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California Mining Statutes

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2015 California Code

Public Resources Code - PRC

DIVISION 3.5 - MINES AND MINING

**CHAPTER 1 - Manner of Locating Mining Claims, Tunnel Rights, and Millsites
Section 3900.**

Universal Citation: [CA Pub Res Code § 3900 through \(2015\) Leg Sess](#)

3900. Any person, who is a citizen of the United States or who has declared his or her intention to become a citizen, and who discovers a vein or lode of quartz, or other rock in place, bearing gold, silver, cinnabar, lead, tin, copper, or any other valuable deposit, may locate a claim upon the vein or lode, by defining the boundaries of the claim, in the manner specified in this chapter, by erecting at the point of discovery a monument as defined in Section 3915, and by posting in or on the monument a notice of the location. The notice shall contain all of the following:

- (a) The name of the lode or claim.
- (b) The name, current mailing address or current residence address, of the locator.
- (c) The number of linear feet claimed in length along the course of the vein, each way from the point of discovery, with the width on each side of the center of the claim, and the general course of the vein or lode, as near as may be.
- (d) The date of location, which shall be the date of posting the notice.
- (e) A description of the type of monuments used for the discovery and corner monuments.
- (f) A description of the claim by reference to some natural object, or permanent monument, as will identify the claim located.

3901. The locator of any lode mining claim shall define the boundaries of the claim so that they may be readily traced, but in no case shall the claim extend more than 1,500 feet along the course of the vein or lode, or more than 300 feet on either side thereof as measured from the centerline of the vein at the surface. Within 60 days after the date of location of any lode mining claim located, the locator shall erect at each corner of the



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claim, a monument as defined in Section 3915. Each corner monument so erected shall bear or contain markings sufficient to appropriately designate the corner of the mining claim and the name of the claim to which it pertains.

(Amended by Stats. 1991, Ch. 494, Sec. 2.)

3902. The location of a placer claim shall be made in the following manner:

(a) By erecting at the point of discovery thereon a conspicuous and substantial monument, and by posting in or on the monument a notice of location containing all of the following:

- (1) The name of the claim.
- (2) The name, current mailing address or current residence address, of the locator.
- (3) The date of the location, which shall be the date of posting the notice.
- (4) The number of feet or acreage claimed.
- (5) A description of the claim by reference to some natural object or permanent monument as will identify the claim located.

(b) By marking the boundaries so that they may be readily traced and by erecting at each corner of the claim, or at the nearest accessible points thereto, a conspicuous and substantial monument. Each corner monument shall bear or contain markings sufficient to appropriately designate the corner of the mining claim to which it pertains and the name of the claim.

Where the United States survey has been extended over the land embraced in the location, the claim may be taken by legal subdivisions and no other reference than those of the survey shall be required, and the boundaries of a claim so located and described need not be staked or monumented. The description by legal subdivisions shall be deemed the equivalent of marking.

3903. The relocation of any lode or placer mining location which is subject to relocation shall be made as an original location is required to be made.

3904. As to any placer mining claim which has been otherwise validly located or relocated since July 20, 1935, and as to which claim the locator or relocater has not performed the work thereon required by former Sections 1426da and 1426dc of the Civil Code for the reason that literal compliance therewith was not feasible, the locator or



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relocator may perfect his or her claim by excavating an open cut thereon and removing from the cut not less than seven cubic yards of material if the work is completed not later than December 14, 1935.

(Added by Stats. 1988, Ch. 259, Sec. 11.)

3905. The failure or neglect of the locator or locators to comply with the requirements of Section 3900, 3901, or 3903 shall render the location null and void, unless the failure or neglect is curable under Section 3908, in which event the location shall be voidable.

3906. The locator of a tunnel right or location shall locate his or her tunnel right or location by erecting at the face or point of commencement of the tunnel a conspicuous and substantial monument in or on which there shall be posted a notice of location, which notice shall contain all of the following:

- (a) The name, current mailing address or current residence address, of the locator.
- (b) The date of location, which shall be the date of posting the notice.
- (c) The proposed course or direction of the tunnel.
- (d) A description of the tunnel by reference to some natural object or permanent monument as will identify the claim or tunnel right.

(Added by Stats. 1988, Ch. 259, Sec. 11.)

3907. The boundary lines of the tunnel shall be established by conspicuous and substantial monuments placed along the lines on the surface at an interval of not more than 600 feet from the face or point of commencement of the tunnel to the terminus of 3,000 feet therefrom.

