Statutes

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2017 New Mexico Statutes
Chapter 69 - Mines
Article 3 - Mining Locations and Operations
Section 69-3-1 - Mining claim location and posting notice.

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69-3-1. Mining claim location and posting notice.

A. Any person or persons desiring to locate a mining claim upon a vein or lode of quartz or other rock in place bearing gold, silver, cinnabar, lead, tin, copper or other valuable deposit must distinctly mark the location on the ground by four substantial posts or monuments, one at each corner of the claim, so that its boundaries may be readily traced, and post in some conspicuous place on such location, a notice in writing stating thereon the name or names of the locator or locators and his or their intention to locate the mining claim, giving a description thereof by reference to some natural object or permanent monument as will identify the claim.

B. The locator shall, at the time of making location of any placer mining claim, cause a notice of the location to be placed at a designated corner of the claim so located, stating the name of the claim, the purpose and the kind of material for which the claim is located, the name of the person locating same, and, if located upon surveyed lands, the notice shall contain a description of the claim by its legal subdivision. If upon unsurveyed lands, the notice shall contain a description of the claim by metes and bounds, with reference to some known object or monument. And whether upon surveyed or unsurveyed lands, each corner of the claim shall be marked by a post at least four feet high, securely set in the ground, or by a substantial stone monument.

C. The date of posting of written notice on the location pursuant to Subsection A or B of this section is deemed to be the date of location. Within ninety days after the date of location, the locator of a lode or placer claim shall file for record in the office of the clerk
of the county in which the claim is located, a written notice of location for the claim containing:

(1) the name of the claim;

(2) the name and current mailing address of the owner of the claim;

(3) an identification of the claim as either lode or placer;

(4) the date of location;

(5) a description reciting, to the extent possible, the section in which the claim is located and the approximate location of all or any part of the claim by quarter section. In addition, there shall be furnished the section, township and range; and

(6) either a topographic map published by the U.S. geological survey or copy of such map on which there shall be depicted the location of the claim, or a narrative or sketch describing the claim with reference by appropriate tie to some topographic, hydrographic or man-made feature. Such map, narrative description or sketch shall set forth the boundaries and positions of the individual claim with such accuracy as will allow the claim to be identified and located on the ground and shall be no larger than eight and one-half inches by fourteen inches. More than one claim may be shown on a single map or described in a single narrative or sketch if they are located in the same general area, so long as the individual claims are clearly identified.

D. Nothing in the requirement for a map or description found in this section shall require the locator or locators of a claim to employ a professional surveyor or engineer.

History: Laws 1876, ch. 38, 1; C.L. 1884, 1566; C.L. 1897, 2286; Code 1915, 3445; C.S. 1929, 88-101; 1941 Comp., 67-201; 1953 Comp., 63-2-1; Laws 1981, ch. 310, 1.

69-3-5. Penalty.

Any person who shall make or cause the making of a material misrepresentation of fact with the intent to defraud in a notice of claim shall forfeit his right to the claim to which the material misrepresentation relates, is guilty of a misdemeanor, and upon conviction shall be punished by a fine of not more than one thousand dollars ($1,000) nor less than two hundred dollars ($200) or by imprisonment in the county jail for not more than three hundred sixty days nor less than thirty days, or by both fine and imprisonment in the discretion of the court.

69-3-10. [Boundary posts.]

The surface boundaries of mining claims hereafter [hereafter] located shall be marked by four substantial posts or monuments, one at each corner of such claim, so as to distinctly mark the claim on the ground, so that its boundaries can be readily traced, and shall otherwise conform to Section 69-3-1 NMSA 1978.

History: Laws 1889, ch. 25, 2; 1897, ch. 58, 6; C.L. 1897, 2299; Laws 1899, ch. 57, 1; Code 1915, 3448; C.S. 1929, 88-104; 1941 Comp., 67-204; 1953 Comp., 63-2-4.

69-3-11. Relocation.

The relocation of any mining ground, which is subject to relocation, shall be made in the same way as an original location is required by law to be made.


69-3-12. Amended and additional location notices.

A. If at any time the owner of any mining claim heretofore or hereafter located, or his assigns, shall apprehend that the original notice of location is defective, erroneous or the requirement of law has not been complied with before filing, or shall be desirous of changing his surface boundaries or to take in any part of an overlapping claim which has been abandoned, such owner may file in the office where notices of location are by law required to be filed, an amended or additional notice of location, subject to the provisions of this article. Provided, that such additional or amended notice of location does not interfere with the existing right of others at the time of filing such notice; and no such amended or additional location, or record thereof, shall, by itself, preclude the claimant or his assigns from proving any such title as they may have held under the previous location.

