

STATE OF OREGON  
DEPARTMENT OF GEOLOGY AND MINERAL INDUSTRIES  
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# Mining Laws of the State of Oregon

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STATE DEPARTMENT OF GEOLOGY AND MINERAL INDUSTRIES  
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STATE GOVERNING BOARD

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## FOREWORD

This, the fourth revision of Bulletin No. 1, contains numbering and wording according to Oregon Revised Statutes. As the oil and gas conservation law has been issued previously as a separate Department publication (Miscellaneous Paper No. 4), it is not included in this bulletin. Mr. Sam R. Haley of the State Statute Revision Council gave valuable assistance in providing the applicable ORS pages for reproduction. Mr. Ralph S. Mason of the Department staff assembled the bulletin material.

F. W. LIBBEY, Director  
August 17, 1954

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# OREGON REVISED STATUTES

## Chapter 516

### Department of Geology and Mineral Industries

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**516.010 Definitions.** As used in this chapter:

(1) "Mine" includes all mineral-bearing properties of whatever kind and character, whether underground, quarry, pit, well, spring or other source from which any mineral substance is obtained.

(2) "Mineral" includes any and all mineral products, metallic and nonmetallic, solid, liquid or gaseous, and mineral waters of all kinds.

(3) "Mineral industries" includes all enterprises engaged in developing and exploiting the natural substances of the earth.

(4) "Geology" means the study of the earth, and in particular the study of the origin, history and topographic form of rocks, ores and minerals, either under the ground or upon the surface, and their alteration by surface agencies, such as wind, water, ice and other agencies, and the economics of their use.

**516.020 Creation of department.** There is created a State Department of Geology and Mineral Industries.

**516.030 Powers and duties of department.** The department shall:

(1) Initiate and conduct studies and surveys of the geological and mineral resources of the state and their commercial utility; and conduct as a continuing project a geological survey of Oregon, either as a department undertaking or jointly with federal or other agencies.

(2) Consider and study kindred scientific and economic questions in the field of geology and mining that are deemed of value to the people of Oregon.

(3) Cooperate with federal or other agencies for the performance of work in Oregon deemed of value to the state and of advantage to its people, under rules, terms and conditions to be arranged between the governing board of the department and such agencies. But in no case shall the cost to the department be in excess of the amount appropriated therefor, and the results of any joint undertakings shall be made available without restrictions to this department.

(4) Serve as a bureau of information concerning Oregon mineral resources, mineral industries and geology; by means from time to time selected by the board, conduct a mineral survey of the state, and catalog each and every mineral occurrence and de-

posit, metallic and nonmetallic, together with its location, production, method of working, name of owner or agent, and other detailed information capable of being tabulated and published in composite form for the use, guidance and benefit of the mineral industry of the state and of the people in general and deemed necessary in compiling mineral statistics of the state.

(5) Collect specimens and samples and develop a museum for their deposition and public exhibitions; collect photographs, models and drawings of appliances in the mines, mills and metallurgical plants of Oregon, and store them in such manner as to be readily viewed or used by the people of the state.

(6) Collect a library of literature describing the geology and mineral deposits, metallic and nonmetallic, of Oregon.

(7) Make qualitative examinations of rocks, mineral samples and specimens.

(8) Study minerals and ores, additional uses for the state's minerals, and explore the possibilities for using improved treatment, processes and mining methods.

**516.040 Assays for the public.** The department shall make or have made quantitative determinations of ores and minerals when submitted for the purpose, that are from original prospects or properties within the state, and shall mail to the sender the results obtained within 10 working days after receipt of samples. This service shall be performed by the department without charge to the sender and shall be rendered in exchange for information for the records of the department, stating the name and residence of the sender, together with a history of the ore or mineral, giving as nearly as possible the location from which the sample was taken, including the name of the county, and any other matters that may be beneficial touching the same. All determinations made pursuant to this section shall be performed under the following rules, regulations and restrictions:

(1) No samples submitted by engineers sampling prospects or mines for the purpose of evaluation, or submitted by operating mines milling or shipping ore or hiring labor, shall be accepted by the department for assay or analysis, unless taken in the field by members of the department's staff in conducting the work of the department within the scope of this chapter.

(2) The number of samples which any

single person or group of persons may submit shall be limited to two in any 30-day period and all samples shall be assayed or analyzed by the department in the order received, as far as possible.

(3) All information received and results of determinations sent out shall be open to public inspection and may be published by the department.

(4) Before any work is done on the material submitted, all information required must be possessed by the department and the 10-day limit for reports will count from the time such data are received by the department.

**516.050 Spectrographic laboratory; establishment and operation.** The department shall establish, equip and operate a spectrographic laboratory.

**516.060 Spectrographic laboratory; duties.** The laboratory shall:

(1) Make spectrographic determinations at the request of any department, institution or other agency of the state, without any charge in excess of the actual cost thereof.

(2) Make other spectrographic determinations at a reasonable charge in excess of the actual cost thereof.

**516.070 Spectrographic laboratory; disposition of money.** All money received by the department from charges for spectrographic determinations shall be paid over to the State Treasurer and by him deposited in the General Fund.

**516.080 Governing board; members; terms; vacancies; meetings; compensation.**

(1) The Department of Geology and Mineral Industries shall be administered by a governing board composed of three citizens of Oregon appointed by the Governor. The members shall be appointed for a term of four years, and all appointments shall be made subject to approval by a two-thirds vote of all members of the Senate. Each member of the board shall receive a certificate of his appointment from the Governor and, before beginning his term of office, shall file with the Secretary of State a constitutional oath of office. Resignations, when made, shall be addressed to and accepted by the Governor, and all vacancies in the board shall be filled by the Governor by appointment for the unexpired term.

(2) In case the office of any member is declared vacant or an appointment is made

in the interim between legislative sessions, the Senate shall act through a standing committee of five members to be known as the Mining Board Interim Committee, which committee shall be appointed by the President of the Senate from its members at each session. Within 20 days after the interim appointment by the Governor, the Secretary of State shall call a meeting of the Mining Board Interim Committee to be held at some place mutually satisfactory to the members, and the committee shall act at such meeting or adjournments thereof. Senators shall receive necessary traveling and living expenses in attending and traveling to and from such meetings. All claims for such expenses that are approved by the committee or one of its members authorized so to do shall be paid out of the appropriation for the payment of expenses of the Legislative Assembly providing for such committee. A favorable vote of three of the five members of the interim committee is necessary for confirmation of appointments, and such confirmation shall be subject to the approval of the Senate when it next convenes. If the Governor's choice is disapproved, he shall make another appointment.

(3) The board shall hold stated meetings four times each year and special meetings may be called by the chairman or by a majority of the board. Meetings may be held at the offices of the department, or elsewhere, as may be deemed expedient or desirable.

(4) Each member of the board shall serve without compensation but shall be reimbursed for actual expenses incurred in the performance of his official duties.

**516.090 General powers and duties of board.** (1) The governing board shall accept from the United States or any of its agencies such funds as may be made available to this state for any of the purposes contemplated by this chapter, and shall enter into such contracts and agreements with the United States or any of its agencies or with Oregon or any of its agencies as may be necessary, proper and convenient, and not contrary to the laws of this state. The governing board may receive on behalf of this state, for the use and benefit of the department, gifts, devises and legacies of real or other property, and use them in accordance with the wishes of the donors, or, in the absence of specific instructions by the donors, manage, use and dispose of the gifts

and legacies as may be deemed by the governing board for the best interest of the state.

(2) The board shall have general charge and control of the department, and shall promulgate and publish uniform rules consistent with the terms of this chapter for the conduct of business by the department, which rules may be amended or changed from time to time by the board.

**516.100 Reports and publications of board.** The governing board shall have prepared, printed and published a biennial report of the activities of the department for the preceding biennium, and also such other reports, pamphlets, charts and maps, embracing detailed descriptions of the geology of the state, its mineral resources, metallic and nonmetallic, and all other investigations within the scope of this chapter, as the interests of the state, the diffusion of knowledge and the advancement of mining and industry demand. All maps, charts, special bulletins and other publications shall be for public distribution; but the board may make a reasonable charge to cover publication and distribution costs. Reports of the department shall be published from time to time, but when a report embodies results of surveys or studies of economic importance, no information of any kind concerning the contents of such report shall be given out prior to publication, if such prior information could place the recipient in a preferential position as regards its use. However, if an investigation of a mineral property within the state is made by an employe of the department at the request of either the owner or a person in control of such property, results of the investigation shall be conveyed to the owner or person in control prior to the publication of a report of such results. After they have been conveyed to the owner or person, the results shall be open to public inspection prior to their publication.

**516.110 Properties, equipment and offices.** The governing board shall have possession, charge and control of all publications, equipment, samples and properties wherever deposited and vested in any previous agency of the state, of which the department is successor, except such properties as have previously been vested in the state institutions of higher education. The board may purchase or arrange for obtain-

ing office furniture, fixtures and other equipment necessary properly to furnish suitable offices and laboratories for the department, and may rent or lease space for said offices in a convenient location.

**516.120 Director; appointment; compensation; qualifications and experience.** The position of Director of the Department of Geology and Mineral Industries is created. The governing board shall appoint a director and may contract with him for such time of service, subject to termination by the board, and, unless otherwise provided in ORS 292.317, at such compensation as the best interests of the state may require. The director shall be selected by the board to have supervision and superintendence of the work of the department. He shall be qualified to perform as well as to direct the technical and executive work of the department, and shall be either a geologist with a broad background of mining and engineering experience or a mining engineer with a broad background of geological experience, whose additional qualifications shall be an experience record which includes five years in charge of important work in either mining engineering, geology, or both, and a minimum total experience of 10 years in these fields.

**516.130 Duties of director; oath; bond; director and staff not to be interested in mining industry; employment of assistants; plans and budgets; notes and charts; supervision of work; inventory and report.** (1) The director shall take and subscribe to the same oath of office as other state officers. He shall receive necessary traveling expenses when traveling on the business of the department. He shall give good and sufficient bond for the faithful performance of his duties, in the sum of \$10,000, premium of which is to be paid by the department. Neither he nor any member of his staff shall acquire a pecuniary interest nor deal in any producing or prospective mineral property of any kind in this state, including oil and gas, nor act as agent or broker for any purchaser, owner, or his agent, of any mineral property, nor accept a commission for any service rendered during the period of employment with the department, if such service is concerned with mining, geology or any mineral industry in this state; nor make any investigation or report of any individual property in this state for purposes of evalu-

ation.

(2) He may employ qualified assistants, specialists, laborers and office employees when necessary in the execution of his plans and the operations of the department, and fix their compensation, with the approval of the governing board. The employees shall be allowed their necessary traveling expenses incurred in the performance of their duties for the department. They shall be employed at the pleasure of the director, subject, however, to any applicable provisions of the State Civil Service Law.

(3) The director shall place before the governing board at each stated meeting, plans and budgets for future projects, with the scope and estimated costs thereof, together with a statement setting forth conditions, progress and estimated cost to that date, of all investigations previously authorized and being conducted. He shall make every effort to complete promptly for publication all notes, charts and maps covering mineral and geological investigations of the department, so that public distribution of same may take place as closely as possible after the completion of field investigations.

(4) He shall have charge of, organize and

supervise the work of the department in field and office; he shall have charge of the necessary field and office supplies and equipment; and he shall perform such other duties as may be necessary to carry out the work of the department. He shall maintain a current inventory of all physical properties of the department and make an annual report thereof to the board.

**516.140 Proceeds from sale of publications, and other revenues; Geology and Mineral Industries Account.** (1) All moneys received from the sale of maps, charts and publications, or from any other source, except as provided in ORS 516.070, shall be paid by the board to the State Treasurer and shall be by the State Treasurer placed to the credit of the General Fund to an account to be known as the Geology and Mineral Industries Account, and such amount as may be necessary, and no more, hereby is appropriated out of the Geology and Mineral Industries Account for the payment of expenses incurred by the State Department of Geology and Mineral Industries in administering and carrying out the provisions of this chapter.

