATEMENT OF FACTS

James Stewart Company is a corporation of which M. Seth Horne is president and Harvey L. Hays is property manager. TP 22. Mr. Hays was present representing the company and Mr. Horne was not present at the trial. On September 20, 1967, M. Seth Horne, as trustee, located eight unpatented lode mining claims known as the Hornes #110 through #117, situated in Section 20, T20S, R22E, Cochise County, Arizona. Plaintiffs' Exhibit 5 in Evidence.

In August, 1979, W.W. Grace entered into an agreement whereby he leased the eight Horne claims from M. Seth Horne. Plaintiffs' Exhibit 13 in Evidence. Mr. Grace resides in Scottsdale, Arizona and is in the mining, oil, real estate and insurance businesses. TP 24.

No assessment work was done on the eight Horne claims for the assessment year ending on August 31, 1979, and no affidavit of assessment work was recorded for that year or for the previous assessment year ending August 31, 1978. TP 52,70.

On or about October 4, 1979, Cattany entered the area covered by the eight Horne claims for the purpose of making mining claim locations. After doing some preliminary work he left the area in the morning of October 6 and returned on Monday morning, October 8, to proceed with the location work. At that time he noticed new trenching work done on the property which he learned was done by John Escapule on October 6, as assessment work for W.W. Grace. TP 70,71. The job took Escapule about eight hours with a backhoe for which he charged, and was paid,

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\$200.00, the usual rate for backhoe work in the area at that time. TP 90, 95. Cattany did not proceed with his location work, but waited to see if any further assessment work was going to be done. No additional work was done on the property by anyone during the next ten days, and on October 18, Cattany proceeded to locate eight lode mining claims, naming them the Rockys #1 through #8. These claims covered the same ground as was covered by the eight Horne claims, i.e., the Northeast Quarter of Section 20, T20S, R22E, Cochise County, Arizona. Defendants' Exhibit A in Evidence.

Cattany's location notices contained a plat map erroneously showing the eight Rocky claims as being located in the Northwest Quarter of Section 20 rather than the Northeast Quarter of Section 20. In addition, the location notices and plat maps showed the eight Rocky claims as being 660 feet in width rather than the statutory 600 feet, Defendants' Exhibit A in Evidence, but each claim only encompassed the maximum allowable area of 20 acres. On March 17, 1980, Cattany amended the location notices for the eight Rocky claims, to show the claims on the plat map to be in the Northeast Quarter of Section 20. Defendants' Exhibit A in Evidence. In August, 1981, Cattany had the eight Rocky claims measured and remonumented to insure that they were not over 600 feet in width. TP 81,82.

On March 10, 1980, W.W. Grace had John Escapule do some additional backhoe trenching work on the eight Horne claims, for which he charged and was paid \$49.00. TP 88.89. In addition to the trenching work, W.W. Grace had two or three assays made, which didn't amount to much. TP 59.

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## ISSUES PRESENTED

1. The status of a locator's exclusive right to possession of his unpatented mining claims following a failure to do the required annual assessment work.
2. The rights of a locator who commences or resumes the performance of annual assessment work after failing to do it for the prior year or years.
3. The effect on a locator's right to exclusive possession of his mining claims when he resumes performance of the assessment work, but does not complete it in a timely manner, or at all.
4. The rights of a locator who initiates mining claim locations over prior mining claims for which the assessment work had been resumed but not completed.
5. Whether mining claims locations are void by reason of errors in the location notices describing where the claims are situated.
6. Whether mining claims locations are void by reason of locating claims 660 feet wide and 1320 feet long, rather than 600 feet wide and 1500 feet long.

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## ARGUMENTS

The Trial Court Erred In Finding In Favor Of Stewart, Because The Finding Was Contrary To The Evidence And Law Presented, In That Stewart, Having Resumed Its Assessment Work, Failed To Complete It In A Diligent And Continuous Manner, And Cattany's Locations Were Validly Made At A Time When Stewart's Claims Were Subject To Forfeiture By Relocation.

1. The Evidence Presented Showed That Stewart Had Not Done The Assessment Work On The Eight Horne Claims For The Assessment Year Ending August 31, 1979, And Therefore The Claims Were Subject To Forfeiture By Relocation On September 1, 1979.

The law requires that at least \$100.00 worth of labor and/or improvements be expended each year on each unpatented mining claim for the locator to maintain the right to exclusive possession thereof. 30 USCA Section 28. Otherwise, the claim becomes subject to forfeiture by relocation. Edwards v. Anaconda Co. (1977) 115 Ariz 313, 565 P2d 190. The forfeiture does not happen automatically on the first day of the new assessment year (September 1), but occurs when a new or relocation is made before the delinquent locator resumes the assessment work. Pasco v. Richards (1962) 20 Cal Rptr 416, 201 C.A. 2d 680.

It should not be subject to serious doubt that Stewart had failed to do the annual assessment work for the eight Horne claims for the assessment year ending August 31, 1979. The testimony alleging the failure to do the assessment work for that year was uncontroverted, TP 70, and there

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was no evidence or proof presented by Stewart that this assessment work had been done. Therefore, on September 1, 1979, Stewart's right to exclusive possession of the eight Horne claims was lost and the claims were subject to forfeiture by relocation.

2. When Stewart Resumed The Assessment Work On The Eight Horne Claims On October 6, 1979, It Conditionally Reacquired Its Right To Exclusive Possession, But Never Completed The Assessment Work And Thereby Lost Its Reacquired Right.

The law provides that the locator of a mining claim which is subject to forfeiture by relocation for failure to perform assessment work, can, prior to relocation by another, resume the performance of the assessment work and thereby regain his right of exclusive possession. 30 USCA Section 28. However, through abuses of this provision by locators, the courts have interpreted the law and its application, to require completion of the assessment work once resumed. McCormick v. Baldwin, 37 P 903, (Cal. 1894), where the court said, "It is against the policy of the law, and a fraud against the government and the law, to hold quartz (lode) claims by merely doing a few dollars worth of work thereon at or near the beginning of the year next following the year on which claimant failed to do the necessary work, when such work is not commenced with the bona fide intention of being continued until the full amount is done. Such labor so done, is a mere pretense and sham and shall not prevent the location for want of necessary work.". Because the prosecution of the work to completion with reasonable diligence is an element of a good faith resumption of work, it does not permit of a construction of the rule that an entire period can be gained by making a slight expenditure at the beginning of the year. Honaker v. Martin, 29 P 397 (Mont. 1891). The court said in Hirshler v.

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McKendricks, 40 P 1640 (Mont. 1895), "When a locator avails himself of the statute and resumes work to protect himself from forfeiture, he must perform the work with diligence until the requirement for annual labor is completed", and held that a 15 day interruption of work without cause was not due diligence. Lindley states that the claimant must resume work in good faith and prosecute same continuously and without unreasonable interruption until the full amount of labor is performed, Lindley, Mines and Mineral Laws, Sec. 654 (3rd Ed. 1914). Therefore, a locator's right to exclusive possession of a mining claim, lost for failure to do assessment work, re-attaches upon resumption of the assessment work, but is conditional upon the completion of the work.

3. When Stewart Lost Its Reacquired Right To Exclusive Possession Of The Eight Horne Claims By Failing To Complete The Required Assessment Work, The Claims Again Became Subject To Forfeiture By Relocation.

Stewart resumed the assessment work on the eight Horne claims on October 6, 1979, and on that day had \$200.00 worth of trenching work done. No further work was done on the claims by Stewart until March 10, 1980, when an additional \$49.00 worth of trenching work was done. TP 88,89,90. In fact, Stewart did not return to visit the claims for about two weeks after the October 6 work was done, and that visit was not for the purpose of doing assessment work. TP 49,50.

Whether or not a sufficient amount of assessment work has been performed, depends upon the value of the work and not the amount paid for it. Wagner v. Dorris, 73 P 318 (Ore. 1903). However, the amount so paid is admissible as evidence tending to establish the value of the work. If equipment is used in the performance of the assessment work, the reasonable value of the use of such equipment may be included as assessment



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work. *Anderson v. Robinson*, 126 P 988 (Ore. 1912). Stewart did not offer testimony or other evidence as how the \$200.00 paid for the backhoe trenching work done on October 6, would have any greater value than what was paid for it. Since the backhoe work was done at the customary and usual rate charged in the area at that time, the reasonable value for its use can only be the same as the \$200.00 paid for it. It should be noted that it would require a minimum of \$800.00 worth of assessment work to satisfy the commitment for the eight Horne claims.

4. Cattany's Locations of the Eight Rocky Claims on October 18, 1979, Caused the Forfeiture of Stewart's Eight Horne Claims, and Subject to the Validity of the Rocky Claims Locations, the Horne Claims Became a Nullity.

If, after resuming his assessment work, the locator, without cause or excuse, interrupts or stops the work on his claim for a period of time which would be contrary to a finding of due diligence, the claim becomes subject to forfeiture by relocation. When that happens, and a subsequent locator comes in and completes a relocation, which is not void for any reason, the former locator's rights to his mining claim are forfeited and lost and his mining claim ceases to exist. At this point, the subsequent locator has all the rights afforded the owner of a valid mining claim, as against all the world, including any former locators. The uncontradicted evidence showed that Cattany took all the required steps in perfecting the locations of the eight Rocky claims and the amendments thereof, including making discoveries. TP 70,71,72,73, 74.

5. The Clerical Errors in Cattany's Location Notices Did Not Void the Locations, as They Were Corrected by Amendment.

A location notice which is merely defective or erroneous, is not

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void since it is capable of amendment, Nylund v. Ward, 187 P 154 (Colo. 1919), and actual knowledge of the error and the location of the claim on the ground is equal to valid recorded notice, Atherly v. Bullion Monarch Uranium Co., 335 P2d 71 (Utah 1959). Stewart admitted having knowledge of the error and of the actual locations on the ground. TP 64. Defects or errors in a location notice do not result in a forfeiture, and no forfeiture will occur if the defects are corrected prior to the date of a subsequent location. Smart v. Staunton, 20 Ariz 1, 239 P2d 514 (Ariz. 1925). Stewart was not a subsequent locator. ARS 27-202C. provides "The notice may be amended at any time and the monument changed to correspond with the amended location, but no change shall be made which will interfere with the rights of others. If such amendment changes the exterior boundaries of the claim, a new or amended map, plat or sketch shall be recorded pursuant to ARS 27-203 showing such change." (1978 amendment).

Stewart lost any rights it had in the eight Horne mining claims on October 18, 1979, when Cattany located the eight Rocky claims, and if not then, no later than January 16, 1980, when he filed and recorded the location notices. Therefore, Stewart had no rights that could be interfered with by reason of Cattany's amended location notices.

6. The Location of the Rocky Claims Having Widths of 660 Feet Rather Than the Designated Maximum Width of 600 Feet, Does Not Make the Locations Void, as They Only Contain the Maximum Allowable Area of 20 Acres and Can be Amended.

The location notices of the Rocky claims described them to be 660 feet wide and 1320 feet long, but contained the same area (20 acres) as that of a maximum size claim of 600 feet wide and 1500 feet long.

A mining claim which exceeds 600 feet in width is not void, but the excess area it contains, if any, may be voided. The rule is well

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established that an area located in excess of that allowed by statute is only void as to the excess and will not, per se, void the location. Hayden Hill Con. Min. Co. v. Lincoln Min. Co., 160 P2d 468 (Ida. 1945). In Vallasco v. Mallory, 5 Ariz App 406, 427 P2d 540 (Ariz. 1967) the court held that until the locator of an oversize claim has a reasonable time, after notice, to draw in his lines, his right of possession extends to the entire claim.

So long as Cattany's claims are not void by reason of their oversize widths, Stewart, having no rights based on its eight Horne claims, and not being a subsequent locator whose rights might be interferred with, has no standing to complain of the oversize widths of Cattany's claims.

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## CONCLUSIONS

Based upon the evidence and the law presented and available at the trial of this case, and set forth herein, Appellants pray that the judgment entered below in favor of Appellees be reversed and judgment be granted in favor of the Appellants, finding Appellees guilty of forcible detainer and finding Appellants entitled to the possessory rights in and to the premises described as Rockys #1 through #8, as located and situated in the Northeast Quarter of Section 20, T20S, R22E, G.S.R.B. & M. Tombstone Mining District of Cochise County, Arizona, and further finding that Appellees have no possessory rights in said premises by reason of the Horne mining claims #110 through #117, and granting Appellants their costs expended herein and in the court below.

Respectfully submitted,

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IN THE COURT OF APPEALS  
STATE OF ARIZONA  
DIVISION TWO

JAMES STEWART COMPANY, an  
Arizona corporation; M.  
SETH HORNE; W. W. GRACE,  
  
Plaintiffs/Appellees,  
  
vs.  
  
ROBERT E. CATTANY and JUNE  
CATTANY, husband and wife,  
  
Defendants/Appellants.

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NO. 2CA-CIV 4371

(Cochise County  
Superior Court  
Cause No. 40466)

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STATEMENT OF THE CASE

Plaintiffs Appellees JAMES STEWART COMPANY, M. SETH HORNE, and W. W. GRACE accept the Statement of the Case set forth in the Opening Brief at 2.

MEMORANDUM

This Answering Brief will use the following references: the Plaintiffs - Appellees will be referred to collectively as "Appellees" or individually by name; Defendants - Appellants will be referred to as "Appellants" or by name. "R.T." will refer to the Reporter's Transcript of Proceedings before the Superior Court, Cochise County, on September 15, 1981. "Record \_\_\_\_\_" will refer to one or more pages of the certified Record on Appeal.

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STATEMENT OF FACTS

On appeal, the facts must be viewed in the light most favorable to supporting the trial court's findings and judgment. Howard P. Foley Co. v. Harris, 10 Ariz. App. 78, 456 P.2d 398 (1969). Where, as here, there are no specific findings of fact, all inferences to be drawn from the evidence must be drawn in favor of the judgment. Backman v. Backman, 127 Ariz. 414, 621 P.2d 920 (Ct. App. 1980).

The James Stewart Company is the owner of certain federal unpatented mining claims in the Northeast Quarter of Section 20, Range 22 East, Township 20 South, G. & S.R.B. & M., in the Tombstone Mining District in Cochise County, Arizona. R.T. 7-8; Plaintiffs' Exhibit 5 in evidence. These lode claims are known as Horne 110 through 117, inclusive, and were originally located by M.S. Horne in 1967. Plaintiffs' Exhibit 5 in evidence. Appellee M. Seth Horne is president of James Stewart Company. R.T. 6. Appellee W. W. Grace leased the Horne lode claims from the James Stewart Company in October, 1979. R.T. 25.

Except for the claim of Appellants, there was nothing presented to the trial court to indicate that Appellees are not entitled to possession of the claims.

Appellant Robert Cattany testified that he could find no Affidavit of Labor Performed and Improvements made for the assessment year ending August 31, 1979. R.T. 70. There was,

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however, no testimony from any other witness about what work was or was not done on or before that date. (Appellees will not argue in this Brief that assessment work was done for the assessment year ending August 31, 1979.)

On October 6, 1979, work was begun on the claims for the assessment year beginning September 1, 1979. R.T. 33 et seq. Mr. Grace, the lessee, testified that he signed an Affidavit of Labor Performed and Improvements made on October 12, 1979, for work performed on the Horne claims between October 6th and 10th. R.T. 33; Plaintiffs' Exhibit 8 in evidence. Mr. Grace testified that the work consisted of backhoe trenching (east-west) of a length of about 300 feet - amounting to a displacement of 144 cubic feet of earth per claim, R.T. 36; at some later undetermined date, Mr. Grace had additional north-south trenching performed and took several (perhaps three) assays. R.T. 60-61. (Plaintiffs' Exhibits 14 through 17, inclusive, are photographs that fairly depict the appearance of the earth at the claims October 6 through 10, 1979. R.T. 39) Mr. Grace paid Mr. Ernest H. Encapule (who, assisted by his son, Johnnie, did the trenching) \$200.00 for the work of October 6th. Mr. Grace testified that for the north-south trench dug later, he may have paid Mr. Encapule \$100 (R.T. 62); The Encapules set the figure at \$49.00 (R.T. 90 and 96). There was no evidence concerning the value of the assays that were taken. The only evidence concerning the

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value of the October 6th work was presented by Appellees.

Mr. Grace testified that, in his opinion, "the work that was done on October the 6th alone was enough to justify the amount of work required by the federal government..."

R.T. 65. He did not believe that the later work, which was performed within 30 days of October 19, 1979 (R.T. 51), was necessary to meet the requirements for assessment work. R. T. 65. Mr. Grace had worked as a miner in the Tombstone mining district for about three and a half years and had staked and worked mining claims over a span of about 48 years. R.T. 31.

Before Mr. Grace had begun work, Mr. Cattany had taken an interest in the claims. After checking the records in the office of the Cochise County Recorder, Mr. Cattany entered the property on October 4, 1979 (there is no evidence as to whether he entered one, some, or each of the eight Horne claims), and took measurements. He did not then post any notices or make any claims. R.T. 70. On October 8, 1979, Mr. Cattany returned to the property and discovered the trenching work. R.T. 71. On October 18, 1979, Mr. Cattany posted his notice of location of the claims (re-naming them as Rocky 1 through 8, inclusive), having made a legal determination that Appellees had failed to exercise due diligence with regard to the work begun on October 6th. R.T. 71 and 74.

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The location notices that Mr. Cattany posted and recorded contained an erroneous legal description. Whereas the Horne claims are in the northeast quarter of Section 20, Range 22 East, Township 20 South, Mr. Cattany placed his "Rocky" claims in the northwest quarter. R.T. 72. Further, Mr. Cattany's notices stated the dimensions of each claim as 660 feet by 1320 feet rather than the allowable 600 feet by 1500 feet. R.T. 29.

Mr. Cattany placed stakes on the claims to monument them. R.T. 40 and 71. Mr. Grace first saw the stakes and notices on about October 20, 1979 (R.T. 40); there is no evidence that the other appellees or any agent of theirs had knowledge of the monumenting or the notices before then. It was not clear to Mr. Grace how Mr. Cattany had made the mistake - whether the monuments or the notices were wrong. Mr. Grace did not measure the area encompassed by the stakes. R.T. 43. Mr. Cattany himself testified that he was unable to say if the monuments were set in proper dimensions. R.T. 83.

On March 17, 1980, Mr. Cattany amended his location notices and plat to correct the erroneous legal description. Opening Brief at 4. He did not, however, cure the monument defect until August, 1981, about three weeks before trial. R.T. 81-82.

Mr. Roger Smith, former property manager for the James Stewart Company, twice wrote to Mr. Cattany to request that

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he relinquish possession of the claims, to no avail. R.T. 20.

In August, 1981, Appellees did the required assessment work for the 1980-1981 assessment year, as evidenced by an Affidavit of Labor Performed and Improvements Made dated August 27, 1981. R.T. 16 and 18; Plaintiffs' Exhibit 2 in evidence.



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ISSUE PRESENTED

DID THE TRIAL COURT CORRECTLY RULE THAT APPELLANTS HAD NO RIGHT TO POSSESSION OF THE MINING CLAIMS ON OCTOBER 18, 1979?

- A. COULD THE TRIAL COURT HAVE FOUND THAT THE ASSESSMENT WORK HAD BEEN COMPLETED OCTOBER 6, 1979?
- B. COULD THE TRIAL COURT HAVE DETERMINED THAT APPELLANTS' ATTEMPTED RELOCATIONS WERE INVALID?
  - 1. COULD THE ATTEMPTED RELOCATIONS HAVE BEEN INVALID BECAUSE OF IMPROPER DIMENSIONS?
  - 2. COULD THE ATTEMPTED RELOCATIONS HAVE BEEN INVALID BECAUSE OF THE ERRONEOUS LEGAL DESCRIPTION?
- C. COULD THE TRIAL COURT HAVE FOUND THAT APPELLANTS HAD RESUMED WORK SO AS TO AVOID FORFEITURE?

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ARGUMENT

THE TRIAL COURT CORRECTLY  
RULED THAT APPELLANTS HAD  
NO RIGHT TO TAKE POSSESSION  
OF THE PROPERTY ON  
OCTOBER 18, 1979

This case was brought by Appellees in order to recover possession of the unpatented federal mining claims Horne 110 through 117, inclusive, Record 1, et seq pursuant to 30 U.S.C. 53, which states that "each case shall be adjudged by the law of possession". Counsel for both parties agreed in statements to the trial court that the central issue in the case was whether Mr. Cattany had any relocation rights as of October 18, 1979: see R.T. 98-99 (for Mr. Atonna's remarks) and 101 (for those of Mr. Cattany).

This central issue can best be examined by dividing them into three sub-issues, rather than the six issues discussed in Appellants' Opening Brief. The three, detailed below, pertain to: (A) whether Appellees had forfeited their claims; (B) whether Appellants' purported relocations were valid; and (C) whether, Appellees had resumed assessment work. The trial court did not make specific findings of fact (except as to the ultimate fact that Appellants were guilty of forcible detainer), so it is not known for what reasons it made its decision. Appellees submit, therefore, that if there is any valid reason for upholding the

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trial court's judgment, this Court should so uphold it.  
Coronado Co., Inc. v. Jacome's Dept. Store, Inc., 129 Ariz.  
137, 629 P.2d 553 (Ct. App. 1981).

A. THE TRIAL COURT COULD HAVE DETERMINED THAT THE ASSESS-  
MENT WORK HAD BEEN COMPLETED OCTOBER 6, 1979.

On each unpatented federal mining claim, one hundred  
dollars' worth of labor or improvements (not necessarily  
synonymous with an expenditure of one hundred dollars) must  
be performed or made each year. 30 U.S.C. 28. The purpose  
of the requirement is to prevent speculators from monopo-  
lizing public mineral lands. 54 Am. Jur. 2d, Mines & Min-  
erals, Section 68. Failure to perform the required assess-  
ment work, however, does not automatically result in a for-  
feiture of the claims, but simply renders the claims subject  
to relocation. Edwards v. Anaconda Company, 115 Ariz. 313,  
565 P.2d 190 (Ct. App. 1977); see also Wiltsee v. Utley, 79  
Cal. App. 2d 71, 179 P.2d 13 (1947), and Inman v. Ollson, 213  
Or. 56, 321 P.2d 1043 (1958).

The law does not favor forfeitures of mining claims, so  
the burden of proof is on the subsequent locator to prove by  
clear and convincing evidence the failure to do the assess-  
ment work. McDermott v. O'Brien, 2 Ariz. App. 429, 409 P.2d  
588 (1966); Pascoe v. Richards, 201 Cal. App. 2d 680, 20 Cal.  
Rptr. 416 (1962); Inman v. Ollson, supra.

What clear and convincing evidence did Appellants pro-

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duce that Appellees had forfeited their claims on October 18, 1979? None. All that Mr. Cattany could state was that he saw no additional work done on the property during the twelve days from October 6th to October 18th. R.T. 74. He did not himself express his opinions about the value of the work performed on October 6th. Appellants did present evidence as to what was paid to the Encapules for the work, but not as to what the work was worth. 30 U.S.C. 28 requires that "not less than one hundred dollars' worth of labor shall be performed or improvements made..." There is no requirement for any expenditure at all. The work may be sufficient even if done for free. MacDonald v. Cluff, 68 Ariz. 369, 206 P.2d 730 (1949). The test is not what is paid, but what the work is worth. In Schlegel v. Hough, 182 Or. 441, 186 P.2d 516, rehearing denied 182 Or. 441, 188 P.2d 158 (1947), the court held that the Defendant's subsequent claimant had the burden of proving that certain work was not worth \$100; the worker was paid nothing except whatever gold he could find. The only evidence as to value defendant could offer was testimony from an interested witness, which the Court dismissed:

"Work actually having been performed for assessment purposes, we think that, under the circumstances, the requirements of clear and convincing evidence of forfeiture were not met by the mere testimony of an interested witness that he was unable to see that any work was done. Equity will not lend its aid to the extinguishment of a legal right upon such meager evidence. Forfeitures are odious to the law."

186 P.2d at 519.

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The Court reversed the trial court's decree in favor of the defendant and directed the entry of one quieting title in plaintiff, the prior locator.

In the present case, the reasons for finding in favor of the prior locator are even more compelling. In Schlegel, the plaintiff had not filed his Affidavit of Labor Performed. In the present case, Appellees made two Affidavits for the 1979-1980 year, one on October 12, 1979 (before Appellants attempted to relocate), and the other on April 7, 1980; pertaining to work done on or before March 10, 1980 (before Appellants amended their notices). Plaintiffs' Exhibits 8 and 9 in evidence. The Affidavit of October 12th, which was recorded (R.T. 33), constitutes prima facie evidence of the performance of the labor or improvements. A.R.S. 27-108.

It is true, as Appellants state, that the amount paid for work can be evidence of its value. Opening Brief at 8. From that proposition, however, Appellants reach the erroneous conclusion that it was somehow Appellees' burden to show "how the \$200 paid for the backhoe trenching work done on October 6, would have any greater value than what was paid for it." Opening Brief at 9. Appellants overlook that it was their burden to prove that the work was not worth \$100 for each of the eight lode claims. Appellants also overlook the fact that the Encapules were not the only workers on the claims on October 6, 1979: Mr. Grace was

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there also. R.T. 49. His October 12th Affidavit states that he supervised the Encapules' trenching work. Plaintiffs' Exhibit 8 in evidence. Mr. Grace has been in the mining business for 48 years, R.T. 31; presumably his supervision has some value. The trial court could well have determined that the value of the trenching work by the Encapules and the value of Mr. Grace's expertise together amounted to \$800 or more. The value of assessment work is a question of fact, Pascoe v. Richards, supra, and the trial court had sufficient evidence before it - consisting of the Affidavit, Mr. Grace's opinion about the value of the work, and testimony about the work itself - to have found against Appellants.

B. THE TRIAL COURT COULD HAVE DETERMINED THAT APPELLEES' ATTEMPTED RELOCATIONS WERE INVALID.

A.R.S. 27-206 states that the relocation of a claim shall be made in the same manner as other locations, with one exception pertaining to resurveying of the claims or verification of boundaries and position of the claims under a previously recorded map or plat. A.R.S. 27-202 sets forth the requirements of the location notice, which must be posted (and recorded under A.R.S. 27-203). The notice must contain, among other things:

"4. The length and width of the claim in feet, and the distance in feet from the location monument to each end of the claim.

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"5. The general course of the claim.

"6. ... (I)f known to the locator, the identification of the section, township, and range in which the notice of location of the claim is posted."

Under subsection (B) of the statute, "until the requirements of subsection A are complied with, no right of location is acquired."

A.R.S. 27-203 requires, among other things, the recording of such notice within 90 days of the time of location. Along with the notice, a map or plat of the claim must also be recorded. The map or plat must set forth among other things, the following: "...the boundaries and position of the claim with such accuracy as would permit a reasonably knowledgeable person to find and identify the claim on the ground" (subsection (B)(3)); and "(t)he locality of the claim with reference to the section, township and range in which the claim is located..." (subsection (c) (3)).

A.R.S. 27-203(E) states, "failure to do all the things within the times and at the places specified in subsections A, B, C and D shall be an abandonment of the claim, and all right and claim of the locator shall be forfeited."

The evidence is undisputed that Mr. Cattany's notice stated the boundaries of each claim as 1320 feet by 660 feet, rather than 1500 foot by 600 foot boundaries allowed under 30 U.S.C. 23. The error was not corrected in his amended notice..



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It is also undisputed that Mr. Cattany's plat placed each claim not in the northeast quarter of Section 20, Range 22 East, Township 20 South, but in the northwest quarter. That particular error was corrected in the March 17, 1980, amendment.

Appellees contend that because of the errors in Mr. Cattany's notice and plat, he either never achieved any valid relocation, or, if he did, he forfeited his rights.

1. The attempted relocations could have been invalid because of improper dimensions.

A.R.S. 27-202(A)(4) requires that a notice state the length and width of each claim in feet. The notice did not; it stated a length and width for each claim that, under the law, it could not possibly have. A.R.S. 27-203(A)(5) requires that the notice state the general course of each claim. As to each claim, Mr. Cattany's notice describes a course using the same incorrect boundaries.

A.R.S. 27-202(B) states that unless these requirements are met, "no right of location is acquired." In other words, the attempted location is void.

It is true, as Appellants note, that it has been held that an area located in excess of statutory boundaries is only void as to the excess. Hayden Hill Consol. Mining Co. v. Lincoln Mining Co., 66 Idaho 430, 160 P.2d 468 (1945); see also Velasco v. Mallory, 5 Ariz. App. 406, 427 P.2d 540 (1967)..

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It does not appear, however, that the courts that have so decided have construed a statute such as A.R.S. 27-202(B), which states explicitly that unless the requirements of subsection (A) are complied with, there is no right of location.

2. The attempted relocations could have been invalid because of the erroneous legal description.

The plat attached to the Appellants' October 18, 1979, notice showed the claims as being located in the wrong quarter of Section 20. Under A.R.S. 27-202(A), Mr. Cattany did not have to specify a quarter of the section, nor even attach a map or plat to the notice. Having done so, however, Appellant should have provided the correct quarter on a correct plat.

The requirements of A.R.S. 27-203 regarding plats are somewhat stricter. Subsection (B)(3) states that the boundaries and location of each claim be sufficient to "permit a reasonably knowledgeable person to find and identify the claim on the ground". Whether a claim has been described adequately is a question of fact. Couch v Clifton, 626 P.2d 731 (Colo. App. 1981). It should not subject to serious dispute that the claims were inadequately described. Had a reasonably knowledgeable person attempted to follow Appellants' October 18, 1979, plat, he would have found himself in the wrong quarter looking for claims of the wrong size.

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Appellants assert that their March 17, 1980, amendment corrects the deficiency. Opening Brief at 9-10. They are mistaken. Under A.R.S. 27-202(C), the notice may be amended "and the monument changed to correspond with the amended location, but no change shall be made which will interfere with the rights of others". (emphasis added) The conjunctive suggests that amendments are permitted by the statute if, but only if, the actual location is changed - that is, if the physical boundaries of the claim are altered. Here, the boundaries of the claims were not changed, merely the erroneous plat depicting those claims. Further, even assuming that the plat could be amended, it was not done in a timely fashion. A.R.S. 27-202(C) continues: "If such amendment changes the exterior boundaries of a claim, a new or amended map, plat or sketch shall be recorded pursuant to Section 27-203 showing such change". Under A.R.S. 27-203, the map or plat must be recorded within 90 days from the date of location. In this case, assuming there were actually a relocation, it occurred on October 18, 1979. The amendment was not recorded until March 20, 1980 - about two months too late.

Under A.R.S. 27-203(E), the deficiencies of the plat stripped Appellants of all their relocation rights, if any.

Appellants argue that their deficient plat is irrelevant because Appellees supposedly knew what Mr. Cattany was claim-

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ing. Opening Brief at 10. It is not exactly clear from the record what Appellees knew or believed, or at what time they came to know or believe it. It seems that about October 20, 1979, Mr. Grace saw "stakes all over the place", although he didn't know what the boundaries were. R.T. 43. He then read one of the location notices that had an erroneous plat. R.T. 40. It is not clear whether Appellees believed the plat was wrong or the monuments were wrong:

"Q (BY MR. CATTANY) So you had notice the claims were filed in the northeast quarter because you saw --

"A (BY MR. GRACE) I wouldn't say they were filed there, but the post was there. The location notices were in the wrong place, according to the legal description."

R.T. 64.

It appears from the record that Mr. Grace and Mr. Cattany had a discussion around November 1, 1979, R.T. 62, but it is not clear at all that Mr. Grace knew even then what mistake Mr. Cattany had made:

"Q (BY MR. CATTANY) I believe you also state, and you stated in your complaint, that changing the location of the mining claims, in violation of A.R.S. Section 27-202(C), interfered with your rights.

"A (BY MR. GRACE) Well, we discussed it at the time and I told you you filed in the wrong quarter section. And you said you didn't make the mistake, that you were a mining engineer and surveyor and you didn't make those kinds of mistakes".

R.T. 62-63.

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As far as Appellees could tell, Appellants could well have had the correct quarter and the wrong physical location rather than the other way around.

In view of the erroneous legal description on the plat attached to the notice, the erroneous boundaries, and the fact that the notice never referred to the claims by their former names (the claims were renamed), it is not fair to charge Appellees with "detailed information of the nature, extent, and location" of Appellants' attempted relocations. See Steele v. Preble, 158 Or. 641, 77 P.2d 418 (1938). The question is one of the totality of the circumstance surrounding Mr. Cattany's notices and plat. Is it really equitable, considering the serious defects, that he should thereby acquire any possessory rights to these mining claims?

C. THE TRIAL COURT COULD HAVE FOUND THAT APPELLEES HAD RESUMED WORK SO AS TO AVOID FORFEITURE.

Even if Appellees had not completed the required assessment work on October 6, 1979, as argued above, Appellants would still not be able to prevail. On October 6th the Appellees had at least resumed the assessment work.