B. The owner of an unpatented lode or placer claim existing on June 20, 1981 may file with the county clerk’s office in the county in which the mining claim is located, a written notice of location containing the information required by Subsection C of Section 69-3-1 NMSA 1978 or a map conforming to the requirements of Paragraph (6) of Subsection C of Section 69-3-1 NMSA 1978. Such notice shall also recite the book and page of the recording of the original location notice and any additional or amended location notices, and such map shall state the name of the owner of the claims and the claim names for the claims referenced on the map.

69-3-12.1. Annual labor and annual filings.

The owner of an unpatented lode or placer mining claim shall, prior to December 31 of each year following the calendar year in which such claim was located, file for record in the office of the clerk of the county in which the mining claim is located either a notice of intention to hold the mining claim (including but not limited to such notices as are provided by law to be filed when there has been a suspension or deferment of annual assessment work), an affidavit of assessment work performed thereon or for the benefit thereof, (stating, among other facts, that the assessment work was performed before 12:00 noon of September 1 of that calendar year) or a detailed report relating to geological, geophysical or geochemical surveys. An affidavit of assessment work shall set forth the time when such work was done and the amount, character and cost thereof, together with the name of the person who performed such work. The affidavit, when made and filed as herein provided, shall be prima facie evidence of the facts therein stated. The failure to make and file the affidavit as herein provided, shall, in any contest, suit or proceeding touching the title to such claim, place the burden of proof upon the owner of the claim to show that the work has been done according to law.


69-3-13. [Alteration, removal or destruction of location marks or notice; penalty.]

Any person who shall take down, remove, alter or destroy any stake, post, monument or notice of location upon any mining claim without the consent of the owner or owners thereof shall be deemed guilty of a misdemeanor, and on conviction, shall be punished by a fine not exceeding one hundred dollars [$100] or by imprisonment in the county jail not exceeding six months, or by both such fine and imprisonment.


69-3-18. [Abandonment of mining claims; methods; encumbered claims.]

In addition to the provision of law now in force in respect to the abandonment of mining claims, they may be abandoned in the following manner: the owner or owners of any mining claim, wishing to abandon the same, may sign and acknowledge in the same manner provided by law for the acknowledgment of deeds, and file for record in the office of the county clerk, a certificate describing the same, stating when and by whom located, the name of the claim, the book and page where the notice of location of such claim is recorded; that he or they give up and abandon such claim, and that the same is open and subject to relocation. Upon the filing of such certificate, the mining claim therein described shall be considered abandoned and open to relocation as if the same had never been located, and the owner or owners thereof forever estopped from
claiming any right or interest therein under the location mentioned in said certificate; provided, that this provision for abandonment shall not apply to any claim or location upon which any mortgage, lien or other encumbrance exists.

**History:** Laws 1889, ch. 25, 6; C.L. 1897, 2303; Code 1915, 3458; C.S. 1929, 88-114; 1941 Comp., 67-212; 1953 Comp., 63-2-12.

69-3-22. [Size of placer mining claims.]

The size of the claim or claims to be located under Sections 69-3-19 to 69-3-21 NMSA 1978 [repealed], and the amount of annual assessment work to be done thereon in order to hold possession of and secure patent to the same shall be the same as provided by Revised Statutes of the United States.

**History:** Laws 1909, ch. 65, 4; Code 1915, 3462; C.S. 1929, 88-118; 1941 Comp., 67-216; 1953 Comp., 63-2-16.

69-3-23. [Regulations by private landowners as to mining locations; recording; amending.]

The owner or owners of lands within this state, the title to which has been vested by letters patent from the United States government, may make and file in the office of the county clerk of the county in which such lands are situated, such rules and regulations, not inconsistent with the laws of the United States and of this state, as they may see fit, governing the location and acquisition of mining claims thereon, which rules and regulations when so filed shall be binding upon all parties, and a copy thereof duly certified by the county clerk shall be received and admitted as evidence in any suit or proceedings relating to such mining claims; such rules and regulations may be changed and supplemented from time to time by other rules and regulations filed in like manner, providing that such change shall not affect rights acquired prior thereto.

**History:** Laws 1897, ch. 58, 7; C.L. 1897, 2314; Code 1915, 3514; C.S. 1929, 88-701; 1941 Comp., 67-217; 1953 Comp., 63-2-17.