# OREGON REVISED STATUTES

## Chapter 517

### Mining and Mining Claims

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- 517.060 Correction of defective notice of location
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## **MINING CLAIMS**

**517.010 Location of mining claims on federal lands.** (1) Any person, a citizen of the United States, or one who has declared his intention to become such, who discovers a vein or lode of mineral-bearing rock in place upon the unappropriated public domain of the United States within this state, may locate a claim upon such vein or lode by posting thereon a notice of such discovery and location. The notice shall contain:

- (a) The name of the lode or claim.
- (b) The names of the locators.
- (c) The date of the location.
- (d) The number of linear feet claimed along the vein or lode each way from the point of discovery, with the width on each side of the lode or vein.

(e) The general course or strike of the vein or lode as nearly as may be, with reference to some natural object or permanent monument in the vicinity, and by defining the boundaries upon the surface of each claim so that the same may be readily traced.

(2) Such boundaries shall be marked within 30 days after posting of such notice by six substantial posts, projecting not less than three feet above the surface of the ground, and not less than four inches square or in diameter, or by substantial mounds of stone, or earth and stone, at least two feet in height, to wit: one such post or mound of rock at each corner and at the center ends of such claims.

**517.020 Work on claim; requirements; affidavit; recording.** (1) Before the expiration of 60 days from the date of the posting of the notice of discovery upon his claim as provided in ORS 517.010 and before recording the notice of location as required by ORS 517.030, the locator must sink a discovery shaft upon the claim located to a depth of at least 10 feet from the lowest part of the rim of such shaft at the surface, or deeper if necessary, to show by such work a lode or vein of mineral deposit in place. A cut or crosscut or tunnel which cuts the lode at a depth of 10 feet, or an open cut at least six feet deep, four feet wide and 10 feet in length along the lode from the point where the same may be in any manner discovered, is equivalent to such discovery shaft. Such work shall not be deemed a part of the assessment work required by the Revised Statutes of the United States.

- (2) The locator, or someone for him who

did work upon and has knowledge of the facts relating to the sinking of the discovery shaft, shall make and attach to the copy of the notice of location to be recorded an affidavit showing the compliance by the locator with the provisions of this section, which affidavit shall be recorded with the copy of the location notice.

**517.030 Recording copy of discovery notice and the affidavit of work; fee.** The locator shall, within 60 days from the posting of the location notices by him upon the lode or claim, file for record with the recorder of conveyances, if there is one, who shall be the custodian of mining records and miners' liens, otherwise with the clerk of the county where the claim is situated, a copy of the notice posted by him upon the lode or claim, having attached thereto an affidavit showing that the work required by ORS 517.020 has been done, and shall pay the recorder or clerk a fee of \$1 for such record, which sum the recorder or clerk shall immediately pay over to the treasurer of the county and shall take his receipt therefor, as in case of other county funds coming into the possession of such officer. The recorder or clerk shall immediately record the location notice and the affidavit annexed thereto. No location notice shall be entitled to record, or be recorded, until the work required by ORS 517.020 has been done and the affidavit in proof thereof is attached to the notice to be recorded.

**517.040 Abandoned claims.** Abandoned claims are unappropriated mineral lands, and titles thereto shall be obtained as specified in ORS 517.010 to 517.030, without reference to any work previously done thereon.

**517.050 Locations subsequent to December 31, 1898.** Subject to ORS 517.060, all locations or attempted locations of quartz mining claims subsequent to December 31, 1898, that do not comply with ORS 517.010 to 517.030 are void.

**517.060 Correction of defective notice of location.** If at any time the locator of any mining claim or his assigns apprehend that the original notice of location of the mining claim was defective, erroneous, or that the requirements of the law had not been complied with before the filing of the notice, such locator or assigns may post and file for record in the manner now provided by law, an amended notice of the location which

shall relate back to the date of the original location; provided, that the posting and filing of the amended notice of location shall not interfere with the existing rights of others at the time of posting the amended notice.

**517.070 Certain locations subject to prior rights.** Any location of any mining claim made upon any natural stream, or contiguous or near to any placer mine, or upon or below the dump of any placer mine, shall be subject to the prior right of all mines in operation prior to the making of such location, to discharge debris, gravel, earth, and slickens which were or may be discharged at the time of making such subsequent location.

**517.080 Mining claims as realty.** All mining claims, whether quartz or placer, are real estate. The owner of the possessory right thereto has a legal estate therein within the meaning of ORS 105.005.

**517.090 Application to claims of law governing transfers and mortgages of realty.** All conveyances of mining claims or of interests therein, either quartz or placer, whether patented or unpatented, are subject to the provisions governing transfers and mortgages of other realty as to execution, recordation, foreclosure, execution sale and redemption; but such redemption by the judgment debtor must take place within 60 days from date of confirmation, or such right is lost.

**517.100 Sums payable on redemption of claim; interest.** In case of redemption from sale under judgment or decree, the redemptioner shall pay such sums as are now required by law for redemption under execution sale, and such additional sum as may have been expended upon the property so redeemed by the purchaser under execution, or his assigns, in order to keep alive the possessory right thereto after the execution sale, not exceeding \$100 for each claim, with 10 percent interest thereon from date of such expenditures.

**517.110 Grubstaking contracts.** All contracts of mining copartnership, commonly known as "grubstaking," shall be in writing, and filed for record with the recorder of conveyances of the county wherein the locations thereunder are made. Such contracts must contain the names of the parties thereto and the duration thereof; otherwise they are void.

## ASSESSMENT WORK

**517.210 Recordation of affidavit of annual labor.** Within 30 days after the performance of labor or making of improvements, required by law to be annually performed or made upon any mining claim, the person in whose behalf such labor was performed or improvement made, or someone in his behalf, knowing the facts, shall make and have recorded in the mining records of the county in which the mining claim is situated, an affidavit setting forth:

(1) The name of the claim or claims if grouped and the book and page of the record where the location notice of each such claim is recorded.

(2) The number of days' work done and the character and value of the improvements placed thereon, together with their location.

(3) The dates of performing the labor and making the improvements.

(4) At whose instance or request the work was done or improvements made.

(5) The actual amount paid for the labor and improvements, and by whom paid, when the same was not done by the claim owner.

**517.220 Affidavit or lack thereof as evidence; recording fee.** The affidavit described in ORS 517.210, when so recorded, or a duly certified copy thereof, is prima facie evidence of the facts therein stated. Failure to file such affidavit within the prescribed time is prima facie evidence that such labor has not been done. The fee for recording the affidavit is \$1. All claims constituting one group belonging to the same person, persons, association or corporation may be included in one affidavit without additional charge.

**517.230 Performance of assessment work by co-owners.** Whenever any quartz or placer mines are owned by one or more persons, or are owned in common by any persons, any person owning any legal or equitable interest in the mines may perform the annual assessment work upon them which is required by the laws of the United States and Oregon. Such work, when it complies with said laws, shall protect the mines from relocation.

**517.240 Failure of co-owner to contribute; notice.** Upon failure of any co-owner of any mine to contribute his proportion of expenditures required in assessment work, or to perform or pay for his proportion, the co-owners who performed or caused to be

performed the labor or assessment work, may, at the expiration of the year for which the assessment work was performed, give the delinquent co-owner notice that the assessment work for that year has been performed, stating by whom performed, the amount of work performed and the dates between which it was performed; together with a statement of the amount due from the delinquent co-owner for his proportion of the work, and requiring him, within 90 days from the date of service of the notice, to pay to the co-owners who performed or caused to be performed such work, his proportion. The notice shall further state that if the delinquent co-owner fails or refuses to contribute his proportion due for the work, his interest in the mine will become the property of the co-owners who performed or caused to be performed the assessment work.

**517.250 Form of notice; service; publication.** The notice shall be in writing and signed by the co-owner who performed or caused to be performed the assessment work. It shall be served upon the delinquent co-owner personally by the sheriff of the county in which the mine is situated, if the delinquent co-owner is within the county. If he can be found in any other county, then the notice shall be served by the sheriff of that county. If the delinquent co-owner cannot be found within the state, or if at the time of giving the notice he is without the state, service of the notice shall be made by publication thereof in the weekly newspaper published in the county nearest to where the mine is situated. If there are two or more papers published in the county at the same distance from the mine, the co-owner giving notice may elect in which paper the notice shall be published. If no weekly newspaper is published within the county, service of the notice shall be made by publication in any other weekly newspaper within the state published nearest the mine. The notice shall be published at least once a week for a period of 90 days after the first publication.

**517.260 Notice; return and proof of service.** If the notice is served by any sheriff as provided in ORS 517.250, he shall make return by filing the notice with his return showing service with the county recorder, or if there is none, with the county clerk, for the county within which the mine is situated. If personal service cannot be had as provided in ORS 517.250, proof of service shall be

made by filing with the county recorder, or if there is none, with the county clerk of the county in which the mine is situated, the notice as published, attached to an affidavit made by the printer, foreman, or publisher of the newspaper, to the effect that it is of general circulation throughout the county, is published weekly, and that the notice was published at least once a week in that newspaper for a period of not less than 90 days after the first publication of the notice.

**517.270 Vesting of interest of delinquent co-owner.** If at the expiration of 90 days from the date of personal service of the notice upon the delinquent co-owner or from the date of the last publication of the notice, the delinquent co-owner has not paid his proportion to the co-owners who performed or caused to be performed the assessment work, the title to the interest of the delinquent co-owner in the mine shall be immediately vested in the co-owners who performed or caused to be performed the assessment work.

**517.280 Certificate of ownership; how obtained.** The co-owners who performed the assessment work may file with the county recorder or, if there is none, with the county clerk of the county where the mine is situated, their affidavits that the payment has not been made. Upon the filing of such affidavits, the recorder or clerk, as the case may be, shall record the notice, proof of service and affidavits in a book kept by him for that purpose. He shall then and there issue to the co-owners who performed or caused to be performed the assessment work, a certificate to the effect that he has filed and recorded the notice, proof of service and affidavits of non-payment, and that the co-owners who performed or caused to be performed the assessment work have become and are the owners of all the right, title and interest of the delinquent co-owner or co-owners of the property.

**517.290 Fee for certificate.** The certificate described in ORS 517.280 shall not be issued until the co-owners entitled to it pay to the recorder or clerk a fee of \$1.

**517.300 Effect of certificate; certified copy of certificate, notice and return admissible as evidence.** (1) A certificate issued as provided in ORS 517.280 shall be equivalent to a deed from a delinquent co-owner of all his interest in and to all mines described in the notice, and shall convey the interest of

the delinquent co-owner in the premises to the co-owner or co-owners who performed or caused to be performed the assessment work. The certificate may be introduced in evidence in any cause where ownership of the property may become material. When so introduced, it shall have the same force and effect as would a duly executed and delivered deed from the delinquent co-owner.

(2) A certified copy of the certificate, and of the notice and return, when made and certified to by the county recorder or clerk, shall be admissible in evidence in any trial where it is material to establish proof of service of the notice or ownership of the property.

**517.310 Recording and indexing certificate; fee; effect.** The certificate given by the recorder or county clerk shall be entitled to record in the office of the officer issuing it, upon payment of the same fees as are required for recording mining conveyances. The officer shall keep a record book, showing the record of such certificates recorded by him. Upon recording, he shall index them in a book kept by him for that purpose and shall likewise index them in the deed records of mining conveyances kept by him. Such indexing and recording shall have the same force and effect as the indexing and recording of deeds to other real property, and shall give like constructive notice.

**517.320 Counteraffidavits of delinquent owner; suit to quiet title; decree.** If prior to the issuing of the certificate there has been filed with the county recorder or county clerk an affidavit by the delinquent co-owner that the payment has been made, the recorder or clerk, as the case may be, shall not issue a certificate, but the parties shall be left to establish such fact by suit to quiet the title to the premises. If in the suit it appears either that the assessment work was not performed by the co-owners claiming to have performed it, or that the delinquent co-owner has performed or paid his proportion of the assessment work, a decree shall be entered in the suit to that effect; but if it is established that the assessment has been performed by or has been caused to be performed by the co-owners so claiming and that the delinquent co-owner has not performed or paid his proportion, a decree shall be entered decreeing the co-owners who performed the assessment work to be the owners of all the interest of the delinquent co-owner in the

premises. The decree shall be entitled to record in the miscellaneous records kept by the county recorder or county clerk in the county, and shall be indexed in the index with the record of deeds and mining conveyances for the county.