When the owner of an unpatented federal claim fails to perform the assessment work, the claim is not automatically forfeited; the claim becomes "subject to relocation at any time prior to resumption of the assessment work by the owner of the superior claims". Edwards v. Anaconda Company, *supra*,

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115 Ariz. 313, 317, 565 P.2d 190, 194 (Ct. App. 1977) (emphasis added); Inman v. Ollson, supra, 213 Or. 56, 321 P.2d 1043 (1958). If resumption is all that is required to defeat relocation, it follows that there need not be completion so long as the work is continued to ultimate completion without unreasonable interruption. See McCormick v. Baldwin, 104 Cal. 227, 37 P. 903 (1894); McKay v. McDougall, 25 Mont. 258, 64 P. 669 (1901). Whether there has been a sufficient resumption of work to prevent a forfeiture is a question of fact for the trial court. Crane v. French, 39 Cal. App. 2d 642, 104 P.2d 53 (1940).

In the present case, it was undisputed that a substantial amount of work was done on October 6th. (This is, therefore, not the situation of a meager amount of work being performed as a pretense and sham, as in McCormick v. Baldwin, supra.) The Affidavit of October 12th states that the work was done through the 10th. Mr. Cattany testified that he made a conclusion of law that, because Appellees did not continue work on October 18th, he was entitled to relocate. R.T. 74. Appellees submit that an eight-day interruption is not, as a matter of law, unreasonable. The trial court could well have found as a fact that it was, but it did not. It was not required to do so.

Appellants cite Hirschler v. McKendricks, 16 Mont. 211, 40 P. 290 (1895), in support of their contention that the

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assessment work was not continued diligently after resumption. Hirschler did indeed involve a 15-day interruption (which is substantially greater than the interruption in the present case), but it is important to bear in mind that the Montana court affirmed a jury's finding of fact that a 15-day delay was unreasonable. The Court did not hold that the delay was unreasonable as a matter of law.

The evidence is not seriously in dispute that, even if Mr. Grace had not done the full amount of work between October 6 and 10, 1979, the work was completed "a short time after (Mr. Cattany) had made (his) location notices..." R.T. 50.

The trial court was justified in finding that Appellees' assessment work was resumed, and that it was continued without unreasonable interruption until completion.



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CONCLUSION

For all the above reasons, Appellees submit that the Judgment of the trial court was justified by the law and the evidence and that, therefore, it should be affirmed by this Court.

Appellees request that this Court award them their costs pursuant to A.R.S. 12-1182, which is applicable to the Court of Appeals. Morgan v. Continental Mortgage Investors, 16 Ariz. App. 86, 491 P.2d 475 (1971).

RESPECTFULLY SUBMITTED this \_\_\_\_ day of June, 1982.

GREENWOOD, RYAN, HERBOLICH & ATONNA, Ltd.  
855 Cochise Avenue, Douglas, Arizona 85607

By:   
ARTHUR C. ATONNA

By:   
WALLACE R. HOGGATT

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CERTIFICATE OF SERVICE

STATE OF ARIZONA       )  
                              : ss.  
County of Cochise     )

WALLACE R. HOGGATT, being first duly sworn, states that he is one of the attorneys for the Appellees herein; that on June 10, 1982, he caused to be deposited in the United States mails two copies of the Appellees' Answering Brief to:

ROBERT E. CATTANY  
4530 E. River Road  
Tucson, Arizona 85718

Attorney for Appellants

  
WALLACE R. HOGGATT

SUBSCRIBED AND SWORN to before me this 10th day of June, 1982.

  
NOTARY PUBLIC

My Commission Expires:  
January 9, 1984

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IN THE COURT OF APPEALS  
STATE OF ARIZONA  
DIVISION II

JAMES STEWART COMPANY, an  
Arizona corporation; M. SETH  
HORNE; W.W. GRACE,

Plaintiffs/Appellees,

- vs -

ROBERT E. CATTANY and JUNE  
CATTANY, husband and wife,

Defendants/Appellants.

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2CA-CIV 4371

Cochise County No. 40466

APPELLANT'S REPLY BREIF

Robert E. Cattany  
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Tucson, Arizona 85718

Attorney for Appellants

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IN THE COURT OF APPEALS  
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HORNE; W.W. GRACE, )  
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CATTANY, husband and wife, )  
 )  
Defendants/Appellants. )  
\_\_\_\_\_ )

2CA-CIV 4371  
Cochise County No. 40466

APPELLANT'S REPLY BREIF

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REPLY

Appellees complain that there were no witnesses other than Robert Cattany testifying (uncontroverted) as to what work was or was not done on the 8 Horne mining claims on or before August 31, 1979. Answering Brief (AB) - 4. In explanation, appellants would refer the Court to items 2,3,4,5 and 6 of the clerk's index on appeal, and state that appellants were, on September 10, 1981, offered either September 10 (Thur. P.M.) or September 15 (following Tues. A.M.) for trial dates. If time permitted, appellants may have had more witnesses, but since Robert Cattany's testimony was uncontroverted, appellants do not believe additional testimony was, or is, necessary on this issue.

It should be noted that the later work on appellees' 8 claims was clearly established as being done in March, 1980, and equally clear that the only work done on their claims during October, 1979, was on October 6, despite efforts in appellees' answering brief (AB) to make it appear otherwise. AB - 3,4,19 and 20.

The primary distinction between the doing of assessment work as required annually, and the resumption of assessment work by a delinquent locator, is in the time and manner of performance. Annual assessment work can be done at any time during, or throughout, the assessment year, while resumed assessment work, once resumed, must be diligently completed without unreasonable delay in order to protect and preserve the locator's rights. Resumption of assessment work may defeat a relocation in progress, but if the resumed assessment work is not completed without unreasonable delay, or at all, it will not prevent or defeat an intervening or subsequent relocation.

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The work done by appellees on their claims on October 6, 1979, was, at best, a resumption of their assessment work, and not merely a part of the annual assessment work to be performed during the assessment year starting September 1, 1979 and ending August 31, 1980. Accordingly, in order to protect and preserve their rights in the 8 claims, appellees had to complete that assessment work, once resumed, with due diligence and without unreasonable delay.

Between October 6, 1979 and March 10 or 11, appellees did no assessment work on their 8 claims, a delay of 5 months, but they would have the Court believe that the delay was only about 8 days and therefore quite reasonable. AB - 19. To arrive at this 8 day figure, appellees use a beginning date of October 10, an erroneous date used in their first affidavit of labor, exhibit #8 in evidence, and an ending date of October 18, the date of appellants' locations or relocations. There was no testimony or evidence presented that appellees did any assessment work on October 18, or that they were prevented from doing any assessment work at any time. The testimony was that appellants decided that 11 or 12 days (Oct. 6 to Oct. 18) was an unreasonable delay and did not constitute due diligence in completing the resumed assessment work.

Appellees recognized that the work done on October 6, 1979, did not satisfy the \$800.00 worth of assessment work required, claiming in their second affidavit of labor, exhibit #9 in evidence, that the required assessment work included work done through March 10, 1980. Both affidavits of labor are signed by appellee W.W. Grace, who is represented as being quite knowledgeable about mining claims and mining. Apparently W. W. Grace was appellees' expert witness and the lessee of the 8 mining claims, whereunder he was obligated to perform the annual assessment work. In the

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testimony of W.W. Grace, after describing the work done on October 6, 1979, he went on to say -- "so I figured that this work, plus crosscut there of another hundred -- maybe 150 feet -- I don't recall the exact dimensions of it -- was more than enough work necessary to meet the federal requirements". RT - 36. It being clearly established by subsequent testimony and evidence that the "crosscut" W.W. Grace referred to was the work done in March, 1980. RT - 44, 45, 46, 60, 90, 91. In further substantiation, witness Johnnie Escapule was asked by appellees on cross-examination, -- "You understood, or tell me whether or not you understood, that this work (March, 1980) was being done as part of the annual assessment work". To which Mr. Escapule answered -- "Yes, sir". RT - 91. Appellees then proceeded to establish the fact that Mr. Escapule knew what assessment work was. RT - 91, 92. It should be noted that appellants' direct examination of Mr. Escapule made no reference to the work he did in March, 1980 as being assessment work, and the words "assessment work" were not mentioned in the direct examination. RT - 87, 88, 89, 90, 91. Even by claiming both the October and March work as applicable assessment work, it is difficult to understand how, if the \$200.00 back hoe work in October did not satisfy the \$800.00 worth of assessment work requirement, the deficiency could be made up by the \$49.00 back hoe work done in March. That is, of course, if the \$49.00 back hoe work in March could be considered, in view of the 5 month delay which would appear to be unreasonable.

Appellees state that it is undisputed that a substantial amount of work was done on October 6, and go on to say that -- "--this is therefore not the situation of a meager amount of work being performed as a pretense and sham, as in McCormick v. Baldwin, 37 P 903 -". In this case, appellees, in resuming their assessment work, had 8 hours work done on their 8 mining



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claims, or the equivalent of 1 (one) hour work on each claim. In McCormick v. Baldwin, supra, the locator of mining claims in default for assessment work, resumed his assessment work by going onto the claims and doing 3 (three) hours work on each claim, for which the court said:

"It is against the policy of the law, and a fraud against the Government and the law, to hold quartz (lode) claims by merely doing a few dollars worth of work thereon at or near the beginning of the year next following the year on which claimant failed to do the necessary work, when such work is not commenced with the bona fide intention of being continued until the full amount is done. Such labor so done, is a mere pretense and sham and shall not prevent the location for want of necessary work."

Appellees' first affidavit of labor fails to state the value of the work performed, or the dollars worth of work and improvements done, as required by ARS 27-208. Appellants question whether an affidavit of labor, so basically defective, constitutes prima facie evidence of anything of importance to this case, or creates any greater burden on appellants to prove that the assessment work was not done. In view of such defective affidavit, it is appellants' position (but not admitting that appellants have not carried the burden of proof) that the burden of proof at least shifted and appellees were required to prove the value of their resumed assessment work done on October 6, if, as appellees speculate, it was worth more than what they paid for it.

If 5 months is an unreasonable delay in the performance of resumed assessment work, then the work appellees had done in March, 1980 and their second affidavit of labor which included that work, would be immaterial and of no consequence because of appellants' intervening rights.

Based upon the foregoing and the arguments and authorities set forth in their opening brief, appellants believe they have sufficiently established by clear and convincing evidence that appellees did not do the

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required amount of assessment work on October 6, 1979, in order to protect and preserve their rights to the 8 Horne mining claims, and did no further work until March, 1980. Therefore, appellants were justified in making their locations, or relocations, on October 18, 1979, and thereby terminated any rights appellees may have had in the ground in question by reason of the 8 Horne mining claims.

Respectfully submitted,

by Robert E. Cattany  
Robert E. Cattany  
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Attorney for Appellants

Two copies of the foregoing Appellants' Reply Brief was mailed this 23<sup>rd</sup> day of June, 1982, to:

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by Robert E. Cattany  
Robert E. Cattany

SUPERIOR COURT OF ARIZONA  
COUNTY OF COCHISE

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This Copy is for  
Your Information Only.  
No Reply Needed.  
Thank You.  
Arthur C. Atonna

JAMES STEWART COMPANY, an Arizona  
corporation; M. SETH HORNE; W. W.  
GRACE,

Plaintiffs,

-vs-

ROBERT E. CATTANY and JANE DOE  
CATTANY, husband and wife,

Defendants.

JAMES STEWART CO.

No. 40466

MEMORANDUM IN SUPPORT OF  
DEFENDANTS' POSITION

This memorandum is submitted pursuant to order of the court, as amended to extend the time for filing from October 22, 1981 to October 25, 1981.

Defendants' position is that the property in question was subject to forfeiture by relocation on September 1, 1979, for plaintiffs' failure to do the required work for the assessment year ending August 31, 1979. Although plaintiffs resumed the assessment work on or about October 6, 1979, they failed to complete the performance thereof with due diligence on a continuous basis and without unreasonable interruption, as the law requires. As a result, the property in question, eight mining claims, were subject to forfeiture by relocation on October 18, 1979, and were so located by defendants after waiting for 12 days for plaintiffs to complete their assessment work.

Defendant Robert E. Cattany testified, without contradiction, that there was no work done on the claims and no affidavit of assessment work recorded for plaintiffs' eight claims for the assessment year ending August 31, 1979. Likewise, there was undisputed testimony that plaintiffs commenced or resumed the assessment work on the eight claims on October 6, 1979, paid \$200.00 for the work done on October 6, 1979, did no further work on the claims for several months, and did not return to visit the claims for about two weeks after October 6, 1979, and recorded affidavits of assessment work on March 14, 1980 and April 8, 1980.

The party asserting a forfeiture has the burden of proving by clear and convincing proof, that the assessment work was not performed, McDermott vs. O'Brien, 2 Ariz App 429, 409 P2d 588 (1966). The filing of an affidavit of assessment work is prima facie evidence that the assessment work has been done, ARS 27-208 B., but may be rebutted by introducing evidence that the assessment work was not in fact performed, California Dolomite Co. vs. Standridge, 275 P2d 823 (Cal. 1954), Dickens-West Min. Co. vs. Crescent Min. & Mill. Co., 141 P 566 (Ida. 1914). The rebutting evidence in the instant case includes that which was undisputed, i.e., payment of \$200.00 for the work done on the plaintiffs' eight claims on October 6, 1979, no further work being done on the claims for several months (March, 1980) and plaintiffs not returning to visit the claims for about two weeks after October 6, 1979. Additionally, plaintiffs introduced in evidence, two affidavits of labor, the first of which being dated October 12, 1979 (recorded March 14, 1980) and containing no mention of any amount

of money having been expended. The second of which was dated April 7, 1980 (recorded April 8, 1980) and states that not less than \$800.00 worth of work was done on the claims between October 6, 1979 and March 10, 1980. Though not admitted, it seems logical that this second affidavit would include the work done on the claims in March, 1980 by the witness John Escapule, who testified he was paid \$49.00 for some backhoe trenching work on the claims in early March, 1980. This would tend to support defendants' position that plaintiffs failed to complete the assessment work commenced or resumed on October 6, 1979 in a diligent and continuous manner.

To determine whether sufficient assessment work has been performed, the measure is the value of the work performed, not the amount paid for it, *Wagner vs. Dorris*, 73 P 318 (Ore. 1903), *Norris vs. United Mineral Products Co.*, 158 P2d 679 (Wyo. 1945). However, the amount so paid is admissible as evidence tending to establish the value of the work, *Stolp vs. Treasury Gold Min. Co.*, 80 P 817 (Wash. 1905). If equipment is used in the performance of the assessment work, the reasonable value of the use of such equipment may be included as assessment work, *Anderson vs. Robinson*, 126 P 988 (Ore. 1912). In the instant case, the reasonable value of the use of the backhoe equipment has to be equal to the amount paid for the use of it. Except for two or three assays, there was no other work done. The backhoe and operator were hired at the then going rate of \$25.00 per hour for eight hours to do exploration trenching, and that is all that was done for the eight claims and the \$200.00 paid, or \$25.00 per claim, is all it was worth. The same is true of the two hours of backhoe work done on the claims in March, 1980. Plaintiffs offered no testimony as how this work would have a value of any amount more than what was paid for it, but rather contended that they only needed to move a certain volume of material regardless of value or cost and that would suffice.

If a prior locator resumes assessment work after failure to perform the required annual assessment work for any given assessment year, and before there is a relocation, he is required to perform \$100.00 worth of assessment work per claim for the current year. However, the work, once resumed, must be performed with diligence on a continuous basis until the requisite amount of \$100.00 per claim for the current year is completed, *Bishop vs. Baisley*, 41 P 936 (Ore. 1895), *McCormick vs. Baldwin*, 37 P 903 (Cal. 1894) where the court said, "It is against the policy of the law, and a fraud against the government and the law, to hold quartz (lode) claims by merely doing a few dollars worth of work thereon at or near the beginning of the year next following the year on which claimant failed to do the necessary work, when such work is not commenced with the bona fide intention of being continued until the full amount is done. Such labor so done, is a mere pretense and sham and shall not prevent the location for want of necessary work". Because the prosecution of the work to completion with reasonable diligence is an element of a good faith resumption of work, it does not permit of a construction of the rule that an entire period can be gained by making a slight expenditure at the beginning of the year, *Honaker vs. Martin*, 29 P 397 (Mont. 1891). *Hirshler vs. McKendricks*, 40 P 1640 (Mont. 1895) wherein the court said, "When a locator avails himself of the statute (U.S. Code) and resumes work to protect himself from forfeiture, he must perform the work with diligence until the requirement for annual labor is completed", and held that a 15 day interruption of work without cause was not due diligence. Lindley stated that the claimant must resume work in good faith and prosecute same continuously and without

unreasonable interruption until the full amount of labor is performed, Lindley, Mines and Mineral Laws, Sec. 654 (3rd Ed. 1914). Otherwise the claim, or claims, become subject to forfeiture by relocation. It should be noted that if a locator is in default of his annual assessment work, he is no longer the owner of the exclusive possessory right, Holmes vs. Salamaca Gold Min & Mill. Co., 91 P 160 (Cal. 1907), and he must resume and complete that work as required by law before he regains that right.

Plaintiffs complained that defendants' location notices were defective or erroneous because the map or plat attached thereto showed the claims to be in the northwest quarter of the section rather than in the northeast quarter where they were in fact located, and therefore the locations were void. They also complained that the locations were void because the location notices describe onersize claims, i.e., 660 feet wide rather than the 600 feet specified by statute (U.S. Code).

A location notice which is merely defective or erroneous, is not void since it is capable of amendment, Nylund vs. Ward, 187 P 154 (Colo. 1919), and actual knowledge of the error and the location on the ground is equal to valid recorded notice, Atherly vs. Bullion Monarch Uranium Co., 335 P2d 71 (Utah 1959). In the instant case, the plaintiffs admitted having knowledge of the actual existence of defendants' monuments on the ground, and of the error in defendants' original location notices.

Defects or errors in a location, or location notice, do not result in a forfeiture, and no forfeiture will occur if the defects are corrected prior to the date of a subsequent location, Smart vs. Staunton, 29 Ariz 1, 239 P2d 514 (1925). An insufficient description in a location notice does not render a claim subject to forfeiture if a subsequent locator could, by reasonable diligence, have traced the claim on the ground, Francis vs. Jenkins, 9 Alaska 91 (1937), Smart vs. Staunton, supra.

When recording is not an essential act of location, a subsequent locator having knowledge of the locus of the claim, cannot question the sufficiency of the recorded location notice or the description of the claim, Sydney vs. Richards, 181 P 394 (Cal. 1919), Nylund vs. Ward, supra, bradshaw vs. Miller, 377 P2d 781 (Utah 1963). Although ARS 27-203 E. provides that failure to record location notices within the time allowed, "shall be an abandonment of the claim, and all right and claim of the discoverer shall be forfeited", the Arizona court in Perley vs. Goar, 22 Ariz 146, 195 P 532 (1921) held, "The failure to file location notices within the time fixed by statute does not render the location invalid, except as to adverse rights acquired before the filing". The 1913 Revised Statutes of Arizona, Title 34, Sec. 4031, in effect at the time, contained the same language as that quoted from ARS 27-203 E. above. Except in those states where recording is an essential act of location, the record serves only as constructive notice of the existence of the claim, its boundaries and extent, and a defect in the recorded location notice, or even a failure to record, is of no effect as to one who has actual knowledge of the location, Johnson vs. Ryan, 86 P2d 1040 (N.Mex. 1939).

A claim is not rendered void by reason of a discrepancy between the location notice and the monuments on the ground. When monuments are found on the ground, or their position or location can be determined with certainty, the monuments control over the description in the posted or recorded location notice. Treadwell vs. Marrs, 9 Ariz 333, 83 P350 (1905). In the instant case, plaintiffs admitted knowing of and seeing defendants' monuments on the ground, as well as the posted notices.

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If a claim exceed 600 feet in width, the location is not void in its entirety, but is, void only as to the excess, McElligott vs. Krugh, 90 P 823 (Cal. 1907), Thompson vs. Barton Gulch Min. Co., 207 P 108 (Mont. 1922). In Hayden Hill Con. Min. Co. vs. Lincoln Min. Co., 155 P 460 (Ida. 1945) the court stated, "The rule is well established in this state as elsewhere, that a location of an area in excess of that allowed by the statute is simply void as to the excess and that the inclusion of such excess of territory will not, per se, void the location; that is to say, it is only where the exterior boundaries include such an unreasonably excessive area, that the location will be held void". That court cited the earlier 1910 Idaho case of Nicholls vs. Lewis & Clark Min. Co., 109 P 846, where it was held that the attempted location of a claim 1065 feet by 2067 feet was entirely void as unreasonably excessive. Defendant Robert E. Cattany testified that the oversized claims of defendants ~~were~~<sup>were</sup> mistakes and there was no intention to acquire more ground than is legally allowed. There was no evidence offered that defendants acted in bad faith in making this mistake. In Vallasco vs. Mallory, 5 Ariz App 406, 427 P2d 540 (1967) the court held that until the locator of an over-size claim has a reasonable time, after notice, to draw in his lines, his right of possession extends to the entire claim. It should be noted that most of these cases cited involve a subsequent locator and the rights available to them in adverse proceedings. There were no subsequent locators to defendants' locations, but plaintiffs' rights in the same situations can be no greater than that of a subsequent locator.

Defendants amended their location notices on March 18, 1980, by recording and posting on the ground, the amended location notices which contained a new map or plat of the claims showing them to be located in the northeast quarter of the section rather than in the northwest quarter. However, only the map was wrong, no monuments on the ground had to be moved. ARS 27-202 C. states, "The notices may be amended at any time and the monument changed to correspond with the amended location, but no change shall be made which will interfere with the rights of others. If such amendment changes the exterior boundaries of the claim, a new or amended map, plat or sketch shall be recorded pursuant to ARS 27-203 showing such change. In the instant case, there was no testimony or evidence to show that defendants amendments interfered with anyones' rights, including plaintiffs'.

Defendant Robert E. Cattany testified that he took all required steps in perfecting his locations and the amendments thereof, including discoveries, some of which occurred a day or two after monumenting and posting the claims. With regard thereto, the court said in Brewster vs. Shoemaker, 63 P 309 (Colo. 1900) "The order of time in which these several acts (of location) are performed is not of the essence of the requirements, and it is immaterial that the discovery was made subsequent to the completion of the acts of location, provided only that all the necessary acts are done before intervening rights of third parties accrue".

Respectfully submitted,

*Robert E. Cattany*  
Robert E. Cattany

326  
May 20, 1981

Mr. James B. Greenwood  
Attorney at Law  
129 Naco Highway  
P. O. Box 4340  
Bisbee, Arizona 85603

Dear Mr. Greenwood:

You will find enclosed copies of Mining Locations for Horne #110 - #117, together with copies of correspondence in our files. The lease agreement between M. Seth Horne, Lessor, and W. W. Grace, Lessee, was entered into on the 1st day of October, 1979.

Mr. Horne wishes for you to sue Mr. Cattany for everything -- loss of sale, illegal filing, all court and attorney fees, costs for witnesses, clouding of title, etc.

I had phone conversations this morning with Ernie Escapule and Bill Grace, and they will testify in our behalf.

If you need any additional information, please contact me and I will do my best to furnish it.

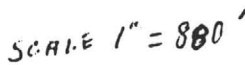
Sincerely yours,

Harvey L. Hayes  
Property Manager

HLH:ef  
Encls.



✓



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AFFIDAVIT OF LABOR PERFORMED AND IMPROVEMENTS MADE

STATE OF ARIZONA       )  
                              )  
COUNTY OF MARICOPA    )    ss.

W. W. Grace, being first duly sworn, deposes and says:

That he is a citizen of the United States and more than eighteen years of age, and resides in Scottsdale, Maricopa, Arizona, and is personally acquainted with the unpatented mining claims situated in the Tombstone Mining District, Cochise County, Arizona, the location notices of which are recorded in the office of the Cochise County Recorder and known as HORNE #110 through #117.

That between the 6th day of October, 1979, and the 10th day of March, 1980, not less than \$800.00 worth of work and improvements were done and performed upon the said claims, and that the claims constitute a contiguous group under a common ownership and that the work was done upon or for the benefit of all of the said claims.

This work was performed by John Escapule and W. W. Grace. The work was done under the supervision of W. W. Grace according to an agreement entered into by W. W. Grace and M. Seth Horne dated October 1, 1979.

The work was performed for the purpose of complying with the laws of the United States and of the State of Arizona relative to performance of annual work for the purpose of holding title to said unpatented mining claims for the valuable mineral contained therein.

DATED this 7th day of April, 1980.

W. W. Grace  
W. W. Grace

SUBSCRIBED and sworn to before me by W. W. Grace this 7th day of April, 1980.

Virginia M. Schults  
Notary Public

My Commission Expires:

October 15, 1982

~~Handwritten signature~~  
Form 3830-1  
(October 1977)

UNITED STATES  
DEPARTMENT OF THE INTERIOR  
BUREAU OF LAND MANAGEMENT

HORN 110-117

MINING CLAIM ANNUAL RECORDATION REQUIREMENTS  
(43 CFR 3833.2)

Serial Number AMC 84789 + hwr 84912

Name or number of Claim \_\_\_\_\_

Received (date) April 23, 1980

This acknowledges receipt of:

☒ Evidence of annual assessment work 1979, 1980

☐ Notice of intent to hold claim

Appropriate notations have been made on the records.

2400 Valley Bank Center  
Phoenix, Arizona 85073

United States  
Department of the Interior  
Bureau of Land Management



James Stewart Company  
707 Mayer Central Building  
3033 North Central AVE.  
Phoenix Arizona

RECEIVED 85012

AUG 25 1980

JAMES STEWART COMPANY  
PHOENIX, ARIZONA

578 MW 12 517 0061  
1980 AUG 21 AM 8 45

PS Form 3811, Apr. 1977

SENDER: Complete items 1, 2, and 3. Add your address in the "RETURN TO" space on reverse.		1. The following service is requested (check one). <input type="checkbox"/> Show to whom and date delivered. <input type="checkbox"/> Show to whom, date, and address of delivery. <input type="checkbox"/> RESTRICTED DELIVERY. <input type="checkbox"/> Show to whom and date delivered. <input type="checkbox"/> RESTRICTED DELIVERY. <input type="checkbox"/> Show to whom, date, and address of delivery. \$ ____ (CONSULT POSTMASTER FOR FEES)		2. ARTICLE ADDRESSED TO: ROBT. E. CATTANY, ESQ. P.O. Box 611 TOMBSTONE, AZ 85638		3. ARTICLE DESCRIPTION: REGISTERED NO. 029982 CERTIFIED NO. 029982 INSURED NO.		(Always obtain signature of addressee or agent) I have received the article described above. SIGNATURE <input type="checkbox"/> Addressee <input type="checkbox"/> Authorized agent		4. DATE OF DELIVERY 4-30-80 POSTMARK TOMBSTONE, AZ 4-30-80		5. ADDRESS (Complete only if required)		6. UNABLE TO DELIVER BECAUSE:	
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CLERK'S INITIALS

April 28, 1980

Robert E. Cattany, Esq.  
 P. O. Box 611  
 Tombstone, Arizona 85638

Dear Mr. Cattany:

It has come to our attention recently that you or your personnel are still engaged in mining activity on some of our federal mining claims. These claims are known as Horne 110 through 117 and are recorder in the County Recorder's Office in Bisbee. We request that you stop all mining related work or we will take legal recourse against you. This mining activity should be stopped immediately.

If you have a need to contact me, I can be reached in Phoenix at 284-2181.

Sincerely,

Roger P. Smith  
 Property Manager

RPS:jts

CERTIFIED MAIL

RETURN RECEIPT REQUESTED

RECEIPT FOR CERTIFIED MAIL—30¢ (plus postage)

No. 029982

SENT TO		POSTMARK OR DATE
ROBERT E. CATTANY, ESQ.		
STREET AND NO.		
P.O. Box 611		
P.O., STATE AND ZIP CODE		
TOMBSTONE, ARIZONA 85638		
OPTIONAL SERVICES FOR ADDITIONAL FEES		
RETURN RECEIPT SERVICES	1. Shows to whom and date delivered	15¢
	With delivery to addressee only	65¢
	2. Shows to whom, date and where delivered	35¢
	With delivery to addressee only	85¢
DELIVER TO ADDRESSEE ONLY		50¢
SPECIAL DELIVERY (extra fee required)		

PS Form 3800 Apr. 1971 NO INSURANCE COVERAGE PROVIDED— (See other side) NOT FOR INTERNATIONAL MAIL \* GPO: 1970 O-307-450

331  
January 21, 1980

602-457-3731  
Robert E. Cattany, Esq.  
P. O. Box 611  
Tombstone, Arizona 85638

Dear Mr. Cattany:

It has recently come to my attention that you or your personnel are engaged in mining activity on some of our federal mining claims. We would appreciate it if you would stop this immediately and do what is needed to clear the title. I have enclosed copies of our Lodge Claims which substantiate our holdings. I have also included a receipt from the BLM for these mining claim notices which were filed with them on October 22, 1979. I would appreciate it if you would write and give me notice when you are off the property.

If you have any questions, please call me at 602-264-2181.

Sincerely,

Roger P. Smith  
Property Manager

RPS:vs  
Enclosures

Greenwood

332

50 in 4 - ft deep dig 2 - ft 10 ft of water is . . .

15

10 ft deep 1 2 1/2 ft deep

25 ft " 2 ft deep

25 ft " 2 1/2 ft deep

25 ft 2 deep

50 ft 2

50 ft 4 ft

60 4 ft

Cross 25 1 1/2 ft deep

25 3 ft deep

50 2 1/2

50 3

140 2 1/2

1150 ft

3 ft wide

over assessment work

450  
50  
500

28

5 ft

2 ft wide over assessment

21

2 ft

50

100 ft 100

500 ft length of trench 3 ft wide Over 3 ft deep  
assessment

Callony

his assessment work

20 ft

1 ft 1/2 deep

3 ft wide

GREENWOOD, RYAN, HERBOLICH & ATONNA, LTD.

ATTORNEYS AT LAW

JAMES B. GREENWOOD  
MARTIN F. RYAN  
MICHAEL J. HERBOLICH  
ARTHUR C. ATONNA  
WALLACE R. HOGGATT  
DEBORAH WARD

129 NACO HIGHWAY  
P. O. BOX 4340  
BISBEE, ARIZONA 85603  
TELEPHONE (602) 432-5791  
855 COCHISE AVENUE  
DOUGLAS, ARIZONA 85607  
TELEPHONE (602) 364-7961

PLEASE REPLY TO: BISBEE

May 27, 1981

James Stewart Company  
707 Mayer Central Building  
3033 North Central Avenue  
Phoenix, Arizona 85012

Attention: Mr. Harvey L. Hayes  
Property Manager

Dear Mr. Hayes:

Thank you for your letter of May 20, 1981 and enclosures. We are proceeding with preparations, research, etc. for filing of the lawsuit. However, I believe you will be interested in the letter and other materials which I received from Mr. Cattany this date, copies of which are enclosed. I would appreciate your comments.

Very truly yours,

GREENWOOD, RYAN, HERBOLICH & ATONNA, Ltd.

By:

  
JAMES B. GREENWOOD

JBG:hfb  
Enclosures

RECEIVED

MAY 28 1981

JAMES STEWART CO.



27

AFFIDAVIT

STATE OF ARIZONA     )  
COUNTY OF COCHISE    )     ss.

Ernest H. Escapule, being first duly sworn, deposes and says:

1. That on or about October 6, 1979, he was hired by W.W. Grace to do some backhoe work on 8 unpatented mining claims in Sec. 20, T20S, R22E, Tombstone Mining District, Cochise County, Arizona.
2. That the work was done on or about October 6, 1979, using his backhoe operated by his son John Escapule.
3. That he charged \$200.00 for the work, which was the usual charge for the amount of work done.
4. That he was paid \$200.00 for the work, and did no other or further work on the said 8 mining claims until the first part of March, 1980.
5. That on or about March 11, 1980, W.W. Grace requested that he do some additional backhoe work on the said 8 mining claims, and on the nearby Chance patented claim.
6. That on March 11, 1980, the additional work was done using his backhoe operated by his son John Escapule.
7. That he charged \$49.00 for the total amount of work, which was the usual charge for the amount of work done, approximately half of such work being done on the said 8 mining claims. The \$49.00 was never paid to him.
8. The foregoing describes all of the work done by him or his son John Escapule on the said 8 mining claims from October, 1979 to date.

Ernest H. Escapule  
Ernest H. Escapule

SUBSCRIBED AND SWORN to before me this 1<sup>st</sup> day of May, 1981, by Ernest H. Escapule.

Laura Sue Brennan  
Notary Public

My Commission Expires:  
Oct 16, 1984

*Witnessed by — Colin Young*  
*Ernest H. Escapule & son John Escapule Feb 26 - My check*

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AFFIDAVIT

STATE OF ARIZONA     )  
                              ) ss.  
COUNTY OF COCHISE    )

John Escapule, being first duly sworn, deposes and says:

1. That on or about October 6, 1979, he operated his father's backhoe doing some trenching work on a portion of 8 unpatented mining claims in Sec. 20, T20S, R22E, Tombstone Mining District, Cochise County, Arizona, as requested by W.W. Grace.
2. That the usual charge for the amount of work done was \$200.00.
3. That he did no further or other work on said 8 mining claims until the first part of March, 1980.
4. That on or about March 11, 1980, he operated his father's backhoe on a portion of said 8 mining claims and on the nearby Chance patented claim, doing a total of \$49.00 worth of work at the usual charge, approximately half of which was done on the said 8 mining claims, or a portion thereof.
5. The foregoing describes all the work done by him on the said 8 mining claims from October, 1979 to date.

