

Department of Conservation and Development
J. B. Fink, Director

S U M M A R Y

of

STATE AND FEDERAL MINING LAWS RELATING TO FEDERAL LANDS

and

MINING LAWS RELATING TO STATE LANDS

(Reprint of bulletin issued by Washington State Library)

Division of Mines and Mining
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Olympia, Washington

1938

MINING LAWS OF THE STATE OF WASHINGTON

The number and frequency of inquiries relative to Washington State mining laws, both placer and lode, have proved the need of printing the code with excerpts from the Revised Statutes of the United States, and a few general interpretations.

The mining law passed by Congress May 10, 1872, entitled "An act to promote the development of the mining resources of the United States," with a few additions and amendments, is the law under which mining rights are acquired today, and in accordance with its provisions the vast majority of mining claims in the territory to which it applies have been located.

The following laws define the status of the prospector for mineral deposits, establish his method of procedure, protect him in possession while searching for mines, and give him assurance of title when all required conditions have been fulfilled and valuable minerals discovered.

GENERAL INSTRUCTIONS AND SUMMARY

"PLACER" defined:

In mining laws, so far as locating, holding, and patenting are concerned, the term "placer" is applied to surface mineral deposits, not veins in place. Placer mining is the process of obtaining the ore from mineral deposits by simple washing, by dredging, or by hydraulic methods. (Dictionary and common definition.)

"LODE" defined:

The term "lode" in this act shall be construed to mean ledge, vein or deposit. (Remington Revised Statutes, Section 8625; Laws of Washington, '99, p. 70.)

From the specific quotations from the laws as here cited, the following general information and procedure may be noted:

1. Citizens and those who have declared their intention to become such may locate, hold and develop mining claims. (Aliens may do so, at their own risk.)
2. One person may locate for himself, not more than twenty acres in one claim and an association of two or more persons up to the number of eight, may locate one claim containing 20 acres for each person in the association. Thus two persons may locate one claim of 40 acres, three persons 60 acres, and so on up to the limit of eight persons who may locate one claim of 160 acres.
3. One discovery of mineral is necessary for each location.
4. A location on surveyed ground shall conform to the United States system of public-land surveys and therefore the claim will be rectangular or square in shape.
5. Where this is impracticable as in the case of "gulch placers" or where the land is unsurveyed, it is preferable that the lines run as nearly

as possible north and south, and east and west, since this is required by the General Land Office when patent is applied for.

The necessary steps in acquiring title to a claim are as follows:

- a. Discover mineral
- b. Post notice of location
- c. Establish corners and record within 30 days
- d. Perform discovery work within 60 days
- e. File certificate of location within 90 days
- f. Perform annual assessment work
 1. In the amount of \$100 per year
 2. Record oath of labor performed within 30 days.
- g. Apply for patent after \$500 has been expended for development

EXCERPTS FROM REVISED STATUTES OF THE UNITED STATES

Section 2319. All valuable mineral deposits in lands belonging to the United States, both surveyed and unsurveyed, are hereby declared to be free and open to exploration and purchase, and the lands in which they are found to occupation and purchase, by citizens of the United States and those who have declared their intention to become such, under regulations prescribed by law, and according to the local custom or rules of miners in the several mining districts, so far as the same are applicable and not inconsistent with the laws of the United States.

Section 2321. Proof of citizenship, under this chapter, may consist, in the case of an individual, of his own affidavit thereof; in the case of an association of persons unincorporated, of the affidavit of their authorized agent, made on his knowledge or upon information and belief, and in the case of a corporation organized under the laws of the United States, or of any State or Territory thereof, by the filing of a certified copy of their charter or certificate of incorporation.

Section 2329. Placers and other forms of deposit not in place may be entered and patented. Claims usually called "placers," including all forms of deposit, excepting veins or quartz, or other rock in place, shall be subject to entry and patent, under like circumstances and conditions, and upon similar proceedings, as are provided for vein or lode claims; but where the lands have been previously surveyed by the United States, the entry in its exterior limits shall conform to the legal subdivision of the public lands.

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

Section 2331. Where placer claims are upon surveyed lands, and conform to legal subdivisions, no further survey or plat shall be required, and all placer mining claims located after the tenth day of May, eighteen hundred and seventy-two, shall conform as near as practicable with the United States system of public lands surveys, and the rectangular subdivisions of such

surveys, and no such location shall include more than twenty acres for each individual claimant; but where placer claims cannot be conformed to legal subdivisions, survey and plat shall be made as on unsurveyed lands; and where by segregation of mineral lands in any legal subdivision a quantity of agricultural land less than forty acres remains, such fractional portion of agricultural land may be entered by any party qualified by law, for homestead or preemption purposes.