**517.330 Accounting for fees.** All fees collected under ORS 517.290 and 517.310 are the property of the county in which they are collected, and shall be accounted for by the officer collecting them as other recording fees are accounted for.

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A summary of the various laws granting moratoriums on assessment work from 1932 to 1954 appears at back of the bulletin.

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## **MINING LEASES**

**517.410 State Land Board and State Board of Forestry may execute mining leases and contracts; terms and conditions; royalty; investigation fee.** (1) The State Land Board, as to any land which is owned by the state or whereon the mineral rights are reserved by the state, and the State Board of Forestry, as to any lands acquired pursuant to ORS 530.010 to 530.040, may execute leases and contracts upon a royalty basis for the mining of gold, silver, copper, lead, cinnabar, gas and oil or other valuable minerals from such lands upon terms and conditions agreed upon by the State Land Board, or the State Board of Forestry, respectively, and the lessee. However, if the parties cannot agree upon the terms of a lease, other than a lease for the mining of gas and oil, as to the amount to be paid to the State Land Board, or the State Board of Forestry, respectively, then it shall be upon a royalty basis of no more than 10 percent of the gross value of all minerals produced.

(2) All leases shall be without limitation as to time; but the State Land Board, or the State Board of Forestry, respectively, may cancel any lease upon failure by the lessee to exercise due diligence in the prosecution of the prospecting, development or continued operation of the mine, and shall insert in every such lease appropriate provisions for such cancelation.

(3) The State Land Board, or the State Board of Forestry, respectively, may charge a reasonable fee, to be paid by the applicant, for making necessary investigations before the execution of any such lease.

**517.420 Location of claim on state land and state forests; evidence of right to lease a located claim; application for lease.** (1) The manner of locating a mineral claim upon state land or upon land whereon the mineral rights have been reserved by the state, or upon state lands acquired pursuant to ORS 530.010 to 530.040, shall be in accordance with the laws of this state and the United States regulating the location of mineral claims upon government lands.

(2) Whenever a person perfects the location of a claim, evidence of the location shall be sufficient to establish a right to lease the claim; provided, that application for such lease, giving a description of the claim shall be made to the State Land Board, or to the State Board of Forestry, as the case may be, within 60 days after the notice of location has been filed.

**517.430 Use of timber by lessee.** (1) The lessee of the State Land Board under ORS 517.410 may use down timber found on the premises for fuel, and may cut and use green timber in the construction of buildings required in the operation of a mine on the premises, or for lining test pits or shafts, or for timbering drifts or excavations, or for other mining purposes, but for no other purpose.

(2) The lessee of the State Forester under ORS 517.410 may use down timber found on the premises for fuel and may cut and use green timber for lining test pits or shafts, or for timbering drifts or excavations, or for other mining purposes, but for no other purpose. [Amended by 1953 c.65 §5]

**164.480 Damaging state lands.** (1) Any person who:

(a) Cuts down, removes, destroys or injures or permits to be cut down, removed, destroyed or injured, any timber, trees or firewood, standing, growing or lying upon any of the lands of this state before a deed to the land is issued by the state as provided by law;

(b) Takes or removes, or causes to be taken or removed from any such lands, any timber, wood, clay, sand or other material or substance;

(c) Unless he is a bona fide mineral claimant under the mining laws of the United States or by contract with the state, digs, quarries, takes or removes or causes to be dug, quarried, taken or removed any mineral,

earth or stone from such lands; or

(d) Otherwise injures, defaces or damages, or causes to be injured, defaced, or damaged, any such land, shall be punished upon conviction by imprisonment in the county jail for not less than one month, nor more than one year, or by fine of not less than \$50, nor more than \$1,000, or both.

(2) The state shall not be required to prove title to the lands in question. The fact that the lands have been selected by the state or are a part of section 16 or 36 in any township, is prima facie evidence of the state's title.

(3) Any person who holds such lands under contract with the state for the purchase thereof, and occupies the land for the purpose of a home, may, with the written consent of the State Land Board, cut such timber as may be necessary for domestic use or clear the land for actual cultivation.

**274.070 Ownership of Pacific shore; declaration as highway.** Ownership of the shore of the Pacific Ocean between ordinary high tide and extreme low tide, and from the Columbia River on the north to the Oregon and California state line on the south, excepting such portion or portions as may have been disposed of by the state prior to July 5, 1947, hereby is declared vested in the State of Oregon, and hereby is declared to be a public highway. No portion of such shore shall be alienated by any of the agencies of the state.

**274.080 Permit to take products from beach.** No sand, rock, marine growth or other natural product of the Pacific Ocean or beach declared a public highway pursuant to ORS 274.070, other than fish or wild life, agates or souvenirs, shall be taken from such beach, except pursuant to rule, regulation or permit of or from the State Land Board, as provided in this section. Upon request of the county court of any county contiguous to any portion of said ocean shore the State Land Board may grant permits for the removal of sand or rock from said ocean shore at designated locations to supply reasonable needs for essential construction uses in such localities as it appears sand and rock for such construction are not otherwise obtainable at reasonable cost. The State Land Board may grant or issue a license or permit to any individual, firm, copartnership, corporation or associa-

tion permitting the taking and removal of sand, rock or marine growth from the ocean shore at designated locations. The terms, royalty and duration thereof shall be at the discretion of the State Land Board, and all royalties received therefrom shall, after deducting cost of administration of this section, be deposited with the State Treasurer for the benefit of the Common School Fund.

**274.540 Application for lease.** Before any person shall take any gravel, rock or sand from state properties, except in the manner and for the purposes mentioned in ORS 274.550, he shall apply to the State Land Board for a lease, and such application shall be accompanied by a map or plat showing the premises. Upon receipt of such application and map or plat the State Land Board may award a lease to the applicant and fix a royalty. [Amended by 1953 c.181 §2]

**274.550 Removal of material from stream beds without lease authorized for certain purposes.** (1) The removal of gravel, rock, sand, silt or other material from the bed or bars of any navigable stream within the state is authorized when the same is removed for channel or harbor improvement or flood control, or when the material is used for filling, diking or reclaiming land located not more than one-half mile from the bank of the stream.

(2) No payment of royalty shall be required for such gravel, rock, sand, silt or other material unless the same is removed from the place deposited and sold or used as an article of commerce. Before any such material may be removed from the place deposited and sold or used as an article of commerce, the State Land Board shall be duly notified in writing of such intended removal and sale or use as an article of commerce and payment shall be made to the board of such royalty as it may fix therefor.

(3) In addition to the purposes enumerated in subsection (1) of this section, any person may take gravel, rock, sand, silt or other material for his own exclusive use to the extent of not more than 50 cubic yards in any one year.

**274.570 Unauthorized removal as trespass.** The establishment or placing of a dredging or digging outfit on any waters or stream, the bed of which belongs to the State of Oregon, and the removal of material from the bed thereof for commercial uses, without having applied for and re-

ceived a lease, hereby is declared to constitute a continuing trespass.

**517.440 Lessee, licensee, or operator of mine deemed bailee of yield until payment of lessor and workmen.** Any lessee, licensee, or person other than the owner, who operates or works a mine, lode, mining claim, or deposit yielding metal or mineral of any kind, has custody and control of whatever metal or mineral may be produced in such operation or work, as bailee only and not as owner, until the sum due the lessor is paid and the wages due from such lessee to the lessor or to any workman who has performed labor under contract of service on, in or about such mine, lode, mining claim, or deposit are wholly paid.

**517.450 Conversion of yield by bailee.** No bailee so designated in ORS 517.440 shall embezzle or wrongfully convert to his own use, or shall secrete or conceal with intent to convert to his own use, or shall injure, destroy, sell, give away, or remove from the county where situated when obtained, without the written consent of the lessor and workmen, any such metal or mineral.

## **ROGUE RIVER COORDINATION BOARD**

**517.510 Rogue River Coordination Board.** There is created a board to be known as the Rogue River Coordination Board, referred to in ORS 517.520 to 517.550 as the "board."

**517.520 Maintenance of fishing conditions; cooperation of placer and fishing interests.** It is the intent of ORS 517.510 to 517.550 that, from the standpoint of turbidity, fishing conditions in the Rogue River and its tributaries shall be maintained in Curry County comparable to such fishing conditions in Josephine County, and to provide a medium through which the placer mining interests and fishing interests on the Rogue River and its tributaries may cooperate for the mutual benefit of both. The personnel of the board shall exercise the authority conferred upon the board to that end.

**517.530 Members of board; assistants; expenses; quorum.** The board shall consist of three members to be appointed by the Governor. One member shall be a fisherman or angler residing in Curry County, one a miner residing in Josephine County and one member at large who shall be neither a

fisherman nor a miner and who shall act as chairman of the board. The board shall select one of its members as secretary, who shall have custody of the records. The board is authorized to employ such clerks and assistants as may be necessary and to fix their compensation. Each member of the board shall be allowed and paid his necessary expenses while engaged in the performance of his duties. A majority of the board shall constitute a quorum to transact business and the act or decision of any two members of the board shall be deemed the act or decision of the board.

**517.540 Jurisdiction of board; powers and duties.** The board shall have complete jurisdiction over the placer mining operations in the waters of and along the Rogue River and each of its tributaries. In respect to the exercise of such jurisdiction it shall:

(1) Make a survey of the placer mining operations in and along the waters of Rogue River and its tributaries for the purpose of ascertaining the effect thereof upon the angling conditions in such waters.

(2) Establish from the facts found by the survey and study a system of rotating, alternating or coordinating the operations of the various placer mining activities in and along such waters to the end that suitable and favorable conditions for angling and game fishing in such waters, or any part or parts thereof, may be brought about and maintained during certain periods of time by the control or prevention of turbidity caused by placer mining operations in such

waters or part or parts thereof.

(3) Cause to be suspended the placer mining operations being carried on by any person or company in or along such waters for any period or periods of time it shall deem necessary to accomplish the purposes of the system.

(4) Make such rules, regulations and orders as it shall deem necessary to carry out the purposes expressed in ORS 517.520. Such rules, regulations and orders shall have the force and effect of law.

**517.550 Cooperation of police officers with board.** Every state police officer and sheriff whose other duties require him to be in the vicinity of the Rogue River or any of its tributaries shall cooperate with and assist the board in enforcing the provisions of ORS 517.540 and every rule, regulation or order made pursuant thereto.

#### **.PENALTIES**

**517.990 Penalties.** (1) Violation of ORS 517.450 shall be deemed larceny by bailee, and is punishable, upon conviction, by a fine of not less than \$100, nor more than \$500, or by imprisonment in the county jail for not more than one year, or both.

(2) Violation of any rules, regulations and orders made pursuant to subsection (4) of ORS 517.540 is punishable, upon conviction, by a fine of not less than \$25 nor more than \$250, or by imprisonment in the county jail for not more than 60 days, or both. [Amended by 1953 c.188 §2]



## **LIENS**

### **87.145 Mining labor and material lien.**

(1) Every person who performs labor upon or furnishes provisions, supplies or material for the working or development of any mine, lode, mining claim or deposit, in this section hereafter called mine, in search of or containing coal, metal or mineral of any kind; and any person who works upon or furnishes materials for any shaft, tunnel, incline, adit, drift or other excavation, in this section hereafter called excavation, designed for the use, working or draining of any such mine; and any person who works or furnishes material for any road, tramway, trail, flume, ditch, pipe line, building, structure or superstructure, in this section hereafter called improvement, or in any boarding house, used for or in connection with the working or development of any such mine; and any person who performs labor or service in freighting or packing any material or supplies for the use, working or development of any such mine, or performs labor in transporting material or the product from such mine or improvement; and any person who furnishes any provisions, materials or supplies for the working or operation of any such improvement used or operated in connection with such mine, shall have a lien upon such mine or improvement to secure to him the payment for the work or labor done or material furnished. The lien shall attach in every case to such mine, improvement or boarding house owned or used in connection with the operation and development of the same.