John Escapule  
John Escapule

SUBSCRIBED AND SWORN to before me this 1<sup>st</sup> day of May, 1981, by John Escapule.

Lorena Lee Brankham  
Notary Public

My Commission Expires:  
My Commission Expires Oct. 15, 1984

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LAW OFFICE OF

*Robert E. Cattanz*

POST OFFICE BOX 611 • TOMBSTONE, ARIZONA 85638 • (602) 457-3731

May 26, 1981

Mr. James Greenwood  
Attorney at Law  
129 Naco Highway  
Bisbee, Arizona 85603

Re: Horne - Rocky Mining Claims

James:

The enclosed material is from the American Law of Mining, a recognized authority in mining law. It is the chapter on resumption of assessment work and I have colored some 'pertinent parts. Also enclosed are Escapules' affidavits. Incidentally, I confronted the Escapules with the information Bill Grace gave you about Ernie Escapule owing him some favors so he agreed to do \$800.00 worth of work for \$200.00. This upset Ernie and he emphatically stated it was not true. He said the charge per hour for his backhoe at that time was \$25.00 and he did 8 hours work. He charges \$30.00 per hour now, and he says that some people are charging \$32.50 depending on the equipment, but \$25.00 per hour was the going rate when he did the work for Bill Grace.

A brief history of this situation starts with my entry onto the ground in question on Thur. Oct. 4, 1979, with a witness, in preparation of making mining locations, and I spent several hours walking over the entire area. Prior to this date, I had observed the area on several occasions for any activity and checked with the recorder's office to see if any affidavits of labor had been recorded. On Friday, Oct. 5, 1979, I spent most of the day on the ground in question with a 200 foot tape and a helper, finding the 1/4 section corners and measuring and marking for claim corners. I returned on Monday Oct. 8, 1979 to finish my marking and measuring and found the backhoe work. I was told that John Escapule had done the work on Saturday or Sunday, so I went to see him. He wasn't in town, but his mother told me that Bill Grace had hired their backhoe to do \$200.00 worth of work and that's what John had done. I asked if John was going to do any more work for Bill Grace, and she said she didn't think so.

I was on the ground in question every day from Oct. 8 thru Oct 12, 1979, finishing the measuring and marking corners (and looking for anyone doing other work). On Friday Oct. 12, 1979, I bought the lumber to make corner monuments and on Saturday Oct. 13, 1979, started setting monuments, finishing on Wed. Oct. 17, 1979. I put up my location notices on Oct. 18, 1979.

Very truly yours,

*Bob*

RECEIVED

MAY 27 1981

GREENWOOD, RYAN,  
HERBOLICH & ATONNA, LTD.

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## CHAPTER VI

### RESUMPTION OF WORK

- § 7.29 In General.
- § 7.30 Time of Resumption.
- § 7.31 Amount of Work Required After Resumption.
- § 7.32 Diligence in Completing Work.
- § 7.33 Resumption After Relocation Commenced.

§ 7.29 In General. The federal statute, after setting forth the assessment work requirement, provides: <sup>1</sup>

[a]nd upon a failure to comply with these conditions, the claim or mine upon which such failure occurred shall be open to relocation in the same manner as if no location of the same had ever been made, provided that the original locators, their heirs, assigns or legal representatives, have not resumed work upon the claim after failure and before such location. . . .

Until recently, it was well settled that a claim owner who failed to perform assessment work for one or more assessment years and who resumed assessment work before there was a relocation by another, was protected as though no failure had ever occurred, but the Department of the Interior, by regulation, apparently considers the statute to have been repealed by *Hickel v. Oil Shale Corp.*<sup>2</sup>

Whether there was a resumption of work after failure to

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§ 7.29 <sup>1</sup>17 Stat. 92, R.S. § 2324, 30 U.S.C. § 28 (1970).

<sup>2</sup>400 U.S. 48 (1970). See 37 Fed. Reg. 17836 (Sept. 1, 1972), and compare §§ 7.26-7.28, *infra*, with *Belk v. Meagher*, 104 U.S. 279 (1881); *Lakin v. Sierra Buttes Gold Mining Co.*, 25 F. 337 (C.C. Cal. 1885); *Peachy v. Gaddis*, 14 Ariz. 214, 127

P. 739 (1912); *Madison v. Octave Oil Co.*, 154 Cal. 768, 99 P. 176 (1908); *Bunker Chance Mining Co. v. Bex*, 408 P.2d 170 (Idaho 1965); *Lacey v. Woodward*, 5 N.M. 583, 25 P. 785 (1891); *Muck v. Ideal Cement Co.*, 223 Ore. 457, 354 P.2d 821 (1960); *Banfield v. Crispen*, 111 Ore. 388, 226 P. 235 (1924).

(Rel. No. 6-1973).

MINING LAW - Vol. 2

perform annual assessment work is a question of fact.<sup>3</sup> Where a claim owner relies upon a resumption of work to defeat a relocation, the burden is upon such claim owner to show affirmatively that work was resumed before the relocation.<sup>4</sup>

§ 7.30 Time of Resumption. Assessment work may be resumed at any time before a valid relocation is made.<sup>1</sup> A defective relocation does not terminate the right of the original locator to resume work if he resumes work after the period allowed for completing location and before the deficiencies are corrected.<sup>2</sup> A relocation made before the original locator is delinquent in the performance of assessment work is premature, and even though the original locator fails to perform the assessment work for that year, if he resumes work after the end of the particular assessment year and before the relocater files an additional and amended location certificate, his claim is preserved.<sup>3</sup>

put moratorium  
part in wrong

<sup>3</sup> *Peachy v. Frisco Gold Mines Co.*, 204 F. 659 (D. Ariz. 1913); *Crane v. French*, 39 Cal. App. 2d 642, 104 P.2d 53 (1940).

<sup>4</sup> *Bunker Chance Mining Co. v. Bex*, *supra* n.2; *Honaker v. Martin*, 11 Mont. 91, 27 P. 397 (1891); *McKnight v. El Paso Brick Co.*, 16 N.M. 721, 120 P. 694 (1911); *rev'd on other grounds*, *El Paso Brick Co. v. McKnight*, 233 U.S. 250 (1914). *Contra*, *Willitt v. Baker*, 133 F. 937 (C.C. Ark. 1904); *Florence-Rae Copper Co. v. Kimbel*, 85 Wash. 162, 147 P. 881 (1915).

§ 7.30 <sup>1</sup> But see § 7.29 *supra*, which casts doubt upon cases such as *Justice Mining Co. v. Barclay*, 82 F. 554 (C.C. Nev. 1897); *Jordan v. Duke*, 6 Ariz. 55, 53 P. 197 (1898); *Crane v. French*, 39 Cal. App. 2d 642, 104 P.2d 53 (1940); *Clarke v. Mallory*, 22 Cal. App. 2d 55, 70 P.2d 664 (1937); *Little Dorrit Gold Mining*

*Co. v. Arapahoe Gold Mining Co.*, 30 Colo. 431, 71 P. 359 (1902); *Bunker Chance Mining Co. v. Bex*, 408 P.2d 170 (Idaho 1965); *Inman v. Ollson*, 213 Ore. 56, 321 P.2d 1043 (1958).

<sup>2</sup> *Field v. Tanner*, 32 Colo. 278, 75 P. 916 (1904); *Thornton v. Kaufman*, 40 Mont. 252, 106 P. 361 (1910); *McKay v. McDougall*, 25 Mont. 258, 64 P. 669 (1901); *Kloppenstine v. Hayes*, 20 Utah 45, 57 P. 712 (1899). See § 7.33 *infra* for a discussion of right to resume work after a relocation has been commenced, but before the relocation has been completed.

<sup>3</sup> *Clarke v. Mallory*, *supra* n.1; *Bagg v. New Jersey Loan Co.*, 88 Ariz. 182, 354 P.2d 40 (1960). The latter case is criticized by Mr. Martz in 36 N.Y.U.L. Rev. 357, 1960 Annual Survey of American Law 399-401 (1961).

In *Fee v. Durham*<sup>4</sup> and *Emerson v. McWhirter*,<sup>5</sup> on almost identical facts, it was held that when the assessment year ended on Saturday and the original locator was working on the last day of the assessment year, but rested on Sunday and resumed work on Monday, the continuity of work was not interrupted, and that a relocation made on Sunday was of no avail. These cases seem to establish the principle that there is a timely resumption if the claim owner starts work at the regular hour on the first regular work day of the first assessment year following the year for which work was not performed.<sup>6</sup>

§ 7.31 Amount of Work Required After Resumption. So long as the original locator resumes work before there is a relocation, it is immaterial that assessment work was not performed for one or more previous years, and the claim owner is only required to perform \$100 worth of assessment work for the current year.<sup>1</sup>

An interesting question arises if the claim owner commences work before the end of assessment year A, performing \$50 worth of work, and then continues the work into assessment year B, performing another \$50 worth of work. It might be argued that the entire \$100 worth of stock would apply to, and satisfy, the work required for assessment year A, giving the claim owner all of assessment year B to perform an addi-

<sup>4</sup> 121 F. 468 (8th Cir. 1903).

<sup>5</sup> 133 Cal. 510, 65 P. 1036 (1901), same case appealed on other grounds, *Emerson v. Yosemite Gold Mining & Milling Co.*, 149 Cal. 150, 85 P. 122 (1906), *aff'd*, 208 U.S. 25.

<sup>6</sup> See *Pharis v. Muldoon* (1888) 75 Cal. 284, 17 P. 70, where the Court suggested, but did not decide, that a relocation initiated at 1:00 A.M. on the first day of the assessment year

would be invalid if work were resumed at the regular hour. See also *Willitt v. Baker* (CC WD Ark 1904) 133 F. 937. This problem is largely academic since the assessment year now ends at 12:00 o'clock noon.

§ 7.31 <sup>1</sup> *Temescal Oil Mining & Development Co. v. Salcido*, 137 Cal. 211, 69 P. 1010 (1902); *Crown Point Gold Mining Co. v. Crismon*, 39 Ore. 364, 65 P. 87 (1901).

(Rel. No. 6-1973).

tional \$100 worth of assessment work.<sup>2</sup> However, if that rule were followed, logically, the \$50 worth of assessment work performed during the first portion of assessment year B would not be available to satisfy the work required for assessment year B. This rule would therefore seem to be in conflict with the rule that once work is resumed, the work for former years need not be performed.<sup>3</sup> Accordingly, the better rule would seem to be to treat each assessment year as a separate entity. It would then follow that even if the claim owner performed \$50 worth of work at the end of assessment year A, he would be required to perform \$100 worth of work with reasonable diligence after the commencement of assessment year B, and the entire amount of work performed during assessment year B would be applicable to the assessment work requirement for assessment year B.<sup>4</sup>

§ 7.32 Diligence in Completing Work. In *Belcher Consolidated Gold Mining Co. v. Deferrari*, an early California case, it was held that if assessment work was resumed during the assessment year, no relocation could be made during such year, even if the assessment work was discontinued before completion.<sup>1</sup> This case was severely criticized.<sup>2</sup> The rule now seems to be well established that work, once resumed, must be continued with diligence until the requisite amount for the current year is completed.<sup>3</sup>

<sup>2</sup> The language of the court in *Jordan v. Duke*, 6 Ariz. 55, 53 P. 197 (1898), indicates such a rule.

<sup>3</sup> See n.1 *supra*.

<sup>4</sup> This rule seems to be applied in *Anderson v. Robinson* (1912) 63 Ore. 228, 126 P. 988, rehearing denied, 127 P. 546.

§ 7.32 1 62 Cal. 160 (1882).

<sup>2</sup> *Lindley on Mines* § 652 (3rd ed 1914); *Morrison, Mining Rights* 125 (16th ed 1936).

<sup>3</sup> *McCormick v. Baldwin* (1894)\* 104 Cal. 227, 37 P. 903 (a few hours' work performed after commencement of assessment year held not sufficient); *Hirschler v. McKendricks*, 16 Mont. 211, 40 P. 290 (1895) (15-day interruption of work without cause held not due diligence); *Honaker v. Martin* (1891) 11 Mont. 91, 27 P. 397; *Bishop v. Baisley* (1895) 28 Ore. 119, 41 P. 936 (a few hours spent in taking samples held not a resumption of work).



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If work is resumed, while such work continues, the claim is not subject to relocation, and a relocation made while work is being performed is invalid even if the assessment work is thereafter abandoned before the requisite amount is completed.<sup>4</sup>

§ 7.33 Resumption After Relocation Commenced. There has been a clear division of authority concerning the rights of a claim owner who resumes work after another party has commenced a relocation, but before such relocation has been completed. A number of cases have held that work may be resumed at any time before the relocation has been completed.<sup>1</sup> The text writers favor the rule that once a relocation

is commenced, the relocater is entitled to the period allowed by statute for completing the relocation, and that during such period the original locator cannot resume work and defeat the relocation.<sup>2</sup> They point out if the other rule were followed,

since several days are normally required to complete a relocation, the delinquent claim owner could sit idly by until someone commenced a relocation, and then resume work and defeat the relocation. This argument seems persuasive, and some courts have followed the rule advocated by the text writers.<sup>3</sup> The rule has been changed in Montana by statute which now provides that the relocater's rights are protected from the time he posts a notice on the claim, so long as he

did not have claim till after work

<sup>4</sup> Jupiter Mining Co. v. Brodie Consolidated Mining Co. (9th Cir 1881) 11 F. 666; Jordan v. Duke, 6 Ariz. 55, 53 P. 197 (1898). See also Lacey v. Woodward (1891) 5 N.M. 583, 25 P. 785.

§ 7.33 <sup>1</sup> Featherston v. Howse (WD Ark 1957) 151 F Supp 353; Clarke v. Mallory (1937) 22 Cal App2d 55, 70 P2d 664; Pharis v. Muldoon (1888) 75 Cal. 284, 17 P. 70; Thornton v. Kaufman (1910) 40

Mont. 282, 106 P. 361; McKay v. McDougall (1901) 25 Mont. 258, 64 P. 669; Gonn v. Russell (1879) 3 Mont. 358.

<sup>2</sup> Lindley on Mines § 408 (3rd ed 1914); Morrison, Mining Rights 125 (16th ed 1936).

<sup>3</sup> Little Gunnell Co. v. Kimber (CC D Colo 1878) 15 F. Cas. 629 (No. 8, 402); Frazier v. Consolidated Tungsten Mines (1956) 80 Ariz 261, 296 P2d 447.

↓  
this could be his basis to sue claimant

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is duly performing the acts required by law to perfect his location.<sup>4</sup>

A very interesting situation is presented when (1) the senior locator fails to perform assessment work, (2) there is a relocation and the second locator fails to perform assessment work, (3) the senior locator then resumes work, and (4) a third party relocates. In a contest between the senior locator and the last locator, it has been held that the last locator cannot take advantage of the intervening location to cut off the rights of the senior locator, and that the senior locator revives his claim by resuming work.<sup>5</sup> Similarly, it has been held in a contest between the first locator and second locator, where both fail to perform assessment work and the first locator resumes his work first, that he prevails over the junior locator.<sup>6</sup> While this rule which permits the revival of an old claim after abandonment of a later relocation has been criticized as being contrary to the wording of the federal statute,<sup>7</sup> it accomplishes an equitable result, and it seems unlikely that it will be overruled.

did not do work

<sup>4</sup> Mont RC (1947) § 50-707.

<sup>6</sup> Klopenstine v. Hays (1899) 20 Utah 45, 57 P. 712.

<sup>5</sup> Justice Mining Co. v. Barclay (CC D Nev 1897) 82 F. 554; Richen v. Davis (1915) 76 Ore. 311, 148 P. 1130.

<sup>7</sup> Lindley, *supra* n.2 at § 651.

The next page is 171

307  
June 1, 1981

Mr. James B. Greenwood  
Attorney at Law  
P. O. Box 4340  
Bisbee, Arizona 85603

Dear Sir:

RE: Cattany Suit

Thank you for your letter of May 27, 1981 which I found very interesting. I feel that Mr. Escapule is a very truthful man and will state the true facts, remain neutral and not take either side.

Mr. Cattany put no notices up that he was relocating these 8 claims. Our assessment work was completed before he placed his corner monuments.

Please find enclosed a copy of Chapter VI - Resumption of Work - #7.29 through 7.33. I have marked those sentences which I feel will help us a great deal.

Thank you for your assistance, and if there is anything we can do, please let me know.

Sincerely yours,

Harvey L. Hayes  
Property Manager

HLH:ef  
Encl.

*Handwritten: 100-7*

GREENWOOD, RYAN, HERBOLICH & ATONNA, LTD.

ATTORNEYS AT LAW

JAMES B. GREENWOOD  
MARTIN F. RYAN  
MICHAEL J. HERBOLICH  
ARTHUR C. ATONNA  
WALLACE R. HOGGATT  
DEBORAH WARD

*Handwritten: 208*

129 NACO HIGHWAY  
P. O. BOX 4340  
BISBEE, ARIZONA 85603  
TELEPHONE (602) 432-5791

855 COCHISE AVENUE  
DOUGLAS, ARIZONA 85607  
TELEPHONE (602) 364-7961

PLEASE REPLY TO: BISBEE

May 27, 1981

RECEIVED

MAY 28 1981

James Stewart Company  
707 Mayer Central Building  
3033 North Central Avenue  
Phoenix, Arizona 85012

JAMES STEWART CO.

Attention: Mr. Harvey L. Hayes ✓  
Property Manager

Dear Mr. Hayes:

Thank you for your letter of May 20, 1981 and enclosures. We are proceeding with preparations, research, etc. for filing of the lawsuit. However, I believe you will be interested in the letter and other materials which I received from Mr. Cattany this date, copies of which are enclosed. I would appreciate your comments.

Very truly yours,

GREENWOOD, RYAN, HERBOLICH & ATONNA, Ltd.

By:

*Handwritten signature of James B. Greenwood*  
JAMES B. GREENWOOD

JBG:hf  
Enclosures

*Handwritten: Sub 26 40. 100*

309

LAW OFFICE OF

*Robert E. Cattany*

POST OFFICE BOX 611 • TOMBSTONE, ARIZONA 85638 • (602) 457-3731

May 26, 1981

Mr. James Greenwood  
Attorney at Law  
129 Naco Highway  
Bisbee, Arizona 85603

Re: Horne - Rocky Mining Claims

James:

The enclosed material is from the American Law of Mining, a recognized authority in mining law. It is the chapter on resumption of assessment work and I have colored some pertinent parts. Also enclosed are Escapules' affidavits. Incidentally, I confronted the Escapules with the information Bill Grace gave you about Ernie Escapule owing him some favors so he agreed to do \$800.00 worth of work for \$200.00. This upset Ernie and he emphatically stated it was not true. He said the charge per hour for his backhoe at that time was \$25.00 and he did 8 hours work. He charges \$30.00 per hour now, and he says that some people are charging \$32.50 depending on the equipment, but \$25.00 per hour was the going rate when he did the work for Bill Grace.

A brief history of this situation starts with my entry onto the ground in question on Thur. Oct. 4, 1979, with a witness, in preparation of making mining locations, and I spent several hours walking over the entire area. Prior to this date, I had observed the area on several occasions for any activity and checked with the recorder's office to see if any affidavits of labor had been recorded. On Friday, Oct. 5, 1979, I spent most of the day on the ground in question with a 200 foot tape and a helper, finding the 1/4 section corners and measuring and marking for claim corners. I returned on Monday Oct. 8, 1979 to finish my marking and measuring and found the backhoe work. I was told that John Escapule had done the work on Saturday or Sunday, so I went to see him. He wasn't in town, but his mother told me that Bill Grace had hired their backhoe to do \$200.00 worth of work and that's what John had done. I asked if John was going to do any more work for Bill Grace, and she said she didn't think so.

I was on the ground in question every day from Oct. 8 thru Oct 12, 1979, finishing the measuring and marking corners (and looking for anyone doing other work). On Friday Oct. 12, 1979, I bought the lumber to make corner monuments and on Saturday Oct. 13, 1979, started setting monuments, finishing on Wed. Oct. 17, 1979. I put up my location notices on Oct. 18, 1979.

Very truly yours,

*Bob*

RECEIVED

MAY 27 1981

GREENWOOD, RYAN,  
HERBDLICH & ATONNA, LTD.

## CHAPTER VI

## RESUMPTION OF WORK

§ 7.29 In General.

§ 7.30 Time of Resumption.

§ 7.31 Amount of Work Required After Resumption.

§ 7.32 Diligence in Completing Work.

§ 7.33 Resumption After Relocation Commenced.

§ 7.29 In General. The federal statute, after setting forth the assessment work requirement, provides:<sup>1</sup>

[a]nd upon a failure to comply with these conditions, the claim or mine upon which such failure occurred shall be open to relocation in the same manner as if no location of the same had ever been made, provided that the original locators, their heirs, assigns or legal representatives, have not resumed work upon the claim after failure and before such location. . . .

Until recently, it was well settled that a claim owner who failed to perform assessment work for one or more assessment years and who resumed assessment work before there was a relocation by another, was protected as though no failure had ever occurred, but the Department of the Interior, by regulation, apparently considers the statute to have been repealed by *Hickel v. Oil Shale Corp.*<sup>2</sup>

Whether there was a resumption of work after failure to

§ 7.29 <sup>1</sup> 17 Stat. 92, R.S. § 2324, 30 U.S.C. § 28 (1970).

<sup>2</sup> 400 U.S. 48 (1970). See 37 Fed. Reg. 17836 (Sept. 1, 1972), and compare §§ 7.26-7.28, *infra*, with *Belk v. Meagher*, 104 U.S. 279 (1881); *Lakin v. Sierra Buttes Gold Mining Co.*, 25 F. 337 (C.C. Cal. 1885); *Peachy v. Gaddis*, 14 Ariz. 214, 127

P. 739 (1912); *Madison v. Octave Oil Co.*, 154 Cal. 765, 99 P. 176 (1903); *Bunker Chance Mining Co. v. Bex*, 405 P.2d 170 (Idaho 1965); *Lacey v. Woodward*, 5 N.M. 583, 25 P. 785 (1891); *Muck v. Ideal Cement Co.*, 223 Ore. 457, 354 P.2d 821 (1960); *Banfield v. Crispen*, 111 Ore. 388, 226 P. 235 (1924).

perform annual assessment work is a question of fact.<sup>3</sup> Where a claim owner relies upon a resumption of work to defeat a relocation, the burden is upon such claim owner to show affirmatively that work was resumed before the relocation.<sup>4</sup>

§ 7.30 Time of Resumption. Assessment work may be resumed at any time before a valid relocation is made.<sup>1</sup> A defective relocation does not terminate the right of the original locator to resume work if he resumes work after the period allowed for completing location and before the deficiencies are corrected.<sup>2</sup> A relocation made before the original locator is delinquent in the performance of assessment work is premature, and even though the original locator fails to perform the assessment work for that year, if he resumes work after the end of the particular assessment year and before the relocater files an additional and amended location certificate, his claim is preserved.<sup>3</sup>

*but makes fact in wrong place*

<sup>3</sup> *Peachy v. Frisco Gold Mines Co.*, 204 F. 659 (D. Ariz. 1913); *Crane v. French*, 39 Cal. App. 2d 642, 104 P.2d 53 (1940).

<sup>4</sup> *Bunker Chance Mining Co. v. Bex*, *supra* n.2; *Honaker v. Martin*, 11 Mont. 91, 27 P. 397 (1891); *McKnight v. El Paso Brick Co.*, 16 N.M. 721, 120 P. 694 (1911); *rev'd on other grounds*, *El Paso Brick Co. v. McKnight*, 233 U.S. 250 (1914). *Contra*, *Willitt v. Baker*, 133 F. 937 (C.C. Ark. 1904); *Florence-Rae Copper Co. v. Kimbel*, 85 Wash. 162, 147 P. 881 (1915).

§ 7.30 <sup>1</sup> *But see* § 7.29 *supra*, which casts doubt upon cases such as *Justice Mining Co. v. Barclay*, 82 F. 554 (C.C. Nev. 1897); *Jordan v. Duke*, 6 Ariz. 55, 53 P. 197 (1898); *Crane v. French*, 39 Cal. App. 2d 642, 104 P.2d 53 (1940); *Clarke v. Mallory*, 22 Cal. App. 2d 55, 70 P.2d 664 (1937); *Little Dorrit Gold Mining*

*Co. v. Arapahoe Gold Mining Co.*, 30 Colo. 431, 71 P. 359 (1902); *Bunker Chance Mining Co. v. Bex*, 408 P.2d 170 (Idaho 1965); *Inman v. Ollson*, 213 Ore. 56, 321 P.2d 1043 (1958).

<sup>2</sup> *Field v. Tanner*, 32 Colo. 278, 75 P. 916 (1904); *Thornton v. Kaufman*, 40 Mont. 252, 106 P. 361 (1910); *McKay v. McDougall*, 25 Mont. 258, 64 P. 669 (1901); *Klopfenstein v. Hayes*, 20 Utah 45, 57 P. 712 (1899). *See* § 7.33 *infra* for a discussion of right to resume work after a relocation has been commenced, but before the relocation has been completed.

<sup>3</sup> *Clarke v. Mallory*, *supra* n.1; *Bagg v. New Jersey Loan Co.*, 88 Ariz. 182, 354 P.2d 40 (1960). The latter case is criticized by Mr. Martz in 36 N.Y.U.L. Rev. 357, 1960 Annual Survey of American Law 399-401 (1961).



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§ 7.31 Amount of Work Required After Resumption. So long as the original locator resumes work before there is a relocation, it is immaterial that assessment work was not performed for one or more previous years, and the claim owner is only required to perform \$100 worth of assessment work for the current year.<sup>1</sup>

An interesting question arises if the claim owner commences work before the end of assessment year A, performing \$50 worth of work, and then continues the work into assessment year B, performing another \$50 worth of work. It might be argued that the entire \$100 worth of stock would apply to, and satisfy, the work required for assessment year A, giving the claim owner all of assessment year B to perform an addi-

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<sup>6</sup> See *Pharis v. Muldoon* (1888) 75 Cal. 284, 17 P. 70, where the Court suggested, but did not decide, that a relocation initiated at 1:00 A.M. on the first day of the assessment year

would be invalid if work were resumed at the regular hour. See also *Willitt v. Baker* (CC WD Ark 1904) 133 F. 937. This problem is largely academic since the assessment year now ends at 12:00 o'clock noon.

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(Rel. No. 6-1973).

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§ 7.32 MAINTENANCE OF CLAIM AFTER LOCATION 164

tional \$100 worth of assessment work.<sup>2</sup> However, if that rule were followed, logically, the \$50 worth of assessment work performed during the first portion of assessment year B would not be available to satisfy the work required for assessment year B. This rule would therefore seem to be in conflict with the rule that once work is resumed, the work for former years need not be performed.<sup>3</sup> Accordingly, the better rule would seem to be to treat each assessment year as a separate entity. It would then follow that even if the claim owner performed \$50 worth of work at the end of assessment year A, he would be required to perform \$100 worth of work with reasonable diligence after the commencement of assessment year B, and the entire amount of work performed during assessment year B would be applicable to the assessment work requirement for assessment year B.<sup>4</sup>

§ 7.32 Diligence in Completing Work. In *Belcher Consolidated Gold Mining Co. v. Deferrari*, an early California case, it was held that if assessment work was resumed during the assessment year, no relocation could be made during such year, even if the assessment work was discontinued before completion.<sup>1</sup> This case was severely criticized.<sup>2</sup> The rule now seems to be well established that work, once resumed, must be continued with diligence until the requisite amount for the current year is completed.<sup>3</sup>

<sup>2</sup> The language of the court in *Jordan v. Duke*, 6 Ariz. 55, 53 P. 197 (1898), indicates such a rule.

<sup>3</sup> See n.1 *supra*.

<sup>4</sup> This rule seems to be applied in *Anderson v. Robinson* (1912) 63 Ore. 225, 126 P. 988, rehearing denied, 127 P. 546.

§ 7.32 <sup>1</sup> 62 Cal. 160 (1882).

<sup>2</sup> *Lindley on Mines* § 652 (3rd ed 1914); *Morrison, Mining Rights* 125 (10th ed 1936).

<sup>3</sup> *McCormick v. Baldwin* (1894) 164 Cal. 227, 37 P. 903 (a few hours' work performed after commencement of assessment year held not sufficient); *Hendler v. McHardy*, 16 Mont. 211, 46 P. 290 (1895) (15-day interruption of work without cause held not due diligence); *Honaker v. Martin* (1891) 11 Mont. 91, 27 P. 397; *Bishop v. Bailey* (1874) 28 Ore. 119, 41 P. 936 (a few hours spent in taking samples held not a resumption of work).

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If work is resumed, while such work continues, the claim is not subject to relocation, and a relocation made while work is being performed is invalid even if the assessment work is thereafter abandoned before the requisite amount is completed.<sup>4</sup>

§ 7.33 Resumption After Relocation Commenced. There has been a clear division of authority concerning the rights of a claim owner who resumes work after another party has commenced a relocation, but before such relocation has been completed. A number of cases have held that work may be resumed at any time before the relocation has been completed.<sup>1</sup>

The text writers favor the rule that once a relocation is commenced, the relocater is entitled to the period allowed by statute for completing the relocation, and that during such period the original locator cannot resume work and defeat the relocation.<sup>2</sup> They point out if the other rule were followed, since several days are normally required to complete a relocation, the delinquent claim owner could sit idly by until someone commenced a relocation, and then resume work and defeat the relocation. This argument seems persuasive, and some courts have followed the rule advocated by the text writers.<sup>3</sup> The rule has been changed in Montana by statute which now provides that the relocater's rights are protected from the time he posts a notice on the claim, so long as he

*didn't post claim till after work was done.*

<sup>4</sup> Jupiter Mining Co. v. Brodie Consolidated Mining Co. (9th Cir 1881) 11 F. 666; Jordan v. Duke, 6 Ariz. 55, 53 P. 197 (1898). See also Lacey v. Woodward (1891) 5 N.M. 583, 25 P. 785.

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Mont. 282, 106 P. 361; McKay v. McDougall (1901) 25 Mont. 258, 64 P. 669; Gonu v. Russell (1879) 3 Mont. 358.

<sup>2</sup> Lindley on Mines § 408 (3rd ed 1914); Morrison, Mining Rights 125 (16th ed 1936).

<sup>3</sup> Little Gannell Co. v. Kimber (CC D Colo 1878) 15 F. Cas. 629 (No. 8, 402); Frazier v. Consolidated Tungsten Mines (1956) 80 Ariz 261, 296 P2d 447.

*this ↓ could be his basis to sue claimant*

315

§ 7.33 MAINTENANCE OF CLAIM AFTER LOCATION 166

is duly performing the acts required by law to perfect his location.<sup>4</sup>

A very interesting situation is presented when (1) the senior locator fails to perform assessment work, (2) there is a relocation and the second locator fails to perform assessment work, (3) the senior locator then resumes work, and (4) a third party relocates. In a contest between the senior locator and the last locator, it has been held that the last locator cannot take advantage of the intervening location to cut off the rights of the senior locator, and that the senior locator revives his claim by resuming work.<sup>5</sup> Similarly, it has been held in a contest between the first locator and second locator, where both fail to perform assessment work and the first locator resumes his work first, that he prevails over the junior locator.<sup>6</sup> While this rule which permits the revival of an old claim after abandonment of a later relocation has been criticized as being contrary to the wording of the federal statute,<sup>7</sup> it accomplishes an equitable result, and it seems unlikely that it will be overruled.

<sup>4</sup> Mont RC (1947) § 50-707.

<sup>5</sup> Klopenstine v. Hays (1899) 20 Utah 45, 57 P. 712.

<sup>6</sup> Justice Mining Co. v. Barclay (CC D Nev 1-97) 82 F. 554; Richen v. Davis (1915) 76 Ore. 311, 14S P. 1130.

<sup>7</sup> Lindley. *supra* n.2 at § 651.

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Bisbee  
Office  
copy

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SUPERIOR COURT OF ARIZONA  
COUNTY OF COCHISE

JAMES STEWART COMPANY, an Arizona )  
corporation; M. SETH HORNE; W.W. )  
GRACE, )  
Plaintiffs, )  
vs. )  
ROBERT E. CATTANY and JANE DOE )  
CATTANY, husband and wife, )  
Defendants. )

NO. 40466

COMPLAINT

(Forcible Entry & Detainer  
& Declaratory Judgment)

COME NOW the Plaintiffs, by and through their attorneys,  
GREENWOOD, RYAN, HERBOLICH & ATONNA, Ltd., and as and for their  
claim for relief allege and pray as follows:

I.