Section 2325. A patent for any land claimed and located for valuable deposits may be obtained in the following manner: Any person, association, or corporation authorized to locate a claim under this chapter, having claimed and located a piece of land for such purposes, who has, or have, complied with the terms of this chapter, may file in the proper land office an application for a patent, under oath, showing such compliance, together with a plat and field notes of the claim or claims in common, made by or under the direction of the United States supervisor of surveys, showing accurately the boundaries of the claim or claims, which shall be distinctly the boundaries of the claim or claims, which shall be distinctly marked by monuments on the ground and shall post a copy of such plat, together with a notice of such application for a patent, in a conspicuous place on the land embraced in such plat previous to the filing of the application for a patent, and shall file an affidavit of at least two persons that such notice has been duly posted, and shall file a copy of the notice in such land office, and shall thereupon be entitled to a patent for the land, in the manner following: The register of the land office, upon the filing of such application, plat, field notes, notices, and affidavits, shall publish a notice that such application has been made, for the period of sixty days, in a newspaper to be designated as published nearest to such claim; and he shall also post such notice in his office for the same period. The claimant at the time of filing this application, or at any time thereafter, within sixty days of publication, shall file with the register a certificate of the United States supervisor of surveys that \$500 worth of labor has been expended or improvements made upon the claim by himself or grantors; that the plat is correct, with such further description by such reference to natural objects or permanent monuments as shall identify the claim, and furnish an accurate description, to be incorporated in the patent. At the expiration of the sixty days of publication the claimant shall file his affidavit, showing that the plat and notice have been posted in a conspicuous place on the claim during such period of publication. If no adverse claim shall have been filed with the register of the proper land office at the expiration of the sixty days of publication, it shall be assumed that the applicant is entitled to a patent, upon the payment to the proper officer of \$5 per acre, and that no adverse claim exists; and thereafter no objection from third parties to the issuance of a patent shall be heard, except it be shown that the applicant has failed to comply with the terms of this chapter. Where the claimant for a patent is not a resident of or within the land district wherein the vein, lode, ledge, or deposit sought to be patented is located, the application for patent and the affidavits required to be made in this section by the claimant for such patent may be made by his, her, or its authorized agent, where said agent is conversant with the facts sought to be established by said affidavits.

Section 2333. Proceedings for placer patent. Where the same person, association or corporation is in possession of a placer claim, and also a vein or lode included within the boundaries thereof, application shall be made for a patent for the placer claim, with the statement that it includes such vein or lode, and in such case a patent shall issue for the placer claim, subject to the provisions of this chapter, including such vein or lode, upon the payment of \$5 per acre for such vein or lode claim, and twenty-five feet of surface on each side thereof. The remainder of the placer claim, or any placer claim not embracing any vein or lode claim, shall be paid for at the rate of \$2.50 per

acre, together with all costs of proceedings; and where a vein or lode is known to exist within the boundaries of a placer claim, an application for a patent for such placer claim which does not include an application for the vein or lode claim shall be construed as a conclusive declaration that the claimant of the placer claim has no right of possession of the vein or lode claim; but where the existence of a vein or lode in a placer claim is not known, a patent for the placer claim shall convey all valuable mineral and other deposits within the boundaries thereof.

WASHINGTON STATE MINING LAWS, LODE AND PLACER

(Remington's Revised Statutes, Sections 8615-8635)

Sec. 8615. LOCATION AND POSSESSION OF MINING LODES. All mining claims upon veins or lodes of quartz or other rock in place, bearing gold, silver, or other valuable mineral deposits heretofore located, shall be governed as to length along the vein or lode by the customs, regulations, and laws in force at the date of such location. (Laws 1888, p. 160)

Sec. 8616. FORM AND EXTENT OF MINING CLAIM LIMITED. A mining claim located upon any vein or lode of quartz or other rock in place, bearing gold, silver, or other valuable mineral deposits after the approval of this act by the governor whether located by one or more persons, may equal, but shall not exceed, fifteen hundred feet in length along the vein or lode; but no location of a mining claim shall be made until the discovery of the vein or lode within the limits of the claims located. No claim shall extend more than three hundred feet on each side of the middle of the vein at the surface, nor shall any claim be limited by any mining regulations to less than fifty feet of surface on each side of the middle of such vein or lode, at the surface, excepting where adverse rights, existing at the date of the approval of this act, shall make such limitations necessary. The end lines of each claim shall be parallel to each other. (Laws 1888, p. 160)