69-3-24. [No trespassing notices.]

Whenever the owner or lessee of any mining property in the state of New Mexico shall desire to operate the same and to prevent trespassers from entering thereon, such owner or lessees [lessee] may post notices in English and Spanish in at least three public places upon said premises, warning all persons from entering upon said property without permission of the owner or lessee or his or their authorized agent or superintendent, which notices shall describe the boundaries of said property.
69-3-25. [Penalty for trespass; exceptions.]

After the posting of such notices, it shall be unlawful for any person to enter upon said premises without such permission, and any person violating the provisions of the proceeding [preceding] section [69-3-24 NMSA 1978] shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by fine not exceeding fifty dollars [($50.00)] or imprisonment in the county jail for a period not exceeding thirty days, or both such fine and imprisonment, in the discretion of the court: provided, that this section shall not apply to any person or persons entering said premises in good faith for the purpose of ascertaining whether assessment work has been done, or for the purpose of making a location on government land.

69-3-26. [Trespass against person rightfully in possession.]

When any person, firm or corporation shall be lawfully and peaceably in possession of any mining claim in this state and shall have complied with all the requirements of law and regulations in force in the district in which said mining claim is situated, such persons, firm or corporation shall be deemed to be the rightful possessor of such mining claim and of the land included therein; and any person or the officer, agent or employee of any corporation who shall by force, intimidation, fraud or stealth, or in the temporary absence of the rightful possessor, enter upon such mining claim with intent to hold the same, or any part thereof, against the rightful possessor shall be considered a trespasser, and the judge of the district court for the district in which such claim is situated shall, upon the proper showing of such facts made by affidavit or by oral testimony upon a hearing ordered for that purpose, and upon the filing with the clerk of said district court of a good and sufficient bond, grant an order to show cause why a writ of injunction should not issue, enjoining and restraining such trespasser, his servants, agents and employees and any person associated with him, from in any manner interfering with the rightful possessor in the possession of such claim until the final disposition of such cause.


69-3-27. [Trespass by livestock; liability of owner.]

The owner of any livestock in this state shall not be liable to the owner or his agent or [of] any mining or mineral claim or millsite for damages done by way of trespass upon the same by said livestock other than for actual damage done to buildings, tents, mining supplies or other personal property situated thereon: provided, that nothing in this section shall be construed as abridging or curtailing any of the existing rights of any such owner whenever any such mining or mineral claim or millsite may be used by the owners thereof, his tenant or lessee, as a livestock ranch.
69-3-28. [Termination of lease; thirty days' notice.]

Hereafter any lease upon any mine, or portion of a mine, not given in writing, for a specified time, shall not be terminated until after notice of the date of such termination, given by the lessor to the lessee, not less than thirty days prior to such date of termination.


69-3-30. [Stockholders; right of entry and examination of mines.]

Any person owning stock in any corporation or company owning or operating mines in this state, shall at any time during the business hours of the day, have the right to enter in and upon any and all mines of such corporation or company, and all underground workings connected therewith for the purpose of examining the same.

History: Laws 1882, ch. 33, 1; C.L. 1884, 1572; C.L. 1897, 2306; Code 1915, 3472; C.S. 1929, 88-210; 1941 Comp., 67-224; 1953 Comp., 63-2-24.

69-3-31. [Denial to stockholders of right of entry; penalty.]

Every corporation or company or officer or agent of such corporation or company who shall refuse to allow upon demand, any person owning stock in such corporation or company, to enter such mines, as in the preceding section [69-3-30 NMSA 1978] provided, shall be guilty of a misdemeanor, and the corporation or company shall forfeit and pay to the party injured a penalty of one hundred dollars [($100)] for every such refusal, and all damages resulting therefrom.

History: Laws 1882, ch. 33, 2; C.L. 1884, 1573; C.L. 1897, 2307; Code 1915, 3473; C.S. 1929, 88-211; 1941 Comp., 67-225; 1953 Comp., 63-2-25.

69-3-32. ["Stockholders" defined.]

The words "any person owning stock" as used in the preceding sections [69-3-30, 69-3-31 NMSA 1978] shall be taken and considered to mean stockholders, whose names appear on the stock book of the company as owners of stock, and none others.

History: Laws 1884, ch. 45, 1; C.L. 1884, 1574; C.L. 1897, 2308; Code 1915, 3474; C.S. 1929, 88-212; 1941 Comp., 67-226; 1953 Comp., 63-2-26.