3908. If at any time the locator of any mining claim, or his or her assigns, apprehends that his or her original location notice was defective, erroneous, or that the requirements of the law had not been complied with before filing, or in case the original notice was made prior to April 28, 1939, and he or she is desirous of securing the benefit of this chapter, the locator, or his or her assigns, may file an amended notice, subject to this chapter, if the amended location notice does not interfere with the existing rights of others at the time of posting and filing the amended location notice. No amended location notice or the record thereof precludes the claimant from proving any title as he or she may have held under previous locations.

(Added by Stats. 1988, Ch. 259, Sec. 11.)



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3909. Where a locator, or his or her assigns, has the boundaries and corners of his or her claim established by a United States deputy mineral surveyor, or a licensed surveyor of this state, and the claim connected with the corner of the public or minor surveys of an established initial point, and incorporates into the record of the claim the field notes of the survey, and attaches to and files with the location notice a certificate of the surveyor setting forth all of the following:

- (a) The survey was actually made by him or her, giving the date thereof.
- (b) The name of the claim surveyed and the location thereof.
- (c) The description incorporated in the declaratory statement is sufficient to identify the claim.

The survey and certificate becomes a part of the record, and the record is prima facie evidence of the facts contained therein.

(Added by Stats. 1988, Ch. 259, Sec. 11.)

3910. The proprietor of a vein or lode claim or mine, the proprietor of a placer claim, or the owner of a quartz mill or reduction works, or any person qualified by the laws of the United States may locate not more than five acres of nonmineral land as a millsite.

The location shall be made and the claim boundaries marked in the same manner as required by Section 3902 for locating placer claims, except that the monument in or on which the notice of location is posted may be erected anywhere within the claim, and location work is not required.

(Added by Stats. 1988, Ch. 259, Sec. 11.)

3911. Within 90 days after the posting of his or her notice of location upon a lode mining claim, placer claim, tunnel right or location, or millsite claim or location, the locator shall record, in the office of the county recorder of the county in which the claim is situated, a true copy of the notice together with a statement by the locator of the markings of the boundaries as required by this chapter and the character of the markings, which statement also shall include the section or sections, township, range, and meridian of the United States survey within which all, or any part, of the claim is located.

Any person who willfully makes a false statement with respect to any mining claim on the posted location notice or on the recorded notice, or accompanying statement, is guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not more than two hundred dollars (\$200) or by imprisonment in the county jail for not more than six months, or by both that fine and imprisonment.



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3912. The amount of work done, improvements made, or maintenance fee paid to the Bureau of Land Management in the United States Department of Interior during each year to hold possession of a mining claim shall be that prescribed by the laws of the United States.

(Amended by Stats. 1995, Ch. 527, Sec. 3. Effective January 1, 1996.)

3913. (a) Whenever labor is performed, improvements are made, or a maintenance fee is paid as required by law upon any mining claim, the person on whose behalf the labor was performed, improvements made, or a maintenance fee was paid, or someone in his or her behalf, shall, within 30 days after the time required by law for performing the labor, making the improvements, or paying the maintenance fee, make and have recorded by the county recorder, in the county in which the mining claim is situated, an affidavit setting forth all of the following:

(1) The name of the claim and the serial number, if any, assigned to the claim by the Bureau of Land Management in the United States Department of Interior.

(2) A reference by book and page or document number to the public record of the notice of location of the claim and, if amended, of the last recorded amendment thereof.

(3) The section or sections, township, range, and meridian of the United States survey within which all or any part of the claim is located.

(4) A description of the labor performed or improvements made upon or for the benefit of the claim for which the proof is made, the value of each item, and the dates on which, or the period of time within which, the labor was performed or the improvement was made, or a statement that a maintenance fee in the amount prescribed by the laws of the United States has been or will be paid, the amount of the maintenance fee, and the date of payment or anticipated payment.

(5) The name, current mailing address, and current residence address of the person who makes the proof and of the owner of the claim, as known to the affiant.

(6) A statement that the claim is held and claimed by the owner, or the person making the proof if he or she is entitled to possession thereof, for the valuable mineral contained therein.

(7) The name and address of the person who performed or made the work and improvements described in the affidavit, as known to the affiant, if applicable.

(8) A statement that all monuments required by law to have been erected upon the claim and all notices required by law to have been posted on the claim or copies thereof



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were in place at a date within the assessment year for which the affidavit is made and a statement of the date.

