

***APPLICATION FOR PATENT.**

The following pages are intended to contain the forms of application and proceedings to obtain patent, in the order of time in which the several papers should be made and filed.

Request for Official Survey.—A citizen of the United States, or one who has declared his intention to become such, or a corporation chartered within the United States, being the holder of the possessory title to a lode claim, causes application for an official survey to be made by an

†**A. APPLICATION FOR ORDER FOR SURVEY.**

DENVER, November 1, 1899.

To the U. S. Surveyor General, District of Colorado, Denver:

SIR:—You are requested to issue an order for an official survey of the mining claim of *E. H. Cook*, upon the *Bear* lode, located in *Cripple Creek* mining district, *Teller County, Pueblo* land district, Colorado.

I herewith transmit certified copy of the location certificate of said claim, and have deposited for office fees on same \$30 to the credit of the treasurer of the United States, at the *First National Bank* (U. S. Depository) with request that duplicate certificate be forwarded to you.

Send order to *E. E. Chase*, U. S. Dep. Min. Sur., at Denver, Colorado.

Yours respectfully,

E. H. COOK,

Claimant.

By *Emilio D. DeSoto, Attorney.*

Postoffice address (of Claimant) *Denver, Colorado.*

Postoffice address (of Attorney) *504 Equitable Bld., Denver.*

*For many valuable suggestions upon points covered by this book, especially in this chapter, I am under obligations to *E. E. Chase*, Deputy U. S. Mineral Surveyor, Denver, and *Charles J. Christian*, Chief of Mineral Division in the Surveyor General's office; upon geological points to *Ernest Le Neve Foster*, late State Geologist of Colorado, and *Franklin R. Carpenter*, Ph. D., recently of Deadwood, S. D., now located in Denver.

†The forms for placer and mill site applications are substantially the same.

‡For costs in Surveyor General's office, see p. 357.

The payment mentioned in the application is not by draft to the Surveyor General but by a deposit in a bank recognized as a United States Depository. Upon payment to such bank the claimant receives triplicate certificates of deposit, of which he mails the *Original* to the secretary of the treasury at Washington, the *Duplicate* he mails with the letter (A) to the Surveyor General (or the bank forwards it) and the *Triplicate* he retains.

This certificate is a mere receipt for money and has no farther value, except where the application is withdrawn, in which case the unexpended balance will be allowed to apply on another survey.

In reply to the application (A) the Surveyor General mails to the U. S. deputy mineral surveyor designated therein the

B. ORDER FOR SURVEY.

DEPARTMENT OF THE INTERIOR,

OFFICE OF U. S. SURVEYOR GENERAL,
DENVER, COLO., November 2, 1899. }

E. E. Chase, U. S. Deputy Mineral Surveyor for the District of Colorado.

SIR:—You are hereby directed to survey the claim of *E. H. Cook*, upon the *Bear* lode, in *Cripple Creek* mining district, *Teller County, Colorado*. This survey will be designated "Survey No. 11,310 *Pueblo* land district," and must be made in strict conformity with the location certificate (or amended location certificate) dated *July 28, 1899*.

C. C. GOODALE,

U. S. Surveyor General for Colorado.

With the order B is enclosed a copy of the location certificate made in the Surveyor General's office from the certified copy filed by applicant.

The numbers of the survey lots were formerly consecutive to each mineral district, but since the abolition of mineral districts they are consecutive throughout the State, beginning with No. 4,501, with which number the new series was commenced November 30, 1886.

Survey to Conform to the Record.—This order of survey "B" being received by the deputy U. S. surveyor designated in "A," he must proceed in person

to the premises, make an actual survey, and mark each post with the number of the survey and the number of the corner.

Where there has been a previous survey from which the certificate of location has been made, it will be followed.

The copy of location certificate mentioned as inclosed in "A" must be certified by the recorder.

The deputy, in making his official survey, must follow the lines as staked upon the ground.

Changing Lines After Order Received.—The Surveyor General will not allow a serious departure from the lines called for in the location certificate, without insisting upon the filing of an amended or relocation certificate in the office of the recorder of the proper county, and the deposit of a certified copy of such amended record in the Surveyor General's office, and when such certified copy has been filed an amended order of survey issues, in which, *if any new ground has been acquired, the original number of the survey is abandoned and a new number in the current series substituted.* An additional fee of \$5 is charged for the amended order; besides the cost of additional labor, if any, imposed on the Surveyor General's office.

Amending Record After Order Received.—If the certificate be indefinite, or if the end lines are not parallel, or if not properly tied, or if the certificate be without date or otherwise irregular, it will be returned for amendment. Care in the first instance will obviate delays on such grounds.

For form of amended location certificate *see pages 107 and 110.*

In surveys upon old lodes (before May 10, 1872) whose location certificates were not supposed to call for course or monument, the deputy is presumed to make his official survey according to the location and original claim of the locator, but practically it is made wherever it may be supposed to cover the vein, or wherever vacant ground can be found to include in the survey.

In almost all cases of early location (and in many recent ones) it is advisable to make a formal relocation before asking for order of survey. This may save time in the Surveyor General's office and prevent fatal results in resisting adverse claims.

For instructions as to making survey on the ground, see RULES FOR SURVEYS, page 340; also page 324.

Delay to Proceed with Survey.—The first applicant has priority as long as he proceeds with diligence. When he fails to perfect to the injury of a party desiring to proceed, the steps to be taken by the latter are indicated in Sec. 13 of the Circular, p. 356.

The survey being complete the deputy makes and forwards to the Surveyor General a diagram of the lode giving its corners, courses, distances, ties, conflicts, adjoiners and improvements, which is known as

*C. THE PRELIMINARY PLAT.

The plat made by the deputy was formerly treated as the official plat of the claim, from which the connected plat of all claims kept by the Surveyor General was made, but under present practice the deputy's plat is only treated as a correction to the field notes, all official plats now being made in the office of the Surveyor General.

Along with this diagram or preliminary plat "C," the deputy forwards to the Surveyor General his

D. FIELD NOTES,

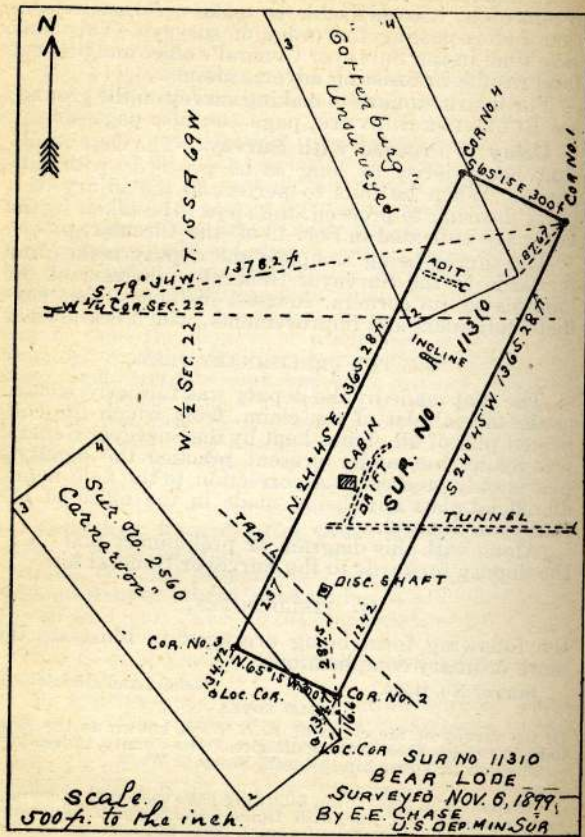
the following form being arranged to illustrate the more ordinary complications:

Survey No. 11,310. Pueblo Land District.

FIELD NOTES

Of the survey of the claim of *E. H. Cook*, known as the *Bear lode*, in *Cripple Creek* mining district, *Teller County, Colorado*.
Section 22, Township 15 South, Range 69 West.

*NOTE.—The plat "C" on following page was made to comply, as to abutting end line, with Rules 7 and 8, which have since been amended by circular of June 1, 1900. See notes pp. 316, 346.



Surveyed under instructions dated November 2, 1899, by E. E. Chase, U. S. Deputy Mineral Surveyor.

Survey began November 6, 1899, and completed November 6, 1899.

Address of claimant: E. H. COOK, Denver, Colorado.

SURVEY NO. 11310.—BEAR LODE.

FEET.

Beginning at Cor. No. 1.

Identical with Cor. No. 1 of the location.

A spruce post, 5 ft. long, 4 ins. square, set 2 ft. in the ground, with mound of stone, marked 1-11310 whence

The W. 1/2 cor. Sec. 22, T. 15 S. R. 69 W. of the 6th Principal Meridian, bears S. 79° 34' W. 1378.2 ft.

Cor. No. 1, Gottenburg lode (unsurveyed), Neals Mattson, claimant, bears S. 40° 29' W. 187.67 ft.

A pine 12 ins. dia. blazed and marked B. T. 1-11310 bears 7° 25' E. 22 ft.

Mt. Pisgah bears S. 80° 15' W.

Bull Hill bears N. 80° W.

Thence S. 24° 45' W.

Va. 15° 12' E.

1242.
1365.28

To trail, course N. W. and S. E.

To Cor. No. 2.

A granite stone 25x9x6 ins. set 18 ins. in the ground chiseled 2-11310, whence

Cor. No. 2 of the location bears S. 24° 45' W. 134.72 ft.

Cor. No. 1, Sur. No. 2560, Carnarvon lode, David Davis *et al.*, claimants, bears S. 3° 28' E. 116.6 ft.

North end of bridge over Grassy gulch bears N. 65° 15' W. 1250 ft.

Thence N. 65° 15' W.

Va. 15° 20' E.

152.

Intersect line 4-1, Sur. No. 2560, at N. 38° 52' W. 231.2 ft from Cor. No. 1.

300.

To Cor. No. 3.

A cross at corner point, and 3-11310 chiseled on a granite rock in place, 20x14x6 ft. above the general level, whence

Cor. No. 3 of the location bears S. 24° 45' W. 134.72 ft.

A spruce 16 ins. dia. blazed and marked B. T. 3-11310 bears S. 58° W. 18 ft.

Thence N. 24° 45' E.

Va. 15° 20' E.

73.4

Intersect line 4-1 Sur. No. 2560 at N. 38° 52' W. 396.4 ft. from Cor. No. 1.

237.

To trail, course N. W. and S. E.

1000.9

Intersect line 2-3, Gottenburg lode, at N. 25° 56' W. 76.26 ft. from Cor. No. 2.

1365.28

To Cor. No. 2.

To Cor. No. 4.

Identical with Cor. No. 4 of the location.

A pine post 4.5 ft. long, 5 ins. square, set one foot in the ground, with mound of earth and stone, marked 4-11310 whence

A cross chiseled on rock in place, marked B. R. 4-11310 bears N. 28° 10' E. 58.9 ft.

Thence S. 65° 15' E.

Va. 15° 12' E.

28.5 Intersect line 4-1, Gottenburg lode, at N. 25° 56' W. 285.13 ft. from Cor. No. 1.

300. To Cor. No. 1, the place of beginning.*

Area.

Total area of <i>Bear</i> lode.....	9.403 acres
Less area in conflict with Sur. No. 2560.....	.124 acre
Gottenburg lode.....	1.363 " ...1.487 acres

Net area *Bear* lode.....7.916 acres

Location.

This claim is located in the W. ½ Sec. 22, T. 15 S. R. 69 W.

Expenditure of Five Hundred Dollars.

I certify that the value of the labor and improvements upon this claim placed thereon by the claimant and his grantors, is not less than five hundred dollars, and that said improvements consist of

The discovery shaft of the *Bear* lode, 6x3 ft. 10 ft. deep in earth and rock, which bears from Cor. No. 2 N. 6° 42' W. 287.5 ft. Value \$80.

