

TITLE 47  
MINES AND MINING

CHAPTER 6  
LOCATION OF MINING CLAIMS

47-601. MINING CLAIM LOCATIONS AUTHORIZED. Persons are authorized to locate mining claims upon that public domain in the state of Idaho which is open to location under the mining laws of the United States. The location of a mining claim shall be made by posting notice of location and by marking the boundaries as provided in section [47-602](#) of this chapter.

[47-601, added 1970, ch. 92, sec. 2, p. 227.]

47-602. METHOD OF LOCATING MINING CLAIM. The locator of a mining claim must at the time of making his location designate his claim by posting at one (1) corner of the claim his notice of location in writing in which there shall be stated:

1. The name of the locator or locators.
2. The name of the claim and whether located as a lode mining claim or as a placer mining claim.
3. The date of the location and the mining district, if any, and the county in which the claim is located.
4. The directions and distances which describe the claim.
5. The direction and distance from the corner where notice is posted to such natural object or permanent monument, if any such there be, as will fix and describe in the notice itself the site of the claim.

Before recording his notice of location, the locator must mark the boundaries of his mining claim by placing at each corner or angle of the claim a substantial monument or a post at least four (4) feet in height and four (4) inches square or in diameter. Each post and monument shall be marked with the name of the claim, the position or number of the corner or angle and the direction of the boundary lines. The locator shall mark the boundary lines so that they can be readily traced. Where it is impracticable to place a monument or post in its true position, a witness monument shall be erected and marked to indicate the true position of the corner or angle.

[47-602, added 1970, ch. 92, sec. 4, p. 227.]

47-604. NOTICE MUST BE RECORDED. Within ninety (90) days after the location of the claim the locator or his assigns must file for record in the office of the county recorder of the county in which the claim is situated, a copy of his notice of location. Failure to file notice of location for record within ninety (90) days after location of the claim shall constitute an abandonment of the claim.

[(47-604) 1895, p. 25, sec. 4; reen. 1899, p. 237, sec. 4; reen. R.C., sec. 3209; C.L., sec. 3209; C.S., sec. 5523; I.C.A., sec. 46-604; am. 1970, ch. 92, sec. 7, p. 92.]

47-605. RECORD OF ADDITIONAL CERTIFICATE. If at any time the locator of any mining claim heretofore or hereafter located, or his assigns, shall apprehend that his original certificate was defective, erroneous, or that the requirements of the law had not been complied with before filing, or shall

be desirous of changing the surface boundaries, or of taking any part of an overlapping claim which has been abandoned, or in case the original certificate was made prior to the passage of this law, and he shall be desirous of securing the benefits of this chapter, such locator or his assigns may file an additional certificate subject to the conditions of this chapter, and to contain all that this chapter requires an original certificate to contain: provided, that such amended location does not interfere with the existing rights of others at the time when such amendment is made.

[(47-605) 1895, p. 25, sec. 5; reen. 1899, p. 237, sec. 5; reen. R.C. & C.L., sec. 3210; C.S., sec. 5524; I.C.A., sec. 46-605.]

47-606. AFFIDAVIT OF PERFORMANCE OF LABOR -- NOTICE OF ACCEPTANCE OF WAIVER, SUSPENSION OR EXTENSION -- FEES -- EFFECT AS EVIDENCE. Within sixty (60) days after any time set or period allowed for the performance of labor, or making improvements upon any lode or placer claim, the person in whose behalf such work or improvement is performed or some person for him, must make and record an affidavit in substance as follows:

State of Idaho, county of . . . . , ss.

Before me, the subscriber, personally appeared . . . . , who being first duly sworn says, that at least . . . . dollars worth of work or improvements were performed or made upon . . . . claim, situate in . . . . mining district, County of . . . . , State of Idaho:

That such expenditure was made by, for, or at the expense of . . . . , owner of said claim, for the purpose of holding said claim; all stakes, monuments or trees marking boundaries of said claim are in proper place and position.

