

troverſy ſhall not be eſtabliſhed by either party, the jury ſhall ſo find, and judgment ſhall be entered according to the verdict. In ſuch caſe coſts ſhall not be allowed to either party, and the claimant ſhall not proceed in the land office or be entitled to a patent for the ground in controversy until he ſhall have perfected his title. (Mar. 3, 1881, ch. 140, 21 Stat. 505.)

SECTION REFERRED TO IN OTHER SECTIONS

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

**§ 33. Existing rights**

All patents for mining claims upon veins or lodes iſſued prior to May 10, 1872, ſhall convey all the rights and privileges conferred by ſections 21, 22 to 24, 26 to 28, 29, 30, 33 to 48, 50 to 52, 71 to 76 of this title and ſection 661 of title 43 where no adverſe rights exiſted on the 10th day of May, 1872.

(R.S. § 2328.)

REFERENCES IN TEXT

Sections 21, 22 to 24, 26 to 28, 29, 30, 33 to 48, 50 to 52, 71 to 76 of this title and ſection 661 of title 43, referred to in text, were in the original "this chapter", meaning chapter 6 of title 32 of the Revised Statutes, conſiſting of R.S. §§ 2318 to 2352.

CODIFICATION

R.S. § 2328 derived from act May 10, 1872, ch. 152, § 9, 17 Stat. 94.

Proviſion of this ſection reſpecting proſecution of applications for patents for mining claims in General Land Office, pending May 10, 1872, was omitted from the Code.

SECTION REFERRED TO IN OTHER SECTIONS

This ſection is referred to in ſections 24, 29, 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.

**§ 34. Description of vein claims on surveyed and unsurveyed lands; monuments on ground to govern conflicting calls**

The deſcription of vein or lode claims upon ſurveyed lands ſhall designate the location of the claims with reference to the lines of the public ſurvey, but need not conform therewith; but where patents have been or ſhall be iſſued for claims upon unſurveyed lands, the Director of the Bureau of Land Management in extending the public ſurvey, ſhall adjust the ſame to the boundaries of ſaid patented claims ſo as in no caſe to interfere with or change the true location of ſuch claims as they are officially eſtabliſhed upon the ground. Where patents have iſſued for mineral lands, thoſe lands only ſhall be ſegregated and ſhall be deemed to be patented which are bounded by the lines actually marked, defined, and eſtabliſhed upon the ground by the monuments of the official ſurvey upon which the patent grant is baſed, and the Director of the Bureau of Land Management in executing ſubſequent patent ſurveys, whether upon ſurveyed or unſurveyed lands, ſhall be governed accordingly. The ſaid monuments ſhall at all times conſtitute the hiſheſt authority as to what land is patented, and in caſe of any conflict between the ſaid monuments of ſuch pat-

ented claims and the deſcriptions of ſaid claims in the patents iſſued therefor the monuments on the ground ſhall govern, and erroneoſ or inconſiſtent deſcriptions or calls in the patent deſcriptions ſhall give way thereto.

(R.S. § 2327; Apr. 28, 1904, ch. 1796, 33 Stat. 545; Mar. 3, 1925, ch. 462, 43 Stat. 1144; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100.)

CODIFICATION

R.S. § 2327 derived from act May 10, 1872, ch. 152, § 8, 17 Stat. 94.

AMENDMENTS

1925—Act Mar. 3, 1925, affected words now reading "United States ſuperviſor of ſurveys" in firſt and ſecond ſentences of text. Theſe words formerly read "the ſurveyor-general." This act aboliſhed the office of ſurveyor general, and transferred to and conſolidated with the Field Surveying Service, under the jurisdiction of the U.S. Supervisor of Surveys, the adminiſtration, equipment, etc., of ſuch office.

TRANSFER OF FUNCTIONS

Director of the Bureau of Land Management, ſubſtituted for United States Supervisor of Surveys wherever appearing. In the eſtabliſhment of the Bureau of Land Management by Reorg. Plan No. 3 of 1946, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100, ſet out in the Appendix to Title 5, Government Organization and Employees, the office of Supervisor of Surveys was aboliſhed and the functions and powers were transferred to the Secretary of the Interior, to be performed by ſuch officers or agencies of the Department as might be designated by the Secretary. Under that authority, the functions and powers formerly exercised by the Supervisor of Surveys were delegated to the Chief Cadaſtral Engineer, ſubject to the ſuperviſion of the Director of the Bureau of Land Management. In the general reorganization and realignment of functions of the Bureau, the office of the Chief Cadaſtral Engineer was aboliſhed, and the functions of that office have been delegated to the Director of the Bureau of Land Management. See 43 C.F.R. § 9180.0-3(a)(1).

See alſo note ſet out under ſection 1 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.