An incline 7x5 ft. 45 ft. deep in coarse gravel and rock, timbered, course N. 58° 15' W. dip 62°, the mouth of which bears from Cor. No. 2 N. 15° 37' E. 908 ft. Value \$550.

A log shaft-house 14 ft. square, over the discovery shaft. Value \$100.

Two-thirds interest in an adit 6.5x5 ft. running due west 835 ft., timbered, the mouth of which bears from Cor. No. 2 N. 61° 15' E. 920 ft.

This adit is in course of construction for the development of the *Bear* lode and also for the Carnarvon lode, Survey No. 2560, David Davis *et al.*, claimants, the remaining one-third interest therein having already been included in the estimate of five hundred dollars expenditure upon the latter claim.

Total value of adit, \$13,000.

A drift 6.5x4 ft. on the *Bear* lode, beginning at a point in adit 800 ft. from the mouth, and running N. 20° 20' E. 195 ft. thence N. 54° 15' E. 40 ft. to breast. Value \$2,800.

Other Improvements.—A log cabin 35x28 ft., the S. W. corner of which bears from Cor. No. 3 N. 30° 44' E. 496 ft.

*Adjoining claimants are mentioned as they are reached in the notes, as they ambit the claim.

Said cabin belongs to the claimant herein.

An adit 6x4 ft. running N. 70° 50' W. 100 ft., the mouth of which bears from Cor. No. 1 S. 58° 12' W. 323 ft., belonging to Neals Mattson, claimant of the Gottenburg lode.

Instrument.—The survey was made with a *Buff & Berger* transit with *Smith's* solar attachment. The courses were deflected from the true meridian as determined by solar observations. The distances were measured with 500 and 100 ft. steel tapes.

MEMORANDA AS TO CHAINMEN, ETC. (PART OF "D".)

A list of the names of the individuals employed by *E. E. Chase*, United States Deputy Mineral Surveyor, to assist in running, measuring, and marking the lines, corners and boundaries described in the foregoing field notes of the survey of the mining claim of *E. H. Cook*, known as the *Bear* lode, and showing the respective capacities in which they acted.

F. J. Bancroft.....Chainman.
W. A. Jayne.....Axman.

AFFIDAVIT OF ASSISTANTS.

STATE OF COLORADO, }
County of Teller, } ss.

We, *F. J. Bancroft* and *W. A. Jayne*, do solemnly swear that we assisted *E. E. Chase*, United States Deputy Mineral Surveyor, in marking the corners and surveying the boundaries of the mining claim of *E. H. Cook*, known as the *Bear* lode, represented in the foregoing field notes as having been surveyed by said Deputy Mineral Surveyor and under his direction; and that said survey has been in all respects, to the best of our knowledge and belief, faithfully and correctly executed, and the corner and boundary monuments established according to law and the instructions furnished by the United States Surveyor General for Colorado.

F. J. BANCROFT, Chainman.
W. A. JAYNE, Axman.

Subscribed and sworn to by the above named persons before me this 8th day of November, 1899.

[Seal.] *Henry H. Clark*, Notary Public.

FINAL AFFIDAVIT OF U. S. DEPUTY MINERAL SURVEYOR.

Part of "D."

I, *Edwin E. Chase*, U. S. deputy mineral surveyor, do solemnly swear that, in pursuance of instructions received from the United States Surveyor General for Colorado, dated November 2, 1899, I have, in strict conformity to the laws of the United States, the official regulations and instructions thereunder, and the instructions of said surveyor general, faithfully and correctly executed the survey of the mining claim of *E. H. Cook*, known as the *Bear* lode, situate in Cripple Creek Mining District, Teller County, Colorado, in Section 22, Township No. 15, S. Range No. 69 W., designated as Survey No. 11,310, as represented

in the foregoing field notes, which accurately show the boundaries of said mining claim as distinctly marked by monuments on the ground, and described in the attached copy of the location certificate, which was received by me from the surveyor general with said instructions, and that all the corners of said survey have been established and perpetuated in strict accordance with the law, official regulations and instructions thereunder; and I do further solemnly swear that the foregoing are the true and original field notes of said survey and my report therein, and that the labor expended and improvements made upon said mining claim by claimant or his grantors are as therein fully stated, and that the character, extent, location and itemized value thereof are specified therein with particularity and full detail, and that no portion of said labor or improvements so credited to this claim has been included in the estimate of expenditure upon any other claim.

EDWIN E. CHASE,
U. S. Deputy Mineral Surveyor.

Subscribed and sworn to by the said *Edwin E. Chase*, U. S. deputy mineral surveyor, before me, a notary public, this 10th day of November, 1899.

[Seal.]

Henry H. Clark,
Notary Public.

The Preliminary Plat "C" and Field Notes "D" containing, besides what are strictly the Field Notes, also the memoranda of improvements, list of helpers, etc., with certificate and affidavit as above given, are then forwarded to the Surveyor General, who compares the plat, reviews the notes, etc., and if errors appear, as they often do, or if he cannot make the connections agree with his "connected plat," they are returned for correction; but if correct, the Field Notes are endorsed as follows:

E. APPROVAL OF SURVEY.

DEPARTMENT OF THE INTERIOR,
Office of the U. S. Surveyor General.
DENVER, COLO., Dec. 11, 1899.

I, C. C. Goodale, U. S. Surveyor General for Colorado, do hereby certify that the foregoing and hereto attached field notes and return of the survey of the mining claim of *E. H. Cook*, known as the *Bear lode*, situated in *Cripple Creek Mining District*, *Teller County*, Colorado, in *Section 22, Township No. 15 S., Range No. 69 W.* designated as *Survey No. 11310*, executed by *E. E. Chase*, U. S. deputy mineral surveyor *November 6, 1899*, under my instructions dated *November 2, 1899*, have been critically examined and the necessary corrections and explanations made, and the said field notes and return, and the survey they de-

scribe, are hereby approved. A true copy of the copy* of the location certificate filed by the applicant for survey is included in the field notes.

C. C. GOODALE,
U. S. Surveyor General for Colorado.

The field notes "D" endorsed with the official approval "E" are then bound and kept permanently for reference in the Surveyor General's office after he has caused to be made from them

F. THE FINAL PLAT

of which the original is retained in the Surveyor General's office, one copy is forwarded by the Surveyor General to the proper local land office and two copies are forwarded to the deputy surveyor.

The original and each copy of the final plat "F" is certified by endorsement thereon, as follows:

G. SURVEYOR GENERAL'S APPROVAL OF SURVEY AND CERTIFICATE OF \$500 IMPROVEMENTS.

Date of (amended) location, *July 28, 1899*. Mineral Survey No. 11310, *Pueblo* land district.

Plat of the claim of *E. H. Cook*, known as the *Bear lode*, *Cripple Creek* mining district, *Teller County*, Colorado, containing an area of 7,916 acres. Scale of 200 feet to the inch. Variation 15° 20' east. Surveyed by *E. E. Chase*, U. S. Deputy Mineral Surveyor, *Nov. 6, 1899*.

The original field notes of the survey of the mining claim of *E. H. Cook*, known as the *Bear lode*, from which this plat has been made under my direction, have been examined and approved, and are on file in this office, and I hereby certify that they furnish such an accurate description of said mining claim as will, if incorporated into a patent, serve fully to identify the premises, and that such reference is made therein to natural objects and permanent monuments as will perpetuate and fix the locus thereof. I further certify that five hundred dollars worth of labor has been expended or improvements made upon said mining claim by claimant or his grantors and that said improvements consist of the *discovery shaft*, an *incline*, a *shaft house*, an *interest in an adit*, and a *drift*, as appears by the affidavit of the deputy surveyor; that the location of said improvements is correctly shown upon the plat, and that no portion of said labor or improvements has been included in the estimate of expenditures upon any other claim.

*This is the copy mailed to the deputy with the order B, and has now been returned attached to the field notes.

And I further certify that this is a correct plat of said mining claim made in conformity with said original field notes of the survey thereof, and the same is hereby approved.

C. C. GOODALE,
U. S. Surveyor General for Colorado.

U. S. Surveyor General's Office, Denver, Colorado.
Dec. 11 1899.

The amount of improvements is to be found by the Surveyor General or his deputy, or from the testimony of witnesses.—*U. S. v. King, 83 Fed. 188.*

Along with two copies of the diagram "F," with its endorsement "G" the Surveyor General forwards to the surveyor for claimant the

**H. TRANSCRIPT OF FIELD NOTES, otherwise called
"APPROVED FIELD NOTES."**

This instrument "H" is verbatim the same as "D," preceded by the words "Transcript of" including all its exhibits, but not the Surveyor General's certificate "G." Instead of the certificate "G" such transcript is certified as follows:

**I. SURVEYOR GENERAL'S CERTIFICATE TO TRAN-
SCRIPT "H."**

DEPARTMENT OF THE INTERIOR,
OFFICE OF U. S. SURVEYOR GENERAL,
Denver, Colorado, Dec. 11, 1899. }

I, C. C. Goodale, U. S. Surveyor General for Colorado, do hereby certify that the foregoing transcript of the field notes, return and approval of the survey of the mining claim of *E. H. Cook*, known as the *Bear* lode, situate in *Cripple Creek* mining district, *Teller County, Colorado*, in *Section 22, Township No. 15, S. Range No. 69 west 6th P. M.* has been correctly copied from the originals on file in this office; that said field notes furnish such an accurate description of said mining claim as will, if incorporated into a patent, serve fully to identify the premises, and that such reference is made therein to natural objects or permanent monuments as will perpetuate and fix the locus thereof.

And I further certify that five hundred dollars worth of labor has been expended or improvements made upon said mining claim by claimant or his grantors, and that said improvements consist of the discovery shaft, an incline, a shaft house, an interest in an adit and a drift, and that no portion of said labor or improvements has been included in the estimate of expenditures upon any other claim.

I further certify that the plat thereof, filed in the U. S. land office at *Pueblo*, is correct and in conformity with the foregoing field notes.

C. C. GOODALE,
United States Surveyor General for Colorado.

These matters are all preliminary to the application for patent *proper* which is made to the local land office, these proceedings in the Surveyor General's office being necessary because each lode claim must be separately surveyed, whereas in case of agricultural land a party simply enters upon a particular quarter section which has been already surveyed and platted.

Delivery of Papers to the Attorney.—The above transcript "H" received from the Surveyor General which is generally termed the "Approved Field Notes," the deputy then delivers, along with the plats or diagrams received from the same office, to the attorney for the claimant, who is supposed to supervise the signing and filing of all the subsequent papers, and takes charge of the application from this point, although in fact the further papers and the superintendence of the posting, etc., are frequently left in charge of the deputy.

Respective Duties of Surveyor and Attorney.—

The deputy surveyors are not allowed to act as attorneys.—*See p. 341.* The surveyor's services seem properly to end with the preparation of papers for the Surveyor General's office and the reception of papers from that office. These latter he turns over to the attorney, who makes out or supervises all papers intended for the land office. The deputy's aid should not, however, be discarded pending the application, as with many of the forms he is more familiar than attorneys generally are. The profession ought not to object to deputies filling out the ordinary blanks, especially in cases where no adverse claim is expected, nor to their attending to posting, publication, proofs of citizenship, etc., if they will not attempt to make out the location and relocation certificates—which are strictly legal papers—the interference of the

surveyors in these matters generally leaving applicants in a position where they seriously need an attorney's advice, if not already too late to be of service. And in cases of land office contest any interference by the surveyor would be officious and reprehensible.

The claimant or his attorney then prepares in triplicate his

K. NOTICE OF APPLICATION FOR U. S. PATENT.

Survey No. 11310.

