

§ 27. Mining tunnels; right to possession of veins on line with; abandonment of right

Where a tunnel is run for the development of a vein or lode, or for the discovery of mines, the owners of such tunnel shall have the right of possession of all veins or lodes within three thousand feet from the face of such tunnel on the line thereof, not previously known to exist, discovered in such tunnel, to the same extent as if discovered from the surface; and locations on the line of such tunnel of veins or lodes not appearing on the surface, made by other parties after the commencement of the tunnel, and while the same is being prosecuted with reasonable diligence, shall be invalid; but failure to prosecute the work on the tunnel for six months shall be considered as an abandonment of the right to all undiscovered veins on the line of such tunnel.

(R.S. § 2323.)

CODIFICATION

R.S. § 2323 derived from act May 10, 1872, ch. 152, § 4, 17 Stat. 92.

SHORT TITLE

This section is popularly known as the Tunnel Site Act.

TEMPORARY SUSPENSION OF WORK REQUIREMENTS

Act June 22, 1944, ch. 271, 58 Stat. 324, provided that from June 22, 1944, to 6 months after cessation of hostilities in World War II, no location on the line of a tunnel run for the development of a vein or lode or for the discovery of mines, or veins or lodes not appearing on the surface, made by parties other than the owners of the tunnel, shall be considered valid because of the failure of the owners to prosecute work thereon with reasonable diligence as required by this section.

Cessation of hostilities of World War II, was proclaimed at 12 o'clock noon of December 31, 1946, by Proc. No. 2714.

PROMOTION OF MINING

See Promotion of Mining note set out under section 22 of this title.

CROSS REFERENCES

Michigan, Minnesota and Wisconsin mineral lands, see section 48 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 24, 29, 33, 37, 38, 39, 40, 42, 46, 47, 48, 49, 102, 541b of this title; title 16 section 460mm-1; title 25 section 640d-10; title 43 sections 1712, 1714, 1732.

§ 28. Mining district regulations by miners: location, recordation, and amount of work; marking of location on ground; records; annual labor or improvements on claims pending issue of patent; co-owner's succession in interest upon delinquency in contributing proportion of expenditures; tunnel as lode expenditure

The miners of each mining district may make regulations not in conflict with the laws of the United States, or with the laws of the State or Territory in which the district is situated, governing the location, manner of recording, amount of work necessary to hold possession of a mining claim, subject to the following require-

ments: The location must be distinctly marked on the ground so that its boundaries can be readily traced. All records of mining claims made after May 10, 1872, 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. On each claim located after the 10th day of May 1872, that is granted a waiver under section 28f of this title, and until a patent has been issued therefor, not less than \$100 worth of labor shall be performed or improvements made during each year. On all claims located prior to the 10th day of May 1872, \$10 worth of labor shall be performed or improvements made each year, for each one hundred feet in length along the vein until a patent has been issued therefor; but where such claims are held in common, such expenditure may be made upon any one claim; and upon a failure to comply with these conditions, the claim or mine upon which such failure occurred shall be open to relocation in the same manner as if no location of the same had ever been made, provided that the original locators, their heirs, assigns, or legal representatives, have not resumed work upon the claim after failure and before such location. Upon the failure of any one of several coowners to contribute his proportion of the expenditures required hereby, the coowners who have performed the labor or made the improvements may, at the expiration of the year, give such delinquent co-owner personal notice in writing or notice by publication in the newspaper published nearest the claim, for at least once a week for ninety days, and if at the expiration of ninety days after such notice in writing or by publication such delinquent should fail or refuse to contribute his proportion of the expenditure required by this section, his interest in the claim shall become the property of his co-owners who have made the required expenditures. The period within which the work required to be done annually on all unpatented mineral claims located since May 10, 1872, including such claims in the Territory of Alaska, shall commence at 12 o'clock meridian on the 1st day of September succeeding the date of location of such claim.

Where a person or company has or may run a tunnel for the purposes of developing a lode or lodes, owned by said person or company, the money so expended in said tunnel shall be taken and considered as expended on said lode or lodes, whether located prior to or since May 10, 1872; and such person or company shall not be required to perform work on the surface of said lode or lodes in order to hold the same as required by this section. On all such valid claims the annual period ending December 31, 1921, shall continue to 12 o'clock meridian July 1, 1922.

(R.S. § 2324; Feb. 11, 1875, ch. 41, 18 Stat. 315; Jan. 22, 1880, ch. 9, § 2, 21 Stat. 61; Aug. 24, 1921, ch. 84, 42 Stat. 186; Aug. 23, 1958, Pub. L. 85-736, § 1, 72 Stat. 829; Aug. 10, 1993, Pub. L. 103-66, title X, § 10105(b), 107 Stat. 406.)