(9) A statement that, at that date, each corner monument bore or contained a marking sufficient to appropriately designate the corner of the mining claim to which it pertains and the name of the claim.

(b) An affidavit recorded as required by subdivision (a), or a copy thereof duly certified by the county recorder, shall be prima facie evidence of the performance of the labor, the making of the improvements, or the payment of the maintenance fee as stated in the affidavit.

(c) The neglect or failure of the owner of any mining claim to record, or cause to be recorded, within the time allowed by this section an affidavit containing the statements required by subdivision (a) creates a prima facie presumption of the act and intent of the owner to abandon the claim at the end of the assessment year within which the labor should have been performed, the improvements should have been made, or the maintenance fee should have been paid under the laws of the United States, and imposes the burden of proof upon the owner of the claim to show that the labor has been performed, that the improvements have been made, or that the maintenance fee has been paid in any contest, suit, or proceeding touching the title to the claim. However, if the affidavit is executed and recorded by anyone other than an owner within the 30-day period, and the owner apprehends that there are deficiencies in the recorded affidavit, he or she may supplement the recorded affidavit by further affidavit to comply with the section and may record the supplemental affidavit within 30 days following the last day of the 30-day period after the time required by law for performance of the work, making of improvements, or payment of the maintenance fee, and thereby obtain the prima facie evidence of the performance of labor, the making of improvements, or the payment of the maintenance fee, and avoid the prima facie presumption of abandonment and the burden of proving the performance of labor, the making of improvements, or the payment of the maintenance fee required by law.

(d) Any person who willfully makes a false statement with respect to any mining claim on the affidavit required by subdivision (a), or on the supplementary affidavit permitted by subdivision (c), is guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not more than two hundred dollars (\$200) or by imprisonment in the county jail for not more than six months, or by both the fine and imprisonment.

(Amended by Stats. 1995, Ch. 527, Sec. 3.5. Effective January 1, 1996.)



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3914. The board of supervisors, may require, by resolution, that any person filing an affidavit pursuant to Section 3913 or any person filing a notice of intent to hold, demonstrate proof of payment of any unsecured tax levied against the mining claim on which the affidavit or notice of intent to hold is filed, along with any delinquent unsecured taxes levied against the person filing the affidavit or notice of intent to hold, prior to the recordation of the affidavit or notice of intent to hold.

If a resolution is adopted by the board of supervisors pursuant to this section, it may include the following provisions, and any other provisions determined by the board as necessary to carry out the intent of this section:

(a) A provision prohibiting the county recorder from accepting the affidavit or notice of intent to hold for recordation without the tax collector s certification that the taxes have been paid.

(b) A provision requiring the following:

(1) That, when taxes are paid, the tax collector issue a receipt or certificate of payment for use in certification of the affidavit or notice of intent to hold.

(2) That the county recorder forward the affidavit or notice of intent to hold to the tax collector if the county recorder receives an affidavit for recording by mail and the affidavit or notice of intent to hold does not contain the tax collector s certification that the taxes have been paid.

(3) That, if applicable, the tax collector then certify that the taxes have been paid on the face of the affidavit or notice of intent to hold and return the document to the county recorder for recording.

(4) That, if the taxes have not been paid, the tax collector return the affidavit unrecorded to the filer.

(Amended by Stats. 1990, Ch. 992, Sec. 1.)

3915. (a) The following are the only monuments which may be used pursuant to this chapter:

(1) A wooden post not less than 1½ inches in diameter projecting at least two feet above the ground.

(2) A mound of stone projecting at least two feet above the ground.



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(3) A nonperforated, capped metal post or solid metal rod, not less than one inch in diameter and projecting at least two feet above the ground.

(b) Where, by reason of precipitous ground, it is impractical or dangerous to place a monument in its true position, a witness monument may be erected as near thereto as the nature of the ground will permit and marked so as to identify the true position.

(c) Where, by reason of working the claim, it is impractical or dangerous to maintain a monument in its true position, a witness monument shall be erected as near thereto as the nature of the ground will permit and marked so as to identify the true position.

(d) Any person using on January 1, 1992, or who has previously erected, any monument or object other than those defined in this section for the purposes of this chapter shall have until January 1, 1995, to comply with this section or remove those monuments which are not in compliance.

(e) Within 180 days of abandonment, relinquishment, or loss of a claim, in effect on January 1, 1992, all monuments pertaining to that claim shall be permanently removed by the locator. A person who violates this subdivision shall be subject to a fine of not more than fifty dollars (\$50) for each monument which is not removed and additionally liable for any cost incurred by the federal, state, or county government agency which removes any monument or has it removed.