U. S. LAND OFFICE, *Pueblo*, December 15, 1899.

Notice is hereby given that in pursuance of the Act of Congress approved May 10, 1872, *E. H. Cook*, whose postoffice is *Denver*, Colorado, has made application for a patent for 1365 (1st) linear feet on the *Bear* lode, bearing silver, the same being 230 feet southwesterly and 1135 feet northeasterly from discovery shaft thereon, with surface ground 300 feet in width, situate in *Cripple Creek* mining district, *Teller* County, State of Colorado, and described by the official plat, herewith posted, and by the field notes on file in the office of the register of *Pueblo* land district, Colorado, as follows, viz:

Beginning at corner No. 1, whence the W. $\frac{1}{4}$ cor. Sec. 22, T. 15 S. R. 69 W. of the 6th Principal Meridian, bears S. $79^{\circ} 34'$ W. 1378.2 feet.

Cor. No. 1, *Gottenburg* lode (unsurveyed) *Neals Mattson*, claimant bears S. $40^{\circ} 29'$ W. 187.67 ft.

A pine 12 ins. dia. marked B. T. 1-11310 bears S. $7^{\circ} 25'$ E. 22 ft.

Mount Pisgah bears S. $80^{\circ} 15'$ W.

Bull Hill bears N. 80° W.

Thence S. $24^{\circ} 45'$ W. 1242 ft. to trail, course N. W. and S. E. 1365.28 ft. to cor. No. 2, whence cor. No. 1, sur. No. 2560, *Carnarvon* lode, bears S. $3^{\circ} 28'$ E. 116.6 ft.

North end of bridge over *Grassy Gulch* bears N. $65^{\circ} 15'$ W. 1250 ft. Thence N. $65^{\circ} 15'$ W. 300 ft. to cor. No. 3, whence a spruce

16 ins. dia. blazed and marked B. T. 3-11310 bears S. 58° W. 18 ft.

Thence N. $24^{\circ} 45'$ E. 1365.28 ft. to cor. No. 4. Thence S. $65^{\circ} 15'$ E. 300 ft. to cor. No. 1, the place of beginning; containing 7.916 acres

(exclusive of survey No. 2560 and the *Gottenburg* lode), and forming a portion of the west $\frac{1}{2}$ of section 22, in township 15 S., Range 69 W. of the Sixth Principal Meridian. The names of adjoining and conflicting claims as shown by the plat of survey are the *Gottenburg* lode on the northwest and the *Carnarvon* are the *Gottenburg* lode on the southwest and the *Carnarvon* are the *Gottenburg* lode on the south.

Witness:

John C. Clark.

B. F. Pinson.

E. H. Cook.

1*—The *Bear* is supposed to be a 1500 foot location cut down to 1365 feet by end-lining on a prior survey, under section 26, RULES FOR SURVEYS.

But see note, p. 346, as to implied amendment of Sec. 26.

Adjoining Claims.—The Regulations prior to the Revision of 1899, required the notice to contain the names of all adjoining and conflicting claims, or if none existed such fact to be stated; also the book and page of record of the location certificate. A failure to comply with these requirements necessitated new notice and republication.—22 *L. D.* 624; 23 *Id.* 504; (*L. O. Reg.* 44, Revised December 15, 1897.)

The present Regulations (44 p. 325) require the notice to give "the names of adjoining and conflicting claims as shown by the Plat of Survey" and does not require the book or page of the record of the location certificate. By Rule for Survey, 25, all conflicts except with unsurveyed claims, not intended to be excluded, are required to be shown in the field notes. 29 *L. D.* 250.

One of the notices "K" should be at once posted on the claim, along with one of the certified diagrams received from the Surveyor General, the two papers being loosely attached, or, as more usual, placed side by side, in some conspicuous place on the claim (usually at the discovery shaft) in presence of two persons (not necessarily disinterested witnesses) who attach their signatures as shown upon form "K."

Another of the notices "K" is attached to

L. PROOF OF POSTING NOTICE AND DIAGRAM ON THE CLAIM.

STATE OF COLORADO, } ss.
Teller County. }

John C. Clark and *B. F. Pinson*, each for himself, and not one for the other, being first duly sworn according to law, deposes and says, that he is a citizen of the United States, over the age of twenty-one years, and was present on the 15th day of December, A. D. 1899, when a plat representing the claim of *E. H. Cook*, and certified as correct by the United States Surveyor General of Colorado, and designated by him as lot No. 11,310 together with a notice of the intention of said *E. H. Cook* to apply for a patent for the mining claim and premises so plated was posted in a conspicuous place upon said mining claim, to wit: upon the outside of the door of the shaft house at the discovery, where the same could be easily seen and exam-

ined. The notice so conspicuously posted upon said claim is herewith attached and made a part of this affidavit.

JOHN C. CLARK,
B. F. PINSON.

Subscribed and sworn to before me this 15th day of December, A. D. 1899, and I hereby certify that I consider the above deponents credible and reliable witnesses, and that the foregoing affidavit and notice were read by each of them before their signatures were affixed thereto, and the oath made by them.

[Seal.]

Henry Moody, Notary Public.

The form "L" is subscribed by the posting witnesses. The applicant (unless he is one of his own posting witnesses) does not sign it. One witness is not sufficient.

The third notice "K," signed by the applicant, but not by the witnesses, goes with the second of the plats received from the Surveyor General (page 367), when it is sent with the first set of papers to the land office, where the register attaches his attesting signature, and it will remain posted in the land office, while its fellow notice and plat are standing on the claim during the period of publication.

The next paper to be prepared is the

M. APPLICATION FOR PATENT.

STATE OF COLORADO, } ss.
Teller County, }

Application for patent for the Bear Lode Mining Claim. To the Register and Receiver of the U. S. Land Office at Pueblo, Colorado:

E. H. Cook, whose postoffice address is Denver, Colorado, being duly sworn, according to law, deposes and says: that in virtue of a compliance with the mining rules, regulations and customs, by himself (and his grantors), he, the applicant for patent herein, has become the owner of and is in the actual, quiet and undisturbed possession of 1,365 linear feet of the Bear vein, lode or deposit, bearing gold, together with surface ground 300 feet in width, for the convenient working thereof as allowed by local rules and customs of miners, said mineral claim, vein, lode or deposit and surface ground being situate in Cripple Creek mining district, County of Teller, and State of Colorado, as more particularly set forth and described in the official field notes of survey thereof, hereto attached, dated December 11, 1899, and in the official plat of said survey, now posted conspicuously upon said mining claim or premises, a copy of which is filed herewith. Deponent further states that the

facts relative to the right of possession of himself to said mining claim, vein, lode, or deposit and surface ground so surveyed and platted, are substantially as follows, to wit: The Bear lode was discovered on or about the fourth day of July A. D. 1897, by James A. McFadden, who afterwards, and before the twenty-eighth day of July, A. D. 1897, completed a location of the same as a mining claim of the length and width aforesaid, having substantially located the same and otherwise complied with all local rules and regulations, the laws of the State of Colorado and of the United States relating to mining claims.

The said discoverer and locator conveyed all his interest in the claim to John McCombe and Frank M. Taylor, who by divers intermediate conveyances transferred the same to applicant, who thereupon took possession and is the sole present owner, all of which will more fully appear by reference to the copy of the original record of location and the abstract of title herewith filed; the value of the labor done and improvements made upon said Bear lode mining claim by the applicant (and his grantors) being equal to the sum of five hundred dollars. Said improvements consist of discovery shaft, an incline, shaft house, a drift and two-thirds interest in adit (but expressly excepting and excluding from this application all that portion of the ground embraced in mining claim or survey designated as lot No. 2560 and the claim of Neals Mattson on the Gottenburg lode) in consideration of which facts and in conformity with the provisions of Chapter VI, Title 32 of the Revised Statutes of the United States, application is hereby made for and in behalf of said E. H. Cook for a patent from the United States for the said Bear lode mining claim, vein, lode or deposit and the surface ground so officially surveyed and platted.

E. H. Cook.

Subscribed and sworn to before me this 16th day of December, A. D. 1899, and I hereby certify that I consider the above deponent a credible and reliable person, and the foregoing affidavit, to which was attached the field notes of survey of the Bear lode mining claim, was read and examined by him before his signature was affixed thereto and the oath made by him.

Henry Moody,
Notary Public.

[Seal.]

Where an application is presented in the land office before the plat and notice have been posted on the claim as required by R. S. § 2325, such application has been held void *ab initio*.—1 L. D. 557.

This application "M" is attached to the transcript "H." This transcript "H" is commonly styled "The Approved Field Notes."

At the same time there should be prepared:

N.—The abstract of title.

O.—The proof of citizenship.

P.—Proof of non-abandonment.

Q.—The publisher's agreement.

R.—The publication notice—which, with those already referred to, complete the first set of papers, to wit:

N. ABSTRACT OF TITLE.

STATE OF COLORADO, }
County of Teller, } ss.

I, J. W. Gaughan, Clerk and ex-officio Recorder of said County, do hereby certify that the foregoing is a true, full and correct abstract of the title of the *Bear* lode therein described, as the same appears of record in my office, and shows all location certificates, deeds or other instruments appearing of record purporting to convey or affect the same.

Witness my hand and the seal of said County, this 16th day of December, A. D. 1899.

[County Seal.]

J. W. GAUGHAN,
Recorder.

It should contain a memorandum of the location certificate, including any amended location certificates, and the usual memoranda of the deeds and other instruments appearing of record in his office, and should be brought up to and include the date of application.

The abstract often contains a copy of the location certificate, and in such case the recorder's certificate should be varied to state that it contains a true copy thereof; but the better practice is to mail with the application papers a certified copy of the location certificate (or certificates if there be more than one), *separately*, and after the filing of the "application papers" but during the period of publication to send the abstract proper, which in such case will contain only the memorandum of the location certificate with names, dates, etc., in the same manner as the memoranda of the separate deeds. This precaution is to make the abstract certainly *include* the date of the filing of the application.

When the applicant for patent is the original locator himself (and there have been no transfers of title), he should file with the application papers a

certified copy of his location certificate, and during the period of publication as before advised, should forward an abstract containing a memorandum of such location certificate certified as follows:

STATE OF COLORADO, }
County of Teller, } ss.

I, J. W. Gaughan, Clerk and ex-officio Recorder of said County, do hereby certify that the foregoing is a full, true and correct abstract of the title to the *Bear* lode therein described, as the same appears of record in said office, and that there are no deeds or other instruments appearing of record purporting to convey or affect the same except the certificate of location therein referred to.

Witness my hand, etc., as above.

The Abstract Should Show Title in the Applicant.

-Rule 47, page 325. If it show title in several co-owners, all such co-owners should join as applicants. If it show that there were co-owners who had been forfeited out for non-performance of annual labor, this is considered equivalent to an abstract showing transfer by deed from them to the applicant. A break in the chain of title behind a relocation made in the usual form to take up abandoned claims may be disregarded.—*Gold Dirt Lode, 10 L. O. 119.* But the Department will take notice of a void Sheriff's deed or other break in the title asserted and relied on by the applicant.—*21 L. D. 544.* Where the names of co-tenants are inadvertently omitted in the application they have been allowed to be supplied and the patent issued to all.—*In re J. Q. S. Lode, 10 L. O. 206;* but this is *irregular*.

O. PROOF OF CITIZENSHIP.

STATE OF COLORADO, }
County of Teller, } ss.

E. H. Cook, being first duly sworn according to law, deposes and says that he is the applicant for patent for the *Bear* Lode Mining Claim, situate in *Cripple Creek* Mining District, County of Teller, State of Colorado; that he is a native born citizen of the United States, born in the County of _____, State of New York, in the year _____, and is now a resident of Denver, State of Colorado.

Subscribed and sworn to before me this 15th day of December, A. D. 1899.