(2) When two or more mines are owned or claimed by the same person and worked through a common excavation, or over one tram, or at one mill or other reduction works, then all the mines so worked, and all boarding houses and improvements used or owned in connection therewith, shall for the purposes of ORS 87.145 to 87.165, be deemed one mine.

(3) When any mine, excavation, boarding house or improvement shall be worked by lessees or any person, other than the owner, acting under contract with the owner the lien provided for by this section shall be limited to the labor performed or the material furnished such lessees or such person during a period of not more than 40 days next preceding the time when the last of such labor was performed or such materials or supplies were furnished.

**87.150 Filing of claim of lien.** Any laborer or materialman claiming the lien described in ORS 87.145, shall, within 60 days after he has ceased to labor thereon from any cause, or after he has ceased to furnish materials therefor, file with the recording officer of the county in which the mine, lode, mining claim or deposit shall be situate, a claim containing a true statement of his demand, after deducting all just credits and offsets, with the name of the owner or reputed owner, if known, and also the name of the person by whom he was employed or to whom he furnished the materials, and also a description of the property to be charged with the lien sufficient for identification, which claim shall be verified by the oath of the lien claimant or some other person having a knowledge of the facts.

**87.155 Recording.** The recording officer shall record the claim described in ORS 87.150 in a book kept for that purpose, which shall be indexed as deeds and other conveyances are required by law to be indexed.

**87.160 Priority and duration of lien.** The lien provided for in ORS 87.145 shall be preferred to any prior lien, mortgage or other encumbrance, and no sale, transfer, mortgage or assignment of any mine, mining claim or other property subject to a lien under ORS 87.145 shall defeat such lien, except as provided in this section. No lien provided for in ORS 87.145 shall be continued in force, for longer than six months after the claim is filed, unless suit is brought in a proper court within that time to enforce the lien, or, if a credit is given, within six months after the expiration of the credit; but no lien shall be continued in force for a longer time than two years from the time the work is completed by any agreement to give credit.

**87.165 Foreclosure.** Suits to enforce the liens created by ORS 87.145 shall be brought in the circuit court. In case the proceeds of any sale under ORS 87.145 to 87.165 shall be sufficient to pay all lienholders under it, the liens of all persons shall be paid in full, or pro rata, if the proceeds be insufficient to pay them in full, and each claimant shall be entitled to execution for any balance due him after such distribution; such execution to be issued by the clerk of the court, upon demand, after the return of the sheriff or other officer making the sale, showing the



balance due. In all such suits the court shall, upon entering judgment for the plaintiff, allow as a part of the costs all moneys paid for the filing and recording of the lien, and also a reasonable amount as attorney's fees. In all such suits all persons personally liable and all lienholders whose claims have been filed for record under the provisions of ORS 87.150 shall, and all other persons interested in the matter in controversy or in the property sought to be charged with the lien may be made parties; but such as are not made parties shall not be bound by the proceedings. The proceedings upon such

**205.320 Fees collected by recorder or county clerk.** In every county there shall be charged and collected, in advance, by the recorder of conveyances, or county clerk if there is no recorder of conveyances, for the benefit of the county, the following fees, and no more, for the following purposes and services:

(1) For recording, otherwise than by means of photography, microphotography, photocopying or filming, any instrument required or permitted by law to be recorded, for each folio, 20 cents. In any event, a minimum fee of \$1 for five folios, or less, shall be collected for the recording of any instrument. For a chattel mortgage upon any migratory chattel required by law to be registered with the Secretary of State and license issued by him thereon there shall be charged and collected, in addition to the recording or filing fee, 50 cents, which sum forthwith shall be transmitted to the Secretary of State.

(2) For filing and making entry when required by law of any instrument required or permitted by law to be filed, when it is not recorded, 50 cents.

(3) For entering and attesting satisfaction, assignment or release on the margin of the record of any instrument, 25 cents.

(4) For filing and making entry of the assignment or satisfaction of any filed, but not recorded, instrument, 50 cents.

(5) For supplying to private parties copies of records or files, made otherwise than by means of photography, microphotography, photocopying or filming, as follows:

(a) For copies prepared and compared by the recorder, for each folio, 10 cents.

(b) For copies not prepared by the recorder, but by him compared, for each folio, 5 cents.

(c) For carbon copies of the original not

prepared by the clerk but by him compared, no charge.

(6) For each official certificate, 50 cents.

(7) (a) This subsection applies only to the photographic, microphotographic, photocopying or filming method of recording. For purposes of this subsection, "page" means one side of a sheet, other than a rider, of an instrument, 13½ inches, or less, long and 8½ inches, or less, wide, and "rider" means one side of any sheet affixed to a page, and not more than 8½ inches by 9 inches in dimensions.

(b) For recording any instrument required or permitted by law to be recorded, for each page, 75 cents, and for each rider, 50 cents, but the minimum fee shall not be less than \$1.

(c) For supplying to private parties copies of records or files, for each page, 50 cents, and for each rider, 50 cents.

(d) For each official certificate, 50 cents.

## **DAMAGE TO MINING PROPERTY**

**164.610 Interference with water rights and appliances.** Any person who:

(1) Maliciously, wantonly or wilfully cuts, breaks down, injures, destroys, extends, alters, tampers or interferes with or removes any ditch, canal, flume, flashboard, trench, pipe, dam, reservoir, well, pump, main, meter, gate, gate valve, wheel, wheel gear, machinery or any thing or device, or appurtenance thereto, used for conveying, receiving, holding, pumping, measuring or delivering water used or designed for any lawful public or private purpose;

(2) Maliciously or without color of right obstructs, draws off or uses any portion of the water flowing through or contained in any such ditch, canal, flume, dam, trench, pipe, reservoir, well, pump, main, meter or other receptacle or thing used for containing, conveying, pumping, measuring or delivering such water; or

(3) Retains possession of or refuses to deliver any meter, article or appliance loaned or rented to him by any person, company or public or private corporation for the purpose of measuring or furnishing water through the same, or sells, loans or in any manner disposes of the same, shall be punished upon conviction by a fine of not less than \$10 nor more than \$500, or by imprisonment in the county jail not more than six months, or both.

**164.840 Tearing down or defacing posted notices.** Any person who wilfully tears down, alters or defaces any posted, written or printed notice, posted or put up pursuant to any law requiring or authorizing it to be done, before the time for which such notice is given has expired, shall be punished upon conviction by imprisonment in the county jail for not less than one month nor more than six months, or by a fine of not less than \$50 nor more than \$300.

**164.850 Injuring mining claim or appurtenances.** Any person who breaks or robs in any manner, or attempts to break or rob, any flume, rocker, quartz mill, quartz vein or lode, bed rock sluice, sluice box or mining claim not his own, or trespasses upon such mining claim with the intent to commit a felony, shall be punished upon conviction by imprisonment in the penitentiary for not more than five years, or by a fine of not less than \$100 nor more than \$1,000, or both.

**164.860 Destroying or removing monuments locating mining claims.** (1) Any person who wilfully and maliciously defaces, removes, pulls down, injures or destroys any location stake, side post, corner post, landmark or any other legal land boundary monument in this state designating or intending to designate the location boundary or name of any mining claim, lode or vein of mineral, or the name of the discoverer or date of its discovery, shall be punished upon conviction by a fine of not more than \$500, or by imprisonment in the county jail for not more than six months, or both.

(2) This section does not apply to abandoned property.

**368.930 Damage of road by escaping waters prohibited.** No person or corporation occupying land as owner, proprietor, lessee or otherwise, shall wilfully or negligently permit any water from any irrigation or drainage ditch to waste or flow from the lands or premises owned, occupied, leased or rented by him, upon any county road or public highway, or upon the right of way of any county road or public highway, and damage the same, or interfere with the public use thereof.

### **PENALTIES**

**368.990 Penalties.** (1) Violation of subsection (3) of ORS 368.100 shall result in forfeiture of \$20 for each offense, to be re-

covered by an action at law brought in the name of the county in any justice's court. All money recovered shall be placed in the general fund of the county. In all such suits that may be decided adversely to the county, the costs thereof shall be paid out of the general fund of the county.

(2) Violation of ORS 368.270 is punishable, upon conviction, by a fine of not less than \$10 nor more than \$50.

(3) Violation of ORS 368.930 is punishable, upon conviction, by a fine not exceeding \$100 or by imprisonment in the county jail not exceeding 60 days, or both. Justices' courts shall have concurrent jurisdiction with the circuit courts of all offenses committed under ORS 368.930.

### **SEPARATE OWNERSHIP**

#### **307.010 Definition of real property.**

(1) "Land," "real estate" and "real property" include the land itself, above or under water; all buildings, structures, improvements, machinery, equipment or fixtures erected upon, under, above or affixed to the same; all mines, minerals, quarries and trees in, under or upon the land; all water rights and water powers and all other rights and privileges in any wise appertaining to the land; and any estate, right, title or interest whatever in the land or real property, less than the fee simple.

(2) Where the grantor of land has, in the instrument of conveyance, reserved or conveyed:

(a) Any of the timber standing upon the land, with the right to enter upon the ground and remove the timber, the ownership of the standing timber so reserved or conveyed is an interest in real property.

(b) The right to enter upon and use any of the surface ground necessary for the purpose of exploring, prospecting for, developing or otherwise extracting any gold, silver, iron, copper, lead, coal, petroleum, gases, oils or any other metals, minerals or mineral deposits in or upon the land, such right is an interest in real property.

**308.115 Standing timber, improvements, minerals, coal, oil, gas or other severable interests owned separately from realty.** (1) Whenever any standing timber, or any mineral, coal, oil, gas or other severable interest in or part of real property is owned separately and apart from the rights and interests owned in the surface ground of the real

property, such standing timber, minerals, coal, oil, gas or other interests or parts shall be assessed and taxed as real or personal property in accordance with existing law in the name of the owner thereof, separately from the surface rights and interests in the real property and may be sold for taxes in the same manner and with the same effect as other interests in real property are sold for taxes.

(2) Similarly, whenever any building, structure, improvement, machinery, equipment or fixture is owned separately and apart from the land or real property whereon it stands or to which it is affixed, such building, structure, improvement, machinery, equipment or fixture shall be assessed and taxed in the name of the owner thereof.

### **WATER RIGHTS**

**541.110 Use of water to develop mineral resources and furnish power.** The use of the water of the lakes and running streams of Oregon for the purpose of developing the mineral resources of the state and to furnish electric power for all purposes, is declared to be a public and beneficial use and a public necessity. Subject to the provisions of the Water Rights Act (as defined in ORS 537.010), the right to divert unappropriated waters of any such lakes or streams for such public and beneficial use is granted.

**541.120 Ditches, etc., through lands; two or more prohibited; use of existing ditch by others than owner; joint liability.** No tract or parcel of improved or occupied land in this state shall, without the written consent of the owner, be subjected to the burden of two or more ditches, canals, flumes or pipe lines constructed under the Act of 1899, pages 172 to 180, Oregon Laws 1899, for the purpose of conveying water through the property, when the same object can be feasibly and practically attained by uniting and conveying all the water necessary to be conveyed through such property in one ditch, canal, flume or pipe line. Any person having constructed a ditch, canal, flume or pipe line for the purpose provided in the Act of 1899 shall allow any other person to enlarge such ditch, canal, flume or pipe line, so as not to interfere with the operations of the person owning the same, and to use such ditch, canal, flume or pipe line in common with the person owning the same, upon payment to such person of a reasonable proportion of

the cost of constructing and maintaining the ditch, canal, flume or pipe line. Such persons shall be jointly liable to any person damaged.

**541.130 Right of way for ditches across state lands granted.** The right of way to the extent specified in the Act of 1899, pages 172 to 180, Oregon Laws 1899, for the ditches, canals, flumes, pipe lines, distributing ditches, and feeders of any person appropriating water under the provisions of that Act, across any and all lands belonging to the State of Oregon and not under contract of sale, is granted.