(Amended by Stats. 1991, Ch. 494, Sec. 3.)

3916. Any person who takes down, removes, alters, or destroys any stake, post, monument, or notice of location upon any mining claim which is required by law to be upon the mining claim, without the consent of the owner thereof, shall be deemed guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not more than two hundred dollars (\$200) or by imprisonment in the county jail for not more than six months, or by both the fine and imprisonment.

3917. Whenever a coowner or coowners of a mining claim give to a delinquent coowner or coowners the notice in writing or notice by publication provided for in Section 2324 of the Revised Statutes of the United States, an affidavit of the person giving the notice, stating the time, place, manner of service, and by whom and upon whom service was made, shall be attached to a true copy of the notice.

The notice and affidavit shall be recorded in the office of the county recorder, in books kept for that purpose, in the county in which the claim is situated, within 90 days, after the giving of the notice. For recording the notice and affidavit, the recorder shall receive the same fees as are allowed by law for recording deeds.



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If the notice is given by publication in a newspaper, there shall be attached to a printed copy of the notice an affidavit of the printer or his or her foreman, or principal clerk of the newspaper, stating the date of the first, last, and each insertion of the notice therein, and where the newspaper was published during that time, and the name of the newspaper. The affidavit and notice shall be recorded within 180 days after the first publication thereof.

(Added by Stats. 1988, Ch. 259, Sec. 11.)

3918. The original of the notice and affidavit, or a duly certified copy of the record thereof, shall be prima facie evidence that the delinquent mentioned in Section 2324 of the Revised Statutes of the United States has failed or refused to contribute his or her proportion of the expenditure required by that section, and of the service of publication of the notice, unless the writing or affidavit specified in Section 3919 is of record.

(Added by Stats. 1988, Ch. 259, Sec. 11.)

3919. If the delinquent, within the 90 days required by Section 2324 of the Revised Statutes of the United States, contributes to his or her coowner or coowners his or her proportion of the expenditures and also all costs of service of the notice required by Section 3917, whether incurred for publication charges or otherwise, the coowner or coowners shall sign and deliver to the delinquent or delinquents a writing, stating that the delinquent or delinquents by name has, within the time required by that Section 2324, contributed his or her share for the year ____, upon the ____ mine, and further stating therein the district, county, and state wherein the claim is situated, and the book and page where the location notice is recorded, if the claim was located under this chapter. The writing shall be recorded in the office of the county recorder of the county, for which he or she shall receive the same fees as are allowed by law for recording deeds.

(Added by Stats. 1988, Ch. 259, Sec. 11.)

3920. If the coowner fails to sign and deliver the writing to the delinquent within 20 days after the contribution, the coowner so failing is liable to the delinquent for a penalty of one hundred dollars (\$100) to be recovered by the delinquent in any court of competent jurisdiction. If the coowner fails to deliver the writing within 20 days after the contribution, the delinquent, with two disinterested persons having personal knowledge of the contribution, may make an affidavit setting forth in what manner, the amount of, to whom, and upon what claim, the contribution was made. The affidavit, or a record thereof in the office of the county recorder of the county in which the claim is situated, is prima facie evidence of the contribution.

(Added by Stats. 1988, Ch. 259, Sec. 11.)



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3921. The record of any location of a mining claim, millsite, or tunnel right in the office of the county recorder, as provided in this chapter, shall be received in evidence and have the same force and effect in the courts of the state as the original notice.

(Added by Stats. 1988, Ch. 259, Sec. 11.)

3922. Copies of the records of all instruments required to be recorded by this chapter, duly certified by the recorder in whose custody the records are, may be read in evidence under the same circumstances and rules as are provided by law for using copies of instruments relating to real estate, duly executed or acknowledged or proved and recorded.

(Added by Stats. 1988, Ch. 259, Sec. 11.)

3923. This chapter does not in any manner affect or abolish any mining district or the rules and regulations thereof within the state.

(Added by Stats. 1988, Ch. 259, Sec. 11.)

3924. Whenever any mining district in this state, organized or created under the laws of the United States, is dissolved, the officers or custodians of the records of the mining district shall deposit with the county recorder of the county, in which the district is located, all records of location notices or other documents affecting titles to mining claims in the mining district, shown by the records of the district.

County recorders of the counties shall accept any location notices and other documents affecting title to mining claims of dissolved mining districts. Thereafter all notices and documents shall be open for public inspection.