CODIFICATION

R.S. § 2324 derived from act May 10, 1872, ch. 152, § 5, 17 Stat. 92.

AMENDMENTS

1993—Pub. L. 103-66 inserted “that is granted a waiver under section 28f of this title,” after “On each claim located after the 10th day of May 1872.”.

1958—Pub. L. 85-736 changed period for doing annual assessment work on unpatented mineral claims, substituting “1st day of September” for “1st day of July”.

ADMISSION OF ALASKA AS STATE

Admission of Alaska into the Union was accomplished Jan. 3, 1959, on issuance of Proc. No. 3269, Jan. 3, 1959, 24 F.R. 81, 73 Stat. c16, as required by sections 1 and 8(c) of Pub. L. 85-508, July 7, 1958, 72 Stat. 339, set out as notes preceding section 21 of Title 48, Territories and Insular Possessions.

ASSESSMENT WORK YEARS, 1957-58 AND 1958-59

Section 2 of Pub. L. 85-736 provided that the period commencing in 1957 for the performance of annual assessment work under this section shall end at 12 o'clock meridian on the 1st day of July 1958, and the period commencing in 1958 for the performance of such annual assessment work shall commence at 12 o'clock meridian on the 1st day of July 1958, and shall continue to 12 o'clock meridian on Sept. 1, 1959.

CROSS REFERENCES

Alaska, annual labor or improvements on mining claims, see section 49e of this title.

Extension of time for annual assessment work on lands containing valuable source material, see note under section 541a of this title.

Michigan, Minnesota and Wisconsin mineral lands, see section 48 of this title.

Temporary deferment of annual assessment work on mining claims, see section 28b et seq. of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 24, 28-1, 28b, 29, 33, 37, 38, 39, 40, 42, 46, 47, 48, 49, 102, 541b of this title; title 16 section 460mm-1; title 25 section 640d-10; title 43 sections 1712, 1714, 1732; title 50 App. section 565.

§ 28-1. Inclusion of certain surveys in labor requirements of mining claims; conditions and restrictions

The term “labor”, as used in the third sentence of section 28 of this title, shall include, without being limited to, geological, geochemical and geophysical surveys conducted by qualified experts and verified by a detailed report filed in the county office in which the claim is located which sets forth fully (a) the location of the work performed in relation to the point of discovery and boundaries of the claim, (b) the nature, extent, and cost thereof, (c) the basic findings therefrom, and (d) the name, address, and professional background of the person or persons conducting the work. Such surveys, however, may not be applied as labor for more than two consecutive years or for more than a total of five years on any one mining claim, and each such survey shall be nonrepetitive of any previous survey on the same claim.

(Pub. L. 85-876, §1, Sept. 2, 1958, 72 Stat. 1701.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 28-2 of this title; title 16 section 460mm-1; title 43 section 1744.

§ 28-2. Definitions

As used in section 28-1 of this title,

(a) The term “geological surveys” means surveys on the ground for mineral deposits by the

proper application of the principles and techniques of the science of geology as they relate to the search for and discovery of mineral deposits;

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

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

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

(Pub. L. 85-876, §2, Sept. 2, 1958, 72 Stat. 1701.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 16 section 460mm-1.

§ 28a. Omitted

CODIFICATION

Section, act June 29, 1950, ch. 404, 64 Stat. 275, provided for extension of time of annual assessment work, on mining claims in the United States, including Alaska, for period commencing July 1, 1949, until 12 o'clock noon Oct. 1, 1950, and also provided for commencement of assessment work or improvements required for year ending 12 o'clock noon July 1, 1951, immediately following 12 o'clock noon July 1, 1950. See sections 28b to 28e of this title.

§ 28b. Annual assessment work on mining claims; temporary deferment; conditions

The performance of not less than \$100 worth of labor or the making of improvements aggregating such amount, which labor or improvements are required under the provisions of section 28 of this title to be made during each year, may be deferred by the Secretary of the Interior as to any mining claim or group of claims in the United States upon the submission by the claimant of evidence satisfactory to the Secretary that such mining claim or group of claims is surrounded by lands over which a right-of-way for the performance of such assessment work has been denied or is in litigation or is in the process of acquisition under State law or that other legal impediments exist which affect the right of the claimant to enter upon the surface of such claim or group of claims or to gain access to the boundaries thereof.

(June 21, 1949, ch. 232, §1, 63 Stat. 214.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 28c, 28d, 28e of this title; title 16 section 460mm-1.

§ 28c. Length and termination of deferment

The period for which said deferment may be granted shall end when the conditions justifying deferment have been removed: *Provided*, That the initial period shall not exceed one year but may be renewed for a further period of one year if justifiable conditions exist: *Provided further*, That the relief available under sections 28b to