**539.080 Fees; disposition.** (1) At the time of submission of proof of appropriation, or at the time of taking testimony for determination of rights to water, the State Engineer shall collect from each claimant or owner a fee of \$1 for recording the water rights certificate, when issued, in the office of the county clerk, together with an additional fee, as follows:

(a) For irrigation use, 75 cents for each acre of irrigated lands up to 100 acres; 50 cents for each acre in excess of 100 acres up to 500 acres; 35 cents for each acre in excess of 500 acres up to 1,000 acres; and 25 cents for each acre in excess of 1,000 acres; the minimum fee for any claimant or owner to be \$15.

(b) For power use, 75 cents for each theoretical horsepower up to 100 horsepower; 50 cents for each horsepower in excess of 100 up to 500 horsepower; 35 cents for each horsepower in excess of 500 horsepower up to 1,000 horsepower; and 25 cents for each horsepower in excess of 1,000 horsepower, as set forth in such proof; the minimum fee for any claimant or owner to be \$15.

(c) For mining or any other use, \$10 for the first second-foot or fraction thereof, and \$2 for each additional second-foot.

(2) Where the proof shows that the water right was initiated by making application for a permit to the State Engineer under the provisions of ORS chapter 537, the claimant or owner in such cases shall be given credit for the money paid as examination and recording fees, and fees paid in recording the water right certificate with the county clerk.

(3) All the fees collected by the State Engineer shall be paid by him into the General Fund of the State Treasury, except those fees due or to be paid to the county

clerk.

## **POWER DEVELOPMENT FEES**

**543.710 Annual fee based on horsepower; exemptions.** Every person (hereinafter in this section and in ORS 543.720 called "claimant") claiming the right to the use of water for power development, shall on or before January 1 of each year pay to the state in advance an annual license fee based upon the theoretical water horsepower claimed under each separate claim to water, graduated as follows: Fifteen cents for each theoretical water horsepower up to and including 100; ten cents for each theoretical water horsepower in excess of 100 up to and including 1,000; and five cents for each theoretical water horsepower in excess of 1,000. However, upon filing the statement provided in ORS 543.720, the United States or the state, claiming the right to the use of water to any extent for the generation of power, or any other claimant to the right to use water for the generation of 10 theoretical water horsepower or less, shall be exempted from the payment of all fees provided for in this section.

**543.720 Payment in advance; accompanying statement of claim; penalty for nonpayment of fees or nonfiling; lien; foreclosure; amount of water claimed as affecting right of claimant; evidence of abandonment of right in excess of claim; computation of horsepower.** (1) The fees provided for in ORS 543.710 shall be paid to the State Engineer in advance, and shall be accompanied by a written statement showing the extent of the claim. The statement shall set forth the name and address of the claimant; the name of the stream from which the water is appropriated or claimed for power development; a description of the 40 acres, or smallest legal subdivision in which the point of diversion and point of return are located; the date of the right as claimed; the maximum amount of water claimed expressed in cubic feet per second of time; the total average fall utilized under such claim; the manner of developing power; and the use to which the power is applied. If the regular flow is supplemented by water stored in a reservoir, the location of the reservoir, its capacity in acre-feet and the stream from which it is filled and fed, should be given, also the date of the right as claimed, for storage purposes.

(2) Should any claimant fail or neglect

to file the statement or to pay the fees within the time specified, the fees due and payable shall be the amount specified in ORS 543.710 increased 25 percent. The state shall have a preference lien therefor, together with interest at the rate of 10 percent per annum from date of delinquency, upon the property of the claimant used, or necessary for use, in the development of the right or claim, together with any improvements erected thereon for such development. Upon notice from the State Engineer, the Attorney General shall foreclose the lien and collect the amount due, as provided in this section, in the same manner as other liens on real property are foreclosed.

(3) The filing of a claim to water in excess of the amount to which the claimant is legally entitled shall not operate to vest in him any right to the use of such excess water, nor shall the payment of the annual license fee provided for in ORS 543.710 operate to vest in any claimant any right to the use of such water beyond the amount to which claimant is legally entitled. The filing of any such claim to water shall be conclusive evidence as to the abandonment by the claimant of all rights to water for power purposes in excess of the claim as filed.

(4) The amount of theoretical water horsepower upon which fees shall be paid under the provisions of ORS 543.710 and 543.720 shall be computed by multiplying the maximum amount of water claimed, expressed in cubic feet per second, by the average total fall utilized, expressed in feet, and dividing the product by 8.8.

## **LABOR IN MINES**

**652.040 Maximum working hours in mines.** (1) No person who operates any underground mine yielding gold or silver or copper or lead or other metal shall permit or require any person to work in such underground mine for more than eight hours in any 24 hours. The hours for such employment or work day shall be consecutive excluding, however, any intermission of time for lunch or meals.

(2) In the case of emergency, where life or property is in imminent danger, persons may work in such underground mines for a longer time during the continuance of the exigency or emergency. This section does not apply to mines in their first stages of development, such as tunnel work to a

length of 200 feet, or shaft work to a depth of 150 feet, or to any surface excavation.

**652.990 Penalties.** (1) Violation of subsection (2) of ORS 652.020 is punishable, upon conviction, by a fine of not less than \$50 nor more than \$500. Every day's violation is deemed a separate offense.

(2) Any person, body corporate, general manager or employer who violates ORS 652.040 or causes ORS 652.040 to be violated is punishable, upon conviction, by a fine of not less than \$50, nor more than \$300, or by imprisonment in the county jail for not less than 30 days, nor more than three months, or both.

(3) Violation of ORS 652.110 or 652.120 is punishable, upon conviction, by a fine of not more than \$500.

(4) Violation of ORS 652.130 by any employer is punishable, upon conviction, by a fine of not more than \$500 or by imprisonment in the county jail for not more than 60 days, or by both. Justice courts, district courts and circuit courts shall have concurrent jurisdiction in all cases arising under this subsection.

(5) Violation of ORS 652.610 or 652.620 is punishable, upon conviction, by a fine of not less than \$10 nor more than \$100 for each offense.

## **MINING CORPORATIONS**

**772.405 Condemnation by corporations for reduction of ores.** (1) Every corporation organized for the construction and operation of mills, smelters and other works for the reduction of ores authorized to do business within the state may condemn lands and property for the discharge and natural distribution of smoke, fumes and dust from such works in the manner provided by ORS chapter 35.

(2) The use of lands by such corporation for the purpose of the discharge and natural distribution of smoke, fumes and dust from any such mill, smelter or other works for the reduction of ores, under the conditions prescribed in this section hereby is declared to be a public use.

(3) The right of eminent domain shall not be exercised by such corporation:

(a) Beyond a radius of four miles from such mill, smelter or other works for the reduction of ores.

(b) On any land situated within a radius of five miles of the corporate limits of any city in the state.

(c) Until after such corporation has acquired the right to use 50 percent of the area of the lands within a radius of four miles from the mill, smelter or other works for the reduction of ores.

**772.410 Right of entry and condemnation by mining, quarrying and lumber corporations.** Any corporation organized for the purpose of opening or operating any gold, silver, or copper vein or lode, or any coal or other mine, or any marble, stone or other quarry, or for cutting or transporting timber, lumber, or cordwood, or for the manufacture of lumber:

(1) May construct and operate railroads, skid roads, tramways, chutes, pipe lines and flumes between such points as may be indicated in their articles of incorporation.

(2) May enter upon any land between such points for the purpose of examining, locating and surveying the line of such railroads, skid roads, tramways, chutes, pipe lines and flumes, doing no unnecessary damage thereby.

(3) May condemn so much of said land as may be necessary for the purposes of this section, not exceeding 60 feet in width by a condemnation action as prescribed by ORS chapter 35. [Amended by 1953 c.559 §3]

**772.415 Public benefit and use of facilities constructed under ORS 772.410.** (1) Railroads, skid roads, tramways, chutes, pipe lines or flumes constructed under ORS 772.410 shall be deemed to be for public benefit.

(2) Such railroad shall afford to all persons equal facilities for the transportation of freight upon payment or tender of reasonable compensation therefor, but shall not be required to carry passengers.

(3) Such skidway, tramway, chute, pipe line or flume shall afford to all persons equal facilities in the use thereof for the purpose to which they are adapted, upon tender or payment of the reasonable compensation for such use. [Amended by 1953 c.559 §3]

**772.420 Condemnation for transportation of minerals; conditions of reversion.**

(1) Any person requiring land for a right

of way for the transportation of the products of mines located in this state may acquire such land for such purposes in the manner and subject to the rights, privileges and liabilities under ORS 376.505 to 376.540.

(2) Lands acquired under this section shall not revert to the original owner, his heirs and assigns, until their use as contemplated in this section has ceased for a period of five years.

**57.767 License fees payable by domestic corporations.** (1) Every domestic corporation shall pay an annual license fee in proportion to the amount of its authorized capital stock. This fee shall be equal to the filing fee prescribed in this chapter. The amount of the authorized capital stock of every corporation shall be determined by its articles of incorporation, or amendments or supplementary articles of incorporation filed with the Corporation Commissioner. The annual license fee required by this section shall be paid in advance for the fiscal year beginning July 1 of each year. In case of new corporations formed during the fiscal year, the first year's fee shall be proportionate to such fraction of a year.

(2) Every corporation formed or organized under the laws of the State of Oregon, for the purpose of engaging in the business of mining for any of the precious metals, coal or prospecting or operating for oil or operating an oil well and whose business it is to engage in that business in Oregon only, shall during the month of June and on or before August 1 of each year, furnish to the Corporation Commissioner, upon blanks to be supplied by him for that purpose, a correct statement sworn to by one of its officers before some officer authorized to administer oaths, setting forth in detail the name of the corporation, the location of its principal office, the names of the president, secretary and treasurer thereof, with the postoffice address of each, the amount of the authorized capital stock, the number of shares and the par value of each share, the amount of capital stock subscribed, the amount of capital stock issued, the amount of capital stock paid up, and the amount of its properties in this state and where they are located. The statement shall also state in general terms the amount of work done and improvements made on its properties since the time of filing the last annual report, the amount and value of the annual output or products of the mines, coal or wells of the corporation

between January 1 and December 31 of the preceeding year, and that the corporation is not engaged in or transacting any other business except that of locating, prospecting, developing or operating mines for precious metals, coal or wells for oil in Oregon. Any such mining or oil corporation whose annual output or products do not exceed in value the sum of \$1,000 shall, if the above provided statement is properly filed within the prescribed time, be exempt from the payment of the annual license fee as provided by subsection (1) hereof; but in lieu thereof shall pay an annual license fee of \$10. However, no such corporation shall be required to make such statement if it files the statement required by ORS 57.755 and pays the annual license fee required by subsection (1) hereof.

(3) Every corporation shall pay to the Corporation Commissioner by August 15 of each year, the annual license fee for the fiscal year beginning July 1 of that year. If the fee is not so paid, then interest at the rate of 6 percent per annum shall be collected by the Corporation Commissioner from said August 15 until payment is received. [1953 c.549 §121]

## EXHIBITS

**203.130 Conservation, development and advertisement of county resources.** The county court of each county may appropriate out of the general fund of the county, not otherwise appropriated, such reasonable amount of money, not exceeding \$5,000 annually, as to the court may seem wise and expedient, for the following purposes:

(1) To employ such employes and expert consultants as are deemed necessary to make investigations and surveys concerning the resources of the county and to assemble and analyze the data thus obtained for the conservation of such resources and the systematic utilization thereof.

(2) To make exhibits at county, state, district and other fairs and expositions.

(3) To advertise and make known by whatever means deemed advisable the various agricultural, horticultural, mining, manufacturing, transportation, commercial and other resources of the county.

(4) To cooperate with other counties, the state and other public and semipublic agencies and organizations of the municipalities, state, other states and the United States in such conservation, development,



advertising and exhibits.