Now and at all times relevant to this action, all parties  
hereto have either been doing business in Cochise County, Arizona,  
caused acts or events to occur within Cochise County, Arizona,  
which give rise to this cause of action, or reside within Cochise  
County, Arizona. Furthermore, ROBERT E. CATTANY and JANE DOE  
CATTANY are husband and wife now and at all times relevant to  
this action and all events or acts by ROBERT E. CATTANY were done  
in furtherance of marital community objectives.

II.

On or about October 18, 1979, ROBERT E. CATTANY, executed a  
Location Notice for mining claims 1320 feet long and 660 feet wide  
as to areas more particularly described in Exhibit "A" attached  
hereto and made a part hereof by reference.

III.

On or about March 17, 1980, Defendant ROBERT E. CATTANY  
executed and amended location notice as to areas more particularly  
described in Exhibit "B" attached hereto and made a part hereof

888 COCHISE AVE.  
DOUGLAS, ARIZONA 85607  
(602) 364-7961

GREENWOOD, RYAN, HERBOLICH & ATONNA, LTD.  
ATTORNEYS AT LAW

4340  
BISBEE, ARIZONA 85803  
(602) 432-8791

1 by reference.

2 IV.

3 The Plaintiffs are owners, lessors or lessees or otherwise  
4 entitled to possession of certain mining claims known as Horne  
5 #110 through #117 as more particularly described on Exhibits "C"  
6 through "J" attached hereto and made a part hereof by reference.

7 V.

8 Written notice has been given to Defendant ROBERT E. CATTANY  
9 by the Plaintiffs of the encroachment by Defendant CATTANY onto the  
10 same area where the Plaintiffs' mining claims exist. Said notices  
11 are in the form of Exhibits "K" and "L" attached hereto and made a  
12 part hereof by reference.

13 VI.

14 On or about October 6, 1979, annual assessment work on Plain-  
15 tiffs' mining claims Horne #110 through #117 was commenced  
16 thus precluding an abandonment of Plaintiffs' claims at any time  
17 during which the Defendants claim rights to or a relocation of  
18 said claims as herein alleged.

19 VII.

20 Defendant ROBERT E. CATTANY has changed the location of mining  
21 claims in violation of A.R.S. Section 27-202C by interfering with  
22 the rights of the Plaintiffs.

23 VIII.

24 Defendant ROBERT E. CATTANY has failed to comply with the pro-  
25 visions of A.R.S. Title 27 regarding mining and location of claims  
26 to the possessory detriment of the Plaintiffs.

27 IX.

28 By Arizona and Federal statutes, the Plaintiffs have possessory  
29 rights to Horne #110 through #117 which rights Defendants claim by  
30 adverse interest.

31 X.

32 Defendants purported possession of claims are void for failure

1 to locate properly sized claims pursuant to 30 U.S.C.A. Section 23.

2 XI.

3 Defendants' acts infringe upon Plaintiffs' rights to quiet  
4 peaceable possession of the described mining claims pursuant to 30  
5 U.S.C.A. Section 26.

6 XII.

7 The Defendants are guilty of forcible entry and forcible de-  
8 tainer.

9 WHEREFORE, the Plaintiffs, and each of them, pray for judgment  
10 against the Defendants, and each of them, as follows:

11 1. By a finding that the Defendants are guilty of forcible  
12 entry and forcible detainer.

13 2. By giving judgment to the Plaintiffs for restitution of  
14 the premises.

15 3. By declaring that the attempted relocation of claims by the  
16 Defendants were:

17 (a) Premature,

18 (b) Void by virtue of improper size,

19 (c) Not effective as a matter of law as a valid relocation,

20 (d) That the Plaintiffs' interest in Horne #110 through  
21 #117 is paramount to that of the Defendants and furthermore that the  
22 Plaintiffs have valid mining claims as to the subject property.

23 4. By giving Plaintiffs judgment for actual and punitive damages  
24 in sums that are found at the trial of this matter to be just and  
25 equitable.

26 5. By awarding the Plaintiffs their costs in this action in-  
27 curred together with a reasonable attorney's fee.

28 6. By granting the Plaintiffs such other and further relief as  
29 may be deem, just and equitable.

30 DATED August 18th, 1981.

31 . . .  
32 . . .



306

GREENWOOD, RYAN, HERBOLICH & ATONNA,  
Ltd., 855 Cochise Ave., Douglas, AZ

By:

ARTHUR C. ATONNA for  
JAMES B. GREENWOOD

STATE OF ARIZONA )  
County of Cochise ) ss.

ARTHUR C. ATONNA, being first duly sworn, upon his oath,  
hereby deposes and says that: I am one of the attorneys for the  
Plaintiffs; I hereby state that the matters alleged in the fore-  
going Complaint are true to the best of my knowledge, information  
and belief.

ARTHUR C. ATONNA

SUBSCRIBED AND SWORN to before me this 18th day of August,  
1981.

NOTARY PUBLIC

My Commission Expires:  
January 9, 1984



GREENWOOD, RYAN, HERBOLICH & ATONNA, LTD.

ATTORNEYS AT LAW

JAMES B. GREENWOOD  
MARTIN F. RYAN  
MICHAEL J. HERBOLICH  
ARTHUR C. ATONNA  
WALLACE R. HOGGATT  
XXXXXXXXXXXX  
DEBORAH WARD

129 NACO HIGHWAY  
P. O. BOX 4340  
BISBEE, ARIZONA 85603  
TELEPHONE (602) 432-5791

855 COCHISE AVENUE  
DOUGLAS, ARIZONA 85607  
TELEPHONE (602) 364-7961

PLEASE REPLY TO: DOUGLAS

December 9, 1981

RECEIVED

DEC 10 1981

JAMES STEWART COMPANY  
PHOENIX, ARIZONA

Mr. Harvey Hayes  
James Stewart Company  
3033 North Central Avenue  
Phoenix, Arizona 85012

Re: Stewart vs. Cattany

Dear Mr. Hayes:

Enclosed is a copy of the Judgment which you requested.

Very truly yours,

GREENWOOD, RYAN, HERBOLICH  
& ATONNA, Ltd.

By:

*Peggy Gregory*  
Peggy Gregory  
Secretary

Encl.

301

SUPERIOR COURT OF ARIZONA  
COUNTY OF COCHISE

JAMES STEWART COMPANY, an  
Arizona corporation; M. SETH  
HORNE; W. W. GRACE,

Plaintiffs,

v.

ROBERT E. CATTANY and JUNE  
CATTANY, husband and wife,

Defendants.

NO. 40466

JUDGMENT

This matter having come on regularly for trial  
September 15, 1981, and the Plaintiffs present in person and by  
counsel, and the Defendants present by ROBERT E. CATTANY, and  
the Court having considered the testimony of witnesses, the  
evidence and memorandum submitted, it is

ORDERED, ADJUDGED AND DECREED that:

1. The Defendants are guilty of forcible detainer.
2. The Plaintiffs have judgment for the restitution  
of the premises described as mining claims Horne 110 through 117  
as located and situated in the northeast one quarter of Section  
20, Range 22 East, Township 20 South, G.S.R.B. & M. Cochise  
County, Arizona, Tombstone Mining District.
3. The Plaintiffs are now and at all times involved  
herein have been entitled to the possessory rights in and to  
the premises described as Horne No. 110 through 117, and more

855 COCHISE AVENUE  
DOUGLAS, ARIZONA 85607  
(602) 364-7981

GREENWOOD, RYAN, HARBOLICH & ATONNA, LTD.  
ATTORNEYS AT LAW

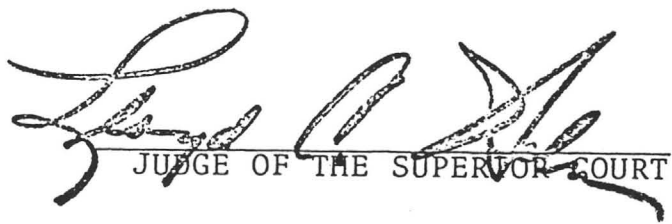
129 NACO HIGHWAY  
P. O. BOX 4340  
BUCHHEE, ARIZONA 86003  
(602) 432-575

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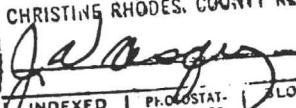
1 particularly described in paragraph two above, and that such  
2 rights are paramount to those of the defendants.

3 4. The Plaintiffs shall have its costs in the sum of  
4 \$116.25.

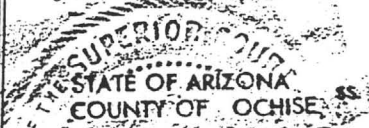
5 DONE IN OPEN COURT this 16<sup>th</sup> day of November, 1981.

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JUDGE OF THE SUPERIOR COURT




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14 STATE OF ARIZONA  
COUNTY OF COCHISE ] ss.  
15 WITNESS MY HAND AND OFFICIAL SEAL  
CHRISTINE RHODES, COUNTY RECORDER  
16  DEPUTY  
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GREENWOOD, RYAN, HERBOLICH & ATONNA, LTD.  
ATTORNEYS AT LAW  
1555 COCHISE AVENUE  
DOUGLAS, ARIZONA 85607  
(602) 364-7961  
I HEREBY CERTIFY THAT THE WITHIN  
INSTRUMENT WAS FILED AND RECORDED  
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The foregoing instrument is a full, true and correct  
copy of the original on file in this office.  
Attested November 18, 1981  
ELLEN M. YOUNG, Clerk  
 Deputy

294  
5

LAW OFFICES OF  
GREENWOOD, RYAN, HERBOLICH & ATONNA, LTD.

JAMES B. GREENWOOD  
MARTIN F. RYAN  
MICHAEL J. HERBOLICH  
ARTHUR C. ATONNA

855 COCHISE AVENUE  
DOUGLAS, ARIZONA 85607  
AREA CODE 602-364-7961

OTHER OFFICE:  
BISBEE, ARIZONA

WALLACE R. HOGGATT  
DAVID P. FLANNIGAN

October 5, 1982

RECEIVED

OCT 7 1982

JAMES STEWART COMPANY  
PHOENIX, ARIZONA

Mr. M. Seth Horne  
Mr. Harvey L. Hayes  
James Stewart Company  
707 Mayer Central Bldg.  
3033 North Central Avenue  
Phoenix, Arizona 85012

Re: James Stewart Company v. Cattany

Gentlemen:

Good news. The Court of Appeals has affirmed Judge Helm's ruling. Enclosed is a copy of the Court's Order and Opinion.

As you can see, the Court based its decision on Mr. Grace's testimony that the work performed on October 6, 1979, was adequate. Therefore, the Court stated that it was not necessary to discuss all the other points that had been raised. (You may notice that the Court has two minor factual errors: it states that Cattany entered and posted the property on October 8th, rather than October 18th, and also that Cattany, rather than James Stewart Company, filed the action on August 19, 1981. These are not material to the decision.)

As I wrote to you earlier, Cattany has 15 days to file a Motion for Rehearing, to which we will have an opportunity to respond. If the Motion is denied, he may petition the Arizona Supreme Court for review. It is still possible for Cattany to prevail, but I doubt it. We have cleared the big hurdle.

I'll continue to keep you informed about this case.

Truly yours,

RYAN, HERBOLICH, ATONNA  
& HOGGATT, Ltd.

By: *Wallace R. Hoggatt*  
WALLACE R. HOGGATT

WRH/vp

Enc.

STATE OF ARIZONA  
DIVISION TWO

**FILED**

OCT 1 1982

CLERK COURT OF APPEALS  
Division Two

JAMES STEWART COMPANY, an Arizona  
corporation; M. SETH HORNE; W. W.  
GRACE,

Plaintiffs/Appellees,

v.

ROBERT E. CATTANY and JUNE L.  
CATTANY, husband and wife,

Defendants/Appellants.

2 CA-CIV 4371

O R D E R

(COCHISE County  
Superior Court  
Cause No. 40466)

GREENWOOD, RYAN, HERBOLICH & ATONNA, Ltd., Douglas;  
by Arthur C. Atonna, Esq., and Wallace R. Hoggatt, Esq.,

Attorneys for Plaintiffs/Appellees.

Robert E. Cattany, Esq., Tucson,

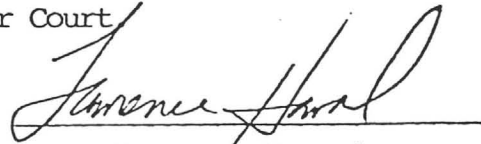
Attorney for Defendants/Appellants.

The above-entitled matter was duly submitted to the Court. The Court has this day rendered its Opinion.

IT IS ORDERED that the Opinion be filed by the Clerk, and under the Arizona Rules of Civil Appellate Procedure, Rule 22(a), fifteen (15) days are allowed from this date to file a Motion for Rehearing.

IT IS FURTHER ORDERED that a copy of this Order, together with a copy of the Opinion, be sent to each party appearing or the attorney for such party and to The Honorable Lloyd C. Helm, Judge, Cochise County Superior Court, retired, and to The Honorable Matthew W. Borowiec, Presiding Judge of Cochise County Superior Court.

Dated: October 1, 1982.

  
Lawrence Howard  
Chief Judge

Copies mailed as directed  
this 1 day of October,  
1982.

  
Elizabeth Urwin Fritz, Clerk.

**RECEIVED**

OCT 02 1982

GREENWOOD, RYAN, HERBOLICH  
& ATONNA, LTD.

296

the testimony and affidavits are conflicting. Nonetheless, for this subsequent work Escapule was paid \$49. The uncontradicted testimony and affidavits of Grace valued the completed work at not less than \$800 which would meet the requirements of 30 U.S.C. §28 as discussed below. Furthermore, Grace testified that the work done on October 6, 1979, was, by itself, \$800 worth of work.

On October 8, 1979, after deciding that appellees had not completed the resumption of their assessment work in a diligent manner, appellant Robert Cattany entered and relocated the property. Location notices were recorded by Cattany on January 16, 1980. His plat map and monuments delineating his claims were initially incorrect and he amended his map and remonumented his claims on March 17, 1980, and in August 1981, respectively. During this period an agent of the appellees requested twice that Cattany cease all mining and vacate the property. Cattany, however, responded with a suit to remove appellees on August 19, 1981.

The case was heard without a jury on September 15, 1981, and the judge required that both parties submit memoranda. It is appellants' attention that the trial court should be reversed for its finding that appellees were, and had at all times been, entitled to possession of the claims.

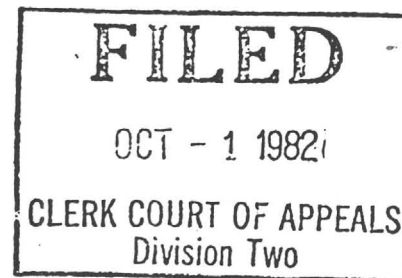
The issue in this case is whether appellees complied with the assessment work requirement of 30 U.S.C. §28, thereby precluding forfeiture of their unpatented mining claims. Appellant raised other arguments concerning his right to possession of the claims, but because of our resolution of this issue, we need not discuss the other arguments.

The locator of a claim is required to complete \$100 worth of work per year on each claim under 30 U.S.C. §28. The statute provides:

"... [a]nd upon a failure to comply with these conditions, the claim or mine upon which such failure occurred shall be open to relocation in the same manner as if no location of the same had even been made, provided that the original locators, their heirs, assigns, or legal representatives, have not resumed work upon the claim after failure and before such relocation. ..." (Emphasis added)1/

1 For cases holding that the resumption of the assessment work by the original locator prior to a relocation by a third person precludes a forfeiture of the original locator's rights, see *Edwards v. Anaconda Co.*, 115 Ariz. 313, 565 P.2d 190 (App. 1977); *Hartman Gold Mining Co. v.*

IN THE COURT OF APPEALS  
STATE OF ARIZONA  
DIVISION TWO



JAMES STEWART COMPANY, an Arizona  
corporation; M. SETH HORNE; W. W.  
GRACE,

Plaintiffs/Appellees,

v.

2 CA-CIV 4371

O P I N I O N

ROBERT E. CATTANY and JUNE L. CATTANY,  
husband and wife,

Defendants/Appellants.

APPEAL FROM THE SUPERIOR COURT OF COCHISE COUNTY

Cause No. 40466

Honorable Lloyd C. Helm, Judge

AFFIRMED

GREENWOOD, RYAN, HERBOLICH & ATONNA, Ltd.  
by Arthur C. Atonna and Wallace R. Hoggatt

Douglas

Attorneys for Plaintiffs/Appellees

Robert E. Cattany

Tucson

Attorney for Defendants/Appellants

H O W A R D, Chief Judge.

This is an appeal from a judgment in favor of appellees in a forcible entry and detainer suit brought to determine the possession of eight unpatented federal lode mining claims. The eight claims, known as the Hornes #110-117, were located by M. S. Horne on September 21, 1967, and later leased to W. W. Grace on October 1, 1979.

Apparently no assessment work was done for the assessment year ending August 31, 1979. Appellees, however, commenced assessment work on October 6, 1979, and continued the work on October 10 for the 1979-1980 assessment year. The work was performed by John Escapule under Grace's supervision. At that time, Grace had worked with mining claims for 48 years. Escapule was paid \$200 for his services.

It is unclear whether any further work was done on the claims for a period of four to six weeks or until March 10 or 11, 1980, because



JTB

In order for the resumption of the work to have the effect of precluding relocation by a third person, the work must be resumed in good faith, be prosecuted with reasonable diligence and with a bona fide intention of completing it. *Strattan v. Raine*, 45 Nev. 10, 197 Pac. 694 (1921); *Winters v. Barkland*, 123 Ore. 137, 260 Pac. 231 (1927); *Crane v. French*, 39 Cal.App.2d 642, 104 P.2d 53 (1940). In the absence of evidence to the contrary, it will be presumed that the annual work was resumed in good faith. *Temescol Oil Mining & Development Co. v. Salcido*, 137 Cal. 211, 69 Pac. 1010 (1902).<sup>2/</sup>

If such work is resumed, the claim is not subject to relocation while it continues and a relocation made while work is being performed is invalid even if the assessment work is thereafter abandoned before the requisite amount is completed. *Jupiter Mining Co. v. Bodie Consolidated Mining Co.*, 11 F. 666 (9th Cir. 1881); *Jordan v. Duke*, 6 Ariz. 55, 53 Pac. 197 (1898). Appellant contends the evidence does not show that appellees diligently prosecuted the resumption of the assessment work nor that the value of the work done was at least the required \$800. We do not agree.

Grace testified that on October 6, 1979, \$800 worth of assessment work was done on the claims. This consisted of the digging of a ditch by a backhoe, 300 feet long averaging 2½ to 3 feet deep. In some places it was 5 feet deep. The test is the value of the work done and not the amount paid to do the work. *Schlegel v. Hough*, 182 Ore. 441, 186 P.2d 516 (1947). This testimony alone, provided an adequate basis for the trial court's conclusion. There was no issue about proceeding diligently since the required work was done in one day. When appellant entered the claims on October 8, 1979, he was a trespasser and his locations were invalid. *Jupiter Mining Co. v. Bodie Consolidated Mining Co.*, supra.

Affirmed.

1/ (cont'd.)

*Warning*, 40 Ariz. 267, 11 P.2d 854 (1932); *Whitwell v. Goodsell*, 37 Ariz. 451, 295 Pac. 318 (1931); *Cadle v. Helfrich*, 36 Ariz. 390, 286 Pac. 186 (1930).

2/

See also *McCormick v. Baldwin*, 104 Cal. 227, 37 Pac. 903 (1894); *Hirschler v. McKendricks*, 16 Mont. 211, 40 Pac. 290 (1895); *Honaker v. Martin*, 11 Mont. 91, 27 Pac. 397 (1891).



LAWRENCE HOWARD, Chief Judge.

CONCURRING:

JAMES D. HATHAWAY, Judge.

BEN C. BIRDSALL, Judge.

RECEIVED  
OCT 7 1982  
JAMES STEWART COMPANY  
PHOENIX, ARIZONA

284

LAW OFFICES OF  
GREENWOOD, RYAN, HERBOLICH & ATONNA, LTD.

JAMES B. GREENWOOD  
MARTIN F. RYAN  
MICHAEL J. HERBOLICH  
ARTHUR C. ATONNA  
—  
WALLACE R. HOGGATT  
DAVID P. FLANNIGAN

855 COCHISE AVENUE  
DOUGLAS, ARIZONA 85607  
—  
AREA CODE 602-364-7961

OTHER OFFICE:  
BISBEE, ARIZONA

October 22, 1982

Mr. M. Seth Horne  
Mr. Harvey L. Hayes  
James Stewart Company  
707 Mayer Central Bldg.  
3033 North Central Avenue  
Phoenix, Arizona 85012

RECEIVED

OCT 25 1982

JAMES STEWART COMPANY  
PHOENIX, ARIZONA

Re: James Stewart Company v. Cattany

Gentlemen:

Enclosed are copies of Mr. Cattany's Motion for Rehearing and our Objection to his Motion. His Motion does not trouble me, but in any event I shall let you know the Court's ruling.

Truly yours,

RYAN, HERBOLICH, ATONNA  
& HOGGATT, Ltd.

By:

*Wallace R. Hoggatt*  
WALLACE R. HOGGATT

WRH/vp

Enc.

IN THE COURT OF APPEALS  
STATE OF ARIZONA  
DIVISION 2

*Rec'd Oct. 18, 1983*  
*mt.*

JAMES STEWART COMPANY, an Arizona )  
corporation; M. SETH HORNE; W.W. )  
GRACE, )

Plaintiffs/Appellees, )

v. )

ROBERT E. CATTANY and JUNE L. )  
CATTANY, husband and wife, )

Defendants/Appellants. )

2 CA-Civ 4371

Cochise County No. 40466

MOTION FOR REHEARING

Appellants request a rehearing of the above-entitled matter for the following reasons: Appellants feel that the Court of Appeals has applied facts not supported by the Reporter's Transcript of Proceedings or the briefs in arriving at their opinion.

To enumerate, the court states that " Appellees , however, commenced assessment work on October 6, 1979, and continued the work on October 10 for the 1979-1980 assessment year.". Although the affidavit states that work was done between October 6 and October 10, the affiant, appellee W.W. Grace, admitted under oath that the only work done was on October 6, and that he did not even return to the claims until about October 20, and that visit was not for the purpose of doing any work.

The court states that "It is unclear whether any further work was done on the claims for a period of four to six weeks or until March 10 or 11, 1980, because the testimony and affidavits are conflicting.". It is true that the affidavit and the testimony of the affiant, appellee W.W. Grace, are conflicting, but that should not create an unclear picture of the facts supported by the testimony of W.W. Grace

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and the other witnesses, which clearly established March 10, 1980 as the date when further work was done.

The court states that appellants relocated the property on October 8, 1979, when it was actually done on October 18, 1979, twelve days after appellees resumed their assessment work, and further states that appellants, rather than appellees, filed this suit on August 19, 1981.

However, if the court believes the judgment below is supported by appellee W.W. Grace's testimony that in his opinion the work done on October 6, 1979 was sufficient to comply with the requirements of 30 USC 28, then the foregoing may be moot. Accordingly, appellants will limit their arguments to the question of the sufficiency of appellees assessment work done on October 6, 1979.

The sufficiency of assessment work depends upon the value of the work performed and not necessarily the amount paid for it. As stated in Morrison's Mining Rights, 16 Ed., p. 121, "The test is what the work was worth, rather than what was paid for it, but what was paid for it goes to prove its value.". It is the reasonable value of the work measured in dollars to determine if the requisite amount of assessment work has been done, but no where, in federal law or elsewhere, is it provided that a 6 foot by 6 foot by 4 foot hole dug on a claim satisfies the assessment work requirement.

In this case, appellees paid a contractor \$200.00 for about 8 hours of back-hoe trenching work on their mining claims on October 6, 1979. The amount appellees paid was the usual and customary rate charged by back-hoe operators in the area, and the work consisted of about 300 feet of trench averaging about 3 feet deep. There was no conflict in the testimony establishing the foregoing facts, or the fact that no further work was done on the claims until appellees hired the same contractor to do additional back-hoe work. That date was established by the con-

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tractor as March 10, 1980.

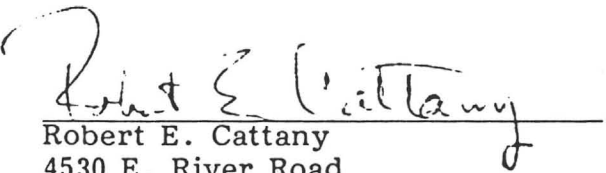
Appellee W.W. Grace testified that in his opinion he thought that the cubic feet of work removed between October 6, 1979 and March 10, 1980, was more than necessary to meet the federal requirements for assessment work (page 45 of Reporter's Transcript of Proceedings). In explanation of this statement, he testified that federal regulations state that if one digs a hole six feet long, six feet deep and four feet wide, or a total of 144 cubic feet, that would qualify as the amount of work necessary for the assessment work on a claim (pages 36, 47 and 48 of Reporter's Transcript of Proceedings). Thereby explaining the basis of his opinion regarding the sufficiency of the trenching done as satisfying the assessment work requirements, with no consideration of the dollar value of the work. If appellees owned their own back-hoe and operated it themselves, to determine the reasonable value of a trench they dug with it, they would have to determine what others in the area charged for the same work. The same is true if someone came onto appellees' claims with a backhoe and dug a trench for them gratuitously. Since appellees did hire a contractor to do their trenching and he charged the usual and customary rate, the value of appellees trenching work and the amount they paid for it would appear to be, as appellants contend, the same, namely \$200.00. It is appellant's position that there was no conflicting testimony regarding the value of the work done on October 6, 1979. An example of conflicting testimony on reasonable value of assessment work is found in *Kramer v. Tayler*, 266 P 2d 709 (Ore), where the defendant claimed to have performed 17 days of work at a reasonable value of \$12.00 per day, driving a 16 foot tunnel having a reasonable value of \$14.00 per foot, while the plaintiff contended that defendant only performed 16 days of work worth \$12.00 per day, making only 11 feet of tunnel at a value of \$14.00 per foot. The court did not disturb the trial court's decision on that matter. In *Kramer v. Tayler*, supra, the court cited the case of *Nevada Exploration & Mining Co. v. Spriggs*, 124 P 770, 773 (Utah) for

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the legal premise followed therein that "Where a forfeiture of a mining claim is involved, the appellate court should not disturb a finding of the trial court which prevents such forfeiture, unless it is clearly made to appear that such finding is not supported by the evidence".

Based upon the foregoing, appellants respectfully request that the court grant their motion for rehearing.

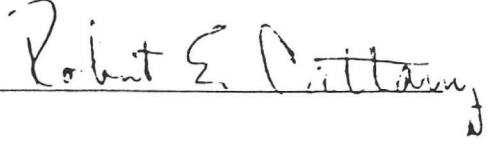
Dated October 15, 1982

  
Robert E. Cattany  
4530 E. River Road  
Tucson, Arizona 85718  
Attorney for Appellants

Copy of the foregoing  
mailed this 15th day of  
October, 1982, to:

Greenwood, Ryan, Herbolich & Atonna, Ltd.  
855 Cochise Avenue  
Douglas, Arizona 85607  
Attorneys for Appellees

By



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IN THE COURT OF APPEALS  
STATE OF ARIZONA  
DIVISION TWO

JAMES STEWART COMPANY, an  
Arizona corporation; M. SETH  
HORNE; W.W. GRACE,  
  
Plaintiffs/Appellees,  
  
v.  
  
ROBERT E. CATTANY and JUNE L.  
CATTANY, husband and wife,  
  
Defendants/Appellants.

2CA-CIV 4371

(Cochise County  
Superior Court  
Cause No. 40466)

OBJECTION TO MOTION  
FOR REHEARING

Appellees request that Appellants' Motion for Rehearing  
be denied for the reason that the Opinion of the Court of Appeals  
is amply justified by the law and the evidence, as more particularly  
explained in the following Memorandum.

RESPECTFULLY SUBMITTED this 22nd day of October, 1982.

RYAN, HERBOLICH, ATONNA & HOGGATT, Ltd.

By: Arthur C. Atonna  
ARTHUR C. ATONNA

By: Wallace R. Hoggatt  
WALLACE R. HOGGATT

Attorneys for Appellees

Copy of the foregoing  
mailed this 22nd day  
of October, 1982, to:

Mr. Robert E. Cattany  
4530 East River Road  
Tucson, Arizona 85718

855 COCHISE AVENUE  
TUCSON, ARIZONA 85707  
(602) 364-7171

GREENWOOD, RYAN, HERBOLICH & ATONNA, LTD.  
ATTORNEYS AT LAW

129 NACO HIGHWAY  
P.O. BOX 4340  
BISBEE, ARIZONA 85602  
(520) 432-5791

290

MEMORANDUM

The issues raised in Appellants' Motion for Rehearing are without merit.

1. Appellants argue that this Court erred in stating that "Appellees ... commenced assessment work on October 6, 1979, and continued the work on October 10 for the 1979-1980 assessment year." Opinion at 1. Despite the fact that an Affidavit of Labor Performed and Improvements made substantiates work done between October 6th and October 12th (R.T. 33; Plaintiffs' Exhibit 8 in evidence), Appellants contend that no work was done on October 10th, citing alleged admissions of Appellees W. W. Grace. Appellees do not accept Appellants' characterization of Mr. Grace's testimony, and prefer to refer the Court to the transcript. In any event, however, it is not at all clear what Appellants wish to gain by such a discussion. Appellees understand this Court's Opinion to have been based upon that fact that all assessment work required by 30 U.S.C. 28 was performed on October 6th:

"Grace testified that on October 6, 1979, \$800 worth of assessment work was done on the claims.... This testimony alone, provided an adequate basis for the trial court's conclusion...."

Opinion at 3.

Similarly immaterial is Appellants' contention that the witnesses "clearly established March 10, 1980 as the date when further work was done." Motion for Rehearing at 2. (Additionally, the argument is unsound. Mr. Grace testified that he did further



1 work on the claims within 30 days of October 19, 1979. R.T. 51.)

2 Even Appellants note that these arguments do not matter.

3 "... (I)f the court believes that the judgment below is supported  
4 by Appellee W. W. Grace's testimony that in his opinion the work  
5 done on October 6, 1979 was sufficient... then the foregoing may  
6 be moot." Motion for Rehearing at 2 (emphasis added).

7 2. Appellants seize upon two minor factual errors  
8 in the Opinion in support of their Motion. It is true that Mr.  
9 Cattany's attempted relocation occurred on October 18, 1979, when  
10 he posted notice of the purported "Rocky" claims. R.T. 71-72. It  
11 is also correct that Appellees, rather than Appellants, brought this  
12 action. However, these matters are not significant to this Court's  
13 decision, having apparently been noted by the Court in passing.

14 3. Appellants contend that the Court erred when it  
15 held that the trial court could have found that the value of the  
16 October 6th work was \$800. Appellants cite the general proposition  
17 that what is paid for work is evidence of the work's value.  
18 Motion for Rehearing at 2. True enough. Appellants seem to infer  
19 from this proposition, however, that evidence of payment is there-  
20 fore conclusive evidence of value. Appellants have cited no  
21 authority for such a conclusion and Appellees are aware of none.  
22 There is certainly authority to the contrary, since assessment work  
23 can be adequate even if done for free. MacDonald v. Cluff, 68 Ariz.  
24 369, 206 P.2d 730 (1949).

25 Neither do Appellants submit any authority that would  
26 allow them to ignore Mr. Grace's opinion testimony about the value

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TULSA, ARIZONA 74103  
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1 of the labor. It is well-established that an owner of property is  
2 competent to testify as to the property's value without qualifying  
3 as an expert. Atkinson v. Marquart, 112 Ariz. 304, 541 P.2d 556  
4 (1975) (corporate good will); U.S. Fidelity & Guaranty Co. v.  
5 Davis, 3 Ariz. App. 259, 413 P.2d 590 (1966) (cattle); Town &  
6 Country Chrysler Plymouth v. Porter, 11 Ariz. App. 369, 464 P.2d  
7 815 (1970) (automobile); Urban Renewal Agency v. Tate, 196 Kan.  
8 654, 414 P.2d 28 (1966) (land). Why should the lessee of mining  
9 claims be precluded from testifying about the value of improvements  
10 and labor--particularly where, as here, the lessee has a great deal  
11 of mining experience?

12 Kramer v. Taylor, 200 Or. 640, 266 P.2d 709 (1954), does  
13 not support Appellants' position. In Kramer, the Oregon court was  
14 faced with conflicting evidence and argument concerning the value  
15 of certain work. The trial court determined that the work was  
16 worth \$200. The Supreme Court upheld that determination. Appellees  
17 are unaware of anything in Kramer that requires this Court to set  
18 aside the trial court's judgment in the present case.

19 The value of assessment work is a question of fact.  
20 Pascoe v. Richards, 201 Cal. App. 2d 680, 20 Cal. Rptr. 416 (1962).  
21 Perhaps the trial court had the discretion to find for Appellants  
22 on the question of the value of the work performed on October 6th.  
23 It did not; it apparently chose to accept competent and credible  
24 evidence that the October 6th work had a value of \$800 or more.  
25 The Court acted properly in upholding the trial court's judgment.  
26 . . .