**§ 35. Placer claims; entry and proceedings for patent under provisions applicable to vein or lode claims; conforming entry to legal subdivisions and surveys; limitation of claims; homestead entry of segregated agricultural land**

Claims uſually called "placers," including all forms of deſiſit, excepting veins of quartz, or other rock in place, ſhall be ſubject to entry and patent, under like circumſtances and conditions, and upon ſimilar proceedings, as are provided for vein or lode claims; but where the lands have been previously ſurveyed by the United States, the entry in its exterior limits ſhall conform to the legal ſubdiviſions of the public lands. And where placer claims are upon ſurveyed lands, and conform to legal ſubdiviſions, no further ſurvey or plat ſhall be required, and all placer-mining claims located after the 10th day of May 1872, ſhall conform as near as practicable with the United States ſys-

tem of public-land surveys, and the rectangular subdivisions of such surveys, and no such location shall include more than twenty acres for each individual claimant; but where placer claims cannot be conformed to legal subdivisions, survey and plat shall be made as on unsurveyed lands; and where by the segregation of mineral land in any legal subdivision a quantity of agricultural land less than forty acres remains, such fractional portion of agricultural land may be entered by any party qualified by law, for homestead purposes.

(R.S. §§ 2329, 2331; Mar. 3, 1891, ch. 561, § 4, 26 Stat. 1097.)

#### CODIFICATION

R.S. § 2329 derived from act July 9, 1870, ch. 235, § 12, 16 Stat. 217.

R.S. § 2331 derived from act May 10, 1872, ch. 152, § 10, 17 Stat. 94.

#### SUBMERGED LANDS ACT

Provisions of this section as not amended, modified or repealed by the Submerged Lands Act, see section 1303 of Title 43, Public Lands.

#### 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.

### § 36. Subdivisions of 10-acre tracts; maximum of placer locations; homestead claims of agricultural lands; sale of improvements

Legal subdivisions of forty acres may be subdivided into ten-acre tracts; and two or more persons, or associations of persons, having contiguous claims of any size, although such claims may be less than ten acres each, may make joint entry thereof; but no location of a placer claim, made after the 9th day of July 1870, shall exceed one hundred and sixty acres for any one person or association of persons, which location shall conform to the United States surveys; and nothing in this section contained shall defeat or impair any bona fide homestead claim upon agricultural lands, or authorize the sale of the improvements of any bona fide settler to any purchaser.

(R.S. § 2330; Mar. 3, 1891, ch. 561, § 4, 26 Stat. 1097.)

#### CODIFICATION

R.S. § 2330 derived from act July 9, 1870, ch. 235, § 12, 16 Stat. 217.

#### SUBMERGED LANDS ACT

Provisions of this section as not amended, modified or repealed by the Submerged Lands Act, see section 1303 of Title 43, Public Lands.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 24, 29, 33, 37, 38, 39, 40, 42, 46, 47, 48, 102 of this title; title 16 section 460mm-1.

### § 37. Proceedings for patent where boundaries contain vein or lode; application; statement including vein or lode; issuance of patent; acreage payments for vein or lode and placer claim; costs of proceedings; knowledge affecting construction of application and scope of patent

Where the same person, association, or corporation is in possession of a placer claim, and also a vein or lode included within the boundaries thereof, application shall be made for a patent for the placer claim, with the statement that it includes such vein or lode, and in such case a patent shall issue for the placer claim, subject to the provisions of sections 21, 22 to 24, 26 to 28, 29, 30, 33 to 48, 50 to 52, 71 to 76 of this title and section 661 of title 43, including such vein or lode, upon the payment of \$5 per acre for such vein or lode claim, and twenty-five feet of surface on each side thereof. The remainder of the placer claim, or any placer claim not embracing any vein or lode claim, shall be paid for at the rate of \$2.50 per acre, together with all costs of proceedings; and where a vein or lode, such as is described in section 23 of this title, is known to exist within the boundaries of a placer claim, an application for a patent for such placer claim which does not include an application for the vein or lode claim shall be construed as a conclusive declaration that the claimant of the placer claim has no right of possession of the vein or lode claim; but where the existence of a vein or lode in a placer claim is not known, a patent for the placer claim shall convey all valuable mineral and other deposits within the boundaries thereof.

(R.S. § 2333.)

#### REFERENCES IN TEXT

Sections 21, 22 to 24, 26 to 28, 29, 30, 33 to 48, 50 to 52, 71 to 76 of this title and section 661 of title 43, referred to in text, were in the original "this chapter", meaning chapter 6 of title 32 of the Revised Statutes, consisting of R.S. §§ 2318 to 2352.

#### CODIFICATION

R.S. § 2333 derived from act May 10, 1872, ch. 152, § 11, 17 Stat. 94.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 24, 29, 33, 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.

### § 38. Evidence of possession and work to establish right to patent

Where such person or association, they and their grantors, have held and worked their claims for a period equal to the time prescribed by the statute of limitations for mining claims of the State or Territory where the same may be situated, evidence of such possession and working of the claims for such period shall be sufficient to establish a right to a patent thereto under sections 21, 22 to 24, 26 to 28, 29, 30, 33 to 48, 50 to 52, 71 to 76 of this title and section 661 of title 43, in the absence of any adverse claim; but nothing in such sections shall be deemed to impair any lien which may have attached in any way whatever to any mining claim or property