**203.140 Special tax to advertise and promote county resources.** Any county is authorized to levy a special tax of not more than three-fourths of one mill for advertising, printing and distribution of literature in such manner and forms as may be determined upon, for the purpose of making known the various agricultural, horticultural, mining, manufacturing, commercial and other resources, or for the purpose of promoting manufacturing and other enterprises beneficial in the development of the county.

## **STATE FOREST LANDS**

**530.010 State Board of Forestry authorized to acquire lands; limitations; lands designated as state forests.** The State Board of Forestry, referred to in this chapter as the board, in the name of the State of Oregon, may acquire, by purchase, donation, devise or exchange from any public, quasi-public or private owner, lands which by reason of their location, topographical, geological or physical characteristics are chiefly valuable for the production of forest crops, watershed protection and development, erosion control, grazing, recreation or forest administrative purposes. But the board shall not acquire any land without prior approval, duly made and entered, of the county court or board of county commissioners of the county in which the lands are situated; nor, in counties where land classification committees have been appointed in accordance with ORS 526.310, shall lands be so acquired unless they have been classified for the purposes above enumerated. Lands acquired under the provisions of this section shall be designated as state forests. [Amended by 1953 c.43 §2]

**530.020 Conditions precedent to acceptance of title; approval by Attorney General; suit to quiet title; deeds, deposit and recordation.** Title to all lands acquired by the board under ORS 530.010 shall be free and clear of all encumbrances except easements of right of ways and reservations or exceptions of gas, oil, coal, mineral and timber rights; provided that the interest in any timber upon such land shall be completely extinguished within 10 years from the date of conveyance to the state. All titles shall be approved by the Attorney General

before conveyance is accepted. However, the Attorney General may approve title to lands proposed to be acquired from counties under the provisions of ORS 530.030 or proposed to be acquired by donation or devise when, in his opinion, existing defects of title are of formal nature and may be cured by suit to quiet title. In case of acquisition of lands with defective title, the Attorney General may institute suit to quiet title to such lands, and all costs in connection therewith shall be a proper charge against the funds of the board. All deeds, abstracts, title insurance policies, and other evidences of title to lands acquired under ORS 530.010 to 530.040 shall be deposited with the Secretary of State. All deeds shall promptly be recorded in the county in which the lands are situated.

**530.050 Management of lands acquired; powers of board; sales of forest products.** (1) The board shall manage the lands acquired pursuant to ORS 530.010 to 530.040 so as to secure the greatest permanent value of such lands to the state, and to that end may:

(a) Protect the lands from fire, disease and insect pests, cooperate with the counties and with persons owning lands within the state in such protection and enter into all agreements necessary or convenient therefor.

(b) Sell forest products from the lands, and execute mining leases and contracts as provided for in ORS 517.410.

(c) Permit the use of the lands for grazing, recreation and other purposes when, in the opinion of the board, such use is not detrimental to the purposes of this section.

(d) Grant easements and rights of way over, through and across the lands.

(e) Reforest the lands and cooperate with the counties, and with persons owning timberlands within the state, in such reforestation, and make all agreements necessary or convenient therefor.

(f) Require such undertakings as in the opinion of the board are necessary or convenient to secure performance of any contract entered into under the terms of this section, or ORS 517.410.

(g) Do all things and make all rules and regulations, not inconsistent with law, necessary or convenient for the management, protection, utilization and conservation of the lands.

(2) Any sale of forest products in excess of the value of \$1,000 shall be made only after opportunity for competitive bidding is given by notice of the proposed sale by advertisement of not less than once a week for four successive weeks by publication in one or more newspapers published and of general circulation in the county in which such products are situated. However, competitive bidding shall not be required in connection with cooperative agreements for the promotion of forest management on a sustained yield basis, as provided in ORS 530.060.

(3) In planning the sale of forest products, the board shall take into consideration the manufacturing plants operating in the

vicinity of the place of production and, where feasible, establish marketing areas within the boundaries of which purchasers of such products shall be required either to manufacture the same, at least through the primary stages of manufacture, or to sell the same for such manufacture within the marketing area. In the event at any time the board determines that market conditions in any such area are such that the enforcement of the provision requiring either primary manufacture or the sale for primary manufacture in the area would be impracticable or inequitable, it may suspend such requirement while such conditions exist. [Amended by 1953 c.65 §5]

## REOPENING OF O & C LANDS TO MINERAL ENTRY

### PUBLIC LAW 477—80TH CONGRESS

#### Chapter 179—2d Session

H. R. 5049

#### AN ACT

To reopen the revested Oregon and California Railroad and reconveyed Coos Bay Wagon Road grant lands to exploration, location, entry, and disposition under the general mining laws.

*Be It Enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That, notwithstanding any provisions of the Act of August 28, 1937 (50 Stat. 874), or any other Act relating to the revested Oregon and California Railroad and reconveyed Coos Bay Wagon Road grant lands, all of such revested or reconveyed lands, except power sites, shall be open for exploration, location, entry, and disposition under the mineral-land laws of the United States, and all mineral claims heretofore located upon said lands, if otherwise valid under the mineral-land laws of the United States, are hereby declared valid to the same extent as if such lands had remained open to exploration, location, entry, and disposition under such laws from August 28, 1937, to the date of enactment of this Act: *Provided*, That any person who under such laws has entered since

August 28, 1937, or shall hereafter enter, any of said lands, shall not acquire title, possessory or otherwise, to the timber, now or hereafter growing thereon, which timber may be managed and disposed of as is or may be provided by law, except that such person shall have the right to use so much of the timber thereon as may be necessary in the development and operation of his mine until such time as such timber is disposed of by the United States: *Provided further*, That locations made prior to August 28, 1937, may be perfected in accordance with the laws under which initiated.

The owner of any unpatented mining claim located upon any of such lands shall file for record in the United States district land office of the land district in which the claim is situated (1) within one hundred and eighty days after the effective date of this Act, as to locations heretofore made, or within sixty days of locations, as to locations hereafter made, a copy of the notice of location of the claim; (2) within sixty days after the expiration of any annual assessment year, a statement under oath as to the assessment work done or improvements made during the previous assessment year, or as to compliance, in lieu thereof, with any applicable relief Act.

Approved April 8, 1948.



The following is taken verbatim from Technical Paper 591, "Federal Placer Mining Laws and Regulations", published in 1938 by the United States Bureau of Mines. These interpretations of the federal laws are given here mainly as an aid. Controversial matters should be taken up with a local attorney.

## FEDERAL PLACER MINING LAWS AND REGULATIONS

By FRED W. JOHNSON

### INTRODUCTION

In addition to a knowledge of placer minerals and their identification and occurrence and methods of sampling and prospecting, the prospector must have a knowledge of how to protect his rights in case he succeeds in making discovery. When a discovery has been made, the prospector can protect his rights thereto by locating a claim, or "staking" a claim, as it is sometimes called. Once a valid location is made, the locator has an absolute right to possession of the land in the claim and to mine and recover all minerals occurring thereon as long as he maintains his right to possession of the claim. The following information regarding the location of placer-mining claims has been compiled for the purpose of advising prospectors in this regard, and every reasonable care has been taken to make it accurate and reliable at the time it was written (October 1938). The reader is warned, however, that changes are made from time to time in the laws and regulations governing the location and patenting of mining claims. *If specific advice is desired as to any provision of the United States mining laws, inquiry should be directed to the Commissioner of the General Land Office, Washington, D. C.*

### PLACER MINERAL DEPOSITS

The law defines "placers" as including all forms of deposits excepting veins of quartz or other rock in place. Mineral deposits in the public lands, not in vein or lode formation, which have a commercial value and which can be mined at a profit, are subject to location under the placer-mining laws, except oil and gas, coal, phosphate, potash, oil shale, sodium, and, in Louisiana and New Mexico, sulphur, the minerals named being subject to lease only.

### LANDS SUBJECT TO LOCATION

Before prospecting, a prospector should first ascertain whether the land on which he expects to prospect is vacant Government land. If the land has been patented, it is no longer subject to mining location (unless patented under the stock-raising homestead law) and the prospector would not be able to protect his discovery by location. Vacant public lands, either surveyed or unsurveyed, in the states to which the mining laws are applicable, are open to prospecting and, upon discovery of mineral, to location and patent, as are also lands in national forests in the public-land states (subject to compliance with forest regulations), lands entered or patented under the stock-raising homestead law, lands entered under other agricultural

laws but not perfected, where prospecting can be done peaceably, and lands within railroad grants if patents have not been issued. Some Government-owned lands are embraced in withdrawals that do not permit mining locations to be made, and for this reason the status of the land should be ascertained before prospecting is begun. This status can be obtained by communicating with the register of the land office for the district in which the land is located, or the Commissioner of the General Land Office, Washington, D. C. In making inquiry of either of these officials, the land concerning which information is desired should be described by section, township, and range of the public land surveys or, if not surveyed, should be described by metes and bounds and its position with reference either to the nearest corner of the public land surveys or to the nearest towns, rivers, railroads, streams, peaks, or other natural or cultural features should be given, so that its location can be determined.

If prospecting is to be done on privately owned lands, the prospector should determine whether or not title to the minerals passed with the patent for the land, and if so, the United States mining laws are not applicable and it will be necessary for the prospector to obtain permission from the owner of the land to prospect thereon.

The United States mining laws are applicable to the following states, and mining locations can be made only in these states: Arizona, Arkansas, California, Colorado, Florida, Idaho, Louisiana, Mississippi, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oregon, South Dakota, Utah, Washington, and Wyoming. The mining laws are also applicable to the Territory of Alaska.

If the prospector learns that the land on which he expects to prospect is vacant public land, it is not necessary for him to obtain any license or permission to enter the land and prospect for minerals that are subject to location under the mining laws.

Lands entered or patented under the stock-raising homestead law are subject to prospecting and to location and patent, but the location and patent carry title to the minerals only, title to the land itself remaining in the homesteader. A prospector is liable for all damages done to crops or tangible improvements as a result of his prospecting on a stock-raising homestead entry, regardless of whether it is patented or not. The locator of a placer claim on a stock-raising homestead entry may occupy and use so much of the surface thereof as may be required for all purposes reasonably incidental to the mining or removal of the minerals, first upon securing the written consent or waiver of the homestead entryman or patentee; or, second, upon

payment of the damages to crops or other tangible improvements to the owner thereof under agreement; or, third, in lieu of either of the foregoing provisions, upon the execution of a good and sufficient bond or undertaking to the United States for the use and benefit of the entryman or owner of the land, to secure payment of such damages to the crops or tangible improvements of the entryman or owner as may be determined and fixed in an action brought upon the bond or undertaking in a court of competent jurisdiction against the principal and sureties thereon. The bond must be filed with and approved by the register of the land office for the district in which the land is located.

Generally, lands in the immediate vicinity of known mineral deposits are already embraced in outstanding mining locations, and if such locations are valid and have been maintained regularly by the performance of annual assessment work, or are patented, the land embraced therein is not subject to prospecting or location. Unpatented mining locations are of record only in the offices of the county recorders and, hence, ordinarily no information regarding such claims can be obtained from the district land offices or General Land Office. Such information must be obtained by local inquiry or by examining the records of the county recorder.

### **MANNER OF LOCATION**

The United States mining laws require that placer claims shall be so located as to embrace legal subdivisions of the public land surveys where the lands have been surveyed, except in cases where the placer deposits are of the "gulch" type, that is, located in or along narrow stream beds or gulches, in which case the claims can be located by metes and bounds so as to conform generally to the shape of the deposit on the surface. Where locations are made by legal subdivisions, the smallest subdivision that can be so located is a square 10-acre tract. Each 10-acre tract must be mineral in character, but only one discovery is necessary to validate the claim.

An individual locator can locate not more than 20 acres in a single claim, but several locators can join in making a single location embracing up to but not exceeding 160 acres, provided there is a co-locator for each 20 acres or fraction thereof in the claim. Thus, two or more locators can locate a 40-acre claim, three or more locators can locate a 60-acre claim, four or more locators can locate an 80-acre claim, etc.