[Seal.]

E. H. COOK,
Henry Moody,
Notary Public.

When the applicant is not a native citizen the form after the * will proceed:

That he is a naturalized citizen of the United States; took out his final naturalization papers in the *Circuit Court of the United States at Denver, Colorado*, on the first day of May, 1880, and is now a resident of *Kokomo*, State of *Colorado*.

If the applicant has not taken out his final papers, it will proceed:

That he declared his intention of becoming a citizen of the United States in the *Circuit Court of the United States, at Denver, Colorado*, on the first day of May, 1899, and is now a resident of *Cheyenne*, State of *Wyoming*.

If the applicant claims under his father's naturalization, it will proceed:

That he is a naturalized citizen of the United States, born in in the *Republic of Peru*, and that he came to the United States a minor, under the age of 21 years, and has ever since resided in the United States, and that his father took out his final papers and became a naturalized citizen of the United States during the minority of affiant, whereby affiant became a naturalized citizen under the terms of Section 2172 of the Revised Statutes of the United States, and is now a resident of *Aspen*, County of *Pitkin*, State of *Colorado*.

Serving in the army or navy does not complete citizenship of itself. Soldiers must comply with Section 2166 and sailors with Section 2174 of the R. S. or 28 Stat. L. p. 124.

It was formerly necessary to attach a copy of the naturalization papers to the affidavit, but this is no longer required.—*Sickel 492; 3 L. O. 68.*

Citizenship of Corporation.—A corporation must file a copy of its charter or articles of association, certified to by the Secretary of State of the State within which it is operating, whether it be a domestic corporation or a corporation of some other State doing business in that State.—*Reg. 68. p. 330; 27 L. D. 351.*

Or it may file a "Certificate of Incorporation" and the Land Office will not pass on the point that it is not by its articles a corporation which could lawfully take title to mineral lands.—*20 L. D. 116; 22 L. D. 83.*

*NOTE.—State when and where and in what court, in compliance with Rule 70, page 331.

Entry secured by fraudulently suppressing the fact that it was for the benefit of an alien corporation will be cancelled and purchase price will not be refunded.—*20 L. D. 379.*

Where there are several applicants each makes his own affidavit of citizenship.

Affidavit, Where Made.—By Act of April 26, 1882, the affidavit of citizenship, where the applicant resides outside of the land district, may be made anywhere in the United States, before any notary or Clerk of Court of Record where the applicant may reside or happen to be found.

Proof by Two Witnesses.—When the affidavit of the applicant cannot be procured the land office will allow proof of his citizenship by the affidavits of two disinterested witnesses.—*Rule 72, p. 331.*

P. PROOF OF NON-ABANDONMENT.

By circular of the General Land Office of March 24, 1887, *8 L. D. 505*, it was ruled that the register should require upon each application satisfactory proof of compliance with the annual labor law. *R. S. § 2324.*

The circular is obscure and no specific form to apply to all cases can be prepared from it, but the following form will cover all the ordinary cases. It should be made by the applicant or his agent corroborated by two disinterested witnesses: *Rule 38, p. 323.*

STATE OF COLORADO, }
County of Teller, } ss.

Before me, the subscriber, a Notary Public in and for said County, personally appeared *E. H. Cook*, who, being duly sworn, saith that he is the applicant for patent upon the *Bear Lode Mining Claim in Cripple Creek Mining District, County of Teller, State of Colorado, Survey Lot No. 11310*; that he is the owner of said claim and has not abandoned the same and that* he has performed at least *one hundred dollars* worth of labor upon said

*Or, that he resumed work on the 2nd day of *January, A. D. 1899*, with the *bona fide* intention of completing one hundred dollars worth of labor or improvements during the current year.

claim during the year 1899, and that said labor consisted of *sinking the discovery shaft from a depth of ten to a depth of twenty-two feet.*

E. H. COOK.
A. D. 1899, }
[Seal.] Henry Moody,
Notary Public.

STATE OF COLORADO, }
County of Teller, } ss.

Before me, the subscriber, personally appeared *Charles Crowder and Jos. W. Watson*, who, being duly sworn, say that they reside in *Cripple Creek*, in said county, are citizens of the United States, and are familiar with the *Bear Lode Survey No. 11310* described in the foregoing affidavit of *E. H. Cook*; that they have no interest in the application for patent upon said lode, and are familiar with the facts stated in said affidavit, and know of their own knowledge that the work therein mentioned was done as therein stated.

Charles Crowder,
Jos. W. Watson, } Witnesses.

Subscribed and sworn to before me this *15th* day of *December*, A. D. 1899, and I hereby certify that the foregoing affidavit was read to (or by) the above named *Charles Crowder and Jos. W. Watson*, previous to their names being subscribed thereto, and that deponents are credible witnesses to whom full faith and credit should be given.
[Seal.] Henry Moody,
Notary Public.

Q. PUBLISHER'S CONTRACT.

I, the undersigned, publisher and proprietor of the *Cripple Creek Star*, a weekly newspaper published in *Cripple Creek, Teller County, State of Colorado*, hereby agree to publish a notice dated U. S. Land Office, *Pueblo, Colo., December 15, 1899*, required by Act of Congress, approved May 10th, 1872, of the intention of *E. H. Cook* to apply for a patent for his claim on the *Bear Lode*, situate in *Cripple Creek Mining District, County of Teller, State aforesaid*, and to hold the said *E. H. Cook* alone responsible for the amount of our bill for publishing the same.

And it is hereby expressly stipulated and agreed that no claim shall be made against the government of the United States, or its officers or agents, for such publication.

Witness my hand this *16th* day of *December*, A. D. 1899.
P. H. Knowlton, Publisher.

In What Newspaper.—The notice must be published in a newspaper to be by the *Register* designated as published nearest to the claim.—*R. S. § 2325; 14 L. D. 138.* When there are two or more in the nearest town, either may be designated.—*Cameron v. Seaman, 13 M. R. 584; 2 L. D. 758.* The practice of the Register,

where two or more local papers in the same town are published, is to designate that one which the attorney may suggest. The distance is to be calculated not by an air line, but by the most usually traveled route. The language of the Act allows much discretion in the designation of the newspaper.—*17 L. D. 560; 26 Id. 145.*

The notice must be continued in the same paper and cannot be shifted from the daily to the weekly edition.—*3. L. O. 18.*

What Constitutes a Newspaper.—It must be a reputable newspaper of general circulation.—*2 L. D. 205; 758.* The Register has a discretion in deciding what constitutes such a newspaper.—*8 L. O. 156; 3 L. O. 36; 10 L. D. 655; 26 Id. 145.*

Manner and Period of Publication.—The notice "R" must be published for 61 days in a daily, or nine consecutive times in a weekly paper (*29 L. D. 230*), and while the notice is going through its newspaper publication, it also stands posted on the claim, and tacked to the bulletin of the land office. Each of these methods of publication is mandatory and essential.

R. PUBLICATION NOTICE.

This is verbatim the same as "K" and amounts to a fourth copy of "K," except that it is not signed by the applicant but is forwarded in blank to the land office where it receives the application number, is signed by the Register and returned by him to the attorney for claimant or direct to the printer.

It should contain at the foot a memorandum of the dates of the first and last publication.

First Set or "Application" Papers.—The above mentioned papers, constituting the following list, to wit:

F.—The final plat—one copy.

H.—The approved field notes.

K.—The copy intended for posting in land office.

K.—Second copy with "L" proof of posting attached.

M.—Application for patent.

N.—Abstract of title.

O.—Proof of citizenship.

P.—Proof of non-abandonment.

Q.—Publisher's agreement.

R.—Publication notice—which complete the first set of papers commonly called the "application papers," are all forwarded at one time by the attorney to the local land office.

Upon receipt of the application papers, accompanied by the filing fee of ten dollars, the register gives the papers an application number, makes a record of the application in the nature of an index, attests the posting of the notice "K" in his office, affixing the date, and returns to the attorney for claimant the notice for publication "R" headed with the application number, or sends it direct to the proper paper for publication. The return of the publication notice to the attorney or paper is an implied approval of the publisher's contract and a sufficient designation of that paper.

RECAPITULATION.

It may be convenient to review the proceedings at this point.

The papers A to I, inclusive, have performed their office.

A, the request for survey; C, the preliminary plat; D, the field notes, and F, the final plat, remain with the Surveyor General.

B, the order for survey, remains in the hands of the deputy, being his voucher against the applicant for work done under it.

E, G, and I are mere certificates endorsed on other papers.

The transcript H (the approved field notes), has been attached to the application M, and both mailed to the local land office.

One copy of the plat F has been forwarded by the Surveyor General to the local land office to be kept on file; one copy has been posted on the claim, and one copy forwarded to the local land office as one of the application papers.

One of the notices K has been posted on the claim; one has been attached to the proof of posting; one has been posted in the land office, and one, R, remains to be published or is being published.

L, the proof of posting; M, the application; P, the proof of non-abandonment, and Q, the publisher's agreement, have been filed in the land office.

R, the publication notice, has been forwarded to the designated newspaper.

N, the abstract, and O, the proof of citizenship, have been filed, or if not, may be filed at any time pending the publication.

The Second Set or "Final Entry" Papers, which remain to be filed after the publication is complete, consist of:

S.—Proof of continuous posting.

T.—Proof of publication.

U.—Proof of sums paid.

V.—Application to purchase, to wit:

When the period of publication is complete, proof of the notice having remained on the claim and of the publication are made as follows:

S. PROOF THAT PLAT AND NOTICE REMAINED POSTED ON CLAIM DURING TIME OF PUBLICATION.

STATE OF COLORADO, }
County of Teller. } ss.

E. H. Cook, being first duly sworn according to law, deposes and says, that he is the claimant of the *Bear lode* mining claim, *Cripple Creek* Mining District, *Teller* County, State of Colorado, the official plat of which premises together with the notice of his intention to apply for a patent therefor was posted thereon, on the 15th day of *December*, A. D. 1899, as fully set forth and described in the affidavit of *John C. Clark* and *B. F. Pinson*, dated the 15th day of *December*, A. D. 1899, which affidavit was duly filed in the office of the register, at *Pueblo* in this State; and that

the plat and notice so mentioned and described, remained continuously and conspicuously posted upon said mining claim from the 15th day of December, A. D. 1899, until and including the 20th day of February, A. D. 1900, including the sixty days' period during which notice of said application for patent was published in the newspaper.

E. H. COOK,
Subscribed and sworn to before me, this 20th day of February, A. D. 1900, and I hereby certify that the foregoing affidavit was read to the said E. H. Cook, previous to his name being subscribed thereto.

[Seal.]

D. C. CRAWFORD, Notary Public.

This affidavit of continuous posting the claimant may make from information derived from hearsay.—
9 L. D. 503.

T. CERTIFICATE OF PUBLICATION.

(Copy of publication notice cut from paper and pasted here.)

I, P. H. Knowlton, do certify that I am Publisher of the Cripple Creek Star, a weekly newspaper published in Cripple Creek, in the County of Teller, and State of Colorado, and that the annexed notice was published in said paper once each and every week for nine consecutive weeks, the first publication being on the 18th day of December, A. D. 1899, and the last publication being on the 12th day of February, A. D. 1900.

P. H. KNOWLTON.

The publisher's receipted bill is commonly attached to this blank.

Subscribed and sworn to before me this 20th day of February, A. D. 1900.

[Seal.]

HENRY MOODY,
Notary Public.

Together with these proofs of publication and posting, the claimant forwards, under one of the instructions of the department, the following:

U. PROOF OF SUMS PAID.

STATE OF COLORADO, }
County of Teller, } ss.