Sec. 8617. RIGHT OF POSSESSION OF MINING CLAIMS. The locators of all mining locations heretofore made, or hereafter made under the provisions of this act, on any mineral vein, lode, or ledge on the public domain, and their heirs and assigns, so long as they comply with the laws of the United States and the state and local laws relating thereto, shall have the exclusive right to the possession and enjoyment of all surface included within the lines of their location, and of all veins, lodes, and ledges throughout their entire depth, and the top or apex of which lies within the surface lines of such location, extending downward vertically, although such veins, lodes, or ledges may be so far depart from the perpendicular in their course downward as to extend outside of the vertical side line of said surface location. (Laws 1888, p. 160)

Sec. 8618. WORK REQUIRED ON MINING CLAIMS. In order to hold the possessory rights to a location of a mine not less than one hundred dollars' worth of work must be performed or improvements made thereon annually; Provided, that the period within which the work required to be done annually on all unpatented claims so located shall commence on the first day of January succeeding the date of location of such claim. (Laws 1888, p. 61; Laws 1893, p. 75)

Sec. 8619. RECORDER OF MINING DISTRICTS, RECORDS OF. The miners of each mining district may elect a recorder of the said district. When so elected, such recorder shall provide books of records, in which it shall be his duty to record all notices of locations or transfers, bonds, conveyances, or

assignments of mining claims within his district when the same shall be presented to him for record. Such records are hereby declared to be public records, open to inspection, and shall have the same force and effect, so far as notice is concerned, as the records of deeds and mortgages in this state. (Laws 1888, p. 161)

Sec. 8620. ELECTION, POWERS, AND DUTY OF RECORDER. When a recorder shall be elected, as provided in the last preceding section of this chapter, he shall hold his office for a term of one year from the date of his election, and until his successor is elected and qualified. He shall, immediately after his election, file with the county auditor of the county in which his district is situated, an oath to the effect that he will faithfully discharge the duties of his office. He shall be a certified officer, and certified copies of his records shall have the same force and effect as similar papers certified by other officers of this state. His fees shall be the same as those of the county auditor for similar work, and should the office of recorder in any mining district at any time become vacant, it shall be the duty of the person last holding said office, and of any person into whose possession the same may come, to forthwith transmit all the records, papers, and files of the said office to the auditor of the county in which such district is located, and such auditor shall thereafter keep the same as part of the records and files of his office. (Laws 1888, p. 161)

Sec. 8621. LOCATION NOTICES, ETC., TO BE RECORDED BY COUNTY AUDITOR. Inasmuch as the last two preceding sections of this chapter leave the election of a recorder for a mining district optional with the miners thereof, all location notices, bonds, assignments, and transfers of mining claims shall be recorded in the office of the county auditor of the county where the same is situated, within thirty days after the execution thereof: Provided, that all records of mining claims and of assignments, deeds, bonds, and transfers heretofore made by any recorder of any mining district, or by any county auditor are hereby declared to be valid, and to have the same force and effects as records made in pursuance of this act. (Laws 1888, p. 161)

Sec. 8622. NOTICE OF LOCATION TO BE RECORDED. The discoverer of a lode shall within ninety (90) days from the date of discovery, record in the office of the auditor of the county in which such lode is found, a notice containing the name or names of the locators, the date of the location, the number of feet in length claimed on each side of the discovery, the general course of the lode and such a description of the claim or claims located by reference to some natural object or permanent monument as will identify the claim. (Laws 1899, p. 69)

Sec. 8623. LOCATION. Before filing such notice for record, the discoverer shall locate his claim by first sinking a discovery shaft upon the lode, to the depth of ten (10) feet from the lowest part of the rim of such shaft at the surface, and shall post at the discovery at the time of discovery a notice containing the name of the lode, the name of the locator or locators, and the date of discovery, and shall mark the surface boundaries of the claim by placing substantial posts or stone monuments bearing the name of the lode and date of location; one post or monument must appear at each corner of such claim; such posts or monuments must be not less than three (3) feet high; if posts are used they shall be not less than four inches in diameter and shall be set in the ground in a substantial manner. If any such claim be located on ground that is covered wholly or in part with brush or trees, such brush shall be cut and trees be marked or blazed along the lines of such claim to indicate the location of such lines. (Laws 1899, p. 69)