It is the policy of the Government to have all entries of mineral lands as compact and regular in form as is reasonably practicable and, therefore, in order that placer locations shall not embrace long narrow strips or grossly irregular or fantastically shaped tracts, the following regulations have been issued by the Secretary of the Interior:

Where a placer location by one or two persons can be entirely included within a square 40-acre

tract, by three or four persons within two square 40-acre tracts placed end to end, by five or six persons within three square 40-acre tracts, and by seven or eight persons within four square 40-acre tracts, such locations will be regarded as within the requirements where strict conformity is impracticable.

This requirement is intended to apply primarily to placer claims located by metes and bounds and not by legal subdivisions. The meaning of the requirement may be illustrated as follows: One locator can locate 20 acres in a single claim, but such location cannot be of such shape as to have any part thereof outside of a square 40-acre tract. In other words, this means that if a square 40-acre figure were to be superimposed on a 20-acre location, all of the location should fall within the boundaries of the square. Four locators could locate a claim embracing 80 acres, but in order to come within the requirements such location would need to be of such width and length as to fall entirely within the boundaries of two square 40-acre tracts, assuming that such 80-acre figure was superimposed on the location.

When a discovery of mineral in placer form has been made on land that is subject to location, a location should be made promptly in order that others may not make a prior location and thus deprive the prospector of his right to work the deposit. While the United States mining laws give no rights to a locator prior to the time he makes a discovery, it is generally customary for a prospector to make a location on the ground he expects to prospect before prospecting has actually begun. Prior to discovery, a prospector in actual occupation and diligently searching for mineral is a licensee or tenant at will, and no adverse right can be initiated or acquired through a forcible or fraudulent intrusion upon his possession by others, but if his occupancy be relaxed or be merely incidental to something other than a diligent search for mineral, another may acquire a valid right by peaceable entry and compliance with the law.

After discovery has actually been made, the prospector may, if he so desires, make as many locations as are necessary to protect his rights to the deposit, there being no limit placed on the number of mining claims that can be located by an individual or a group of locators, but a discovery must be made on each claim located. The extent of the placer material can often be determined by merely examining the surface of the ground, but in other instances it may be necessary to excavate test-pits or to drill small test-holes. A satisfactory and economical method of determining the extent of the deposit is by the use of a post-hole auger.

When the extent of the deposit has been ascertained, the claim boundaries should be marked by setting up stakes or erecting monuments at the corners of the claim if the land is unsurveyed. If the land is surveyed and the claim is located by legal subdivisions, the United States mining laws do not require that the corners be staked or monumented. However, some states have laws requiring that the corners of the

claims be monumented, regardless of whether the land is surveyed or unsurveyed. At the time of location, a location notice should be posted at a conspicuous place on the claim and such notice should contain the name or names of the locators, the date of location, a statement of the legal subdivisions embraced in the claim, or a description of the claim boundaries by metes and bounds with reference to some corner of an existing survey or to some natural object or permanent monument which can be identified readily.

The various states have passed laws pertaining to the manner of location, form and contents of location notices, manner of recording notices, size and type of corner monuments, the time within which location notices must be recorded, and the amount of work or excavating that must be done at the time of location. Information regarding such laws can be obtained locally or from the Attorneys General of the various states. A prospector should acquaint himself with the mining laws of the state in which he expects to prospect and should observe such laws in making his locations.

The fact that land has once been embraced in a placer mining location does not prevent the making of a new location on the same land, provided the first location was never patented and has been abandoned or is in default as to assessment work.

If, after a location has been made, the locator desires to amend the location so as to take in additional land, he may do so as long as the amended location does not exceed the acreage allowed and does not conflict with prior rights of others. The new boundaries should be marked if the land is unsurveyed, and a notice of the amended location should be posted on the claim and a copy thereof recorded.

A placer location does not carry a right to any lodes or veins that may outcrop within its boundaries. If such lode or lodes are present, a separate lode location or locations should be made thereon. However, if a lode is not known to be present at the time of the filing of an application for patent of a placer claim, and a patent issues, such patent carries title to all minerals in the claim, including the lodes. If the lode was known to exist at the time the application for patent of the placer claim was made, the lode can be patented to another even after patent for the entire placer location has issued. A lode claim located on a lode within a placer is limited to 25 feet on either side of the lode at the surface.

### ASSESSMENT WORK

The right to possession of a valid mining claim is maintained by the expenditure annually of at least \$100 in labor or in improvements of a mining nature on or for the benefit of the claim. The assessment year commences at 12 o'clock noon on the first day of July and ends at the same time in the following year. The United States mining laws do not require the performance of annual assessment work for the assess-

ment year in which the location is made. However, as indicated above, certain of the States have laws which require that a certain amount of work shall be done on a claim within a stated period after the date of location, and such laws should be observed.

In order that a claim may be maintained by the performance of assessment work, the work performed must be of a type that will develop the mineral deposits on the claim. Ordinarily, the work consists of shafts, drifts, test pits, drill holes, and other forms of exploratory excavation or actual mining. In some instances road work or trail construction is applicable as assessment work.

Where a number of contiguous claims are held in common ownership, the total expenditures for the group may be made on one claim, provided such expenditures will benefit or develop each claim of the group. Locations that join only at the corners are held not to be contiguous and in such case group assessment work is not applicable unless the intervening lands between the claims are owned or held under mining location by the claimant.

Failure to perform annual assessment work will subject a claim to relocation by others unless work is resumed before such relocation. A claim is not subject to relocation if work is being done on the claim at the end of the assessment year and is continued diligently until \$100 worth of work has been performed. In other words, if work was begun by noon of July 1, 1930, on a claim located in September 1928, and was diligently carried on thereafter to completion, it was not subject to relocation for failure to perform the annual labor for the assessment year ended July 1, 1930. Additional work would be required for the period beginning July 1, 1930.

Should the annual assessment work not be done on a claim for one or more years, the location will still be valid unless the claim has been abandoned or there has been a relocation by another before the performance of annual assessment work is resumed, except in Alaska, where the failure to perform assessment work in any one year results in forfeiture of the location. Most states have laws that provide for the filing of proofs of labor for the annual assessment work.

Where one of several co-locators fails to contribute his share of the required expenditures for annual assessment work for any one period, the other co-owners, at the expiration of the period, may give notice personally, in writing, or by advertising in the newspaper published nearest the claim at least once a week for 90 days; and if, upon the expiration of 90 days after the personal notice or upon the expiration of 180 days after the first newspaper notice, the delinquent co-owner shall have failed to contribute his portion of expenditures or improvements, his interest in the claim passes by law to the co-owners who have made the required expenditures.

For the past several years Congress has, from time to time, passed legislation providing for the suspension of the requirement of annual assessment work on a

limited number of unpatented mining claims. The last of these acts was passed June 29, 1938, and it provides for the suspension of the requirement of annual assessment work on a limited number of unpatented claims for the assessment year ending July 1, 1938, provided the mineral claimants were not required to pay a Federal income tax for the taxable year 1937, and also providing that the claimants must file, on or before 12 o'clock noon on July 1, 1938, in the office where the location is recorded, a notice of their desire to hold the claims under the act. Under the act an individual who files such notice is not entitled to exemption from the performance of assessment work on more than six lode claims, nor on more than six placer claims not exceeding 120 acres in all, and a partnership, association, or corporation is not entitled to such exemption on more than twelve lode claims, nor on more than twelve placer claims not exceeding 240 acres in all. This act also applies to Alaska.

#### **STATUS OF UNPATENTED PLACER CLAIMS**

A valid placer claim may be sold or leased and passes by descent like any other real estate, even though unpatented. Minerals may be mined and sold from claims held under location the same as though the claims were patented. Patented and unpatented lode claims are subject to taxation by the State, as are buildings and their contents on the claims.

#### **TIMBER RIGHTS**

Timber and stone on public lands may be used free of charge by bona fide miners and prospectors for mining purposes, but may not be sold. If the timber is to be taken from mining claims in national forests, it must be taken pursuant to regulations issued by the Forest Service. Therefore, if a claimant desires to take timber for mining purposes from lands in national forests, he should get in touch with the supervisor of the forest in which the claims are located.

#### **MINING CLAIMS IN NATIONAL FORESTS IN STATES WHERE THE UNITED STATES MINING LAWS DO NOT APPLY**

Mineral lands in national forests in states where the United States mining laws are not in effect are

subject to disposal only under special regulations which have been promulgated by the Department of Agriculture and all inquiries regarding mining on such lands should be addressed to that Department.

#### **MINERALS IN INDIAN LANDS**

In general, the mineral deposits in Indian reservations are subject to disposal only under lease and are under the administration of the Office of Indian Affairs.

#### **PROCEDURE TO OBTAIN PATENT FOR PLACER MINING CLAIMS**

Valid placer claims or groups of claims on which not less than \$500 has been expended for the benefit of each claim may be patented. If a placer claim is located by legal subdivisions, no mineral survey of the claim is necessary, but if it is located by metes and bounds it will be necessary for the claim to be surveyed before application for patent is filed. Applications for the survey of claims should be filed with the District Cadastral Engineer, Public Survey Office, for the state in which the land is located. The cost of mineral survey must be paid by the owner of the claims.

After the survey is completed, an application for patent may be filed in the district land office, after first posting a notice of intention to apply for patent at a conspicuous point on the claim or claims. It is not thought that the purpose of this publication requires a complete statement regarding procedure in obtaining patent for mining claims. When a mineral claimant intends to apply for patent, he can obtain full information in this regard from the register of the district land office.

Before a patent will issue for a placer claim, the claimant is required to pay for the land in the claim at the rate of \$2.50 an acre.

#### **BLANK FORMS**

No set form of location notice or of the papers filed in patent proceedings is required, and no blank forms are furnished by the General Land Office or by the district land offices. Forms containing essentials are printed by local parties or concerns and the registers of the local land offices can usually advise a prospector or mineral claimant where such forms may be obtained.

The following is taken verbatim from Circular No. 1278, "Information in Regard to Mining Claims on the Public Domain," published in 1935 by the General Land Office.

## INFORMATION IN REGARD TO MINING CLAIMS ON THE PUBLIC DOMAIN

By FRED W. JOHNSON

The purpose of this circular is to furnish brief information pertinent to the location and purchase of mining claims under the United States mining laws.

1. **Initiation of rights to mineral land.** Rights to mineral lands, owned by the United States, are initiated by prospecting for minerals thereon, and, upon the discovery of mineral, by locating the lands upon which such discovery has been made. A location is made by staking the corners of the claim, posting notice of location thereon (see 10), and complying with the State laws, regarding the recording of the location in the county recorder's office, discovery work, etc.

2. **State mining laws.** As supplemental to the United States mining laws there are State statutes relative to location, manner of recording of mining claims, etc., in the State, which should also be observed in the location of mining claims. Information as to State laws can be obtained locally or from State officials.

3. **Lands subject to location and purchases.** Vacant public surveyed or unsurveyed lands are open to prospecting, and upon discovery of mineral, to location and purchase, as are also lands in national forests in the public-land States (forest regulations must be observed), lands entered or patented under the stock raising homestead law (title to minerals only can be acquired), lands entered under other agricultural laws but not perfected, where prospecting can be done peaceably, and lands within the railroad grants for which patents have not issued.

4. **Status of lands.** Information as to whether any particular tract of land is shown by the records to be vacant and open to prospecting may be obtained from the register of the land district in which the tract is situated. Since location notices of mining claims are filed in the office of the county recorder, ordinarily no information regarding unpatented mining claims is obtainable from the district land office or the General Land Office unless application for patent has been filed.

5. **Minerals subject to location.** Whatever is recognized as a mineral by the standard authorities, whether metallic or other substance, when found in public lands in quantity and quality sufficient to render the lands valuable on account thereof, is treated as coming within the purview of the mining laws. Deposits of coal, oil, gas, oil shale, sodium, phosphate, potash, and in Louisiana and New Mexico sulphur, belonging to the United States, can be acquired under the mineral leasing laws, and are not subject to loca-

tion and purchase under the United States mining laws.