E. H. Cook, having been first duly sworn according to law, deposes and says that he is a citizen of the United States, over the age of twenty-one years; that he is the applicant for patent to 1365 feet upon the Bear Lode, in Cripple Creek Mining District, Teller County, Colorado; that in the prosecution of such application he has paid the following sums of money, viz:

For office work in the Surveyor General's office..... \$ 30
To E. E. Chase, Deputy Surveyor, for surveying and plat-
ting

50

To Register and Receiver, for filing application in Land Office.....	10
To the Cripple Creek Star, for publication notice of application.....	20
To the Receiver of the local Land Office, for land.....	40
	<hr/>
	\$150

E. H. COOK.

Subscribed and sworn to before me this 20th day of February, A. D. 1900.

[Seal.]

D. C. CRAWFORD,
Notary Public.

These are the official costs only; it does not include attorney's fees, notary's charges, nor cost of abstract. The total expense of patenting one lode, without mill site, varies from \$150 to \$250.

The filing of this paper, U, completes the prerequisites of entry and payment except the formal application to purchase, V, and the register's proofs, W and X.

V. APPLICATION TO PURCHASE.

To the Register and Receiver United States Land Office, at Pueblo, Colorado.

The undersigned, claimant under the provisions of the Revised Statutes of the United States, Chapter VI, Title 32, and legislation supplemental thereto, hereby applies to purchase that Mining Claim known as the Bear lode, located in the west half of section 22, township No. 45 S. Range No. 69, west of the sixth principal meridian, designated as lot No. 11310, said lot No. 11310 extending 1,365 feet in length along said Bear vein or lode, but expressly excepting and excluding from this application all that portion of the ground embraced in mining claim or survey designated as lot No. 2560, the Carnarvon lode, and the claim of Neats Mattson on the Gottenburg lode, and also all that portion of any vein or lode, the top or apex of which lies inside of said excluded ground, said lode mining claim embracing 7,916 acres in the Cripple Creek Mining District, in the County of Teller, and State of Colorado, as shown by the survey thereof, and hereby agrees to pay therefor forty dollars, being the legal price thereof.

Dated Pueblo, February 20, 1900.

E. H. COOK.

I, John R. Gordon, Register of the land office at Pueblo, Colorado, do hereby certify that the aforesaid mining claim or lot No. 11310 as applied for above, is subject to entry by the above named applicant; the area of said lode mining claim being 7,916 acres and the legal price thereof forty dollars.

February 20, 1900.

JOHN R. GORDON,

V does not need to be verified.

Register.

Excluded Areas.—The notice and the application must show what areas are excluded and if the entry be of any such excluded areas a republication and posting will be ordered.—22 *L. D.* 711; 28 *Id.* 436.

Entry may embrace land excluded from application, but which, on adverse proceedings, was awarded to applicant.—29 *L. D.* 71. May be amended to include a tract at first excluded on account of defective title.—29 *Id.* 287. Will not be allowed for land embraced in a prior subsisting entry.—29 *Id.* 62.

Entry. Cancellation. Relinquishment.—Entry cancelled without notice must be reinstated.—23 *L. D.* 113. Cancellation does not subject claim to relocation.—*Id.* Reinstatement will not be made when entryman has filed adverse against subsequent application.—26 *Id.* 608. Entry may stand on proper proof where title is subsequently acquired.—29 *Id.* 208. A relinquishment during publication and before adverse claim is filed runs to the government though in terms made for the benefit of another claimant and no rights are secured to it by adverse proceedings.—27 *Id.* 369.

Register's Proof Completes Application.—Upon receipt of the final entry papers (S—V) accompanied by the purchase money (all other papers being regular) the Register makes his certificate that the notice "K" remained posted on his bulletin during the period that its duplicates were being posted on the claim and published, and makes his final certificate of entry.

W. REGISTER'S CERTIFICATE OF POSTING NOTICE FOR SIXTY DAYS.

[Attached to Bulletin copy of K.]

UNITED STATES LAND OFFICE,
At Pueblo, Colorado.
February 20, 1900.

I hereby certify that the official plat of the *Bear* lode, designated by the surveyor general as lot No. 11310 was filed in this office on the 16th day of December, A. D. 1899, and that a notice, of which the attached notice is a copy, of the intention of *E. H. Cook* to apply for a patent for the mining claim or premises

embraced by said plat, and described in the field notes of survey thereof filed in said application, was posted conspicuously in this office on the 16th day of December, A. D. 1899, and remained so posted until the 17th day of February, 1900, being the full period of sixty consecutive days during the period of publication as required by law; and that said plat remained in this office during that time subject to examination and that no adverse claim thereto has been filed.

JOHN R. GORDON,
Register.

It is important that this bulletin notice, "K," should have been properly posted. The land office holds that it is essential that the three notices, to wit: by newspaper, by posting and by the bulletin should be concurrent, and in a case where the bulletin was not posted till the third day of advertisement they allowed an adverse on the 63rd day, holding that the double and contemporaneous publication was not until such day complete. The bulletin must be posted 60 days, and the newspaper notice does not begin to run until the bulletin is posted.—5 *L. D.* 510; 17 *L. D.* 282. If any one of the three notices is insufficient they are all rendered valueless.—29 *L. D.* 467.

X. REGISTER'S FINAL CERTIFICATE OF ENTRY.

Mineral Entry No. 2,000.
Lot No. 11,310.

UNITED STATES LAND OFFICE,
At Pueblo, Colorado.
February 21, 1900.

It is hereby certified that in pursuance of the provisions of the Revised Statutes of the United States, Chapter VI, Title 32, and legislation supplemental thereto, *E. H. Cook*, whose post office address is *Denver, Colorado*, on this day purchased that mining claim known as the *Bear* lode, in the west ½ of section 22, in township No. 15, S. Range No. 69 W. of the sixth principal meridian, designated as lot No. 11,310, said lot No. 11,310 extending 1,365 feet in length along said *Bear* vein or lode, expressly excepting and excluding from said purchase all that portion of the ground embraced in mining claim or survey designated as lot No. 2560, *Carnarcon* lode; also the claim of *Neals Mattson*, on the *Gottenburg* lode, and also all that portion of any vein or lode, the top or apex of which lies inside of said excluded ground; said lode mining claim, as entered, embracing 7,916 acres in the *Cripple Creek* mining district in the County of *Teller* and State of *Colorado*, as shown by the plat and field notes of survey thereof, for which the said party first above named this day made payment to the receiver in full, amounting to the sum of forty dollars.

Now, therefore, be it known that upon the presentation of this certificate to the Commissioner of the General Land Office,

together with the plat and field notes of survey of said claim and the proofs required by law, a patent shall issue thereupon to the said *E. H. Cook* if all be found regular.

JOHN R. GORDON,
Register.

Receiver's Receipt.—At the same time the receiver issues in duplicate the receiver's receipt and files the *original* with the papers, and delivers or sends the *duplicate* to the claimant, and all the preliminary proceedings are now complete. This receiver's receipt should be kept by the claimant until notice from the local land office that patent has arrived at such local land office, as its surrender is required before the patent is delivered. If mislaid, proof of loss must be made.

Y. AFFIDAVIT OF LOST RECEIVER'S RECEIPT.

STATE OF COLORADO, }
County of Teller, } ss.

In the Pueblo Land District, Colorado.

Before me, the subscriber, register of said land office, personally appeared *John Best*, who, being duly sworn, saith that he is the * applicant for patent on the *Brelau* lode mining claim survey lot No. 7000 in *Cripple Creek* mining district, County of *Teller*, State of Colorado, and the same person who as such applicant made entry of said survey lot in the said land office on or about the *first* day of *June*, A. D. 1899. That on the date of said entry he received the duplicate receiver's receipt therefor. That said duplicate receiver's receipt is lost or mislaid. That deponent has made diligent search among his papers and can not find the same, and cannot therefore surrender the same. That he never assigned or purported to assign said receiver's receipt and still remains the owner and in possession of the land therein described and is the party entitled to receive the patent therefor * Wherefore affiant asks that the patent to said survey lot be delivered to him without the surrender of said receiver's receipt upon this his affidavit of loss.

JOHN BEST,

Sworn and subscribed to before me this *eighth* day of *January*, A. D. 1900.

John R. Gordon,
Register.

If the title has been transferred insert between the

* *

"Owner by purchase of the *Brelau* lode, etc. (description). That he purchased the same since the same was entered for patent by deed from the party who made the entry. That he

never received the duplicate receiver's receipt from his vendor, and does not know where the same can be found. That he has made diligent inquiry of the attorney and surveyor employed in the application for patent to said lode, who declare that they never had the same in their possession, and that the whereabouts of affiant's vendor are unknown to affiant." Wherefore,
JOHN BEST.

After Entry.—All proceedings after entry are ministerial. The papers in the local land office, except the copy of plat F, furnished by the surveyor general, are forwarded to the General Land Office at Washington and the patent issues in due course usually arriving within one year, the department being behind in its office work; but this is upon the supposition that all the preliminary steps have been regular, and that the land was in fact open to entry—if material errors or defects are discovered after the receiver's receipt issues, it may be, and often is, recalled and cancelled, and if land entered as agricultural is shown to be mineral at any time before patent issues, the same result follows.—7 L. O. 23.

Corrections and Additional Proofs.—The entire series of papers are reviewed at Washington and if irregularities, such as errors in survey, insufficient proof of improvements, errors in affidavits, etc., are discovered, the local land office is notified from the General Land Office, and (unless the mistake is a fatal one) the claimant or his attorney is, by letter from the local land office, notified to supply the defect by further affidavit or certificate, as the case may be.

Government Price \$5 per Acre.—The application papers (*p. 379*) are accompanied by the money to be paid for the land, being \$5 for each acre or fractional part of an acre of the surface ground. The extreme limit of claim in Colorado being 1500 feet long by 300 feet broad, such claim contains 10 and 33-100 acres; the fractional acre being paid for as one acre, makes the claim equivalent to 11 acres. The amount paid will therefore vary between \$5 and \$55 for a single lode location with no mill site. The price of placer ground is \$2.50 per acre.

Acreeage of Lode Claims.—In computing this acreage all interfering surveys which have been deducted, are excluded. The payment is based on the amount of claimed surface ground covered by the survey and not excluded in favor of prior applications.

Claim 1500 x 600 feet contains	20.66	acres.
“ 1500 x 300 “ “	10.33	“
“ 1500 x 150 “ “	5.16	“
“ 3000 x 50 “ “	3.44	“
“ 1400 x 50 “ “	1.60	“
“ 1600 x 50 “ “	1.83	“

Affidavits—Where Made.—All affidavits made in support of the application must be made within the land district. An exception to this is the publisher's affidavit (T) where the paper “nearest the claim” happens to be a newspaper in another land district. Another exception is the affidavit of citizenship. Adverse claim may be verified in certain cases beyond the land district.—*See page 377.*

It has been ruled that any officer, as for instance the Clerk of the U. S. Court, whose jurisdiction extends over the territory of the land district, may administer the oath anywhere within his jurisdiction.—*3 L. O. 195.*

Before What Officer.—They may be made before a notary public or any officer authorized to administer oaths. Among such officers are the register and receiver of the proper district. Where allowed outside the district they should be taken before a notary or the clerk of a court of record. In all cases the official seal should be attached.—*Rule 71.*

Affidavits when there are Several Applicants.—Where the application is joint, any one co-owner may make all the affidavits required, on behalf of his co-owners as well as on his own behalf, except the affidavits of citizenship.—*See p. 377.*

The date of expiration of his Commission is required to be noted on all acknowledgments and affi-

davits taken before a notary public under Colorado Statute; 1887, p. 351.

Joint Owners.—When a claim is owned in common, it is often convenient and especially advisable where it is owned in unequal interests, to have a quit-claim executed by the others to one of their number, placing the title for the time being, in his name, the grantors securing themselves by title bond or otherwise.