1 For the above reasons, and those presented in the Answering  
2 Brief, Appellees respectfully request this Court to deny the Appel-  
3 lants' Motion for Rehearing.  
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855 COCHISE AVENUE  
DOUGLAS, ARIZ. 85607  
(602) 364-7361

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ATTORNEYS AT LAW

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BISBEE, ARIZONA 85603  
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★ Arizona Business  
11/1/82 Gazette  
James Stewart Co. v.  
Cattany  
2 CA-CIV 4371  
Oct. 1, 1982



*Harvey* *280*

LAW OFFICES OF

RYAN, HERBOLICH, ATONNA & HOGGATT, LTD.

MARTIN F. RYAN  
MICHAEL J. HERBOLICH  
ARTHUR C. ATONNA  
WALLACE R. HOGGATT

855 COCHISE AVENUE  
DOUGLAS, ARIZONA 85607

TELEPHONE  
AREA CODE 602  
364-7961

November 8, 1982

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NOV 9 1982

JAMES STEWART COMPANY  
PHOENIX, ARIZONA

Mr. M. Seth Horne  
Mr. Harvey Hayes  
James Stewart Company  
707 Mayer Central Bldg.  
3033 North Central Avenue  
Phoenix, Arizona 85012

Re: James Stewart Company v. Cattany

Gentlemen:

Enclosed is a copy of the Order of the Court of Appeals dated November 3, 1982. The Order denies Cattany's Motion for Re-hearing, although it corrects the two minor errors of the Court's Opinion.

Cattany has 15 days to file a Petition for Review with the Arizona Supreme Court.

Truly yours,

RYAN, HERBOLICH, ATONNA  
& HOGGATT, Ltd.

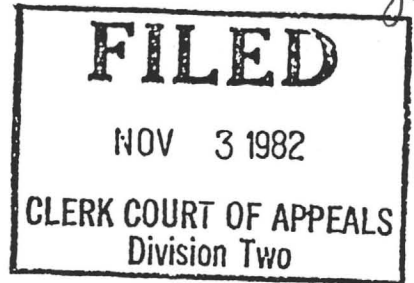
By:

*Wallace R. Hoggatt*  
WALLACE R. HOGGATT

WRH/vp

Enc.

IN THE COURT OF APPEALS  
STATE OF ARIZONA  
DIVISION TWO



JAMES STEWART COMPANY, an Arizona  
corporaton; M. SEIH HORNE; W. W.  
GRACE,

Plaintiffs/Appellees,

v.

ROBERT E. CATTANY and JUNE L. CATTANY,  
HUSBAND AND WIFE,

Defendants/Appellants.

2 CA-CIV 4371

ORDER

(COCHISE County  
Superior Court  
Cause No. 40466)

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NOV 04 1982

RYAN, HERBOLICH, ATONNA  
& HOGGATT, LTD.

IT IS ORDERED that Appellants' Motion for Rehearing is DENIED; and

IT IS FURTHER ORDERED that this court's Opinion filed October 1, 1982,  
is corrected in the seventh line from the top of Page 2: the date of Octo-  
ber 8, 1979, is changed to October 18, 1979; and in the same paragraph the  
the last sentence is stricken and the following sentence is substituted  
therefor: Cattany disregarded said requests and appellants filed suit on  
August 19, 1981.

Dated: November 3, 1982.

  
Lawrence Howard, Chief Judge.

  
Ben C. Birdsall, Judge.

  
James D. Hathaway, Judge.

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No. 2 CA-CIV 4371

JAMES STEWART COMPANY, et al. v. CATTANY, et ux.

Page 2

Copies of the foregoing Order mailed  
this 3rd day of November 1982 to:

Arthur C. Atonna, Esq.

✓ Wallace R. Hoggatt, Esq.

Greenwood, Ryan, Herbolich & Atonna, Ltd.

855 Cochise Avenue

Douglas, Arizona 85607

Robert E. Cattany, Esq.

4530 East River Road

Tucson, Arizona 85718

Hon. Lloyd C. Helm, Judge

Cochise County Superior Court

Cochise County Courthouse

Bisbee, Arizona 85603

218

LAW OFFICES OF  
RYAN, HERBOLICH, ATONNA & HOGGATT, LTD.  
855 COCHISE AVENUE  
DOUGLAS, ARIZONA 85607

MARTIN F. RYAN  
MICHAEL J. HERBOLICH  
ARTHUR C. ATONNA  
WALLACE R. HOGGATT

TELEPHONE  
AREA CODE 602  
364-7961

November 19, 1982

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NOV 22 1982

JAMES STEWART COMPANY  
PHOENIX, ARIZONA

Mr. M. Seth Horne  
Mr. Harvey L. Hayes  
James Stewart Company  
707 Mayer Central Bldg.  
3033 North Central Avenue  
Phoenix, Arizona 85012

Re: James Stewart Company v. Cattany  
No. 2CA-CIV 4371

Gentlemen:

Enclosed is a copy of a Petition for Review received  
yesterday from Mr. Cattany.

We must wait for the Arizona Supreme Court to decide  
whether it will review the case. I'll let you know  
the result.

Truly yours,

RYAN, HERBOLICH, ATONNA  
& HOGGATT, Ltd.

By:   
WALLACE R. HOGGATT

WRH/vp

Enc.



IN THE COURT OF APPEALS  
STATE OF ARIZONA  
DIVISION @

279  
RECEIVED  
NOV 18 1982

RYAN, HERBOLICH, ATONNA  
& HOGGATT, LTD.

JAMES STEWART COMPANY, an Arizona )  
corporation; M. SETH HORNE; W.W. )  
GRACE, )

Plaintiffs/Appellees, )

v. )

ROBERT E. CATTANY and JUNE L. )  
CATTANY, husband and wife, )

Defendants/Appellants )

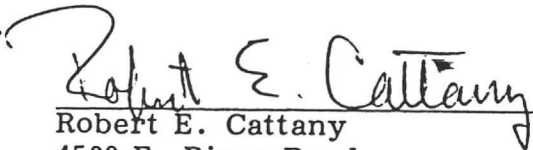
2 CA-Civ 4371

Cochise County No. 40466

PETITION FOR REVIEW

Appellants petitions the Supreme Court of Arizona to review the  
decision of the Court of Appeals in this matter. Appellants' motion for  
rehearing in the Court of Appeals was denied on November 3, 1982.

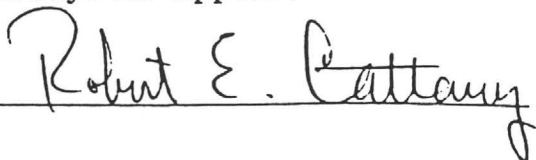
Dated November 17, 1982.

  
Robert E. Cattany  
4530 E. River Road  
Tucson, Arizona 85718  
Attorney for Appellants

Copy of the foregoing  
mailed this 17th day of  
November, 1982, to:

Greenwood, Ryan, Herbolich & Atonna, Ltd.  
855 Cochise Avenue  
Douglas, Arizona 85607  
Attorneys for Appellees

By



*Harvey* *976*

LAW OFFICES OF  
RYAN, HERBOLICH, ATONNA & HOGGATT, LTD.  
855 COCHISE AVENUE  
DOUGLAS, ARIZONA 85607

MARTIN F. RYAN  
MICHAEL J. HERBOLICH  
ARTHUR C. ATONNA  
WALLACE R. HOGGATT

TELEPHONE  
AREA CODE 602  
364-7961

December 20, 1982

RECEIVED

DEC 22 1982

JAMES STEWART COMPANY  
PHOENIX, ARIZONA

Mr. M. Seth Horne  
Mr. Harvey L. Hayes  
James Stewart Company  
707 Mayer Central Bldg.  
3033 North Central Avenue  
Phoenix, AZ 85012

Re: James Stewart Company v. Cattany

Gentlemen:

Enclosed is an order from the Arizona Supreme Court denying  
Cattany's Petition for Review. In other words, the decision  
of the Court of Appeals has been upheld.

Sincerely,

RYAN, HERBOLICH, ATONNA  
& HOGGATT, Ltd.

By: *Wallace R. Hoggatt*  
WALLACE R. HOGGATT

WRH/vp

Enc.



# Supreme Court

STATE OF ARIZONA

201-WEST WING

CAPITOL BUILDING

(602) 255-4536

Phoenix 85007

S. ALAN COOK  
CLERK

UV DEC 16 1982 11

RYAN, HERBOLICH, ATONNA  
& HOGGATT, LTD.

ANNA L. CATES  
CHIEF DEPUTY CLERK

December 15, 1982

JAMES STEWART COMPANY, an Arizona corporation;  
M. SETH HORNE: W. W. GRACE,

Plaintiffs/Appellees,

vs.

ROBERT E. CATTANY and JUNE L. CATTANY,  
husband wife,

Defendants/Appellants.

Supreme Court  
No. 16302-PR

Court of Appeals  
No. 2 CA-CIV 4371

Cochise County  
No. 40466

The following action was taken by the Supreme Court of the State of Arizona on December 14, 1982 in regard to the above-entitled cause:

"ORDERED: Petition for Review = DENIED."

Record returned to the Court of Appeals, Division Two, Tucson, this 15th day of December, 1982.

S. ALAN COOK, Clerk

By *Anatoshka Manuel*

Deputy Clerk

TO:

Robert E. Cattany, Esq., 4530 E. River Road, Tucson, Arizona 85718

✓ Arthur C. Atonna, Esq. and Wallace R. Hoggatt, Esq., Greenwood, Ryan, Herbolich & Atonna, Ltd., 855 Cochise Avenue, Douglas, Arizona 85607  
Elizabeth Urwin Fritz, Clerk, Court of Appeals, Division Two, 416 West Congress, Tucson, Arizona 85701

c

SARA GROUP

Name of Claim SARA #1  
LOCATOR C.T. Henderson

\*\*\*\*\*LOCATION NOTICE\*\*\*\*\*

On this 11 day of August, 1982, under authority of the laws of the United States, and in compliance with the requirements of the statutes of the State of Arizona, the undersigned hereby give notice that (he, they) hereby locate and claim the following described mineral bearing ground:

Beginning at the monument where this notice is located, which is the NW corner of the claim, hence continuing 1500 feet in an EAST direction to the NE corner of this claim, hence 600 feet in a South direction to the SE corner of this claim, hence 1500 feet in a West direction to the SW corner of this claim,

This claim is situated in the Tombstone Mining District, Cochise County, State of Arizona and shall be known as the SARA #1 Lode Mining Claim.

This claim lies in Section 10, 11, Township 30 S and Range 32 E.

Located on the ground this 11 day of August, 1982.

Witnesses:

James Blankenship

Locator:

C.T. Henderson  
C.T. Henderson

\*\*\*\*\*

STATE OF ARIZONA

COUNTY OF COCHISE

cc

16362

Witness my hand and seal  
Christine Rhodes  
County Recorder

I hereby certify that the within instrument was recorded at the request of Carl A. Prince, 407 Allen Tombstone, AZ

[Signature] Deputy

DATE AUG 30 '82 - 11 10 AM  
Docket 1614  
Page 562-562

Fee \$5.00

Filmed  
Indexed 1 AM  
Blotted



RECEIVED  
B.L.M. STATE OFFICE  
TOMBSTONE, ARIZONA  
AUG 22 10 32 AM '82

Microfilm Meets  
Standards

DKT 1614 562  
562

MAP  
SARA #1

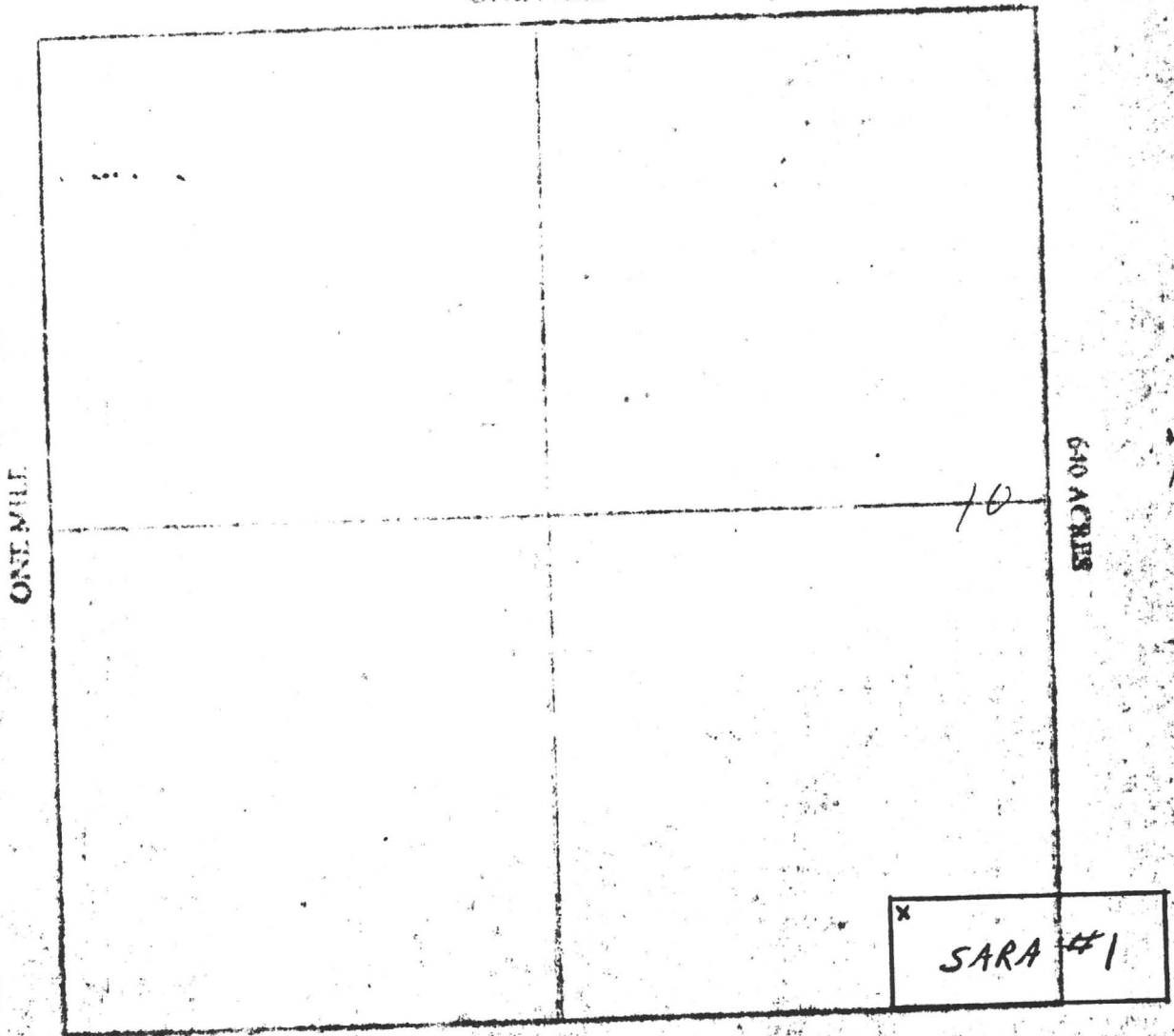
One inch = One thousand feet

North Arrow



Ame. 185817

ONE MILE



Section 10, 11 Range 20S Township 22E GASTON

Date August 11, 1982 DKT 1614  
Page 563

C.T. Henderson



Name of Claim AAA #2  
LOCATOR C. T. Henderson

1016  
A MC 185818

On this 11 day of August 1982, the authority of the laws of the United States, and the requirements of the statutes of the State of Arizona, the undersigned hereby give notice that (he, they) hereby claim the following described mineral bearing ground:

Beginning at the point where this notice is located, hence the NE corner of the claim, hence containing 1500 feet in a WEST direction to the NW corner of this claim, hence 600 feet in a South direction to the SW corner of this claim, hence 1500 feet in a EAST direction to the SE corner of this claim,

This claim is located in the Tombstone Mining District, Cochise County, State of Arizona, and shall be known as the AAA #2 Lode Mining Claim.

This claim lies in Section 10 Township 20 S and Range 22 E

Dated on the 11 day of August 1982

Witness:

Jack McQuinn  
James C. Blankenship

C. T. Henderson  
C. T. Henderson

STATE OF ARIZONA

COUNTY OF COCHISE

16363

Witness my hand and seal  
Christine Rhodes  
County Recorder

I hereby certify that the within instrument was recorded at the request of Jack A. Irvine, Tombstone, Ariz.

W. A. S.  
Deputy  
Fee \$5.00

DATE AUG 30 '82 - 11 10 AM  
Doc # 1614  
Page 564-565

Filed  
Indexed MM  
Blotted



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BLM. AZ STATE OFFICE  
SEP 22 10 32 AM '82  
PHOENIX, ARIZONA

Does Not



MAP

SARA #2

One inch = One thousand feet

North Arrow

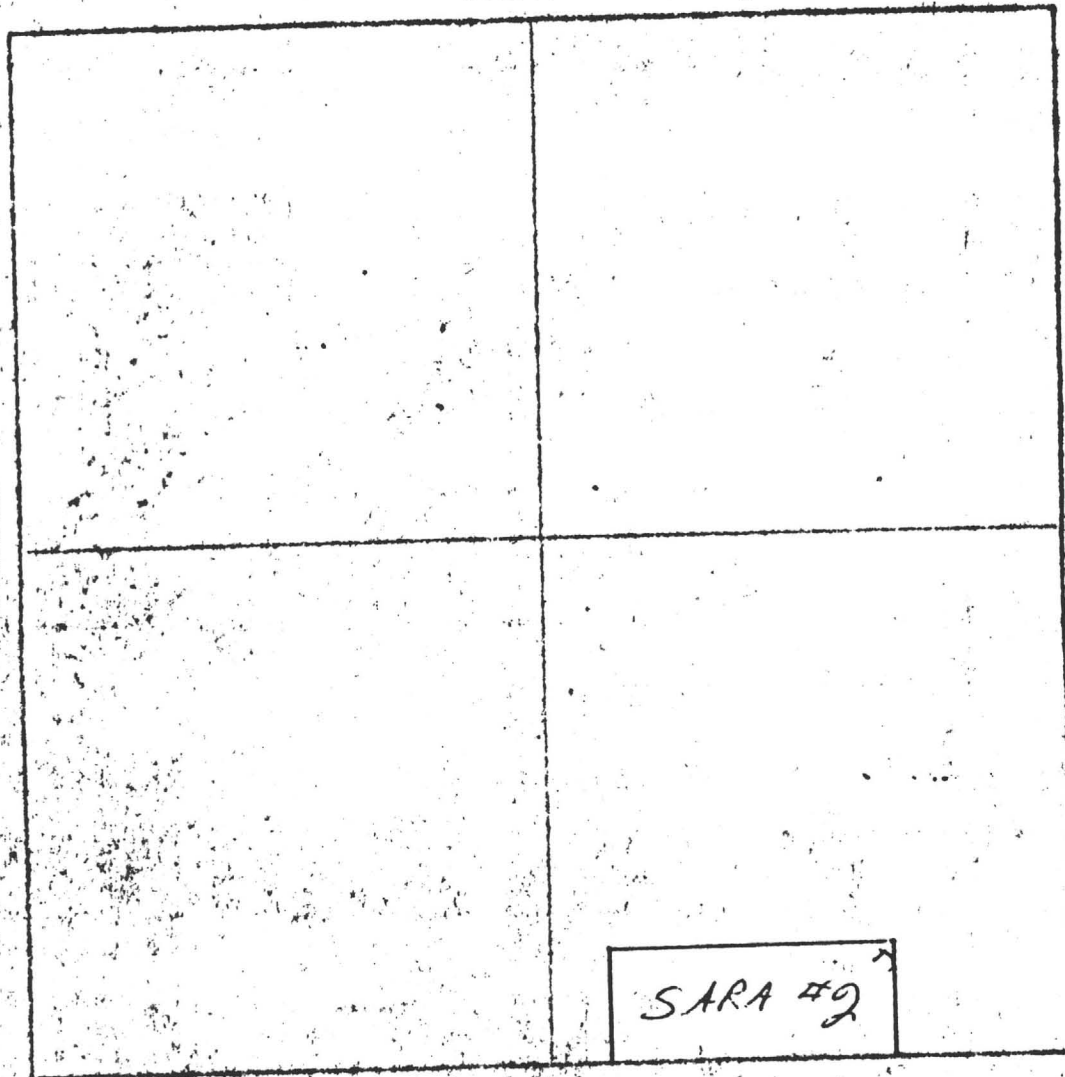


ONE MILE

AMC 185818

ONE MILE

640 ACRES



SARA #2

Section 10 Range 20S Township 22E G&SRJ&M

Date August 11, 1982 DKT. 1614  
R9 565

C.T. Henderson

Name of Claim SARA #3  
LOCATOR C. T. Henderson

\*\*\*\*\* LOCATION NOTICE \*\*\*\*\*

On this 11 day of August, 1982, under authority of the laws of the United States, and in compliance with the requirements of the statutes of the State of Arizona, the undersigned hereby give notice that (he, they) hereby locate and claim the following described mineral bearing ground:

Beginning at the monument where this notice is located, which is the SW corner of the claim, hence continuing 1500 feet in a EAST direction to the SE corner of this claim, hence 600 feet in a NORTH direction to the NE corner of this claim, hence 1500 feet in a WEST direction to the NW corner of this claim,

This claim is situated in the Tombstone Mining District, Cochise County, State of Arizona and shall be known as the SARA #3 Lode Mining Claim.

This claim lies in Section 10, 11, Township 20 S and Range 20 E.

Located on the ground this 11 day of August, 1982.

Witnesses:

Jack A. Smith  
James C. Blanship

Locator:

C. T. Henderson  
C. T. Henderson

STATE OF ARIZONA

COUNTY OF COCHISE

cc

16364

Witness my hand and seal  
Christine Rhodes  
County Recorder

Christine Rhodes Deputy  
Fee \$5.00

I hereby certify that the within instrument was recorded at the request of Jack A. Smith, 1407 E. Allen  
Tombstone, Ariz.

DATE AUG 30 '82 - 11 10 AM  
Docket 1614  
Page 366-367

Filed  
Indexed DM NA  
Blotted



RECEIVED  
B.L.M. AZ STATE OF  
SEP 22 10 32 AM  
PHOENIX, ARIZONA

185819

# MAP SARA #3

One inch = One thousand feet

North Arrow

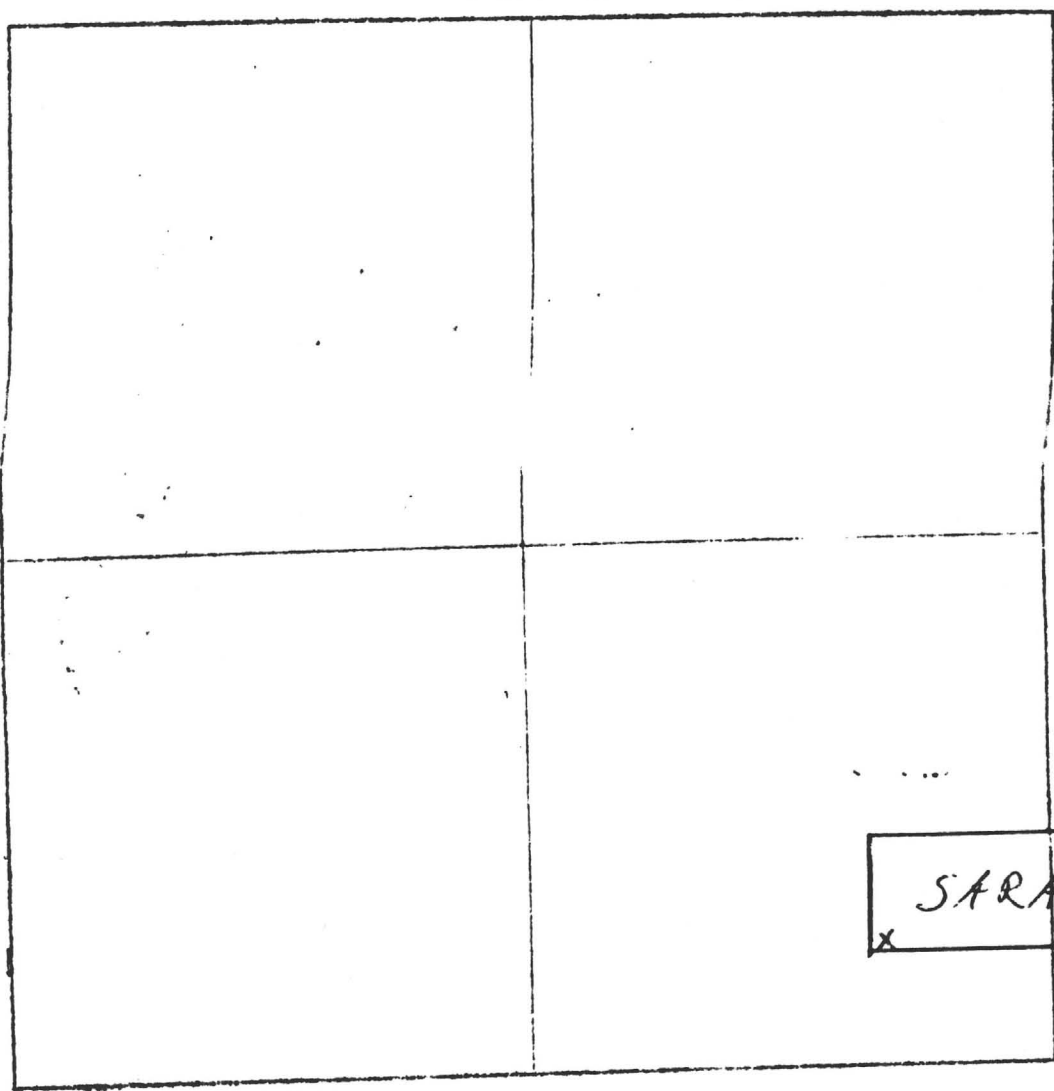


ONE MILE

AME-185819

ONE MILE

640 ACRES



SARA #3

Section 10, 11 Range 205 Township 22E G&SRBM

DK 1614 pg 567

Date August 16, 1982

C.T. Henderson  
Signature

Name of Claim SARA #4

LOCATOR C. T. Henderson

\*\*\*\*\*LOCATION NOTICE\*\*\*\*\*

On this 11 day of August, 1982, under authority of the laws of the United States, and in compliance with the requirements of the statutes of the State of Arizona, the undersigned hereby give notice that (he, they) hereby locate and claim the following described mineral bearing ground:

Beginning at the monument where this notice is located, which is the SE corner of the claim, hence continuing 1500 feet in a WEST direction to the SW corner of this claim, hence 600 feet in a NORTH direction to the NW corner of this claim, hence 1500 feet in a EAST direction to the NE corner of this claim.

This claim is situated in the Tombstone Mining District, Cochise County, State of Arizona and shall be known as the SARA #4 Lode Mining Claim.

This claim lies in Section 10, Township 20S and Range 22E.

Located on the ground this 11 day of August, 1982.

Witnesses:

Jack A. Durrell  
James C. Blankens

Locator:

C. T. Henderson  
C. T. Henderson

\*\*\*\*\*

STATE OF ARIZONA }  
COUNTY OF COCHISE }

cc

Witness my hand and seal  
Christine Rhodes  
County Recorder

[Signature]  
Fee \$5.00

Deputy

16365

I hereby certify that the within instrument was recorded at the request of: Jack A. Durrell, Tombstone, Ariz.

DATE AUG 30 '82 - 11 10 AM  
Docket 1614  
Page 568-569

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Indexed MM  
Blotted \_\_\_\_\_



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SEP 22 10 32 AM  
TOMBSTONE ARIZONA

185820 021

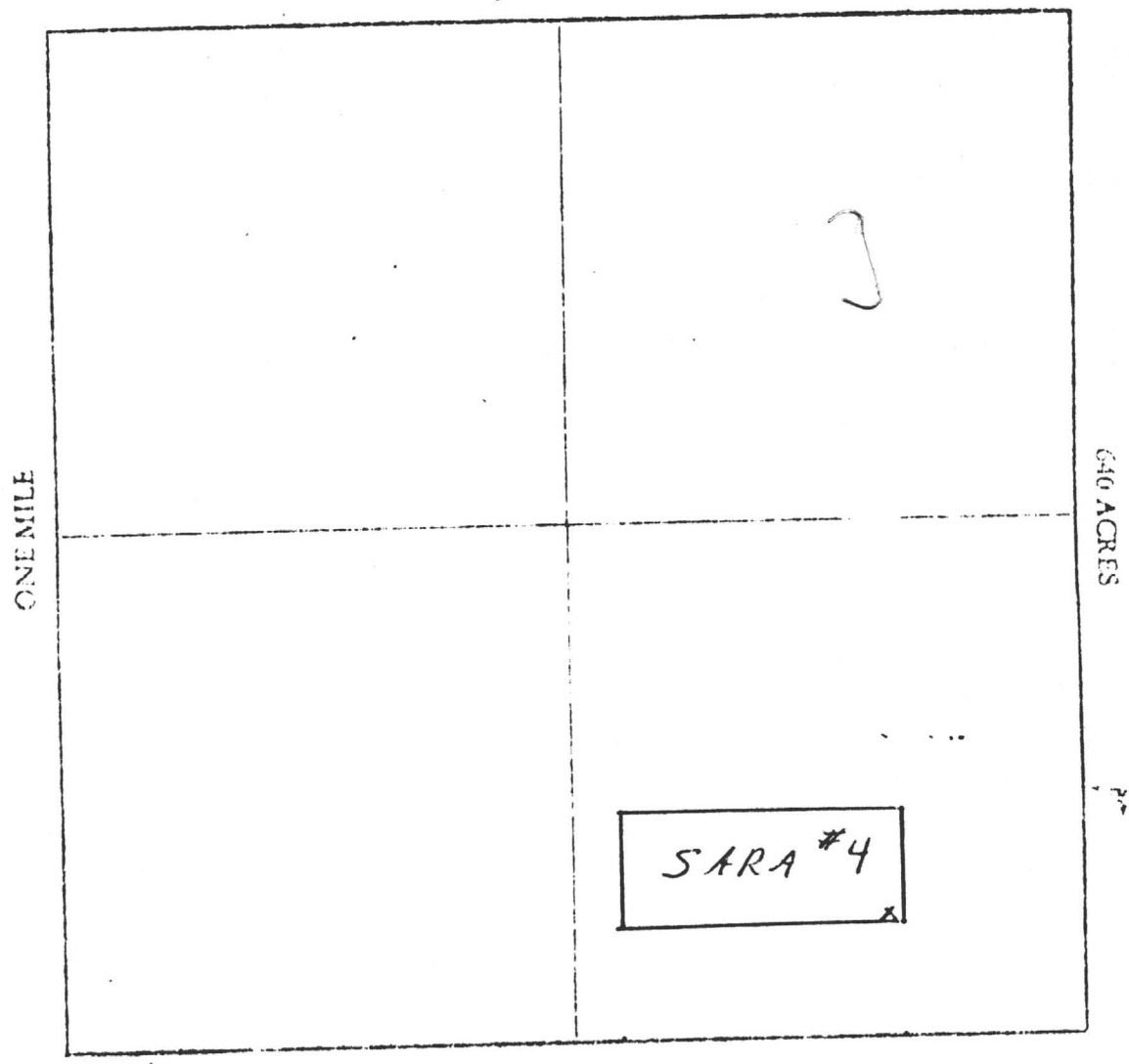
# MAP

SARA #4

One inch = One thousand feet



ONE MILE AMC - 185820



Section 10 Range 205 Township 22 E G&SB&M

DET. 1614  
Pg 569

Date August 11, 1982

C.T. Henderson  
Signature



Name of Claim SARA #5

LOCATOR C.T. Henderson

\*\*\*\*\*LOCATION NOTICE\*\*\*\*\*

On this 11 day of August, 1982, under authority of the laws of the United States, and in compliance with the requirements of the statutes of the State of Arizona, the undersigned hereby give notice that (he, they) hereby locate and claim the following described mineral bearing ground:

Beginning at the monument where this notice is located, which is the SW corner of the claim, hence continuing 1500 feet in a EAST direction to the SE corner of this claim, hence 600 feet in a NORTH direction to the NE corner of this claim, hence 1500 feet in a WEST direction to the WN corner of this claim,

This claim is situated in the Tombstone Mining District, Cochise County, State of Arizona and shall be known as the SARA #5 Lode Mining Claim.

This claim lies in Section 10, 11, Township 22S and Range 23E

Located on the ground this 11 day of August, 1982.

