

Bureau of Land Management, Interior

§ 3841.3-1

later challenging the validity of or declaring void such claim or site in accordance with due process of law.

(g) Any person who files an instrument required by these regulations knowing the same to contain any false, fictitious or fraudulent statement or entry, may be subject to criminal penalties under 18 U.S.C. 1001.

(h) Any party adversely affected by a decision of the authorized officer made pursuant to the provisions of this subpart shall have a right of appeal pursuant to part 4 of this title.

[42 FR 5200, Jan. 27, 1977, as amended at 44 FR 9723, Feb. 14, 1979; 47 FR 56307, Dec. 15, 1982; 53 FR 48882, Dec. 2, 1988; 55 FR 17754, Apr. 27, 1990; 58 FR 38201, July 15, 1993]

PART 3840—NATURE AND CLASSES OF MINING CLAIMS

Subpart 3840—Types of Claims

Sec.

3840.1 Classes of mining claims.

Subpart 3841—Lode Claims

3841.1 Lodes located previous to May 10, 1872.

3841.2 Lodes must not have been adversely claimed.

3841.3 Discovery.

3841.3-1 Discovery required before location.

3841.3-2 Discovery work.

3841.4 Describing locations.

3841.4-1 Length of lode claims.

3841.4-2 Width of lode claims.

3841.4-3 Extent of surface ground.

3841.4-4 Defining of locations.

3841.4-5 Location notice; monumenting.

3841.4-6 Recording of location notice.

Subpart 3842—Placer Claims

3842.1 Placer claims: General.

3842.1-1 Discovery.

3842.1-2 Maximum allowable acreage.

3842.1-3 Locations authorized in 10-acre units.

3842.1-4 Manner of describing 10-acre units.

3842.1-5 Conformity of placer claims to the public land surveys.

3842.2 Building-stone placers.

3842.3 Saline placers.

3842.4 Petroleum placers.

Subpart 3843—Tunnel Sites

3843.1 Possessory right of tunnel proprietor.

3843.2 Location of tunnel claims.

3843.3 Recording of notices.

Subpart 3844—Millsites

3844.0-3 Authority.

3844.1 Required use.

Subpart 3840—Types of Claims

§ 3840.1 Classes of mining claims.

Mining claims are of two distinct classes: lode claims and placers.

[35 FR 9750, June 13, 1970]

Subpart 3841—Lode Claims

SOURCE: 35 FR 9750, June 13, 1970, unless otherwise noted.

§ 3841.1 Lodes located previous to May 10, 1872.

The status of lode claims located or patented previous to May 10, 1872, is not changed with regard to their extent along the lode or width of surface; but the claim is enlarged by 2322 and 2328, R.S. (30 U.S.C. 26, 33), by investing the locator, his heirs or assigns, with the right to follow, upon the conditions stated therein, all veins, lodes, or ledges, the top or apex of which lies inside of the surface lines of his claim.

§ 3841.2 Lodes must not have been adversely claimed.

It is to be distinctly understood that the law limits the possessory right to veins, lodes, or ledges, other than the one named in the original location, to such as were not adversely claimed on May 10, 1872, and that where such other vein or ledge was so adversely claimed at that date the right of the party so adversely claiming is in no way impaired by the act of that date.

§ 3841.3 Discovery.

§ 3841.3-1 Discovery required before location.

No lode claim shall be located until after the discovery of a vein or lode within the limits of the claim, the object of which provision is evidently to prevent the appropriation of presumed mineral ground for speculative purposes, to the exclusion of bona fide prospectors, before sufficient work has been done to determine whether a vein or lode really exists.

§ 3841.3-2

§ 3841.3-2 Discovery work.

The claimant should, therefore, prior to locating his claim, unless the vein can be traced upon the surface, sink a shaft or run a tunnel or drift to a sufficient depth therein to discover and develop a mineral-bearing vein, lode, or crevice; should determine, if possible, the general course of such vein in either direction from the point of discovery, by which direction he will be governed in marking the boundaries of his claim on the surface.

§ 3841.4 Describing locations.

§ 3841.4-1 Length of lode claims.

From and after May 10, 1872, any person who is a citizen of the United States, or who has declared his intention to become a citizen, may locate, record, and hold a mining claim of 1,500 linear feet along the course of any mineral vein or lode subject to location; or an association of persons, severally qualified as above, may make joint location of such claim of 1,500 feet, but in no event can a location of a vein or lode made after May 10, 1872, exceed 1,500 feet along the course thereof, whatever may be the number of persons composing the association.

§ 3841.4-2 Width of lode claims.

No lode located after May 10, 1872, can exceed a parallelogram 1,500 feet in length by 600 feet in width, but whether surface ground of that width can be taken depends upon the local regulations or State or Territorial laws in force in the several mining districts. No such local regulations or State or Territorial laws shall limit a vein or lode claim to less than 1,500 feet along the course thereof, whether the location is made by one or more persons, nor can surface rights be limited to less than 50 feet in width unless adverse claims existing on May 10, 1872, render such lateral limitation necessary.

§ 3841.4-3 Extent of surface ground.