Application by Agent.—Amendment to R. S. § 2325.— * * * Where the claimant for a patent is not a resident of or within the land district wherein the vein, lode, ledge, or deposit sought to be patented is located, the application for patent and the affidavits required to be made in this section by the claimant for such patent may be made by his, her, or its authorized agent, where said agent is conversant with the facts sought to be established by said affidavits: * * * —*A. C. Jan. 22, 1880.*

It does not seem that under the above Act a resident owner can apply at all by agent—unless at least temporarily absent.—*8 L. D. 223.* And the fact of absence should be recited in the power of attorney. In other words, he cannot delegate the power while he is present, by mere caprice or desire to avoid personal attention to the matter.

Where an application is by agency there must be a written power of attorney, which is recorded, and a certified copy is filed in the land office either separately or attached to the abstract. In the latter case it should be separately certified.

Z. FORM OF POWER OF ATTORNEY.

KNOW ALL MEN BY THESE PRESENTS, That I, *John Glenn*, of *Baltimore*, State of *Maryland*, a citizen of the United States, do hereby constitute and appoint *J. J. Vveian*, of *Idaho Springs*, County of *Clear Creek*, State of *Colorado*, my attorney-in-fact, for me and in my name, to make application for patent of the United States, in the proper land office, upon the *Dragon* lode mining claim, 1,500 feet in length by 150 feet in width, situate on *Republican Mountain*, in *Griffith* mining district, County of *Clear Creek*, State of *Colorado*, and to make or cause to be made, any and all surveys, relocations, affidavits, and all necessary papers which may be required in the prosecution of such application, or to perfect or protect the title thereto, and to do all acts and things in and about the premises which I myself, if present, could do, until patent is finally delivered. Also in case of ad-

verse claim, I authorize him to employ counsel and take all measures necessary to defend against said adverse claim or suit in support thereof, either in the land office or in judicial proceedings, and in such judicial proceedings, to execute any bonds or other papers, and verify all proceedings, to and including appeal or writ of error.

Witness my hand and seal this first day of February, A. D. 1900,
JOHN GLENN. [Seal.]

Acknowledge according to form on page 221, and record, *ut supra*.

The deputy surveyor cannot accept such power nor act directly or indirectly as agent.—*Rule 95, p. 335.*

In Each Affidavit Signed by Agent should be inserted, by way of precaution, the following clause:

"Affiant further saith that the said claimant is not a resident of the land district in which said claim is situate, but resides at Tallahassee, State of Florida, and that affiant is the duly authorized agent of said claimant, and is conversant with the facts sought to be established by said affidavit."

Where a Corporation Applies all papers are signed by the president, or other officer designated as stated in the next paragraph; but more usually (and advisably), it executes the form Z to some resident person or agent.—*See p. 376.*

Where it does not adopt the latter plan the land office practice requires proof that the officer purporting to act for the company was authorized to make the application. Such proof may consist of a copy of the resolution of the board of directors instructing some designated officer to apply for patent to the claim or claims mentioned, certified by the secretary under the corporate seal.

Mill Site Application.—Where a mill site is applied for separately it must be upon land occupied by mill or reduction works (*p. 198*). In such case the forms herein given are sufficient, changing the word lode to mill site, and adding the two forms next following. The price per acre is also the same (*p. 194*). The applications for mill sites alone are rare, they being usually applied for in connection with a lode.

But the Land Office has ruled that the owner of a lode already gone to patent, who then held or afterwards secured title to a mill site which he uses as appurtenant to his mine, may apply for a patent to the mill site later by independent application, upon showing the use of the mill site in connection with the lode, the same as if he had originally joined both in one application.—*22 L. D. 496.*

AA. NON-MINERAL AFFIDAVIT.

STATE OF COLORADO, } ss.
County of Clear Creek. }

Charles A. Martine and Benj. C. Catren, each of lawful age and residents of Georgetown, in said County, being first duly sworn, each for himself, and not one for the other, saith: That he is a citizen of the United States; that he is well acquainted with the Annie Boul mill site claim of John A. Emery, situate in Queens mining district, in said County, upon which said John A. Emery has applied for patent of the United States, and knows the character of said described land, having frequently been actually upon the same; that his knowledge of the land is such as to enable him to testify understandingly with regard thereto; that there is not to his knowledge within the limits thereof, any vein or lode of quartz or other rock in place, bearing gold, silver, cinnabar, lead, tin or copper, or any placer, cement, or other valuable mineral deposits, or any deposit of coal; that no portion of said land is claimed for mining purposes under the local customs or rules of miners or otherwise; that no portion of said land is worked for minerals during any part of the year by any person or persons; that said land is essentially non-mineral land, and that he has no interest whatever in said claim, or in said application for patent.

Charles A. Martine.
Benj. C. Catren.

Verification as in form CC. The claimant is not required under the rules as amended, to file his own affidavit to the same effect.—*Rule 67, p. 330.*

Where a mill site is applied for in connection with a lode a second affidavit substantially according to the following form is required.—*13 L. O. 159.*

BB. PROOF OF MILL SITE USED FOR MINING (OR MILLING) PURPOSES.

STATE OF COLORADO, } ss.
County of Garfield. }

Before me the subscriber, a notary public in and for said County, personally appeared C. N. Greig (claimant), and Harry

Evans and James W. Ross (witnesses), who being duly sworn say each for himself and not one for the other, that he is a citizen of the United States and resides in said County. That he is familiar with the *Gagool* mill site, survey lot No. 7666 B, for which the said *C. N. Greig* has applied for patent in the United States land office at *Glenwood Springs*, Colorado. That the ground embraced in said survey is used or occupied by said claimant for mining purposes, to wit: as a dump for the *Quartermain lode*; and contains an ore house used in the working of said lode; also a boarding house used by miners engaged in working said lode; also a tramway and Cornish jig used in operating said lode (etc., as the case may be).

And the said *Harry Evans* and *James W. Ross*, severally, say that they have no interest whatever in said mill site or in the application for patent therefor.

C. N. Greig.
Harry Evans.
James W. Ross.

Verification as in form CC.

The improvements must be in the nature of mills, flumes, ditches, or other things incidental to milling or mining. Buildings and roads not used for such purposes cannot be considered; otherwise if they are so used. Trails off the claim, used for carrying ore, have been accepted as part of the improvements.—6 *L. D. 220. See p. 199.*

It is generally advisable to apply for a mill site in connection with a lode claim; and in applying for a lode patent a mill site can be included and surface for building purposes readily acquired, at a cost of \$50 less than if separate applications are made. *See pages 194-199.*

The lode is always distinguished as survey lot "A" —the mill site by the same number with the addition of "B." The mill site may be in another mining district or in a section different from that containing the lode.

In such application there must be a plat, and notice K posted on both lode and mill site; if not posted on the latter, republication will be required.—25 *L. D. 165; 27 Id. 373; Reg. 65 p. 330.*

A mill site is not allowed to abut against the end line of a lode claim (9 *L. O. 188*) unless there be special proof that, notwithstanding the presumption in such

case, the land is *not* mineral, and the lode does *not* continue through it.—7 *L. O. 179.*

And a Lode claim extending across a mill site can be patented only to the edge of the mill site; it will not be allowed to cross.—13 *L. D. 146; 26 Id. 675; 28 Id. 120.* The department has further held, that such a location is not valid as to the ground on the other side of the mill site.—26 *L. D. 675.*

Two mill sites not containing together more than five acres may be included in one application.—2 *L. D. 755.*

The land office distinguishes between a mere water right and a mill site.—5 *L. D. 190.* The use of a spring is not a mill site occupation.—*Id.*

PLACER PATENT.

Lodes and Placers Distinguished.—Only metalliferous deposits in place are considered lodes under the mining act.—9 *L. O. 165.* Everything else of a mineral character, *i. e.* lands containing a mineral substance rendering them of more value for the extraction thereof than for surface purposes, is treated as placer ground. The rulings to this effect are cited on *pages 176, 177.* In addition to the cases there given it has been ruled that limestone for lime kiln purposes may be located as placer ground.—9 *L. O. 5;* and it cannot be located as a lode claim.—23 *L. D. 353; Id. 395.* Mica may be entered as a mining (presumably a placer) claim.—2 *L. O. 131.* Iron may be lode or placer, according to the nature of the deposit. A deposit of brick-clay does not make placer ground.—6 *L. D. 761.* Coal and salines come under special laws.

Placer claims require a material subdivision into—

- (1) Claims located on unsurveyed lands.
- (2) Claims located by adopting the governmental subdivisions of lands already surveyed.

PLACER PATENT ON UNSURVEYED LANDS.

In applying for patent on a placer claim located upon unsurveyed lands the foregoing forms, with obvious alterations, will suffice.

In addition the Surveyor General's office requires a descriptive report based on L. O. circular, September 23, 1882, now cited as Rule 62—*p. 329*, and the land office requires proof that the claim contains no known lodes, excepting, of course, such as are especially applied for in the application itself, or recognized as the property of others and excepted therefrom. The descriptive report to the Surveyor General the deputy makes out without special instructions on receipt of "B," the order for survey.—*See Rule 29, p. 321*. The form of descriptive report is given under Application for Patent by Governmental Subdivisions, *page 399*.

Where a Placer Contains Known Lodes owned by the applicant, they are applied for as parcels of the placer application and are especially designated on the survey by their names but without separate numbers and platted each with a width of 50 feet, or with the full width, if so located, and the claimant elects to survey them for such full width, and to pay the lode price for such full width. If such lodes have never been previously located a formal discovery and record of the same should be made and abstract filed the same as for the placer.

In requesting order for survey name the lodes, *i. e.*, insert in form "A" *The Special Delivery Placer, including three known lodes, to wit: The Silence, The Security and The Celerity.*" etc., and send copies of location certificate of each lode.—*See p. 342, 359*.

Where the lode and placer do not touch they cannot go in the same application.—*5 L. O. 162*.

Patenting Known Lode After Issue of Placer Patent.—Although known lodes are distinctly excepted from the placer patent and the department originally recognized this exception (*7 L. O. 100*) it was later ruled in the case of the *Pike's Peak Lode*, *10 L. D. 200*; *14 Id. 47*, that the land office would not issue patent to the owner of such excepted known lode unless the placer patent had been either judicially set aside to the extent of the ground covered by the surface of the

known lode or the placer owner had quit claimed such surface back to the United States so as to revest title in the government.

This untenable position of the department was persisted in until the *South Star Lode case*, *20 L. D. 204*, was decided, where the whole subject was reviewed, and the ruling made that patent may issue to the lode owner "when it had been ascertained by inquiry instituted by the department" that a lode was known to exist at the date of the application for the placer patent, as well as in cases where a judicial decree to same effect has been rendered. The result of this ruling is that the lode owner may now apply for patent as in any ordinary case after first obtaining from the land office an order to ascertain whether the lode was known to exist before the placer entry.—*Butte Co. 21 L. D. 125*. No rules have been since published directing how such inquiry should be made, but doubtless it would be required to give notice to the holder of the placer patent, who would be allowed to appear and contest the petition for the order.—*27 L. D. 676. See p. 188*.

If the application is allowed, the placer claimant, if he contests the fact that there was any valid known lode on the proper date, should file his adverse claim or doubtless he could allow the patent to proceed and still contest, in ejectment brought by either side, the validity of the latter lode patent as in the case of *Iron S. Co. v. Campbell*, *135 U. S. 286*. Instance where patentee of placer was not permitted to subsequently patent a lode within the patented placer.—*27 L. D. 661*.

As to the Width of the Lode Within the Placer.—*See p. 190*.