Subscribed and sworn to before me this . . . . day of . . . . , . . . .

The fee for administering the oath and recording the foregoing affidavit, when taken before any county recorder, shall be as provided by section [31-3205](#), Idaho Code.

Such affidavit, or a certified copy thereof in case the original is lost, shall be prima facie evidence of the performance of such labor. The failure to file such affidavit shall be considered prima facie evidence that such labor has not been done.

When the performance of annual labor upon any lode or placer claim is suspended, extended or waived by act of congress of the United States, and provision is therein made for filing or recording a notice, affidavit or statement by the claimant or other person for him, accepting the provisions of said act, then the same shall be filed as herein provided for affidavit of performance of annual labor, and the same fees shall be charged therefor and the same effect shall be given thereto, and the same presumptions shall arise therefrom as provided herein for said affidavit of performance of annual labor.

[(47-606) R.S., sec. 3101; am. 1899, p. 237, sec. 6; am. 1899, p. 440, sec. 2; reen. R.C., sec. 3211; am. 1913, ch. 72, sec. 1, p. 308; reen. C.L., sec. 3211; C.S., sec. 5525; I.C.A., sec. 46-606; am. 1945, ch. 114, sec. 1, p. 176; am. 1951, ch. 251, sec. 2, p. 540; am. 1957, ch. 171, sec. 1, p. 306; am. 1959, ch. 72, sec. 2, p. 157; am. 1970, ch. 92, sec. 8, p. 227; am. 1976, ch. 281, sec. 4, p. 964; am. 1982, ch. 207, sec. 1, p. 570; am. 2002, ch. 32, sec. 19, p. 57.]

47-607. LOCATION OF ABANDONED CLAIM. The location of abandoned claims shall be done in the same manner as if the location were of a new claim including the erection of new posts or monuments.

[(47-607) 1895, p. 25, sec. 7; reen. 1899, p. 237, sec. 7; reen. R.C., sec. 3212; C.L., sec. 3212; C.S., sec. 5526; I.C.A., sec. 46-607; am. 1970, ch. 92, sec. 9, p. 227.]

47-608. NOTICE MUST CLAIM ONLY ONE LOCATION. No location notice shall claim more than one location, whether the location is made by one or several locators, and if it purport to claim more than one location it is absolutely void.

[(47-608) 1895, p. 25, sec. 8; reen. 1899, p. 237, sec. 8; reen. R.C. & C.L., sec. 3213; C.S., sec. 5527; I.C.A., sec. 46-608.]

47-609. SECURITY TO SURFACE OWNERS -- INJUNCTION. When the right to mine is in any case separate from the ownership or right of occupancy of the surface ground, the owners or rightful occupants of the surface ground may demand satisfactory security from the miners, and if it be refused or not given, may enjoin such miners from working such ground until such security is given. The court granting the writ of injunction shall fix the amount and nature of the security.

[(47-609) 1895, p. 25, sec. 10; reen. 1899, p. 237, sec. 10; reen. R.C. & C.L., sec. 3214; C.S., sec. 5528; I.C.A., sec. 46-609.]

47-611. AFFIDAVIT OF LOCATORS. At or before the time of presenting a location notice for record, whether it be for a quartz lode or placer claim, one (1) of the locators named in the same must make and subscribe an affidavit, in writing on or attached to the notice, substantially in the following form, to wit:

State of Idaho, county of . . . . , ss.

I, . . . . , do solemnly swear that I am a citizen of the United States of America (or have declared my intentions to become such), and that I am acquainted with the mining ground described in this notice of location, and herewith called the . . . . lode or placer claim; that the ground and claim therein described or any part thereof has not, to the best of my knowledge and belief, been previously located according to the laws of the United States and this state, or if so located, that the same has been abandoned or forfeited by reason of the failure of such former locators to comply in respect thereto with the requirements of said laws.