Witnesses:

James C. Blankenship

Locator:

C.T. Henderson

STATE OF ARIZONA

COUNTY OF COCHISE

cc

16366

Witness my hand and seal  
Christine Rhodes  
County Recorder

Christine Rhodes  
Fee \$5.00

I hereby certify that the within instrument was recorded at the request of Jack A. Irvine, Tombstone, Ariz

DATE AUG 30 '82 - 11 10 AM  
INDEXED 1614  
PAGE 570-571

Filed  
Indexed  
Blotted



RECEIVED  
BLM AZ STATE OFFICE  
SEP 22 10 32 AM '82  
PHOENIX, ARIZONA

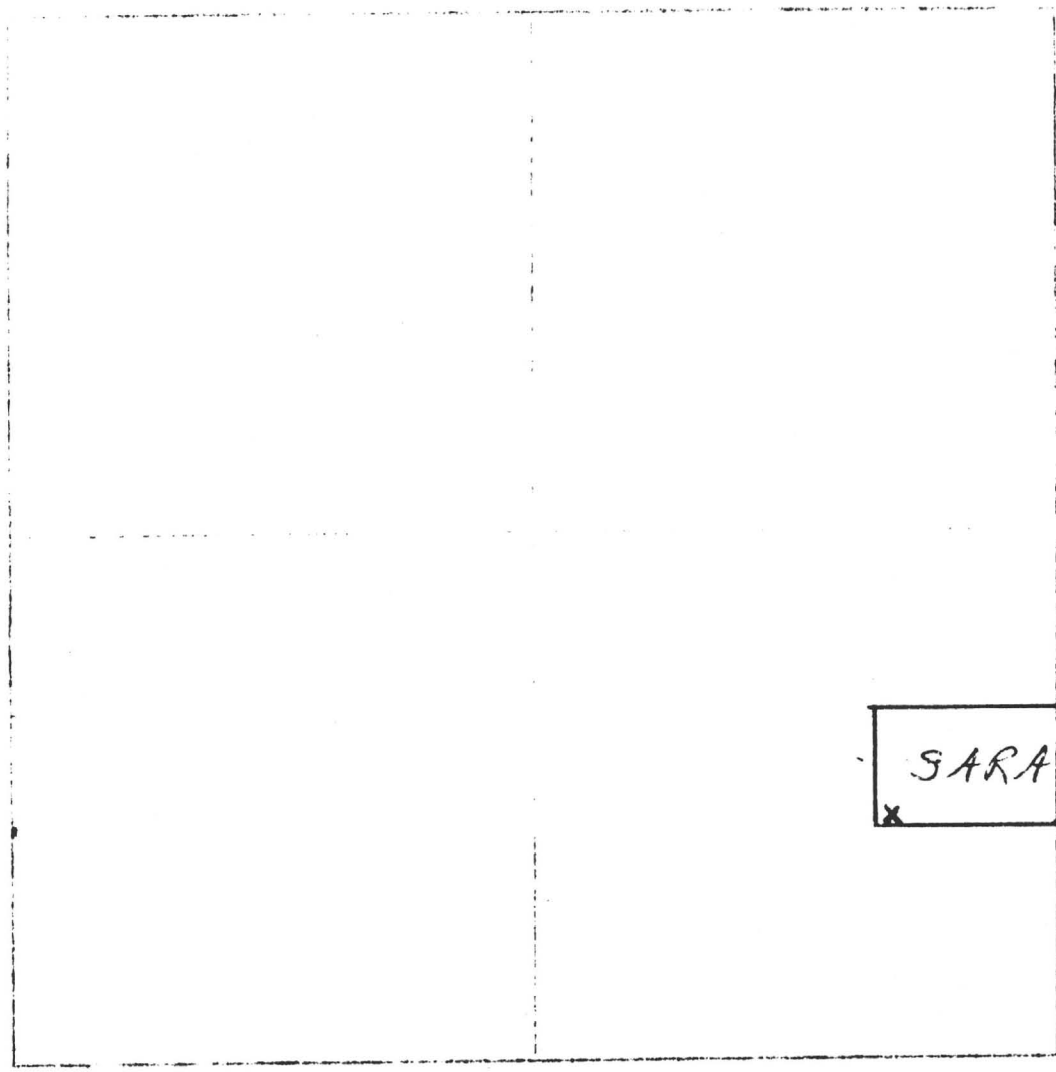
185821<sup>23</sup>

MAP  
SARA #5

Original Survey

↑

185821 AMC-185821



SARA #5  
x

Section 10, 11 Range 205 Township 22 E C. S. R. & M.

DKT. 1614  
Pg 571

Date August 11, 1982

C. T. Henderson

Name of Claim SARA #6

LOCATOR C.T. Henderson

\*\*\*\*\*LOCATION NOTICE\*\*\*\*\*

On this 11 day of August, 1982, under authority of the laws of the United States, and in compliance with the requirements of the statutes of the State of Arizona, the undersigned hereby give notice that (he, they) hereby locate and claim the following described mineral bearing ground:

Beginning at the monument where this notice is located, which is the SE corner of the claim, hence continuing 1500 feet in a WEST direction to the SW corner of this claim, hence 600 feet in a NORTH direction to the NW corner of this claim, hence 500 feet in a EAST direction to the NE corner of this claim.

This claim is situated in the Tombstone Mining District, Cochise County, State of Arizona and shall be known as the SARA #6 Lode Mining Claim.

This claim lies in Section 10, Township 20S and Range 22E.

Located on the ground this 11 day of August, 1982.

Witnesses:

Jack A. Irvine  
James O. Blankenship

Locator:

C.T. Henderson  
C.T. Henderson

STATE OF ARIZONA

COUNTY OF COCHISE

16367

Witness my hand and seal  
Christine Bimles  
County Recorder

Christine Bimles  
\$5.00

Deputy



Filed  
Indexed ✓  
Blotted

I hereby certify that the within instrument was recorded at the  
Tombstone, Arizona  
AUG 30 '82 - 11 10 AM  
16367  
572-573

RECEIVED  
B.L.M. AZ STATE OFFICE  
SEP 22 10 32 AM '82  
TOMBSTONE, ARIZONA

1029  
A MC 185822



25  
C 185822

# MAP SARA #6

One inch = One thousand feet

North Arrow

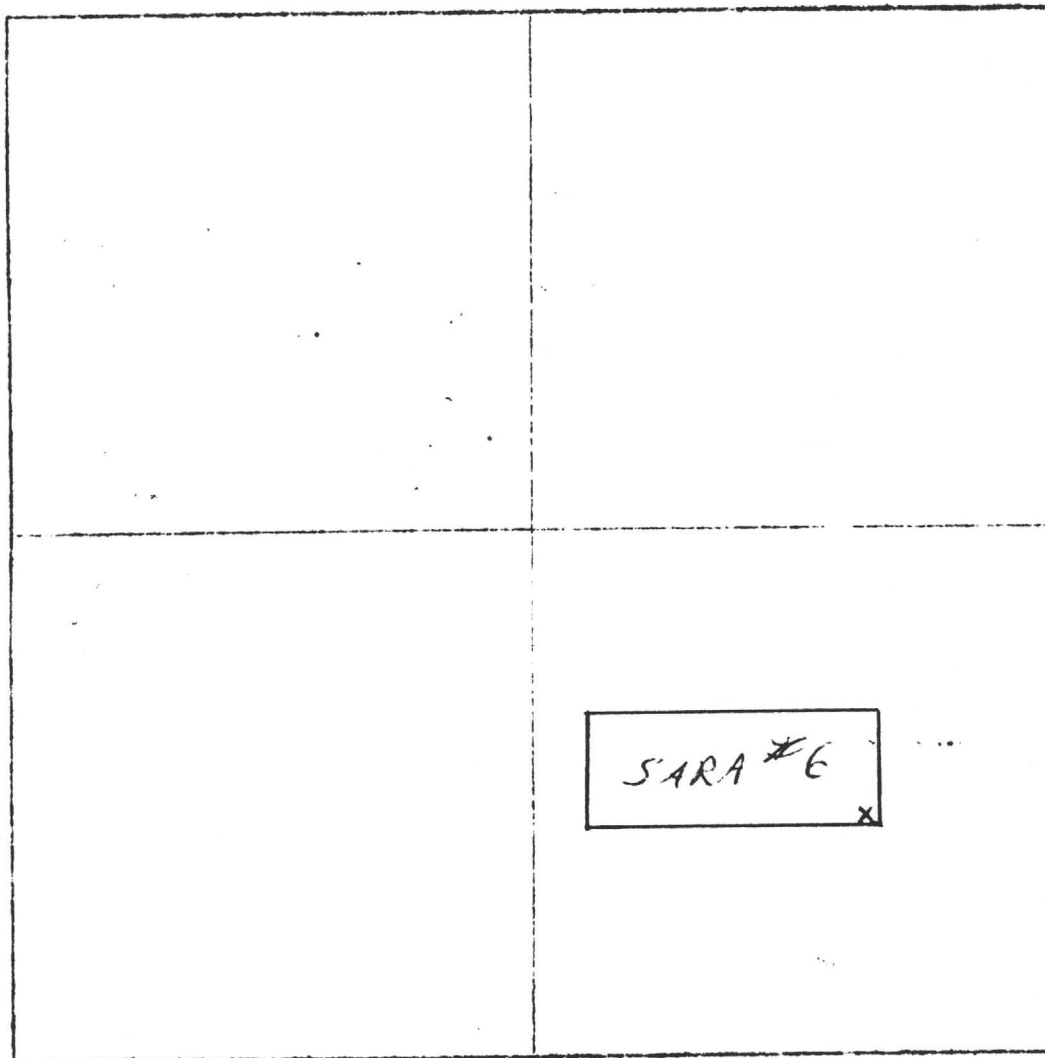


ONE MILE

AME - 185822

ONE MILE

640 ACRES



Section 10 Range 205 Township 22E G&SRB&M

DKT. 1614 P9 573

Date August 11, 1982

C. T. Henderson  
Signature

Name of Claim SARA #7

LOCATOR C.T. Henderson

\*\*\*\*\*LOCATION NOTICE\*\*\*\*\*

On this 11 day of August, 1982, under authority of the laws of the United States, and in compliance with the requirements of the statutes of the State of Arizona, the undersigned hereby give notice that (he, they) hereby locate and claim the following described mineral bearing ground:

Beginning at the monument where this notice is located, which is the SE corner of the claim, hence continuing 1500 feet in a WEST direction to the SW corner of this claim, hence 600 feet in a NORTH direction to the NW corner of this claim, hence 1500 feet in a EAST direction to the NE corner of this claim,

This claim is situated in the Tombstone Mining District, Cochise County, State of Arizona and shall be known as the SARA #7 Lode Mining Claim.

This claim lies in Section 16, 11, Township 20S and Range 22E.

Located on the ground this 11 day of August, 1982.

Witnesses:

Jack A. Quinn  
James C. Blankenship

Locator:

C.T. Henderson  
C.T. Henderson

STATE OF ARIZONA

COUNTY OF COCHISE

cc

Witness my hand and seal  
Christine Rhodes  
County Recorder

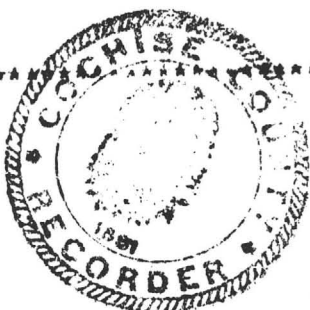
W. A. [Signature] Deputy  
Fee \$5.00

16363

I hereby certify that the within instrument was recorded at the request of Jack A. Quinn, Tombstone, Ariz.

DATE AUG 30 '82 - 11 10 AM  
Docket 1614  
Page 574-575

Filed  
Indexed 10/10/82  
Blotted



RECEIVED  
B.L.M. AZ STATE OFFICE  
22 10 32 AM '82  
TOMBSTONE, ARIZONA

185823 21

# MAP SARA #7

One inch = One thousand feet

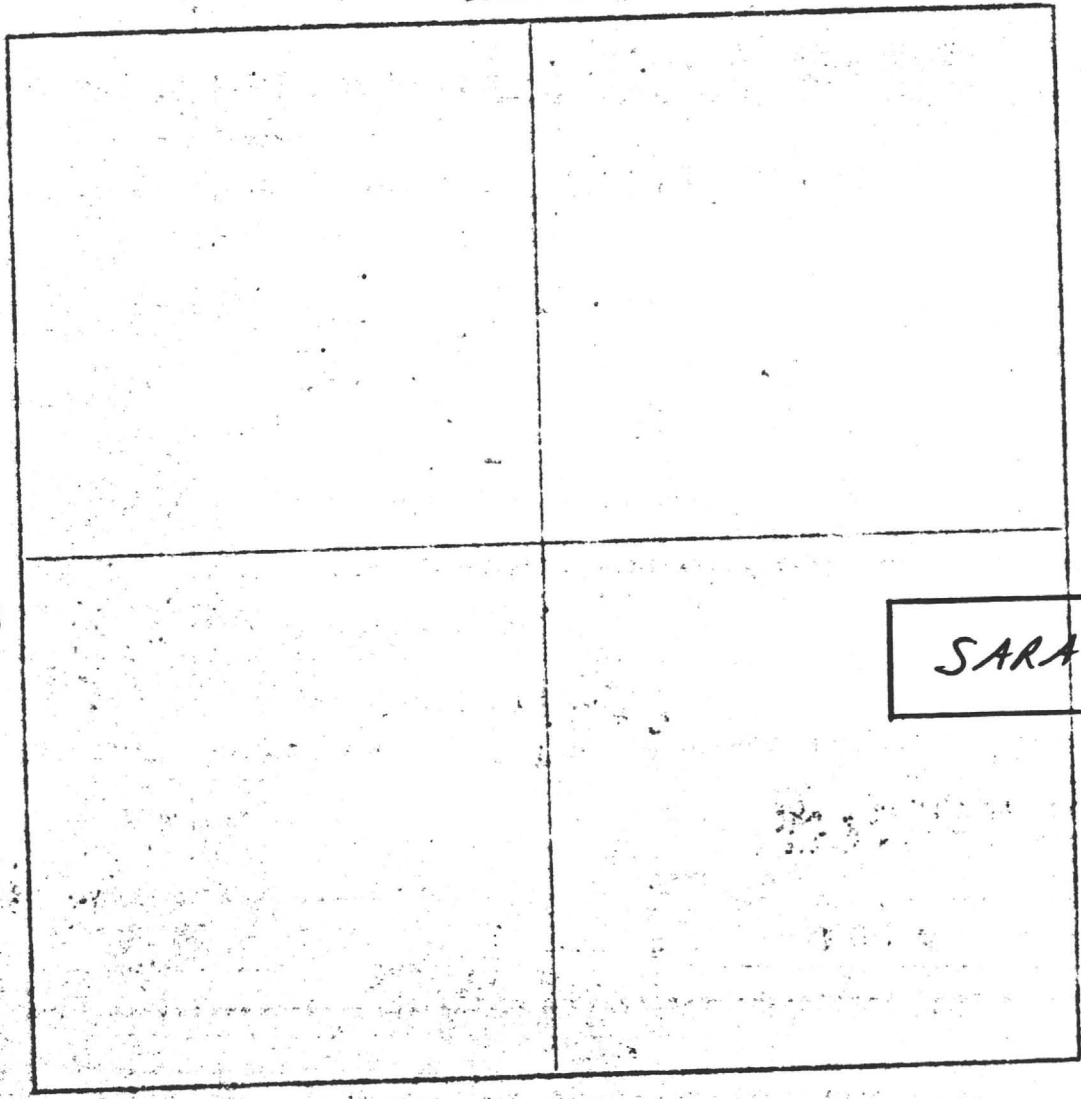
North Arrow



ONE MILE

Amc - 185-823

ONE MILE



640 ACRES

SARA #7  
x

Section 10, 11 Range 205 Township 22E G&SRB&M

DKT 1614 Pg 575

Date August 11, 1982

C. T. Henderson  
Signature

1028

Name of Claim SARA #8

LOCATOR C.T. Henderson

\*\*\*\*\*LOCATION NOTICE\*\*\*\*\*

A MC 185824

On this 11 day of August, 1982, under authority of the laws of the United States, and in compliance with the requirements of the statutes of the State of Arizona, the undersigned hereby give notice that (he, they) hereby locate and claim the following described mineral bearing ground:

Beginning at the monument where this notice is located, which is the SW corner of the claim, hence continuing 600 feet in a EAST direction to the SE corner of this claim, hence 1500 feet in a NORTH direction to the NE corner of this claim, hence 600 feet in a WEST direction to the NW corner of this claim.

This claim is situated in the Tombstone Mining District, Cochise County, State of Arizona and shall be known as the SARA #8 Lode Mining Claim.

This claim lies in Section 10, 11, Township 20S and Range 22E

Located on the ground this 11 day of August, 1982.

Witnesses:

Jack A. Durre  
James C. Blankenship

C.T. Henderson  
C.T. Henderson

STATE OF ARIZONA  
COUNTY OF COCHISE

Witness my hand and seal  
Christine Rhodes  
County Recorder

[Signature]  
Fee \$5.00

16363

I hereby certify that the within instrument was recorded at the request of Jack A. Durre Tombstone, Ariz.

DATE AUG 30 '82 - 11 10 AM  
Doc # 1614  
Page 576-577

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Indexed [initials]  
Blotted [initials]



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BLM. AZ STATE OFFICE  
SEP 22 10 32 AM '82  
PHOENIX, ARIZONA

029  
185824

MAP  
SARA #8

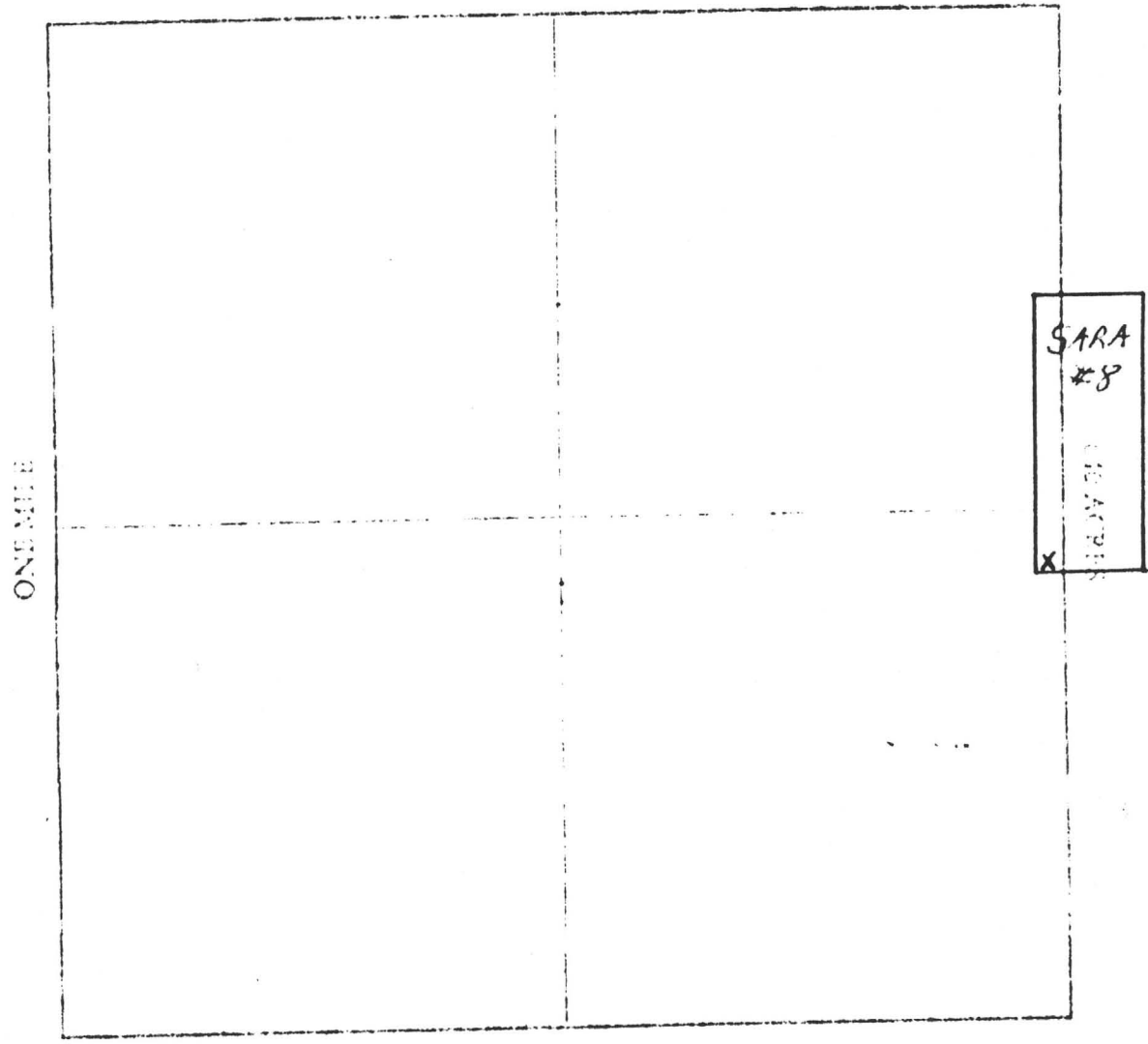
One inch = One thousand feet

North Arrow



ONE MILE

Amc - 185824



Section 10, 11 Range 20S Township 22E GSRBAM

DKT. 1614 pg 577

Date August 11, 1982

C. T. Henderson

Name of claim SARA #9

LOCATOR C.T. Henderson

\*\*\*\*\* LOCATION NOTICE \*\*\*\*\*

On the 11 day of August, 1982, under authority of the laws of the United States, and in compliance with the requirements of the statutes of the State of Arizona, the undersigned hereby give notice that (he, they) hereby locate and claim the following described mineral bearing ground:

Beginning at the monument where this notice is located, which is the SE corner of the claim, hence continuing 600 feet in a WEST direction to the SW corner of this claim, hence 1500 feet in a NORTH direction to the NW corner of this claim, hence 600 feet in a EAST direction to the NE corner of this claim.

This claim is situated in the Tombstone Mining District, Cochise County, State of Arizona and shall be known as the SARA #9 Lode Mining Claim.

This claim lies in Section 10, Township 20S and Range 22E.

Located on the ground this 11 day of August, 1982.

Witnesses:

Arthur J. Davis  
James C. Blankenship

Locator:

C.T. Henderson  
C.T. Henderson

STATE OF ARIZONA }  
COUNTY OF COCHISE } 16370

Witness my hand and seal  
Christine Rhodes  
County Recorder

[Signature] Deputy  
Fee 5.00

I hereby certify that the within instrument was recorded at the request of: Jeff A. Davis, Tombstone, AZ  
DATE AUG 30 '82 - 11 10 AM  
BOOK 1814  
PAGE 508-579

Filmed  
Indexed 1  
Blotted 1



RECEIVED  
B.L.M. AZ STATE OFFICE  
SEP 22 10 32 AM '82  
PHOENIX, ARIZONA

1030  
A MC 185825

185825-031

# MAP SARA #9

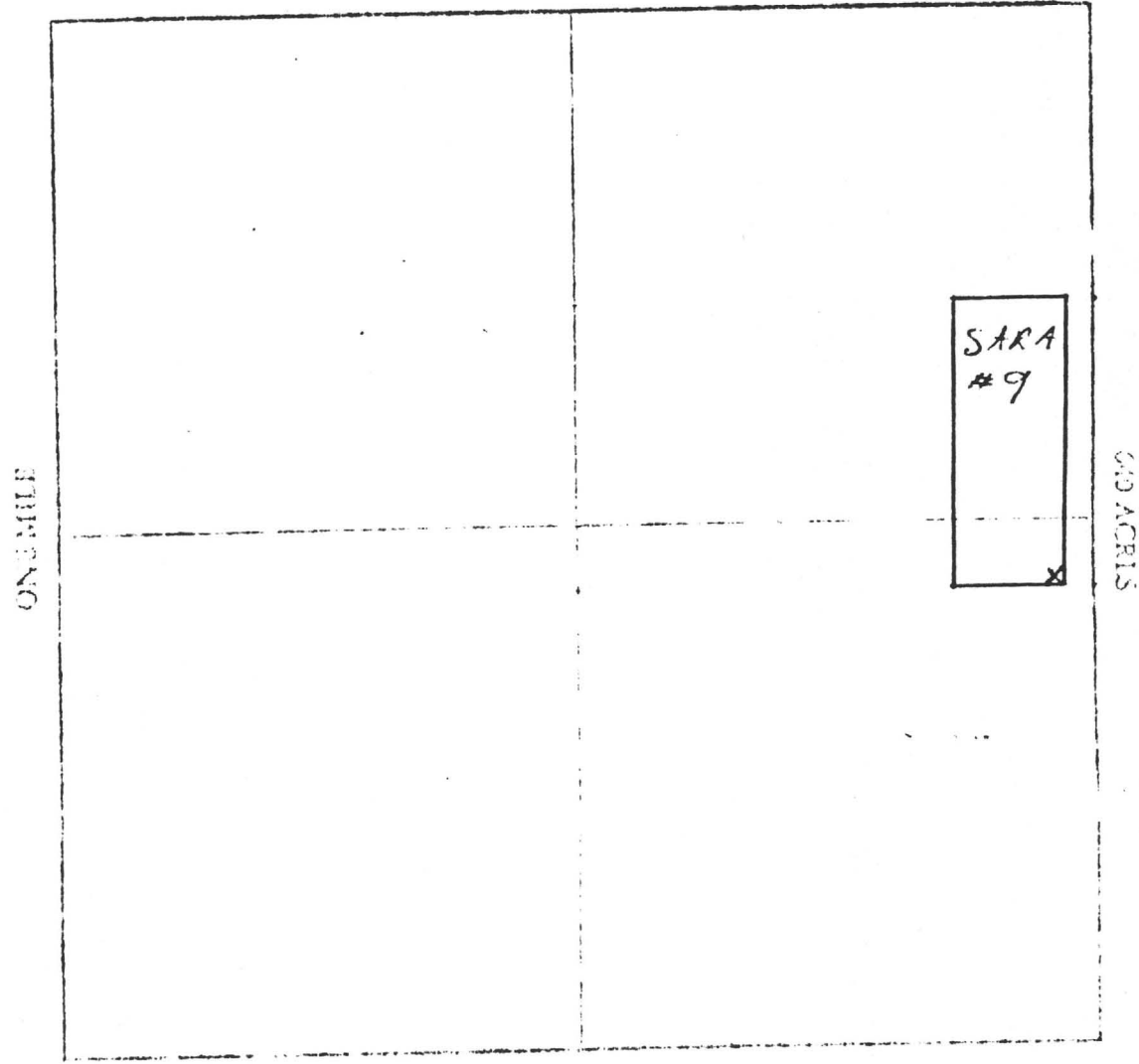
One inch = One thousand feet

North Arrow



ONE MILE

AME - 185825



Section 10 Range 20S Township 22E GASPEN M

• DK 1614 Pg 579

August 11, 1982

CT Henderson



When recorded mail to:  
Name: ANTHONY LANE & ASSOC. IN  
Street  
Address: P.O. BOX 326  
City: ARIVACA  
State & Zip Code: AZ 85601



FEE: 871229827  
OFFICIAL RECORDS  
COCHISE COUNTY  
DATE: 12/04/87  
HOUR: 1

REQUEST OF  
LANE, ANTHONY  
CHRISTINE RHODES-RECORDER  
FEE: 14.00 PAGES: 1

871229827

STATE OF ARIZONA  
COUNTY OF PIMA

ss.

LANE, ANTHONY  
1302 W. MONAHE  
TUCSON, AZ. 85705

PROOF OF LABOR

BEFORE ME, personally appeared ANTHONY LANE  
who being duly sworn, says: My current address is P.O. BOX 326  
ARIVACA, AZ 85601. My current residence is P.O. BOX 326  
ARIVACA, AZ 85601. Certain labor and/or improvements required  
by law were performed or made on or for the benefit of certain mining  
claim(s) located in COCHISE County, State of ARIZONA  
in the mining assessment year ending AUGUST 31, 1987, as  
reflected on Exhibit "A" hereto attached and made a part thereof and  
which comprises a group of contiguous claims.  
The work performed and/or improvements made consisted of the  
following: ROAD WORK  
MINE IMPROVEMENTS

The total fair and reasonable value thereof was \$900.00 or  
more, and the amount and value thereof on or for the benefit of each  
claim was \$100.00 or more. The name and address of the person who per-  
formed the labor or made the improvements, as known to me, are:

C.T. HENDERSON & WILLIAM HENDERSON  
P.O. BOX 1015 TOMBSTONE, AZ 85638

The Owners of the Mining Claim(s) are:  
C.T. HENDERSON

P.O. BOX 1015  
TOMBSTONE, AZ 85638

All monuments required by law have been erected and all notices  
required by law have been posted on each claim, or copies of such  
notices were in place on the claim on AUGUST 31, 1987.  
Also, on that date, each required corner monument bore or contained  
markings sufficient to designate the corner of the claim to which it per-  
tained and the name of the claim.

The above listed claim(s) is/are held and claimed by the Owner(s)  
or the undersigned (if he is entitled to possession thereof) for the  
valuable mineral contained therein.

Subscribed & sworn to on this  
16th day of November, 1987.

Thelma J. Stewart  
Notary Public

871229827

My Commission Expires: 3/27/89

(Signature)



EXHIBIT "A"

CLAIM NAME	BOOK	PAGE	A.M.C. #
SARA #1	1614	562	185811
SARA #2	1614	564	185818
SARA #3	1614	566	185819
SARA #4	1614	568	185870
SARA #5	1614	570	185821
SARA #6	1614	572	185822
SARA #7	1614	574	185823
SARA #8	1614	576	185824
SARA #9	1614	578	185825

All of the above claims are situated in the Tombstone Mining District,  
County of Cochise, State of Arizona, Township 20 South, Range 22 East,  
Sections 10 and 11, G. & S. & S. & M.

871229827

Recording requested by  
When recorded mail to  
Name: ANTHONY LANE & ASSOCIATES  
Street:  
Address: P.O. Box 326  
City: ARIVACA  
State & Zip Code: AZ. 85601



REQUEST OF  
ANTHONY LANE & ASSOCIATION  
CHRISTINE RHODES-RECORDER  
FEE: 14.00 PAGES: 2

STATE OF ARIZONA )  
COUNTY OF PIMA ) ss.

PROOF OF LABOR

BEFORE ME, personally appeared ANTHONY LANE  
who being duly sworn, says: My current address is P.O. BOX 326  
ARIVACA, AZ. 85601. My current residence is 4738 N. CAMINO AIRE  
FRESNO, TUCSON, AZ. 85705. Certain labor and/or improvements required  
by law were performed or made on or for the benefit of certain mining  
claim(s) located in COCHISE County, State of  
in the mining assessment year ending AUGUST 31, 1986, as  
reflected on Exhibit "A" hereto attached and made a part thereof and  
which comprises a group of contiguous claims.

The work performed and/or improvements made consisted of the  
following:

MINE IMPROVEMENTS AND ROAD WORK

The total fair and reasonable value thereof was \$900.00, or  
more, and the amount and value thereof on or for the benefit of each  
claim was \$100.00 or more. The name and address of the person who per-  
formed the labor or made the improvements, as known to me, are:

C.T. HENDERSON, T.S. HENDERSON AND WILLIAM HENDERSON  
3311 WEST CAMELBACK -- PHOENIX, AZ. 85017

The Owners of the Mining Claim(s) are:

C.T. HENDERSON  
P.O. BOX 1015  
TOMBSTONE, AZ. 85638

All monuments required by law have been erected and all notices  
required by law have been posted on each claim, or copies of such  
notices were in place on the claim on AUGUST 31, 1986.  
Also, on that date, each required corner monument bore or contained  
markings sufficient to designate the corner of the claim to which it per-  
tained and the name of the claim.

The above listed claim(s) is/are held and claimed by the Owner(s)  
or the undersigned (if he is entitled to possession thereof) for the  
valuable mineral contained therein.

Subscribed & sworn to me this  
4th day of November, 1986.

Thelma J. Stewart  
Notary Public

(Signature)

My Commission Expires: 3/27/1989

861125689



## EXHIBIT "A"

CLAIM NAME	BOOK	PAGE	A.M.C. #
SARA #1	1614	562	185817
SARA #2	1614	564	185818
SARA #3	1614	566	185819
SARA #4	1614	568	185820
SARA #5	1614	570	185821
SARA #6	1614	572	185822
SARA #7	1614	574	185823
SARA #8	1614	576	185824
SARA #9	1614	578	185825

All of the above claims are situated in the Tombstone Mining District,  
County of Cochise, State of Arizona, Township 20 South, Range 22 East,  
Sections 10 and 11, G. & S.R.B. & M.

861125689

Name of Claim Sara #1 Millsite A 186726

LOCATOR William E. and Betty M. G. G. #1

B.L.M. AZ STATE OFFICE

\*\*\*\*\*LOCATION NOTICE\*\*\*\*\*

OCT 20 1 57 PM '82

On this 12 day of August, 1982, under authority of the laws of the United States, and in compliance with the requirements of the statutes of the State of Arizona, the undersigned hereby give notice that (he, they) hereby locate and claim the following described mineral bearing ground:

Beginning at the monument where this notice is located, which is the NE corner of the claim, hence continuing 500 feet in a Southerly direction to the SE corner of this claim, hence 500 feet in a Southwesterly direction to the SW corner of this claim, hence 500 feet in a Northerly direction to the NW corner of this claim,

This claim is situated in the Tombstone Mining District, Cochise County, State of Arizona and shall be known as the Sara #1 Mill Site Lode Mining Claim.