As to What Constitutes a Known Lode, the rulings are that there must be mineral worth working disclosed at the time of the placer entry.—*10 L. D. 156*; *13 Id. 86*. And the general test on this class of points seems to be that the land as a lode claim must have been of greater value than for the agricultural, mill site, placer or other use, under which it was applied for and granted.—*12 L. D. 612*; *14 Id. 54. See p. 186*.

Necessity to Adverse.—Although not bound as in the case of lode against lode or placer against placer by failure to adverse, the lode claimant is under the practical necessity to file and maintain his adverse, in order to place his rights beyond cavil and secure an express exception of his lode, or a patent under the same proceedings.—*See page 188.*

Staking Interferences.—Where a lode survey shows intersection of former surveys, these are noted in the field book, but not staked; but in placer applications all interferences are ordered by the department to be marked with stakes.

The survey being approved, the Surveyor General forwards to the land office and to the claimant the same papers which he forwards in the case of a lode claim, and in addition, to the claimant, a transcript of the descriptive report.

The claimant then posts, advertises and files—the same as in the case of a lode claim, with the addition of the following affidavit:

CC. PROOF THAT NO KNOWN VEINS EXIST IN PLACER CLAIM.

STATE OF COLORADO, }
County of Pitkin. } ss.

Frank M. Taylor and William Hoag, each of lawful age, and resident in Aspen, in the said County, being first duly sworn, each for himself, and not one for the other, saith, that he is a citizen of the United States; that he is well acquainted with the Keystone Placer Mining Claim, situate in Roaring Fork Mining District, County of Pitkin, State of Colorado, claimed by John Wardell, applicant for United States patent therefor; that for many years he has resided near to, and is well acquainted with the character of said land, having frequently passed over the same; that his knowledge of said land is such as to enable him to testify understandingly in regard thereto, and that there is not, to his knowledge, within the limits thereof, any known vein or lode of quartz or other rock in place, bearing gold, silver, cinnabar, lead, tin or copper, upon said claim or any part thereof, and further, that he has no interest whatever in the said placer claim.

FRANK M. TAYLOR.
WILLIAM HOAG.

Subscribed and sworn to before me, this *second* day of *February*, A. D. 1900, and I hereby certify that the foregoing affidavit

was read to the above named *Frank M. Taylor and William Hoag*, previous to their names being subscribed thereto, and that deponents are reputable persons, to whom full faith and credit should be given.
Charles F. Brown,
Notary Public.

The placer claimant need not necessarily join in the foregoing affidavit, nor file a similar one under rule 32, as amended.—*p. 322.*

APPLICATION FOR PATENT ON SURVEYED LANDS.

The language of the Congressional Act as to this class of claims is obscure, but it seems that where a placer deposit is found on surveyed lands, discovery, location and record must be made exactly as in the case of discovery on unsurveyed public domain, except that instead of a description by metes and bounds, the location certificate should describe it as the *northeast quarter of section 8, township 10, etc.*, using one name for each twenty acres and not claiming more than 160 acres by one record.

It is advisable to give it a name as in other cases.

Although already surveyed it should be staked, marking the stakes with the name of the claim and number of the corner to indicate the appropriation, replacing the government stakes if not then found, and it has been decided in two cases in California (cited *page 181*) that this staking is essential.

The Land Office however holds that it need not be restaked.—*22 L. D. 409.* It is true the Government stakes are already there, but there is nothing on them to indicate that they enclose land claimed by an individual for mining purposes. In this conflict of holdings it is therefore safe if not essential to restake or mark the old stakes upon locating a government subdivision. Of course any subdivision less than 160 acres must be staked by the locator, as there are no official stakes subdividing a quarter section.

The location and record being complete, in applying for patent the Surveyor General's office does not require any request for survey, the ground being

already surveyed; nor copy of the location certificate, because the reference to the governmental subdivision is sufficient.—*L. O. Rule 31, p. 321.*

The form A is therefore dispensed with and in its stead the following printed blank is in use:*

DD. APPLICATION FOR ORDER FOR DESCRIPTIVE REPORT ON PLACER.

GEORGETOWN, COLO., February 1, 1900.

United States Surveyor General, Denver, Colorado:

SIR:—I hereby make application for an order to be issued to Frank A. Maxwell, U. S. Deputy Mineral Surveyor, under provisions of circular of the general land office, approved September 23, 1882, to make an examination and file his descriptive report upon the claim of myself upon the Hyena placer, located in Spanish Bar mining district, Clear Creek County, Denver land district, embracing the N. E. ¼ of Section 8, Township 3, S. Range No. 73 West of the Sixth Principal Meridian, in the State of Colorado.

I have deposited for office work on same \$5 to the credit of the treasurer of the United States at the Denver National Bank (U. S. Depository), with request that duplicate certificate be forwarded to you.

Ethan E. Byron, Claimant.

Postoffice address Denver, Colorado.

On receipt of the above the Surveyor General issues his

EE. ORDER FOR DESCRIPTIVE REPORT.

DEPARTMENT OF THE INTERIOR,
Office of U. S. Surveyor General,
Denver, Colorado, February 2, 1900.

Frank A. Maxwell, U. S. Deputy Mineral Surveyor, in the District of Colorado:

SIR:—You are hereby directed to make an examination and file your descriptive report under provisions of the General Land Office circular approved September 23, 1882, upon the

*This descriptive report is not obligatory where legal subdivisions are applied for (*7 L. D. 390*) and these legal subdivisions are the exact ground claimed. But if there be any ground excepted so that the claim is not an exact conformation to the subdivisions, it is required: (*6 L. D. 580*.) And it is often applied for in the first instance, as here advised, to set at rest the placer quality of the land—that it is not taken up for timber or for its lode deposits, etc. But if Descriptive Report is not desired, and exact legal subdivisions are taken, the applicant may proceed to publish, apply and enter the claim in the Land Office without any proceedings whatever in the office of the Surveyor General.

claim of Ethan E. Byron, upon the Hyena placer, located in Spanish Bar mining district, Clear Creek County, Denver land district, embracing the N. E. ¼ of section 8, township No. 3, S. range No. 73, west of the 6th principal meridian, Colorado.

C. C. GOODALE,
U. S. Surveyor General for Colorado.

This order EE being received by the deputy, he obtains, by examination on the ground, the data necessary to be incorporated into

FF. THE DESCRIPTIVE REPORT.

*Survey No. *7000.*

Under General Land Office Circular "N," of September 23, 1882, upon the placer mining claim known as the Hyena placer, claimed by Ethan E. Byron—situate in Spanish Bar mining district, Clear Creek County, Colorado, embracing 160 acres, in section 8, township 3 S. range 73 W. 6th P. M. Examination made February 5, 1900, by Frank A. Maxwell, U. S. Deputy Mineral Surveyor.

(a) The soil is a black loam, varying from 3 to 6 inches in depth, overlaid with auriferous gravel. The timber consists of a scattering growth of spruce and yellow pine trees, and along the banks of the creek there is a dense growth of small willows.

(b) Beaver Creek, a small stream about 10 feet wide, runs in a northeasterly direction through the claim.

(c) The workings upon the claim consist of an open cut 90 feet long, 20 feet wide and 10 feet deep. Course N. 80° E. The center of the westerly end bears N. 5° W. 30 feet from corner No. 4. A ditch 850 feet long, 2 feet wide and 18 inches deep, course northeasterly, the head of which bears N. 3° E. 120 feet from corner No. 6. A shaft 3x6 feet, 10 feet deep, which bears from corner No. 4, N. 2° W. 75 feet, and a drift 3x6 feet, 18 feet long, which bears from corner No. 4, N. 37° E. 420 feet.

(d) This claim is located about three miles in a southeasterly direction from the town of Maysville, and one mile west of Clear Creek Junction.

(e) The Baker and Swansea lodes, located about three miles in a northerly direction from this claim, are the nearest well known lode claims. No lode has ever been discovered upon this claim or in the immediate vicinity.

(f) The claim is well adapted for placer mining purposes. Water has been brought from Beaver Creek to work the lower portion of the claim, and it can be brought from a point in the same creek about ¼ of a mile above to work the whole claim.

(g) The works or expenditures upon this claim, placed thereon by the claimant and his grantors, consist of an open cut 90 feet long, 20 feet wide and 10 feet deep. Course N. 80° E. The center of the westerly end bears N. 5° W. 30 feet from corner No.

*If on surveyed lands and conforming to legal subdivisions no survey number is given and no survey is required. This Circular N, 1 L. D. 544 is now embodied in Rule 62, p. 329.

4. Value \$350. A ditch 850 feet long, 2 feet wide and 18 inches deep, the head of which bears N. 3° E. 120 feet from corner No. 6. Course north-easterly to the open cut mentioned above. Value \$200. A shaft 3x6 feet, 10 feet deep, which bears from corner No. 4, N. 2° W. 75 feet. Value \$80.

(h) There are no salt-licks, salt-springs, mines other than the claimant's workings, nor mill seats upon this claim.

I, *Frank A. Maxwell*, United States Deputy Mineral Surveyor, do solemnly swear that in pursuance of an order received from the United States Surveyor General for Colorado, dated February 2, 1900, I have made, under the provisions of General Land Office Circular "N," approved September 23, 1882, a personal and thorough examination upon the premises, of the placer mining claim of *Ethan E. Byron*, known as the *Hyena* placer, situate in *Spanish Bar* Mining District, *Clear Creek* County, Colorado, embracing 160 acres, in *Section 8, Township No. 3 S. Range No. 73 W. 6th P. M.*, and that my report of such examination, hereto attached, is specific and in detail, and is a full and true statement of the facts upon all the points specified in said circular.

FRANK A. MAXWELL,

U. S. Deputy Mineral Surveyor.

Subscribed and sworn to by the said *Frank A. Maxwell*, U. S. Deputy Mineral Surveyor, before me, a notary public, this 6th day of *February*, A. D. 1900.

Frank J. Hood,

Notary Public.

This descriptive report must, under General Land Office Circular "N" of September 23, 1882, be corroborated by the affidavit of one or more disinterested witnesses as follows (*Rule 62, p. 329*):

GG. CORROBORATIVE REPORT.

STATE OF COLORADO, }
County of *Clear Creek*, } ss.

Daniel Roberts and *Patrick McNulty* being first duly sworn, each severally deposes and says that he is personally and well acquainted with the placer mining claim of *Ethan E. Byron*, known as the *Hyena* placer, situate in *Spanish Bar* mining district, *Clear Creek* County, Colorado, embracing 160 acres, in *section 8, Township No. 3 S. range No. 73 west*, and also with the character of all the land included in said claim, and has been so acquainted for two years last past; that his knowledge of said claim and land is derived from personal observation, and is such as to enable him to testify understandingly with regard thereto; that he has carefully read the foregoing report of *Frank A. Maxwell*, U. S. Deputy Mineral Surveyor, and that to his own personal knowledge said report is in all respects true and accurate.

DANIEL ROBERTS.

PATRICK McNULTY.

Subscribed and sworn to by the above named persons before me, this 16th day of *February*, 1900.

John Tomay,
Notary Public.

The descriptive report FF with its Corroborative Report GG endorsed or attached, being mailed to the Surveyor General, that officer approves the same in the following form:

HH. APPROVAL OF DESCRIPTIVE REPORT.

DEPARTMENT OF THE INTERIOR,
Office of U. S. Surveyor General.
Denver, Colorado, *February 19, 1900.*

I, *C. C. Goodale*, United States Surveyor General for Colorado, do hereby certify that the foregoing and annexed report of the examination of the placer mining claim of *Ethan E. Byron*, known as the *Hyena* placer, made by United States Deputy Mineral Surveyor *Frank A. Maxwell*, under the provisions of General Land Office Circular "N," approved September 23, 1882; and under my instructions dated *February 2, 1900*, has been carefully examined and conforms in all respects to the requirements of said circular; and said report is hereby approved.