.....  
Signature

Subscribed and sworn to before me this . . . . day of . . . . .

.....  
Signature

[(47-611) 1881, p. 262, sec. 5; R.S., sec. 3104; am. 1895, p. 25, sec. 13; reen. 1899, p. 237, sec. 13; reen. R.C., sec. 3216; C.L., sec. 3216; C.S., sec. 5530; I.C.A., sec. 46-611; am. 1970, ch. 92, sec. 11, p. 227; am. 2002, ch. 32, sec. 20, p. 58.]

47-612. MANNER OF RECORDING NOTICES. The location notice herein required to be recorded must be recorded in the office of the county recorder of the county in which the claim is located (when the legal fee therefor is tendered), in a book kept for that purpose. Said book must be indexed, with the names of all the locators arranged in alphabetical order, according to the family or surname of each.

[(47-612) 1881, p. 262, sec. 6; R.S., sec. 3105; am. 1895, p. 25, sec. 14; reen. 1899, p. 237, sec. 14; reen. R.C. & C.L., sec. 3217; C.S., sec. 5531; am. 1931, ch. 114, sec. 2, p. 195; I.C.A., sec. 46-612; am. 1937, ch. 7, sec. 1, p. 18; am. 1957, ch. 170, sec. 1, p. 305; am. 1970, ch. 92, sec. 12, p. 227; am. 1976, ch. 281, sec. 5, p. 966.]

47-613. CERTAIN SURVEYS MAY QUALIFY AS ANNUAL LABOR. Annual assessment work or labor upon a mining claim as required by the United States mining laws shall be defined to include, without being limited to, geological, geochemical and geophysical surveys conducted by qualified experts and verified by a detailed report filed for record in the office of the county recorder of the county in which the claim is located which sets forth fully (1) the location of the work performed in relation to the boundaries of the claim, (2) the nature, extent, and costs thereof, (3) the basic findings therefrom, and (4) the name, address, and professional background of the person or persons conducting the work. Surveys of this kind, however, may not be applied as labor for more than two (2) consecutive years or for more than a total of five (5) years on any one (1) mining claim, and each of these surveys shall be non-repetitive of any previous survey on the same claim.

[47-613, added 1970, ch. 92, sec. 18, p. 227.]

47-614. DEFINITIONS. As used in section [47-613](#):

(1) 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;

(2) 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;

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

(4) the term "qualified expert" means an individual qualified by education or experience to conduct geological, geochemical, or geophysical surveys.

[47-614, added 1970, ch. 92, sec. 19, p. 227.]

47-618. LODGE AND PLACER CLAIMS -- OFFICIAL PATENT SURVEY AS LABOR ON IMPROVEMENT. It is hereby declared that an official patent survey of a lode or placer mining claim or claims by a United States mineral surveyor constitutes and is labor performed upon an improvement made upon or for the benefit of an unpatented lode or placer mining claim or claims.

[(47-618) C.S., sec. 5536-A, as added by 1929, ch. 194, sec. 1, p. 361; I.C.A. sec. 46-618.]

47-619. LODE AND PLACER CLAIMS -- OFFICIAL PATENT SURVEY AS CREDIT ON ANNUAL ASSESSMENT WORK. An official patent survey of a lode or placer mining claim or claims by a United States mineral surveyor may be credited to annual assessment work or labor, but in no case shall the credit for such survey and its attendant expense exceed the required assessment for one (1) year on the claim or claims surveyed. When credit is sought for such work or improvement, the claimant must file in the recorder's office in the county in which such claim is situated the affidavit of such United States mineral surveyor, showing the cost of such survey, and when so filed the actual cost of such survey shall be deemed and considered as labor and improvements done and performed upon said claim or claims.

[(47-619) C.S., sec. 5536-B, as added by 1929, ch. 194, sec. 2, p. 361; I.C.A. sec. 46-619.]