This claim lies in Section 15, 10, Township 20.5 and Range 22E.

Located on the ground this 12 day of August, 1982.

Witnesses:

Arthur J. Irvine  
John Henderson

Locator:

Jack A. Irvine  
Agent

3207 N. 48th Dr  
Phoenix AZ 85031



STATE OF ARIZONA

COUNTY OF COCHISE

cc

15313

Witness my hand and seal  
Christine Rhodes  
County Recorder

Christine Rhodes Deputy

Fee \$10

I hereby certify that the within instrument was recorded at the request of: Wm. E. Irvine

DATE AUG 12 82 - 1:40 PM

Docket 1611

Page 363-364

Filed 12  
Indexed 12  
Blotted 12

3207 N. 48th Dr.

# MAP

One inch = One thousand feet

North Arrow

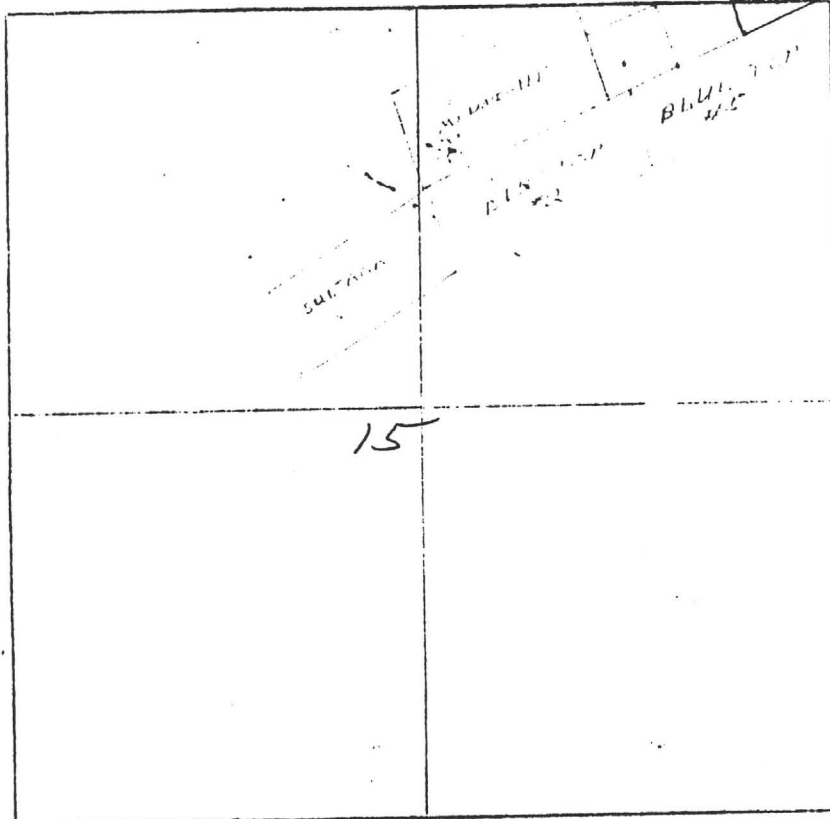


SANA #1 Millsite

ONE MILE

ONE MILE

10 ACRES



Section 15 Range 20S Township 22E G&SRI&M

Date August 12, 1982

Jack A. Duvern  
Signature

Name of Claim Sara #2 Mill Site A MC 186727

LOCATOR WILLIAM E. AND BETTE M. GRAFF

\*\*\*\*\* LOCATION NOTICE \*\*\*\*\*  
B.L.M. STATE OFFICE

OCT 20 1 57 PM '82

On this 12 day of August, 1982, under authority of the laws of the United States, and in compliance with the requirements of the statutes of the State of Arizona, the undersigned hereby give notice that (he, they) hereby locate and claim the following described mineral bearing ground:

Beginning at the monument where this notice is located, which is the SE corner of the claim, hence continuing 500 feet in a Southwesterly direction to the SW corner of this claim, hence 500 feet in a Westerly direction to the NW corner of this claim, hence 500 feet in a Northeasterly direction to the NE corner of this claim,

This claim is situated in the Tombstone Mining District, Cochise County, State of Arizona and shall be known as the Sara #2 Mill Lode Mining Claim. Site

This claim lies in Section 10, Township 20S and Range 22E.

Located on the ground this 12 day of August, 1982.

Witnesses:

Cynthia Rhodes  
John Rhodes

Locator:

Jack A. Lewis  
Agent



STATE OF ARIZONA }  
COUNTY OF COCHISE }

cc

15314

Witness my hand and seal  
Christine Rhodes  
County Recorder

Christine Rhodes Deputy

Fee \$5.00

I hereby certify that the within instrument was recorded at the request of: William E. and Bette M. Graff

But 968 Resolution (85628)

DATE AUG 12 '82 - 1 40 PM

Docket 1611

Page 365 366

Filed 12  
Indexed 12  
Blotted 12

# MAP

1474

One inch = One thousand feet

North Arrow



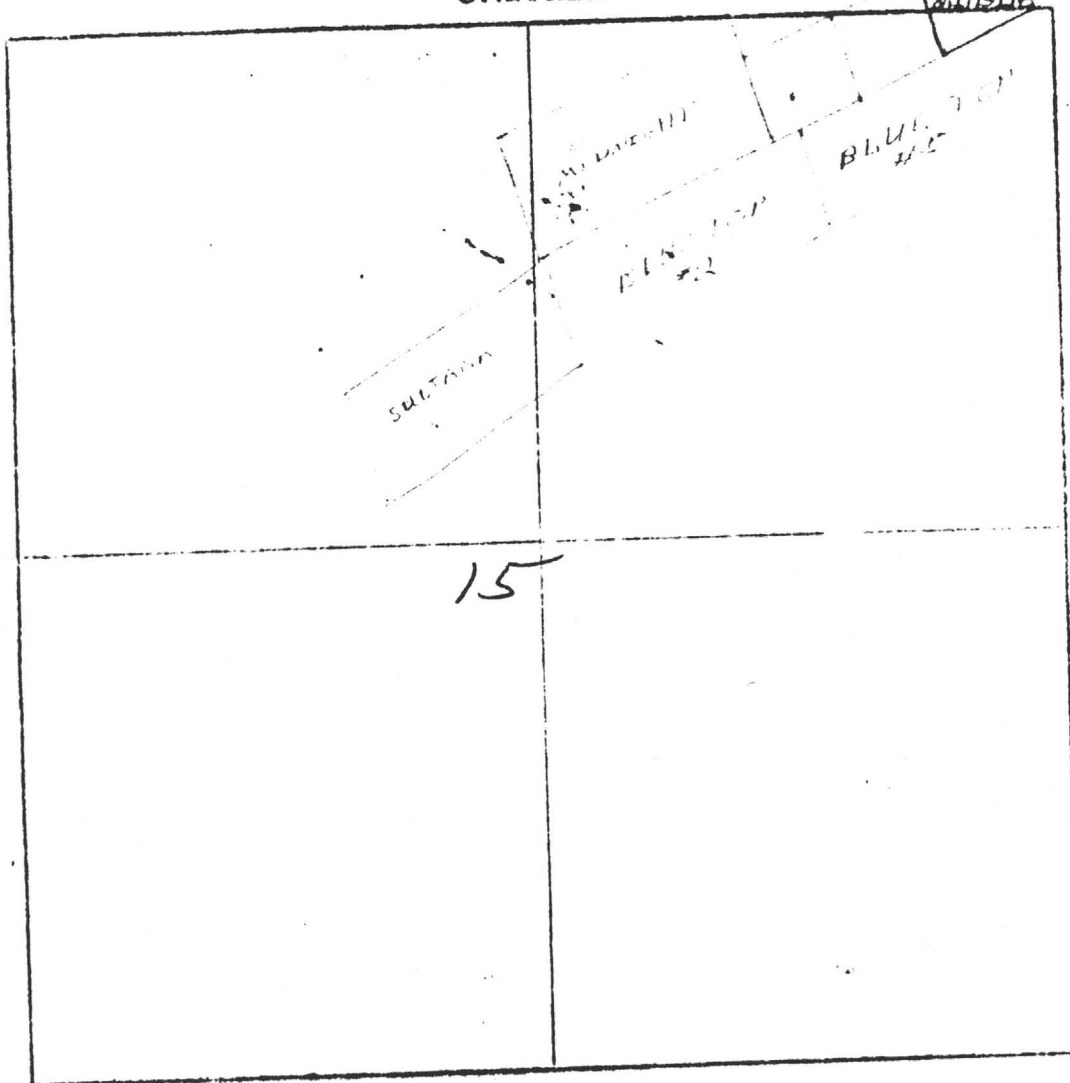
SANA #1 Mill site

Ame #186726

ONE MILE

ONE MILE

640 ACRES



Section 15 Range 20S Township 22E G&SR&M

OKT. 1611 Pg 364

Date August 12, 1982

Jack A. Duwene  
Signature



# MAP

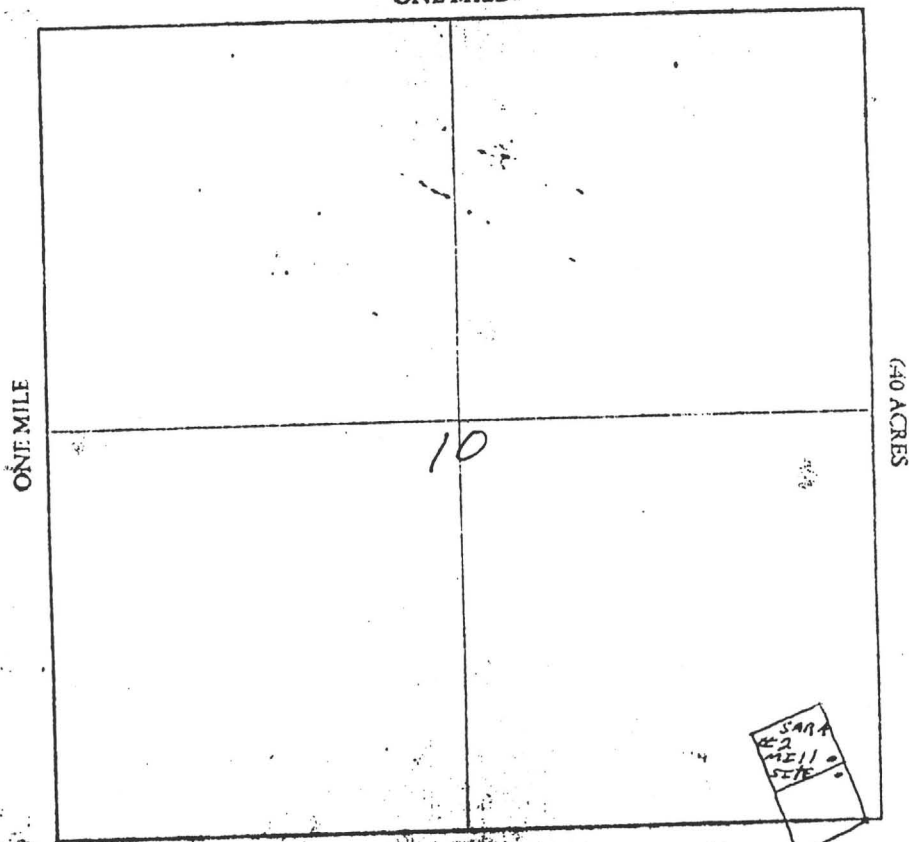
One inch = One thousand feet

North Arrow



SARA #2 MILL SITE

ONE MILE



Section 10 Range 205 Township 22 E G&SR&M

Date August 12, 1982

Jack A. Dwyer  
Signature

NOV 24 1986  
82  
SM

NOTICE OF INTENT TO HOLD MINING CLAIMS AND/OR MILLSITES

STATE OF ARIZONA )  
 ) ss.  
COUNTY OF COCHISE )

The undersigned, the owner of the mining claims and/or millsites described herein, or a duly authorized Agent thereof, does hereby provide notice pursuant to Section 314(a) of the Federal Land Policy and Management Act of 1976 and 43 C.F.R. § 3833.2-3 of its intention to hold for the assessment year ending AUGUST 31, 19 86 group of contiguous mining claims and/or millsites in the TOMBSTONE Mining District, COCHISE County, State of ARIZONA, Township(s) 20 SOUTH, Range(s) 22 EAST, Section(s) 10 and 15 G. & S.R.B. & M., which claims and/or millsites are shown in the records of the ARIZONA State Office of the Bureau of Land Management as follows:

Name of  
Claim &/or Millsite

A.M.C. #

Address of  
Owner &/or Agent's

SARA #1 MILLSITE

186726

WILLIAM GRAED  
BETTY GRAED  
3207 N. 48th DRIVE  
PHOENIX, AZ. 85031

SARA #2 MILLSITE

ANTHONY LANE & ASSOC., INC.  
AGENT  
P.O. BOX 326  
ARIVACA, AZ. 85601

The mailing address of the owner of the claims and/or millsites or Agent's is as shown above.

The claims and/or millsites are held and claimed by the Owner for the valuable mineral contained therein, and the owner intends to continue development of the claims and/or millsites.

An Affidavit of Annual Assessment Work has not been filed because: (check one)

- ( ) a. No Assessment Work is required for the period commencing on the date of location until the following September 1.  
( ) b. The Owner did not perform Annual Assessment Work.  
( ) c. The Owner has been prevented from the performance of

861125681

Annual Assessment Work by physical, legal or other  
impediments beyond the control of the owner and deferment  
of Assessment Work has not been granted pursuant to 30  
U.S.C.A. § 28b. Such application was recorded on \_\_\_\_\_  
\_\_\_\_\_, in the Office of the Recorder of  
\_\_\_\_\_, County, State of \_\_\_\_\_  
in Book \_\_\_\_\_ on Page(s) \_\_\_\_\_

( ) d. A period of suspension has been authorized by Statute  
for the assessment year for which this Notice of Intent  
to Hold Mining Claims and/or Millsites is filed.

(X) e. No Assessment is required.

DATED this 20<sup>th</sup> day of November, 1986.

By: *Anthony Lane*

On this 20<sup>th</sup> day of November, 1986,  
before me, the undersigned Notary Public, personally appeared  
Anthony Lane, known to be, or satisfactorily proven  
to be, the person whose name is above subscribed.

IN WITNESS WHEREOF, I hereby set my Hand and Official  
Seal.

*Thelma D. Stearns*  
Notary Public

My Commission expires:

3/27/89



FEE # 861125681  
OFFICIAL RECORDS  
COCHISE COUNTY  
DATE HOUR  
11/24/86 10

REQUEST OF  
ANTHONY LANE & ASSOCIATION  
CHRISTINE RHODES-RECORDER  
FEE : 9.00 PAGES : 2

861125681  
ANTHONY LANE & ASSOCIATION  
BOX 326  
ARIVACA, AZ. 85601

861125681



DEC 1 1987  
H2

NOTICE OF INTENT TO HOLD MINING CLAIMS AND/OR MILLSITES

STATE OF ARIZONA )  
COUNTY OF COCHISE )

The undersigned, the owner of the mining claims and/or millsites described herein, or a duly authorized Agent thereof, does hereby provide notice pursuant to Section 314(a) of the Federal Land Policy and Management Act of 1976 and 43 C.F.R. § 3833.2-1 of its intention to hold for the assessment year ending AUGUST 31, 19 87, a group of contiguous mining claims and/or millsites in the TOMBSTONE Mining District, COCHISE County, State of ARIZONA, Township(s) 20 SOUTH Range(s) 22 EAST, Section(s) 10 & 15 G. & S.R.B. & M., which claims and/or millsites are shown in the records of the ARIZONA State Office of the Bureau of Land Management as follows:

Name of Claim &/or Millsite	A.M.C. #	Address of Owner &/or Agent's
SARA #1 MILLSITE	186726	WILLIAM GRAED
SARA #2 MILLSITE		BETTY GRAED
		3207 N. 48th DRIVE
		PHOENIX AZ 85031
		ANTHONY LANE & ASSOC. INC.
		AGENT
		P.O. BOX 326
		ARIVACA AZ 85601

The mailing address of the owner of the claims and/or millsites, or Agent's is as shown above.

The claims and/or millsites are held and claimed by the Owner for the valuable mineral contained therein, and the owner intends to continue development of the claims and/or millsites.

An Affidavit of Annual Assessment Work has not been filed because: (check one)

- ( ) a. No Assessment Work is required for the period commencing on the date of location until the following September 1.
- ( ) b. The Owner did not perform Annual Assessment Work.
- ( ) c. The Owner has been prevented from the performance of

871229834



Annual Assessment Work by physical, legal or other  
impediments beyond the control of the owner and deferment  
of Assessment Work has not been granted pursuant to 30  
U.S.C.A. § 28b. Such application was recorded on \_\_\_\_\_  
in the Office of the Recorder of

County, State of \_\_\_\_\_  
in Book \_\_\_\_\_ on Page(s) \_\_\_\_\_

- ( ) d. A period of suspension has been authorized by Statute  
for the assessment year for which this Notice of Intent  
to Hold Mining Claims and/or Millsites is filed.  
(X) e. No Assessment is required.

DATED this 16 day of November, 19 87.

By: [Signature]

On this 16 day of November, 19 87,  
before me, the undersigned Notary Public, personally appeared  
Anthony Lane, known to be, or satisfactorily proven  
to be, the person whose name is above subscribed.

IN WITNESS WHEREOF, I hereby set my Hand and Official  
Seal.

[Signature]  
Notary Public

My Commission expires:

3/27/89



FEE # 871229834  
OFFICIAL RECORDS  
COCHISE COUNTY  
DATE 12/84/87 HOUR 1  
REQUEST OF  
LANE, ANTHONY  
CHRISTINE RHODES-RECORDER  
FEE \$ 9.00 PAGES 1 2

871229834  
LANE, ANTHONY  
1382 W MONAUE  
TUCSON AZ. 85705

871229834

SILVER PLATE  
GROUP

98109 1032

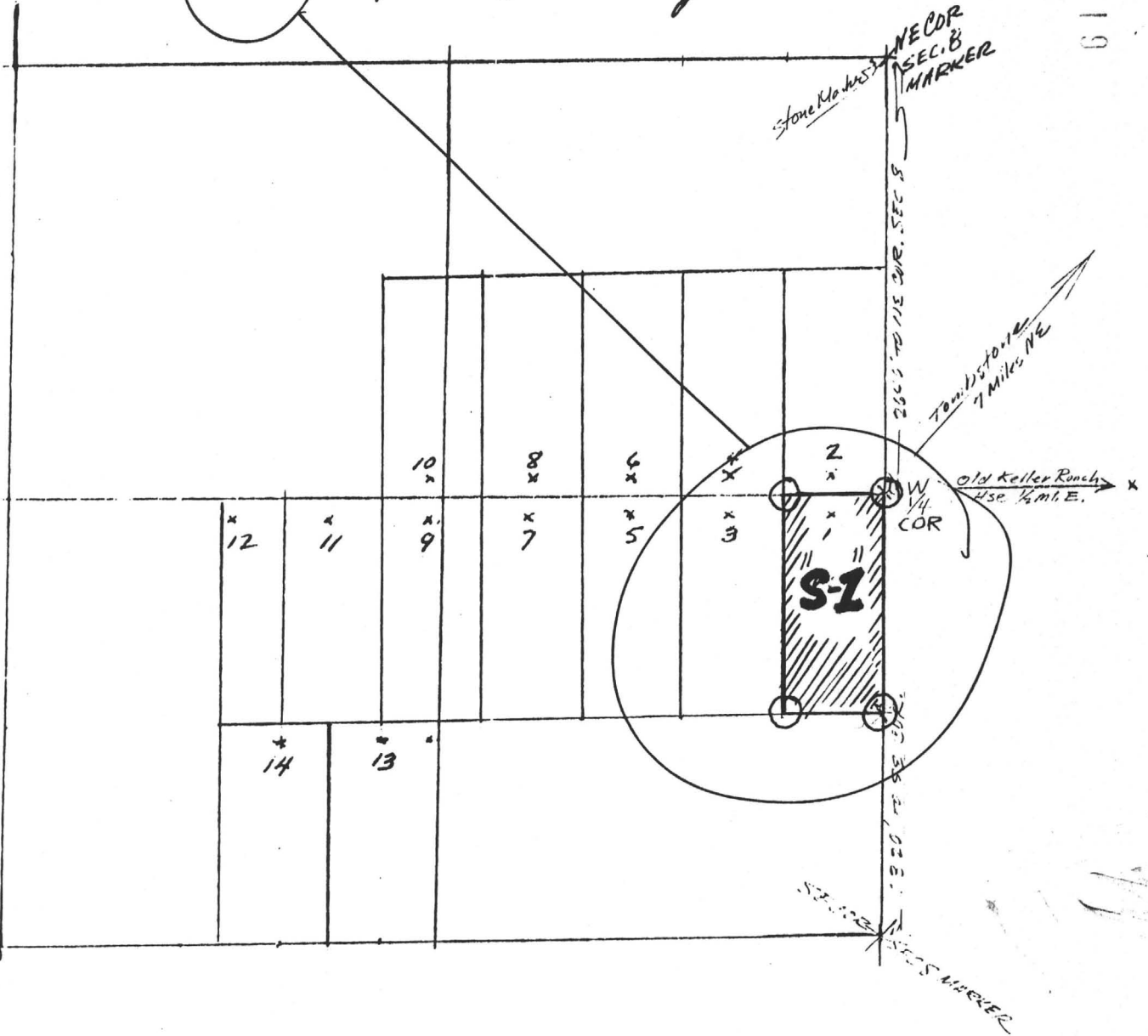
N

CLAIMS MAP - SILVERPLATE GRP. #1-14

SEC. 8 TWP. 21 S RGE. 22 E

CLAIM # **S-1**

DWIGHT Gordon Jack Brankam





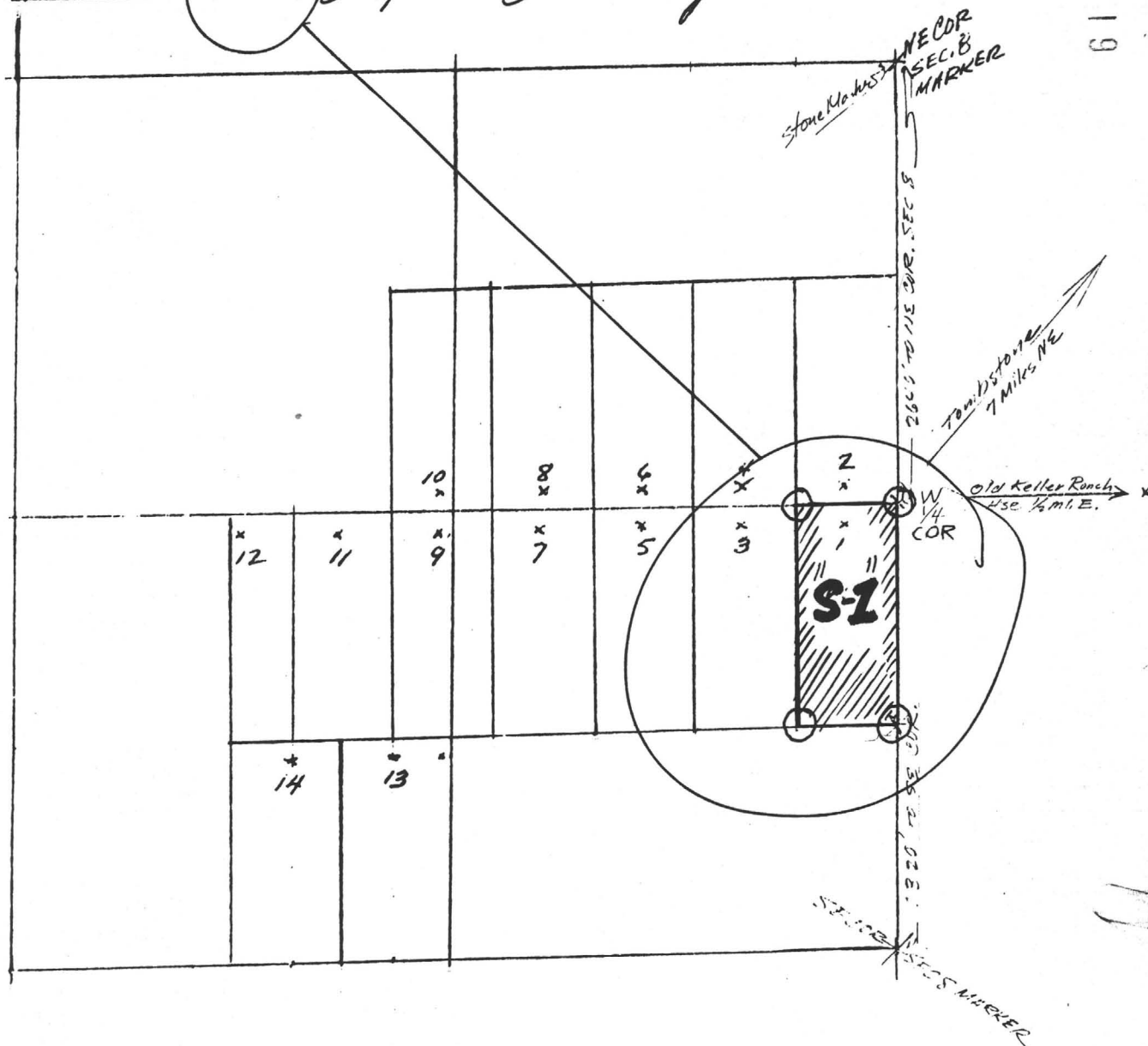
98019

98019

SEC. 8 TWP. 21 S RGE. 22 E

CLAIM # **3-1**

18 RGE.22E  
Dugwell # Gordon Jack Brandon

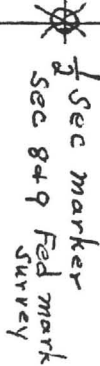


MC 209350

2.

SILBERPATE.

07.45 A.M.  
PHOENIX, ARIZONA



This is an add on of 2 claims  
To Silverplate Group 1-14

STATE OF ARIZONA,  
County of COCHISE

I hereby certify that the within instrument was filed and recorded

Fee No. 5968

In Docket No. 1408

Page 1, at the request of

Dugald F. Gordon

Indexed:

Compared:

Photostated:

Fee: \$

When recorded mail to:

Witness my hand and official seal.



CHRISTINE RHODES

County Recorder

Deputy Recorder

## NOTICE OF MINING CLAIM LOCATION

1. ☒ Location

☐ Amendment

☐ Relocation

2. ☐ Placer

☒ Lode

☐ Millsite

3. The name and address of the Locators:

DUGALD F. GORDON, PO BOX 878, TOMBSTONE, AZ 85638

AND JACK BRANHAM, PO BOX 1074, TOMBSTONE, AZ 85638

4. The name of the claim is SILVERPLATE NO. 1

5. The date of the location is MARCH 12, 1980

6. The claim is 1320 feet long and 400 feet wide. The distance from the Location monument to each end of the claim is 20 feet in a NORTHERLY direction and 1300 feet in a SOUTHERLY direction.

7. The general course of the claim is from the NORTH to the SOUTH

8. The location of the claim is in Section 8, Township 21 S, Range 22 E  
G&SRB&M, TOMBSTONE Mining District, COCHISE County, Arizona.

9. If amending or relocating, the previous claim name was

recorded in Docket

Book

Mining District, County, Arizona.

10. The location of the claim with reference to a natural object or permanent monument is 2690'

SOUTH FROM NE COR SEC 8 TO NE COR OF SILVERPLATE  
NO. 1. THENCE 1320'S TO SE COR THENCE 600' TO SW  
COR THENCE 1320' N (ON LINE COMMON TO E SIDE LINE  
S#3) TO NW COR THENCE 600' E TO NE COR.  
SEE ATTCHD CLAIMS MAP. SILVERPLATE GRUP. CLAIM  
OF  
S1 IS 1/2 MILE WARD KELLER RANCH HOUSE, PROX  
7 MI. SEASTERLY FROM TOMBSTONE, AZ.

Date

3/12/80

WITNESS

Dugald F. Gordon

Jack Branham

Signature

1408

1

STATE OF ARIZONA  
County of COCHISE

I hereby certify that the within instrument was filed and recorded  
ss. MAR 14 '80 12 15 PM, 19 at M.

Fee No.: 5969

In Docket N~~1~~ 408, Page 3-4 at the request of Dwight F. Gordon  
Tombstone, Ariz. 85638

Witness my hand and official seal.

When recorded mail to:



CHRISTINE RHODES  
County Recorder

By J. Wasy  
Deputy Recorder

Indexed:

Compared:

Photostated: 2

Fee: \$

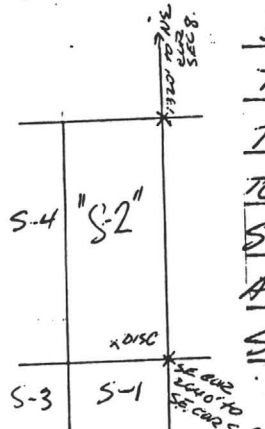
## NOTICE OF MINING CLAIM LOCATION

1. ☒ Location ☐ Amendment ☐ Relocation  
2. ☐ Placer ☒ Lode ☐ Millsite  
3. The name and address of the Locator

RECEIVED  
MAR 17 1980  
PHOTOGRAPHIC  
B  
DUGALD F. GORDON, PO BOX 878, TOMBSTONE, AZ 85638  
AND  
JACK BRANHAM, PO BOX 1074, TOMBSTONE, AZ 85638

4. The name of the claim is SILVERPLATE #2 (S2)  
5. The date of the location is MAR 12, 1980  
6. The claim is 1320 feet long and 600 feet wide. The distance from the Location monument to each end of the claim is 20 feet in a SOUTHERLY direction and 300 feet in a NORTHERLY direction.  
7. The general course of the claim is from the NORTH to the SOUTH  
8. The location of the claim is in Section 8, Township 21S, Range 22E  
G&SRB&M, TOMBSTONE Mining District, COCHISE County, Arizona.  
9. If amending or relocating, the previous claim name was \_\_\_\_\_  
\_\_\_\_\_ recorded in Docket \_\_\_\_\_, Book \_\_\_\_\_  
\_\_\_\_\_ Mining District, \_\_\_\_\_ County, Arizona.

10. The location of the claim with reference to a natural object or permanent monument is 1320'  
S FROM NE COR. SEC 8 TO NE COR. OF SILVERPLATE #2.  
THENCE 1320'S TO SE COR; THENCE 600' W TO SW COR.  
THENCE 1320' N (ON LINE COMMON TO E. SIDELINE OF S#4  
TO NW COR; THENCE 600'E TO NE COR.  
S#2 IS APPROX. 1/2 Miles W of Old Keller Ranch Hse  
AND APPROX 7 MILES South-east of Tombstone.  
S End Line is Common to N end line of S#1.



Date

4/17/80

WITNESS

Dwight F. Gordon  
Jack Branham

Signature

STATE OF ARIZONA  
County of COCHISE

I hereby certify that the within instrument was filed and recorded  
MAR 14 '80 - 12 15 PM, 19\_\_ at \_\_ M.

Fee No.:  
5970

In Docket No. 1408, Page 5-6, at the request of Dugald F. Gordon  
Tombstone, Arizona

Indexed:

Compared:

Photostated: Q

Fee: \$ 3.00

When recorded mail to:

Witness my hand and official seal.



CHRISTINE RHODES

County Recorder

Deputy Recorder

## NOTICE OF MINING CLAIM LOCATION

1. ☒ Location ☐ Amendment ☐ Relocation  
2. ☐ Placer ☒ Lode ☐ Millsite  
3. The name and address of the Locators:

DUGALD F. GORDON, PO BOX 878, Tombstone, AZ 85638.

JACK BRANHAM, PO BOX 1074, Tombstone, AZ 85638

RECEIVED  
AT STATE OFFICE  
MAR 13 10 43  
PHOENIX, ARIZ.

4. The name of the claim is SILVER PLATE #3 (S-3)

5. The date of the location is MAR 12, 1980

6. The claim is 1320 feet long and 600 feet wide. The distance from the Location monument to each end of the claim is 20 feet in a Northerly direction and 1300 feet in a Southerly direction.

7. The general course of the claim is from the North to the South

8. The location of the claim is in Section 8, Township 21 S, Range 22 E

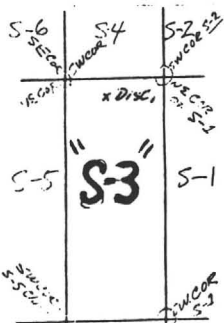
G&SRB&M, Tombstone Mining District, Cochise County, Arizona.

9. If amending or relocating, the previous claim name was \_\_\_\_\_

recorded in Docket \_\_\_\_\_, Book \_\_\_\_\_

\_\_\_\_\_ Mining District, \_\_\_\_\_ County, Arizona.