With regard to the extent of surface ground adjoining a vein or lode, and claimed for the convenient working thereof, the Act of May 10, 1872, provides that the lateral extent of locations of veins or lodes made after said

43 CFR Ch. II (10-1-00 Edition)

date shall in no case exceed 300 feet on each side of the middle of the vein at the surface, and that no such surface rights shall be limited by any mining regulations to less than 25 feet on each side of the middle of the vein at the surface, except where adverse rights existing on May 10, 1872, may render such limitation necessary; the end lines of such claims to be in all cases parallel to each other. Said lateral measurements cannot extend beyond 300 feet on either side of the middle of the vein at the surface, or such distance as is allowed by local laws. For example: 400 feet cannot be taken on one side and 200 feet on the other. If, however, 300 feet on each side are allowed, and by reason of prior claims but 100 feet can be taken on one side, the locator will not be restricted to less than 300 feet on the other side; and when the locator does not determine by exploration where the middle of the vein at the surface is, his discovery shaft must be assumed to mark such point.

§ 3841.4-4 Defining of locations.

Section 5 of the Act of May 10, 1872, now section 2324, Revised Statutes (30 U.S.C. 28), requires that "the location must be distinctly marked on the ground so that its boundaries can be readily traced." Locators can not exercise too much care in defining their locations at the outset, inasmuch as section 5 of the Act of May 10, 1872 (17 Stat. 92; 30 U.S.C. 28) requires that all records of mining locations made subsequent to the date of said Act shall contain the name or names of the locators, the date of the location, and such a description of the claim or claims located, by reference to some natural object or permanent monument, as will identify the claim.

§ 3841.4-5 Location notice; monumenting.

(a) The location notice should give the course and distance as nearly as practicable from the discovery shaft on the claim to some permanent, wellknown points or objects, such, for instance, as stone monuments, blazed trees, the confluence of streams, point of intersection of well-known gulches, ravines, or roads, prominent buttes,

hills, etc., which may be in the immediate vicinity, and which will serve to perpetuate and fix the locus of the claim and render it susceptible of identification from the description thereof given in the record of locations in the district, and should be duly recorded.

(b) In addition to the foregoing data, the claimant should state the names of adjoining claims, or, if none adjoin, the relative positions of the nearest claims; should drive a post or erect a monument of stones at each corner of his surface ground, and at the point of discovery or discovery shaft should fix a post, stake, or board, upon which should be designated the name of the lode, the name or names of the locators, the number of feet claimed, and in which direction from the point of discovery, it being essential that the location notice filed for record, in addition to the foregoing description, should state whether the entire claim of 1,500 feet is taken on one side of the point of discovery, or whether it is partly upon one and partly upon the other side thereof, and in the latter case, how many feet are claimed upon each side of such discovery point. As to the importance of monuments, and as to their paramount authority, see the Act of April 28, 1904 (33 Stat. 545; 30 U.S.C. 34), which amended R.S. 2327.

§ 3841.4-6 Recording of location notice.

The location notice must be filed for record in all respects as required by the State or territorial laws, and local rules and regulations, if there be any.

Subpart 3842—Placer Claims

SOURCE: 35 FR 9751, June 13, 1970, unless otherwise noted.

§ 3842.1 Placer claims: General.

§ 3842.1-1 Discovery.

But one discovery of mineral is required to support a placer location, whether it be of 20 acres by an individual, or of 160 acres or less by an association of persons.

§ 3842.1-2 Maximum allowable acreage.

(a) By R.S. 2330 (30 U.S.C. 36), it is declared that no location of a placer claim made after July 9, 1870, shall exceed 160 acres for any one person or association of persons, which location shall conform to the United States surveys.

(b) R.S. 2331 (30 U.S.C. 35) provides that all placer-mining claims located after May 10, 1872, shall conform as nearly as practicable with the United States system of public land surveys and the rectangular subdivisions of such surveys, and such locations shall not include more than 20 acres for each individual claimant.

(c) The foregoing provisions of law are construed to mean that after July 9, 1870, no location of a placer claim can be made to exceed 160 acres, whatever may be the number of locators associated together, or whatever the local regulations of the district may allow; and that from and after May 10, 1872, no location can exceed 20 acres for each individual participating therein; that it, a location by two persons can not exceed 40 acres, and one by three persons can not exceed 60 acres.

§ 3842.1-3 Locations authorized in 10-acre units.

By R.S. 2330 (30 U.S.C. 36), authority is given for subdividing 40-acre legal subdivisions into 10-acre tracts. These 10-acre tracts should be considered and dealt with as legal subdivisions, and an applicant having a placer claim which conforms to one or more of such 10-acre tracts, contiguous in case of two or more tracts, may make entry thereof, after the usual proceedings, without further survey or plat.

§ 3842.1-4 Manner of describing 10-acre units.

A 10-acre subdivision may be described, for instance if situated in the extreme northeast of the section, as the "NE. $\frac{1}{4}$ of the NE. $\frac{1}{4}$ of the NE. $\frac{1}{4}$ " of the section, or, in like manner, by appropriate terms, wherever situated; but in addition to this description, the notice must give all the other data required in a mineral application, by which parties may be put on inquiry as