Sec. 8624. TUNNEL EQUIVALENT TO SHAFT. Any open cut or tunnel having a length of ten (10) feet, which shall cut a lode at the depth of ten (10) feet below the surface, shall hold such lode the same as if a discovery shaft were sunk thereon, and shall be equivalent thereto. (Laws 1899, p. 70)

Sec. 8626. AMENDED CERTIFICATE OF LOCATION. If at any time the locator of any quartz or lode mining claim heretofore or hereafter located, or his assigns, shall learn that his original certificate was defective or that the requirements of the law had not been complied with before filing, or shall be desirous of changing his surface boundaries or of taking in any additional ground which is subject to location, or in any case the original certificate was made prior to the passage of this law, and he shall be desirous of securing the benefits of this act, such locator or his assigns may file an amended certificate of location, subject to the provisions of this act, regarding the making of new locations. (Laws 1899, p. 70)

Sec. 8627. PROOF OF ASSESSMENT WORK BY AFFIDAVIT. Within thirty (30) days after the expiration of the period of time for the performance of annual labor or the making of improvements upon any quartz or lode mining claim or premises, the person in whose behalf such work or improvement was made or some person for him knowing the facts, shall make and record in the office of the county auditor of the county wherein such claims are situated an affidavit or oath of labor performed on such claim. Such affidavit shall state the exact amount and kind of labor, including the number of feet of shaft, tunnel or open cut made on such claim, or any other kind of improvements allowed by law or by rules of mining districts made thereon. (Laws 1899, p. 70)

Sec. 8628. AFFIDAVIT, PRIMA FACIE EVIDENCE OF ASSESSMENT WORK. Such affidavit when so recorded shall be prima facie evidence of the performance of such labor or the making of such improvements, and such original affidavit after it has been recorded, or a certified copy of record of same, shall be received as evidence accordingly by all the courts of this state. (Laws 1899, p. 71)

Sec. 8629. RELOCATION, REQUIREMENT FOR. The relocation of a forfeited or abandoned quartz or lode claim shall only be made by sinking a new discovery shaft and fixing new boundaries in the same manner and to the same extent as is required in making a new location, or the relocater may sink the original discovery shaft ten feet deeper than it was at the date of commencement of such location, and shall erect new, or make the old monuments the same as originally required; in either case a new location monument shall be erected and the location certificate shall state if the whole or any part of the new location is located as abandoned property. (Laws 1899, p. 71)

Sec. 8630. NO DISCOVERY SHAFTS WEST OF CASCADES. The provision herein, relating to discovery shafts, shall not apply to any mining location west of the summit of the Cascade Mountains. (Laws of 1899, p. 71)

Sec. 8631. LOCATION OF PLACER CLAIMS--PROCEDURE. The discoverer of placers or other forms of deposits subject to location and appropriation under mining laws applicable to placers shall locate his claim in the following manner:

First. He must immediately post in a conspicuous place at the point of discovery thereon, a notice or certificate of location thereof, containing (a) the name of the claim; (b) the name of the locator or locators; (c) the date of discovery and posting of the notice hereinbefore provided for, which shall be considered as the date of the location; (d) a description of the claim by reference to legal subdivisions of sections, if the location is made in conformity with the public surveys, otherwise, a description with reference to some natural object or permanent monuments as will identify the claim; and when such

claim is located by legal subdivisions of the public surveys, such location shall, notwithstanding that fact, be marked by the locator upon the ground the same as other locations.

Second. Within thirty (30) days from the date of such discovery he must record such notice or certificate of location in the office of the auditor of the county in which such discovery is made, and so distinctly mark his location on the ground that its boundaries may be readily traced.

Third. Within sixty (60) days from the date of discovery, the discoverer shall perform labor upon such location or claim in developing the same to an amount which shall be equivalent in the aggregate to at least ten (10) dollars' worth of such labor for each twenty acres, or fractional part thereof, contained in such location or claim: Provided, however, that nothing in this subdivision shall be held to apply to lands located under the laws of the United States as placer claims for the purpose of the development of petroleum and natural gas and other natural oil products.