6. **Mining locations—Areas.** Lode locations for minerals discovered in lode or vein formation may not exceed in length 1,500 feet along the vein and in width 300 feet on each side of the middle of the vein, the end lines of the location to be parallel to each other. Placer locations, which include all minerals not occurring in vein or lode formation, may be for areas of not more than 20 acres for each locator, no claim to exceed 160 acres made by not less than eight locators. Placer locations must conform to the public surveys wherever practicable.

7. **Who may make locations.** Citizens of the United States, or those who have declared their intention to become such, including minors who have reached the age of discretion and corporations organized under the laws of any State. Agents may make locations for qualified locators.

8. **Number of locations.** The United States mining laws do not limit the number of locations that can be made by an individual or association.

9. **Valid locations—Discovery after conveyance.** A location is not valid until an actual discovery of mineral is made within the limits thereof. A placer location of more than 20 acres, made by two or more locators and conveyed to a less number before discovery is made, is valid to the extent of 20 acres only for each owner at date of discovery.

10. **Locations to be marked on ground—Notice.** Except placer claims described by legal subdivision, all mining claims must be distinctly marked on the ground so that their boundaries may be readily traced, and all notices must contain the name or names of the locators, the date of location and such a description of the claim by reference to some natural object or permanent monument as will serve to identify the claim.

11. **Locations on streams and bodies of water.** Beds of navigable waters are subject to the laws of the State in which they are situated and are not locatable under the United States mining laws. Title to the beds of meandered nonnavigable streams is in the riparian owner. The beds of unmeandered, nonnavigable streams are subject to location under the United States mining laws if they are unoccupied, as are also the beds of meandered nonnavigable streams when the abutting upland is unappropriated.

12. **Maintenance—Annual assessment work—Adverse claim—Jurisdiction.** The right of possession to a valid mining claim is maintained by the expenditure annually of at least \$100 in labor or improve-

ments of a mining nature on the claim, the first annual assessment period commencing at 12 o'clock noon on the 1st day of July succeeding the date of location. Failure to perform the assessment work for any year will subject the claim to relocation, unless work for the benefit of the claim is resumed before a relocation is made. The determination of the question of the right of possession between rival or adverse claimants to the same mineral land is committed exclusively to the court. (See 18) However, failure to perform the annual assessment work on a mining claim in Alaska works a forfeiture of the claim, and resumption of work on the claim will not prevent relocation.

**13. Expenditures on claim for patent purposes—Lode—Placer—Mill site.** Five hundred dollars in labor or improvements of a mining nature, must be expended upon or for the benefit of each lode or placer claim, and compliance with the United States mining laws made otherwise, to entitle the claimant to prosecute patent proceedings therefor. Such expenditures must be completed prior to the expiration of the period during which notice of the patent proceedings is published. Patent expenditures on a mill site are not required, but it must be shown that the mill site is used or occupied for mining or milling purposes at the time an application for patent therefor is filed.

**14. Patent not necessary.** One may develop, mine, and dispose of mineral in a valid mining location without obtaining a patent, but possessory right must be maintained by the performance of annual assessment work on the claim in order to prevent its relocation by another.

**15. Procedure to obtain patent to mining claims.** The owner or owners of a valid mining location, or group of locations, on which not less than \$500 has been expended on or for the benefit of each claim, may institute patent proceedings therefor in the district land office. Information as to patent procedure can be obtained from the register of the local land office or from the General Land Office. In general, a survey must be applied for unless the claim is a placer claim located by legal subdivisions, the application for survey to be made to the public survey office in the State wherein the claim is situated. Applications for patent are filed in the district land office. A notice of the application is required to be posted on the land prior to filing the application and to be published by the register after the application is filed.

**16. Blank forms.** No set form of location notices nor of the papers filed in patent proceedings for mining claims is required and no blank forms are furnished by the General Land Office, or by the district land offices, for use in mineral cases. Forms containing essentials are printed by local private parties or concerns. The registers of the local land offices can usually advise you where such forms may be obtained.

**17. Common improvements.** An improvement, made upon one of a group of contiguous claims (cornering is not contiguity) owned in common, may be applied to such claims of the group, in existence at

the time the improvement is made, shown to be benefited thereby.

**18. Adverse claims.** An adverse claim may be filed during the period of publication of notice of an application for patent (or within 8 months after the expiration of the publication period in Alaska), by one claiming a possessory right under another mining location to all or some portion of the land applied for, and must show fully the nature, boundaries, and extent of the area in conflict, to be followed, within 30 days after filing (60 days in Alaska), by suit in a court of competent jurisdiction. If suit is filed, all proceedings on the application, except the filing of the affidavits of continuous posting and publication of the notice of the application, are stayed to await the outcome of the court proceedings.

**19. Co-owners.** A co-owner not named in the application for patent can not assert his rights by filing an adverse claim, a protest being proper to cause his alleged rights to be considered when the case is adjudicated. If a co-owner fails to do his proper proportion of annual assessment work on a claim, or fails to contribute his proportion of the cost thereof, the co-owners who have caused the work to be done during any assessment period may, at the expiration of the assessment year, give such delinquent co-owner personal notice in writing, or notice by publication in a newspaper published nearest the claim for at least once a week for 90 days, and if at the expiration of 90 days after such notice in writing, or 180 days after the first newspaper publication, such delinquent should fail to contribute his proportion of the expense required, his interest in the claim becomes the property of his co-owners who have made the expenditure.

**20. Lode in placer.** If a placer mining applicant fails to state that there is a known lode within the boundaries of the claim, it is taken as a conclusive declaration that he has no right of possession thereto. If no such vein or lode be known the placer patent will convey all valuable mineral and other deposits within the boundaries of the claim. A known lode not included in an application for patent to the claim may be applied for even after issuance of patent to the placer mining claim. Where a placer mining claimant makes application for a placer containing within its boundaries a lode claim owned by him the lode must be surveyed, the lode being paid for on the basis of \$5 per acre and the remaining portions of the placer at the rate of \$2.50 per acre.

**21. The United States mining laws are applicable to the following States:** Alaska, Arizona, Arkansas, California, Colorado, Florida, Idaho, Louisiana, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oregon, South Dakota, Utah, Washington, and Wyoming.

**22. National parks and monuments.** With the exception of Mt. McKinley National Park in Alaska and Death Valley National Monument in California mining locations may not be made on lands in national parks and monuments after their establishment.

**23. Withdrawals.** Withdrawals usually bar location under the mining laws, but withdrawals made under the act of June 25, 1910 (36 Stat. 847), as amended by the act of August 24, 1912 (37 Stat. 497), permit locations of the withdrawn lands containing metalliferous minerals. Lands withdrawn for water power purposes are not subject to location unless first restored under the provisions of section 24 of the Federal Water Power Act.

**24. Minerals in Indian lands.** In general, the mineral deposits in Indian reservations are subject to leasing and are under the administration of the Office of Indian Affairs.

**25. Mineral land in agricultural entries—Protest—Contest.** Where lands known to be valuable for minerals are embraced in an agricultural filing, other than a stock raising homestead filing, a mineral claimant may initiate a contest thereagainst by filing a protest sworn to and in duplicate, in the local

land office, alleging sufficient facts, which, if proven, will establish the mineral character of the land, and warrant cancellation of the agricultural filing. The protest must be corroborated by one or more witnesses having knowledge of the facts alleged. In the case of stock raising homestead entries, a mineral claimant, whose location antedates the homestead filing, must protest such filing in order to protect his title to the surface of his mining claim.

**26. Cost of patent proceedings for mining claims.** With the exception of the fixed charges, such as the fee for filing an application for patent, which is \$10, the purchase price of lands in lode claims and mill-sites at \$5 per acre, and \$5 for each fractional part of an acre, and \$2.50 per acre or fraction of an acre for placer lands, unless otherwise provided by law as to certain lands, no estimate can be furnished as to what it will cost to procure a patent. The cost of publication, survey, and abstract of title depends upon the services rendered and vary in each case.

## MINING CLAIMS WITHIN MOUNT HOOD NATIONAL FOREST

### AN ACT

#### Relating to mining claims within the Mount Hood National Forest within the State of Oregon

After May 11, 1934, mining locations made under the United States mining laws upon lands within the Mount Hood National Forest in the State of Oregon shall confer on the locator the right to occupy and use so much of the surface of the land covered by the location as may be reasonably necessary to carry on prospecting and mining, including the taking of mineral deposits and timber required by or in the mining operations, and no permit shall be required or charge made for such use or occupancy: Provided, however, That the cutting and removal of timber, except where clearing is necessary in connection with mining operations or to provide space for buildings or structures used in connection with mining operations, shall be conducted in accordance with the rules for timber cutting on adjoining national-forest land, and no use of the surface of the claim or the resources therefrom not reasonably required for carrying on mining or prospecting shall be allowed except under the national-forest rules and regulations, nor shall the locator prevent or obstruct other occupancy of the surface or use of surface resources under

authority of national-forest regulations, or permits issued thereunder, if such occupancy or use is not in conflict with mineral development.

After May 11, 1934, all patents issued under the United States mining laws affecting lands within the Mount Hood National Forest within the State of Oregon shall convey title to the mineral deposits within the claim, together with the right to cut and remove so much of the timber therefrom as may be needed in extracting and removing the mineral deposits, if the timber is cut under sound principles of forest management as defined by the national-forest rules and regulations, but each patent shall reserve to the United States all title in or to the surface of the lands and products thereof, and no use of the surface of the claim or the resources therefrom not reasonably required for carrying on mining or prospecting shall be allowed except under the rules and regulations of the Forest Service.

Valid mining claims within the Mount Hood National Forest in the State of Oregon existing on the date of enactment of this Act, and thereafter maintained in compliance with the law under which they were initiated and the laws of the State of Oregon, may be perfected under this Act, or under the law under which they were initiated, as the claimant may desire. (16 U. S. C. A. 3482 b-c-d)



# SUMMARY OF SUSPENSIONS OF ANNUAL ASSESSMENT WORK

1932—1954

For assessment  
year ending  
July 1

## REMARKS

1932	No restrictions. (47 Stats. 290) (53 L. D. 703)
1933 } 1934 }	Federal income tax payers not exempt. Notice of intention to hold had to be filed. (48 Stats. 72) (48 Stats. 777)
1935 } 1936 } 1937 } 1938 }	Same restrictions as above but with exemption limited to six lode claims or 120 acres of placer ground held by an individual, or 12 lode claims or 240 acres of placer ground held by a corporation. Acts of 1934, 1935, 1936 omitted Alaska. (49 Stats., p. 337) (49 Stats., p. 1238) (50 Stats., p. 306)
1939 } 1940 } 1941 }	Assessment work had to be performed.
1942 } 1943 }	Exemption limited to six lode claims for an individual and 12 lode claims for a corporation. All placer claims exempt. Notice of desire to hold had to be filed. [Pub. Law 542 (77th Cong., Chap. 294, 2d Session)] (Pub. Law 47, 78th Cong.)
1944 } 1945 } 1946 } 1947 }	Notice of desire to hold had to be filed. (Pub. Law 47, 78th Cong.)
1948 }	As a result of the proclamation by the President on December 31, 1946, that hostilities had ceased, wartime suspension of annual assessment work ended July 1, 1947, but Public Law 665, 80th Cong., approved by the President June 17, 1948, suspended assessment work for the assessment year ending July 1, 1948.
1949 }	Notice of desire to hold had to be filed on or before August 1, 1949. Work performed during year could be credited against next year. (Pub. Law 107, 81st Cong.) Credit for such work could be obtained by filing a statement on or before July 1, 1950. (Pub. Law 544, 81st Cong.)
1950 }	Extension of three months (to October 1, 1950) granted to complete assessment work. Annual labor for year ending July 1, 1951, could begin immediately following July 1, 1950. (Pub. Law 582, 81st Cong.)
1951	Assessment work had to be performed. No time extension authorized by Congress.
1952	Assessment work had to be performed. No time extension authorized by Congress.
1953	Assessment work had to be performed. No time extension authorized by Congress.
1954	Assessment work had to be performed. No time extension authorized by Congress.



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