10. The location of the claim with reference to a natural object or permanent monument is WEST



OF SILVER PLATE NO 1; NE COR TIES TO SW COR OF CLAIM  
"S-2"; SE COR TIES TO SW COR OF "S-1" CLAIM; AND  
SW COR TIES TO SE COR OF "S-5"; NW COR TIES WITH SE COR  
OF "S-8". "S-3" CLAIM IS 1/2 MILE WEST OF OLD KELLER RANCH HSE.  
APPROX 7 MILES SW OF TOMBSTONE, AZ. NE COR  
IS 600' W OF E 1/4 COR, SEC. 8, T21S R22E.

Date

3/12/80

Jarvis Vincent

Dugald F. Gordon

Jack Branham

Signature

STATE OF ARIZONA,  
County of COCHISE  
In Docket No. 1408

I hereby certify that the within instrument was filed and recorded  
MAR 14 '80 - 12 15 PM, 1980, at Tombstone, Arizona  
Page 7-8, at the request of Dwight F. Gordon

When recorded mail to:



CHRISTINE RHODES

County Recorder

Deputy Recorder

Fee No.:

5971

Indexed:

Compared:

Photostated:

Fee: \$3.00

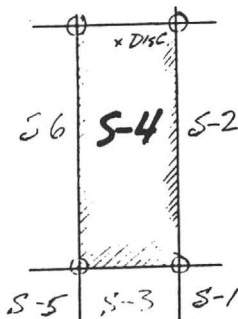
## NOTICE OF MINING CLAIM LOCATION

1. ☒ Location ☐ Amendment ☐ Relocation  
2. ☐ Placer ☒ Lode ☐ Millsite  
3. The name and address of the Locators:

RECEIVED  
B. P. A. Z. STATE OFFICE  
MAR 18 10  
PHOENIX, ARIZONA  
Dwight F. Gordon, PO Box 878, Tombstone, AZ 85638  
Jack Branham, PO Box 1074, Tombstone, AZ 85638

4. The name of the claim is SILVERPLATE No. 4  
5. The date of the location is MAR 12, 1980  
6. The claim is 1320 feet long and 600 feet wide. The distance from the Location monument to each end of the claim is 20 feet in a Southerly direction and 1300 feet in a Northerly direction.  
7. The general course of the claim is from the NORTH to the SOUTH  
8. The location of the claim is in Section 8, Township 21S, Range 22E  
G&SRB&M, Tombstone Mining District, Cochise County, Arizona.  
9. If amending or relocating, the previous claim name was \_\_\_\_\_  
\_\_\_\_\_ recorded in Docket \_\_\_\_\_, Book \_\_\_\_\_  
\_\_\_\_\_ Mining District, \_\_\_\_\_ County, Arizona.

10. The location of the claim with reference to a natural object or permanent monument is: WEST  
OF "S-2"; NE COR TIES TO NW COR S-2; AND SE COR  
COR TIES TO SW COR OF S-2; AND SW COR TIES WITH  
NE OF "S-5" AND S-E COR OF "S-6." BOUNDED ON E  
BY S-2, S. BY "S-3", W BY "S-6." IT IS 1/2 MILE W  
OF Old Keller Ranch Hse & approx. 7 Miles SW  
OF Tombstone, AZ. "SILVERPLATE GROUP TIES  
TO NE COR (SEC 8) - GOVT SURVEY STONE MARKER



Date

3/12/80

James Jenson  
WITNESS

Dwight F. Gordon  
Signature

Signature



STATE OF ARIZONA,  
County of COCHISE

I hereby certify that the within instrument was filed and recorded

Fee No.: 5972

ss. MAR 14 '80 12 15 PM, 19 at M.  
In Docket # 408, Page 9-10, at the request of DUGALD F. GORDON

When recorded mail to:



CHRISTINE RHODES

County Recorder

Deputy Recorder

Indexed:

Compared:

Photostated:

Fee: \$3.00

## NOTICE OF MINING CLAIM LOCATION

1. ☒ Location ☐ Amendment ☐ Relocation  
2. ☐ Placer ☒ Lode ☐ Millsite  
3. The name and address of the Locators:

DUGALD F. GORDON, PO BOX 878, Tombstone, AZ 85638  
AND  
JACK BRANHAM, PO BOX 1074, Tombstone, AZ 85638

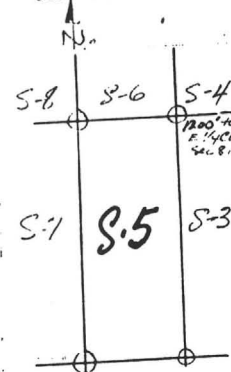
RECEIVED  
AT STATE OFFICE  
MAR 18 10 43 AM '80  
TOMBSTONE, ARIZONA

4. The name of the claim is SILVER PLATE No. 5  
5. The date of the location is MAR 12, 1980  
6. The claim is 1320 feet long and 600 feet wide. The distance from the Location monument to each end of the claim is 20 feet in a NORTHERLY direction and 1300 feet in a SOUTHERLY direction.

7. The general course of the claim is from the North to the South  
8. The location of the claim is in Section 8, Township 21S, Range 22E  
G&SRB&M, Tombstone Mining District, Cochise County, Arizona.

9. If amending or relocating, the previous claim name was \_\_\_\_\_  
\_\_\_\_\_ recorded in Docket \_\_\_\_\_, Book \_\_\_\_\_,  
\_\_\_\_\_ Mining District, \_\_\_\_\_ County, Arizona.

10. The location of the claim with reference to a natural object or permanent monument is bounded  
ON E by "S-3", ON N by "S-6", ON W by "S-7". The NE COR  
TIES UP SE COR OF "S-6" & SW OF "S-4" & NW OF "S-3". The  
SE COR ties to SW COR OF "S-3"; & SW COR ties to SE  
COR OF "S-7"; NW COR ties up NE COR OF "S-7" & SE  
COR OF "S-8" & SW COR OF "S-6". IT LIES 3/4 MILE W  
OF Old Keller Ranch House & is APPROX 7 Miles  
SW of Tombstone, AZ.



Date 3/12/80 DUGALD F. GORDON  
WITNESS JACK BRANHAM  
Signature

STATE OF ARIZONA,  
County of COCHISE

I hereby certify that the within instrument was filed and recorded  
ss. \_\_\_\_\_, 19\_\_\_\_, at \_\_\_\_\_ M.  
In Docket No. 1408, Page MAR 14 '80 - 12 15 PM, at the request of Dugald F. Gordon  
11-12 Tombstone, Ariz.

Fee No. 5373

When recorded mail to:

Witness my hand and official seal.



CHRISTINE RHODES

County Recorder

By [Signature] Deputy Recorder

Indexed:

Compared:

Photostated: (initials)

Fee: \$3.00

## NOTICE OF MINING CLAIM LOCATION

1. ☒ Location ☐ Amendment ☐ Relocation  
2. ☐ Placer ☒ Lode ☐ Millsite  
3. The name and address of the Locators:

RECEIVED  
B. I. AZ STATE OFFICE  
MAR 18 10 33 AM '80  
PHOENIX

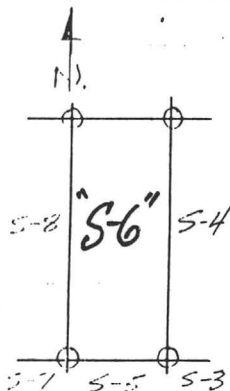
DUGALD F. GORDON, PO BOX 878, TOMBSTONE, AZ 85638

JACK BRANHAM, PO BOX 1074, TOMBSTONE, AZ 85638

4. The name of the claim is SILVERGATE NO. 6  
5. The date of the location is MAR 12, 1980  
6. The claim is 1320 feet long and 600 feet wide. The distance from the Location monument to each end of the claim is 20 feet in a Southerly direction and 1300 feet in a Northerly direction.  
7. The general course of the claim is from the North to the South  
8. The location of the claim is in Section 8, Township 21S, Range 22E  
G&SRB&M, Tombstone Mining District, Cochise County, Arizona.  
9. If amending or relocating, the previous claim name was \_\_\_\_\_

\_\_\_\_\_ recorded in Docket \_\_\_\_\_, Book \_\_\_\_\_  
\_\_\_\_\_ Mining District, \_\_\_\_\_ County, Arizona.

10. The location of the claim with reference to a natural object or permanent monument is 7 Miles



SW of Tombstone, 3 1/4 Mile. W. of Old Keller Ranch Hse. It is bounded on E by "S-4", S by "S-5", & W by "S-8" Claims of the Silverplate Group of claims. NE cor ties to NW cor of "S-4" claim. SE cor ties to NE cor of "S-3" & NE cor of "S-5". SW cor ties to NE cor of "S-7" & SW cor of "S-8". NW cor ties to NE cor of "S-8". Distance from E 1/4 Cor. Sec 8 = 1600' to NE Cor.

Date 3/12/80

WITNESS

Signature [Signature]  
DWT 1408 PAGE 11

STATE OF ARIZONA

County of COCHISE

I hereby certify that the within instrument was filed and recorded

Fee No. 5374

In Docket No. 408

MAR 14 '80 - 12 15 PM, 19 at M.

When recorded mail to

Witness my hand and official seal.



CHRISTINE RHODES

County Recorder

Deputy Recorder

Indexed:

Compared:

Photostated:

Fee: \$ 3.00

## NOTICE OF MINING CLAIM LOCATION

1. ☒ Location☐ Amendment☐ Relocation2. ☐ Placer☒ Lode☐ Millsite

3. The name and address of the Locators:

RECEIVED OFFICE  
AT STATE  
B I U  
MAR 18 1980  
PHOENIX, ARIZONA

EDWARD F. GORDON, PO Box 878, Tombstone, AZ 85638

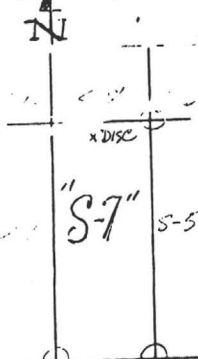
JACK BRANHAM, PO Box 1704, Tombstone, AZ 85638

4. The name of the claim is SILVER PLATE NO. 75. The date of the location is MAR 12, 19806. The claim is 1300 feet long and 600 feet wide. The distance from the Location monument to each end of the claim is 20 feet in a Northerly direction and 1300 feet in a Southerly direction.7. The general course of the claim is from the North to the South8. The location of the claim is in Section 8, Township 21 S, Range 22 E  
G&SRB&M, Tombstone Mining District, Cochise County, Arizona.

9. If amending or relocating, the previous claim name was

recorded in Docket

County, Arizona.

10. The location of the claim with reference to a natural object or permanent monument is 7 Miles

SW of Tombstone & 1+ Miles W of Old Keller Ranch Hscr  
N.E. Cor. is 1800' W of E 1/4 COR SEC 8 T21S, R 22E & ties  
to SW COR of S-6 & NW COR of S-5. SE COR ties to SW COR of  
S-5 & NW COR ties to SE COR of S-10 & SW COR of S-8  
It is bounded by Silverplate Group of CLAIMS -  
S-5 on E, S-8 on N, S-9 on W.

STATE OF ARIZONA

County of

1408

In Docket No.

Page

15

at the request of

DUGALD F. GORDON

Tombstone, Ariz.

Witness my hand and official seal.

When recorded mail to:



CHRISTINE RHODES

County Recorder

Deputy Recorder

Fee No. 5975

Indexed:

Compared:

Photostated:

Fee: \$300

## NOTICE OF MINING CLAIM LOCATION

1. ☒ Location ☐ Amendment ☐ Relocation  
 2. ☐ Placer ☒ Lode ☐ Millsite  
 3. The name and address of the Locators:

DUGALD F GORDON, PO Box 878, Tombstone, AZ 85638

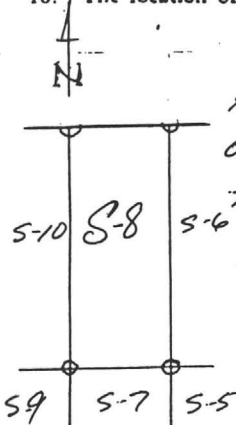
JACK BRANHAM, PO Box 1074, Tombstone AZ 85638

RECEIVED  
AZ STATE OFFICE  
MAR 18 1980  
PHOENIX

4. The name of the claim is SILVER PLATE NO. 8  
 5. The date of the location is MAR 12, 1980  
 6. The claim is 1320 feet long and 600 feet wide. The distance from the Location monument to each end of the claim is 70 feet in a Southwly direction and 1300 feet in a Northwly direction.  
 7. The general course of the claim is from the North to the South  
 8. The location of the claim is in Section 8, Township 21S, Range 22E  
 G&SRB&M, Tombstone Mining District, Cochise County, Arizona.  
 9. If amending or relocating, the previous claim name was \_\_\_\_\_

\_\_\_\_\_ recorded in Docket \_\_\_\_\_, Book \_\_\_\_\_,  
 \_\_\_\_\_ Mining District, \_\_\_\_\_ County, Arizona.

10. The location of the claim with reference to a natural object or permanent monument is 7 mi SW of Tombstone - prox. 1 mi W of old Keller Ranch Hse. bounded by Silverplate Group of Claims  
ON E by "S-6"; ON S by "S-7"; W by "S-10" claims. AND  
the SE COR is 1800' W of E 1/4 COR SEC 8.  
NE COR ties to NW COR of "S-6" & NW COR of "S-5" & NE  
COR of "S-7". SW COR ties to NW COR S-7 and SE COR  
of "S-10". NW COR ties to NE Cor "S-10".



Date

3/12/80

WITNESS

DUGALD F GORDON  
JACK BRANHAM  
 Signature

1408 15

STATE OF ARIZONA,

County of COCHISEIn Docket No. 408Page 17

When recorded mail to:

I hereby certify that the within instrument was filed and recorded

39.

MAR 14 '80 - 12 15 PM 1980 at \_\_\_\_\_ M.at the request of Douglas F. GordonTombstone, Ar. (85638)

Witness my hand and official seal.

CHRISTINE RHODES

County Recorder

Deputy Recorder



Fee No.:

5976

Indexed:

Compared:

Photostated: QFee: \$3.00Ind. 6mm

## NOTICE OF MINING CLAIM LOCATION

1. ☒ Location☐ Amendment☐ Relocation2. ☐ Placer☒ Lode☐ Millsite

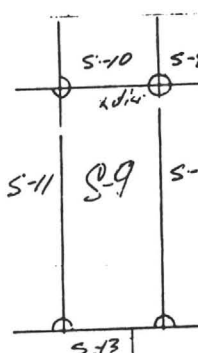
The name and address of the Locators:

Douglas F. Gordon, PO BOX 878, Tombstone, AZ 85638.AND JACK BRANHAM, PO BOX 1074 Tombstone, AZ 856384. The name of the claim is Silverplate No. 95. The date of the location is MAR 12, 19806. The claim is 1320 feet long and 600 feet wide. The distance from the Location monument to each end of the claim is 20 feet in a Northerly direction and 1300 feet in a Southerly direction.7. The general course of the claim is from the North to the South8. The location of the claim is in Section 8, Township 21 S, Range 22 E  
G&SRB&M, Tombstone Mining District, Cochise County, Arizona.

9. If amending or relocating, the previous claim name was \_\_\_\_\_

\_\_\_\_\_ recorded in Docket \_\_\_\_\_, Book \_\_\_\_\_

\_\_\_\_\_ Mining District, \_\_\_\_\_ County, Arizona.

10. The location of the claim with reference to a natural object or permanent monument is 7+ MilesSW of Tombstone - approx. 1+ Miles W of old Keller  
Punch Hdr. & 2400' WEST OF EAST 1/4 COR SEC 8,  
T21 S, 22 E - IN SILVERPLATE GROUP OF Mining Claims  
#5-1 thru 5-14. BOUNDED by 5-7 on E; 5-10 on N; 5-11 on  
W; part of 5-13 to S. NE cor ties to NW cor of 5-7;  
S-E cor ties to SW cor of 5-7 & SW cor of 5-9 to SW cor  
of 5-11; NW cor ties to SW cor 5-10

Date

3/12/80

WITNESS

Douglas F. GordonJack Branham

Signature



STATE OF ARIZONA,  
County of COCHISE

I hereby certify that the within instrument was filed and recorded  
MAR 14 '80 - 12 15 PM, 19 at M.

Fee No.: 5977

In Docket No. 1408, Page 19-20, at the request of Dugald F. Gordon,  
Tombstone, Ar.

When recorded mail to:

Witness my hand and official seal.



CHRISTINE RHODES

County Recorder

Deputy Recorder

Indexed:

Compared:

Photostated:

Fee: \$ 3.00

## NOTICE OF MINING CLAIM LOCATION

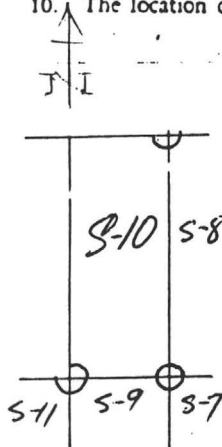
1. ☒ Location ☐ Amendment ☐ Relocation
2. ☐ Placer ☒ Lode ☐ Millsite
3. The name and address of the Locators:

RECEIVED  
B.L.V. AZ STATE OFFICE  
MAR 18 10  
PHOENIX, ARIZONA

DUGALD F. GORDON, PO Box 878, Tombstone, Ar 85634  
CHUCK BRANHAM, PO Box 1074, Tombstone, Ar 85634

4. The name of the claim is SILVER PLATE NO. 10
5. The date of the location is MAR 12, 1980
6. The claim is 1320 feet long and 600 feet wide. The distance from the Location monument to each end of the claim is 20 feet in a Southerly direction and 1300 feet in a Northerly direction.
7. The general course of the claim is from the North to the South
8. The location of the claim is in Section 8, Township 21S, Range 22E  
G&SRB&M, Tombstone Mining District, Cochise County, Arizona.
9. If amending or relocating, the previous claim name was \_\_\_\_\_  
\_\_\_\_\_ recorded in Docket \_\_\_\_\_, Book \_\_\_\_\_  
\_\_\_\_\_ Mining District, \_\_\_\_\_ County, Arizona.

10. The location of the claim with reference to a natural object or permanent monument is 7+ miles SW of Tombstone - prox. 1 mile W of old Miller Ranch Acre ± 2400' W of E 1/4 COR OF SEC 8. T21S R22E - in Silverplate Grp. of Mnq. Claims "S-11" S-14". It is bounded by "S-8" on E, ± "S-9" to S. the NE COR ties to NW COR of "S-8" ± SE COR ties to SW COR of "S-8" ± NW COR of "S-7" ± NE COR of "S-9". the NW COR ties to NW COR of "S-9" NE COR of "S-11".



Date 3/12/80 Jared Simon  
WITNESS

Dugald F. Gordon  
Jack Branham  
Signature



STATE OF ARIZONA,

County of COCHISE

I hereby certify that the within instrument was filed and recorded

Fee No.:

MAR 14 '80 - 12 15 PM, 19 at M.

5978

In Docket No. 2108Page 21 at the request of DUGALD F. GORDON,

Indexed:

When recorded mail to:

Witness my hand and official seal.

Compared:

Photostated:

Fee: \$ 83.00

CHRISTINE RHODES

County Recorder

Deputy Recorder

## NOTICE OF MINING CLAIM LOCATION

1. ☒ Location ☐ Amendment ☐ Relocation  
 2. ☐ Placer ☒ Lode ☐ Millsite  
 3. The name and address of the Locators:

DUGALD F. GORDON, PO BOX 878, TOMBSTONE, AZ 85638  
JACK BRANHAM, PO BOX 878, TOMBSTONE, AZ 85638

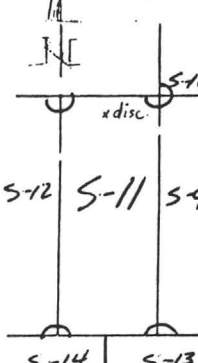
RECEIVED  
 AZ STATE OFFICE  
 MAR 18 10 34 AM '80  
 PHOENIX, ARIZONA

4. The name of the claim is SILVERPLATE No. 11  
 5. The date of the location is MAR 12, 1980  
 6. The claim is 1320 feet long and 600 feet wide. The distance from the Location monument to each end of the claim is 20 feet in a Northerly direction and 1300 feet in a Southerly direction.  
 7. The general course of the claim is from the NORTH to the SOUTH  
 8. The location of the claim is in Section 8, Township 21S, Range 22E  
G&SRB&M, Tombstone Mining District, Cochise County, Arizona.  
 9. If amending or relocating, the previous claim name was \_\_\_\_\_

recorded in Docket \_\_\_\_\_, Book \_\_\_\_\_

Mining District, \_\_\_\_\_ County, Arizona.

10. The location of the claim with reference to a natural object or permanent monument is prox  
7 1/2 mi. SW of Tombstone & 14 mi. W of old  
Keller Ranch Hse. & 3000' from NE cor. to E 1/4 cor  
Sec 8, T21S R 22E in SILVERPLATE Grp. of claims.  
BOUNDED BY "S-9" to E, S-13 to SE, S-14 to SW, &  
S-12 to W. NE cor. ties up SW cor "S-10" & NW cor "S-9"  
SE cor ties N end center "S-13"; SW cor ties W  
SW cor "S-12"; NW cor ties to NE cor. "S-12."



Date

3/12/80

WITNESS

DUGALD F. GORDON  
JACK BRANHAM  
 Signature

STATE OF ARIZONA,  
County of COCHISE

I hereby certify that the within instrument was filed and recorded  
MAR 14 '80 - 12 15 PM 19 at M.

Fee No.: 5979

In Docket 1-08, Page 23, at the request of Dugald F. Gordon  
Tombstone, Ar.

Indexed:

Compared:

Photostated:

Fee: 8.00

When recorded mail to:

Witness my hand and official seal.



CHRISTINE RHODES

County Recorder

By [Signature]

Deputy Recorder

## NOTICE OF MINING CLAIM LOCATION

1. ☒ Location ☐ Amendment ☐ Relocation  
2. ☐ Placer ☒ Lode ☐ Millsite  
3. The name and address of the Locators:

DUGALD F. GORDON, PO BOX 878, Tombstone, AZ 85638.

ITNU

JACK BRANHAM, PO BOX 1074, Tombstone, AZ 85638

RECEIVED  
STATE OFFICE

The name of the claim is SILVERPLATE No. 12

The date of the location is MAR 12, 1980.

6. The claim is 1320 feet long and 360 feet wide. The distance from the Location monument to each end of the claim is 20 feet in a Southerly direction and 1300 feet in a Northerly direction.

7. The general course of the claim is from the North to the South

8. The location of the claim is in Section 8, Township 21 S, Range 22 E

G&SRB&M, TOMBSTONE Mining District, COCHISE County, Arizona.

9. If amending or relocating, the previous claim name was \_\_\_\_\_

\_\_\_\_\_ recorded in Docket \_\_\_\_\_, Book \_\_\_\_\_

\_\_\_\_\_ Mining District, \_\_\_\_\_ County, Arizona.

10. The location of the claim with reference to a natural object or permanent monument is: PROX.

7 1/2 mi. SW of Tombstone, 1 1/2 mi. W of Old Kellers  
RANCH HSE. 3600' from NE COR to E 1/4 COR SEC 8,  
T21S R22E IN SILVERPLATE GRP. OF CLAIMS. It is  
bounded by "S-11" to E, "S-14" to South. The NE COR  
"S-11" ties to NW COR OF "S-11"; the SE COR ties to  
SW COR OF "S-11." NW COR IS 1320' E OF W 1/4  
COR OF SEC. 8.

Date 3/12/80

[Signature]  
WITNESS

Dugald F. Gordon

Jack Branham

Signature

STATE OF ARIZONA,  
County of COCHISE

I hereby certify that the within instrument was filed and recorded

Fee No.:

5980

In Docket No. 1408, Page 35, at the request of Dugald F. Gordon  
Tombstone, Ar

When recorded mail to:



CHRISTINE RHODES

County Recorder

By J. Vasey Deputy Recorder

Indexed:

Compared:

Photostated: Q

Fee: \$3.00

## NOTICE OF MINING CLAIM LOCATION

1. ☒ Location ☐ Amendment ☐ Relocation  
2. ☐ Placer ☒ Lode ☐ Millsite

3. The name and address of the Locators:

DUGALD F. GORDON, PO BOX 878, TOMBSTONE 85638  
JACK BRANHAM, PO BOX 1074, TOMBSTONE, AZ 85638

RECEIVED  
STATE OFFICE  
MAR 14 1980  
TOMBSTONE, ARIZONA

4. The name of the claim is SILVERPLATE No. 13

5. The date of the location is MAR 12, 1980

6. The claim is 1320 feet long and 600 feet wide. The distance from the Location monument to each end of the claim is 20 feet in a NORTHEAST direction and 1300 feet in a SOUTHERLY direction.

7. The general course of the claim is from the NORTH to the SOUTH

8. The location of the claim is in Section 8, Township 21 S, Range 22 E  
G&SRB&M, TOMBSTONE Mining District, COCHISE County, Arizona.

9. If amending or relocating, the previous claim name was \_\_\_\_\_  
\_\_\_\_\_ recorded in Docket \_\_\_\_\_, Book \_\_\_\_\_  
\_\_\_\_\_ Mining District, \_\_\_\_\_ County, Arizona.

10. The location of the claim with reference to a natural object or permanent monument is prox.  
7 1/2 mi. SW of Tombstone & 1 1/2 mi. W of Old Keller  
Ranch Hse. NE corner is 2640' W of NE cor of  
S 1/2 of SW 1/4 Sec 8 & Trs to NW cor of S 1/2 of SW 1/4  
Sec 8, T21S, R22E. NE end center ties to SW cor of  
"S-9" & SE cor of "S-11". It is in the SW corner  
of "SILVERPLATE GROUP" AND BOUNDED BY "S-14" to  
W, "S-11" to NW, "S-9" to NE,

Date 3/12/80


WITNESS

Dugald F. Gordon

Jack Branham

Signature

1048

STATE OF ARIZONA, I hereby certify that the within instrument was filed and recorded  
County of COCHISE ss. MAR 14 '80 - 12 15 PM, 1980, at                      M.  
In Docket No. 3408 Page 27 at the request of Dugald F. Gordon  
28 Tombstone, Ar (85638)  
When recorded mail to:                      Witness my hand and official seal.  
  
CHRISTINE RHODES County Recorder  
J. Vag Deputy Recorder  
Fee No. 5981  
Indexed:                       
Compared:                       
Photostated:                       
Fee: \$ 3.00  
Ind. 6

## NOTICE OF MINING CLAIM LOCATION

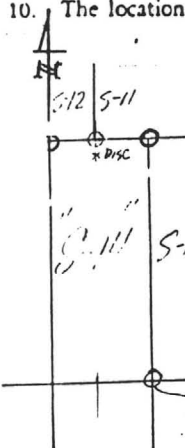
1. ☒ Location ☐ Amendment ☐ Relocation  
2. ☐ Placer ☒ Lode ☐ Millsite  
3. The name and address of the Locators:

DUGALD F. GORDON, PO BOX 878, TOMBSTONE AZ 85638  
HNU  
JACK BRANHAM, PO BOX 1074, TOMBSTONE AZ 85638

RECEIVED  
AZ STATE OFFICE  
TOMBSTONE  
MAR 14 10 44 AM  
PHOENIX, ARIZONA

4. The name of the claim is SILVERPLATE NO. 14 (S-14)  
5. The date of the location is MAR 12, 1980  
6. The claim is 1320 feet long and 600 feet wide. The distance from the Location monument to each end of the claim is 20 feet in a Northerly direction and 1300 feet in a Southerly direction.  
7. The general course of the claim is from the North to the SOUTH  
8. The location of the claim is in Section 8, Township 21 S, Range 22 E  
G&SRB&M, Tombstone Mining District, Cochise County, Arizona.  
9. If amending or relocating, the previous claim name was                       
                     recorded in Docket                     , Book                     ,  
                     Mining District,                      County, Arizona.

10. The location of the claim with reference to a natural object or permanent monument is prox.  
7 1/2 MI. SW of Tombstone AZ & 1 1/2 MI. W. of Old Keller  
RANCH THE AND NE COR 3200' W OF NE COR OF S 1/2 & SW  
1/4 SEC 9, T21S, R22E, GYSRB&M, BOUNDED BY S 1/2 &  
S 1/2 to N, & S 1/3 ON WEST. NW COR TIES TO SW COR S 1/2,  
N END CENTER TIES TO SE COR S 1/2 & SW COR S 1/2; NE  
COR TIES TO S END CENTER S 1/2 & NW COR S 1/3;  
IT IS SW COR CLAIM OF SILVERPLATE GRP OF CLAIMS



Date 3/12/80 Dugald F. Gordon  
Witness Jack Branham  
Signature

STATE OF ARIZONA } ss. I hereby certify that the within instrument was  
County of COCOA ) file and recorded SEP 15 '83 1:35 PM

In Docket No. 1703 Page 177-178, at the request of Jack Branham

Witness my hand and official  
seal.

When recorded mail to:



CHRISTINE RHODES

County Recorder

Deputy Recorder

Fee No.

17897

Indexed:

Compared:

Photostated:

Fees: \$5.00

## NOTICE OF MINING CLAIM LOCATION

1. ☒ Location ☐ Amendment ☐ Relocation  
2. ☐ Placer ☒ Lode ☐ Millsite  
3. The name and address of the Locators:

Jack Branham P.O. Box 1074 Tombstone, Ariz. 85638

RECEIVED

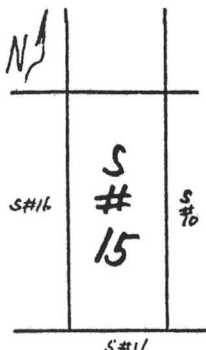
B.L.M. AZ STATE OFFICE

NOV 17 1983

07.45 A.M.

PHOENIX, ARIZONA

4. The name of the claim is Silverplate #15  
5. The date of the location is Sept 7 - 1983  
6. The claim is 1320 feet long and 600 feet wide. The distance from the Location monument to each end of the claim is 20 feet in a Southerly direction and 1300 feet in a Northerly direction.  
7. The general course of the claim is from the South to the North.  
8. The location of the claim is in Section 8, Township 21S, Range 22E G&SRB&M, Tombstone Mining District, Cochise County, Arizona.  
9. If amending or relocating, the previous claim name was \_\_\_\_\_ recorded in Docket \_\_\_\_\_, Book \_\_\_\_\_ Mining District, \_\_\_\_\_ County, Arizona.  
10. The location of the claim with reference to a natural object or permanent monument is:



Approx. 7 1/2 Mi. SW of Tombstone + 1/2 M. W. of Keller ranch  
house. SE corner of claim is 3000' due west of 4  
section marker sects. 8 & 9. Starting at that point  
N 1320', W 600', S 1320' and E 600'.  
This claim is tied to silverplate #11 N End. Claim is in  
the NW 1/4 Sec 8 - Township 21S Range 22E

Date 9-7-83

Witness

Signature

DATE 1703 PAGE 177



STATE OF ARIZONA } ss. I hereby certify that the within instrument was  
County of COCHISE file and recorded SEP 15 '83 - 1:55 PM

Fee No. 17898

In Docket No. 1703 Page 179-180, at the request of Jack Branham

Indexed: Tomlinson, Ariz  
Compared:

When recorded mail to:



Witness my hand and official seal.  
CHRISTIE RHODES  
County Recorder  
J. Vasquez  
Deputy Recorder

Photostated:  
Fees: \$5.00

## NOTICE OF MINING CLAIM LOCATION

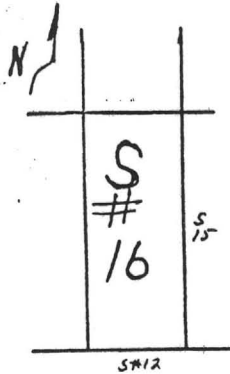
A MC 209351

1. ☒ Location ☐ Amendment ☐ Relocation  
2. ☐ Placer ☒ Lode ☐ Millsite  
3. The name and address of the Locators:

Jack Branham P.O. Box 1074 Tombstone, Ariz. 85638

RECEIVED  
U.L.M. AZ STATE OFFICE  
NOV 17 1983

4. The name of the claim is Silverplate #16  
5. The date of the location is Sept 7 - 1983  
6. The claim is 1320 feet long and 360 feet wide. The distance from the Location monument to each end of the claim is 20 feet in a Southerly direction and 1300 feet in a Northerly direction.  
7. The general course of the claim is from the South to the North.  
8. The location of the claim is in Section 8, Township 21S, Range 22E G&SRB&M, Tombstone Mining District, Cochise County, Arizona.  
9. If amending or relocating, the previous claim name was \_\_\_\_\_ recorded in Docket \_\_\_\_\_, Book \_\_\_\_\_ Mining District, \_\_\_\_\_ County, Arizona.  
10. The location of the claim with reference to a natural object or permanent monument is:



Approx 7 1/2 MI SW of Tombstone & 1 1/2 MI W. of old Keller ranch house  
SE corner of claim is 3600' due West of 1/2 section  
marker (Fed) sects 8 & 9. Starting at that point  
N 1320', W 360', S 1320' and E 360' - Claim is Tied To north  
end Silverplate #12.  
Claim is in the NW 1/4 Sect. 8 Township 21S Range 22E

Date 9-7-83 Jack Branham  
Witness

Jack Branham  
Signature

1703 - 179