Fourth. Such locator shall upon the performance of such labor, file with the auditor of the county an affidavit showing such performance and generally the nature and kind of work so done. (Laws 1899, p. 71; Laws 1901, p. 292)

Sec. 8632. AFFIDAVIT, PRIMA FACIE EVIDENCE OF ASSESSMENT WORK. The affidavit provided for in the last section, and the aforesaid placer notice or certificate of location when filed for record, shall be prima facie evidence of the facts therein recited. A copy of such certificate, notice or affidavit certified by the county auditor shall be admitted in evidence in all actions or proceedings with the same effect as the original and the provisions of sections 8627 and 8628 shall apply to placer claims as well as lode claims. (Laws 1899, p. 72)

Sec. 8633. APPLICATION OF ACT. All locations of quartz or placer formations or deposits hereafter made shall conform to the requirements of this act in so far as the same are respectively applicable thereto. (Laws 1899, p. 72)

Sec. 8634. MINING DISTRICT MAY MAKE RULES. Any mining district organized in the state of Washington in accordance with the laws of the United States, shall have power to make rules and regulations for such mining district, providing such rules and regulations do not conflict with the laws of the state of Washington or of the United States. (Laws 1899, p. 73)

Sec. 8635. ROAD BUILDING TO APPLY ON ASSESSMENT WORK, WHEN. Any mining district shall have the power to make road building to mining claims within such district applicable as assessment work, or improvement upon such claims: Provided, that rules pertaining to such road building shall be made only at a public meeting of the miners of such district regularly called by the mining recorder of such district: Provided, further, that such meeting shall be attended by at least twelve (12) property holders of such district, and that no such rule can be made without the assent of the majority of the property holders of such district, who are present at such meeting. Such meeting to designate where, when and how such road work shall be done, and shall designate some one of their number who shall superintend such road building or construction, and who shall receipt for such labor to the performer thereof, such receipts to be filed with the county auditor of the county in which such work is performed by the holder or holders of such receipts, and shall be received as prima facie evidence of labor performed as annual assessment work upon such

claim or claims as may be designated by an affidavit or oath of labor as provided for in Section 8627: Provided, that nothing in this act can be construed as being mandatory upon any owner or holder of mining property to perform labor upon any such road. (Laws 1899, p. 73)

LAWS REGULATING THE LEASING OF STATE MINERAL-BEARING LANDS

Any citizen of the United States finding precious minerals upon any lands now or hereafter belonging to the State of Washington, may apply to the Commissioner of Public Lands for a lease of any amount not exceeding eighty acres, for prospecting purposes, such application to be made by legal subdivisions according to the public land surveys. (Sec. 6783, Rem. & Bal. Code.)

Before any lease shall be granted the applicant shall pay to the Commissioner of Public Lands the sum of five dollars for each forty acres or fraction thereof. The holder of a mineral lease, secured as above stated, shall have two years to develop said mine or mines: Provided, That no more than five tons of ore shall be removed therefrom for assaying or testing purposes until a contract, as hereinafter provided shall have been executed.

Within sixty days prior to the expiration of the lease, the lessee may apply to the Commissioner of Public Lands for a new lease. Therefore (thereupon) the Commissioner of Public Lands shall give said applicant a prior right and shall, upon the expiration of the old lease, issue a new lease to the former lessee on terms as may be provided by law. (Sec. 6790, Rem. & Bal. Code.)

At any time prior to the expiration of any prospecting lease, the leaseholder or assignee thereof may apply to the Commissioner of Public Lands for a contract to mine the lands covered by said lease and extract and dispose of the minerals therefrom. * * * *

The terms and conditions on which the land covered by said contract and lease may be mined and the royalties ascertained and paid shall be agreed upon by the Commissioner of Public Lands and the contract holder: Provided, That such contract and lease shall provide for the payment to the State of a royalty of not less than one per cent (1%) nor more than four per cent (4%) * * * *; and provided further, That in addition to the royalty herein provided for, the contract holder and lessee shall pay an annual rental of ten dollars (\$10) for each forty (40) acres, or fraction thereof included in said contract and lease. (Secs. 6787-6788, Rem. & Bal. Code.)

INSTRUCTIONS TO APPLICANTS

If the application is for lease of tide or shore lands for mining purposes, it must be accompanied by a certified copy of the field notes of the government meander line bordering on such tide or shore lands. Such copy may be obtained from the United States Cadastral Engineer at Olympia, at nominal cost.

The fee for each lease is \$2.00, to be sent with the application. In addition, send \$5.00 for each forty acres or fraction thereof included in claim.