C. C. GOODALE,

U. S. Surveyor General for Colorado.

After endorsement of such approval, the Surveyor General certifies a

II. TRANSCRIPT OF DESCRIPTIVE REPORT,

Including its exhibits or endorsements GG and HH, and forwards such transcript to the deputy, certified as follows:

JJ. CERTIFICATE TO DESCRIPTIVE REPORT.

DEPARTMENT OF THE INTERIOR,
Office of U. S. Surveyor General.
Denver, Colorado, *February 19, 1900.*

I, *C. C. Goodale*, U. S. Surveyor General for Colorado, do hereby certify that the annexed is a full, true and correct copy of the report, made under the provisions of General Land Office Circular "N," approved September 23, 1882, and of the affidavits and approval attached to said report on the placer mining claim of *Ethan E. Byron*, known as the *Hyena* placer, situate in *Spanish Bar* mining district, *Clear Creek* County, Colorado, Denver land district, as the same appear on file in this office.

C. C. GOODALE,

U. S. Surveyor General for Colorado.

This transcript so certified is sent to the deputy who is supposed to deliver the same to the attorney for the applicant to enable him to make out the notices "K"

which he causes to be posted and published, and proceeds in all further respects the same as on application for lode patent.

One of the notices "K" is posted on the land office bulletin and the only variations from the forms and procedure already given in case of lode applications are the non-mineral affidavit "CC" and the descriptive report and its incidents, "DD—JJ."

But when the placer application is on a government subdivision, a quarter section, or a series of forties or tens recorded and adopted as the *claim*, no order for survey, survey plat or field notes are required, their office having been fulfilled by the prior government survey already made and platted with the Surveyor General. The proof of \$500 expenditure in such case may be made by the affidavits of credible witnesses acquainted with the claim.—25 L. D. 550.

The transcript of the descriptive report, after he has made use of it for the preparation of his notices K, the attorney forwards to the local land office with the first set of papers.

Joinder of Several Lode Locations or Several Placers as One Claim.—In the case of the *St Louis Co. v. Kemp*, decided in 1881 (104 U. S. 636; 11 M. R. 673), a placer had been patented in excess of 160 acres. The Supreme Court sustained the patent, and in support of their decision asserted that a miner's *claim* might consist of several *locations*; that several contiguous locations being purchased by one man became his *claim*. They say: "Such is the general understanding of miners and the meaning they attach to the term." Even what seem to us the erroneous impressions of our court of last resort command respect and its decisions are none the less law, even though they compel us to accept new meanings to the words of our language. In fact where claims under district rules were limited to 100 feet square or other small dimensions, it has been very common to buy up many such claims and record them as one location. The interpre-

tation was, nevertheless, strictly within the province and range of judicial construction; and as to placers the Congressional section is not clear as to what constitutes the limit of a claim.

Group Lode Claims.—Prior to the *Kemp case*, the Land Office had properly treated each lode location as a single mining claim and the practice was to allow but one to be applied for in one proceeding. After the *Kemp case*, overlooking the obvious distinctions between lode and placer claims, the statute in terms defining the size of the former, the Department began to allow applications for groups of lodes, permitting any number of full lode claims to be patented as one claim, and requiring only \$500 expenditure on the entire group.

The only restriction imposed was that the several claims should be contiguous; i. e., should overlap or touch, not corner with each other.

This manifestly wrong construction was adhered to until the publication of Rule 53, in 1897 (25 L. D. 578). Such rule requires \$500 on each location or for the group the aggregate of \$500, multiplied by the number of locations.

A proviso adopted in 1898 (26 L. D. 378) excepted prior applications from its operation (28 L. D. 524; 29 L. D. 7), allowing a total of \$500 on any one or more claims to patent the whole group.

The practice of allowing group applications began to be considered in the *Good Return case*, 4 L. D. 221, and was followed by sundry *ex parte* decisions until the revision of rules above mentioned. The Hon. Secretary considers the whole matter and returns to a correct definition of the term "claim" in the official letter published in 27 L. D. 91.

The courts have not yet to our knowledge passed upon this class of applications, nor do we assume that they could do so upon the trial of an ordinary adverse claim, but we have no hesitation in pronouncing them illegal in the case of lode groups. Nevertheless, if

perfected by patent the patent would doubtless be upheld until set aside by direct proceedings for that purpose.

Where several lodes are thus applied for, they receive only one survey-lot number, but the corners of each are given a separate consecutive numerical designation, beginning with Cor. No. 1 in each case, which must be connected with a government corner or U. S. monument.—See pp. 343, 348. The survey should show the boundaries of each location.—5 L. D. 199; 6 Id. 808.

Where there is a placer with lode or lodes, the lode corners are numbered after those of the placer. The complications of these group applications are so great that the plat of one "claim" frequently calls for several hundred corners.

The non-abandonment affidavit "P" requires proof of labor done on or for each claim or resumed for the entire group.

A group composed of lodes and placers may be patented if contiguous.—29 L. D. 7.

IMPROVEMENTS.

What Constitutes Improvements.—Underground workings, cross-cuts or tunnels (on or off the ground, provided they are held by applicant for its benefit, and are *bona fide* intended to cut it), buildings, roads, flumes, fixed machinery, etc., or the result of any other *bona fide* expenditures, constitute improvements.

Excepting labor which leaves no trace of itself, such as hoisting water, whatever counts for annual labor will count for the \$500 improvements.—See page 84.

Undivided Interests in tunnels, etc., held in common with parties who are not applicants, are allowed to count as parcel of the necessary \$500 improvements.

Purchased Improvements—Abandoned Improvements.—Old improvements on the ground may be purchased from the rightful owners, and so enure to

the benefit of the applicant. The deed conveying them should be a quit claim of all vendor's interest in the claim under the name by which patent is sought, and of all improvements thereon, etc., and where abandoned property is relocated or jumped, the old improvements do not count without such purchase. The department in an early circular intimated that they could not even be purchased (*Copp, M. L. 259*), but it later ruled that the purchaser is entitled to the benefit of all expenditures made by his grantor.—21 L. D. 440. Work done on placer prior to location held to count.—20 Id. 455.

Among Placer Improvements cannot be counted dwelling houses or other structures not associated with mining.

Improvements Completed Pending Application.—

It is not essential that the \$500 worth of improvements should exist on the ground at the time of the survey. They may be completed at any time during the period of publication. In such cases the Surveyor General endorses diagram "F" with a certificate not containing the latter part of "G." The deputy in his field notes describes such improvements as may exist, and adds, in substance: "These improvements are not worth \$500." When completed the deputy sends a special affidavit to the Surveyor General, who files it and forwards his certificate to the deputy surveyor, or to the land office direct, if the deputy so request. An extra deposit of \$5 is required where this affidavit is made subsequent to first filing of field notes.

The department holds (overruling previous decisions), that the statutory requirement (*R. S. Sec. 2325*) as to the Surveyor General's certificate of improvements is directory only, and that it may be made after the expiration of the sixty days' publication.—25 L. D. 550; 26 Id. 122.

Mill Site Improvements.—See p. 199, 392.

On Application for Several Claims.—See p. 403.

Where the Applicant Dies Before Entry.—On filing proof of decease the papers are perfected either by an heir or the executor or administrator, and patent issues to "the heirs of" the applicant.—*28 L. D. 14.*

When He Dies After Entry the patent issues in the name of the deceased.—*2 L. D. 762.*

Application by Trustee.—Any party applying to make entry as *trustee* must disclose fully the nature of the trust and the name of the *cestui que trust*; and such trustee, as well as the beneficiaries, must furnish satisfactory proof of citizenship; and the names of beneficiaries, as well as that of the trustee, must be inserted in the final certificate of entry.—*Rule 59, p. 328.* A claim cannot be patented for the benefit of a foreign corporation.—*10 L. D. 641; 20 Id. 379.*

Patent to Assigns.—On bringing up abstract to date the land office has issued patents to purchasers from the entry-man. But as the deed carries the patented title this is not necessary; nor is it regular. The land office cannot be presumed to follow title after entry, and might by such procedure issue it to a party not entitled in equity to take it.

Application Without Record Title.—Where the title is old and complicated a party may, without filing abstract supply the same by affidavits under *R. S. § 2332*, as explained by Land Office Rules 76-79 (*p. 332*), that he has worked and possessed the claim for the limitation period of seven or other number of years fixed by the local Statute.

Conflicting Applications.—Where an application is pending or entry has been made, a subsequent application for the same land should not be accepted.—*26 L. D. 81; 29 Id. 29, 114, 226;* and no adverse need be filed against a subsequent application erroneously accepted.—*29 Id. 160; Steel v. Gold Co. 18 Nev. 80.* An adverse suit by entry-man does not waive rights acquired under the entry.—*29 Id. 114.* But the government will, in some instances, take notice of an

adverse by a prior applicant and stay proceedings.—*22 Id. 629; 25 Id. 263.*

The Surveyor General gives to any applicant an approved survey showing the conflicts with prior surveys, but not excluding them as against the survey asked for, and allowing the claimant to proceed as he may or can, to apply for patent for the entire ground within his exterior lines, although wholly or partly covered by previous patents. It is left to the land office to bar the application so far as it pretends to include ground previously patented or applied for.—*See p. 116.*

Rulings as to Posting.—The notice "K" must remain posted on the land office bulletin during the whole period of 60 days—and the 60 days do not begin to run until it is posted.—*Tilden v. Intervenor Co. 1 L. D. 584; in re Great Western Lode, 5 L. D. 510.*

Posting notice inside an *open* shaft house or on the shaft house held to be in a "conspicuous place."—*9 L. O. 113; 22 L. D. 624;* but placing notice in a box on the ground among large boulders and not near shaft, held not a conspicuous place.—*21 L. D. 336.*

Allowing Application to Sleep.—Failure to prosecute application to completion within a reasonable time after termination of proceedings constitutes waiver of rights secured under the application.—*29 L. D. 62, 301, 308, 359, 401.*

Miscellaneous Rulings on Patent Application.—Where a lode claim crosses the boundaries of a land district, apply in district where principal workings lie, but the notice "K" should be posted in the register's office of each district.—*2 L. O. 130.* When the land office is closed during a part of the period of 60 days the time of closing should not be counted as part of the advertising period.—*1 L. D. 584.* A claim already patented cannot be made the basis of a second application for more surface.—*9 L. O. 113.*

Where application is begun in the wrong land district proceedings must be *de novo*, after error discovered.—*17 L. D. 282.*

Surveyors General and Deputy Mineral Surveyors are disqualified as applicants for mineral land.—29 L. D. 333.

Limitation of Entries.—The A. C. of 1889 (*Sup. p. 792*) limiting the total acreage of the aggregate of entries under all the land laws to 320 acres to one individual, is construed by Act of 1891 (*Sup. p. 346*) to not apply to mineral entries; but this section has no bearing on the question of patenting sundry claims on one application referred to on *p. 403*.

ADVERSE CLAIM.

Statutory Requirements—Period Fixed.—*R. S. § 2325. * * **
—If no adverse claim shall have been filed with the register and the receiver of the proper land-office at the expiration of the sixty days of publication, it shall be assumed that the applicant is entitled to a patent, upon the payment to the proper officer of five dollars per acre, and that no adverse claim exists; and thereafter no objection from third parties to the issuance of a patent shall be heard, except it be shown that the applicant has failed to comply with the terms of this chapter.

Statutory Requirements—Oath—Nature, Extent and Boundaries Must be Shown—Operates as a Stay.—*R. S. § 2326.*—Where an adverse claim is filed during the period of publication, it shall be upon oath of the person or persons making the same, and shall show the nature, boundaries, and extent of such adverse claim, and all proceedings, except the publication of notice and making and filing of the affidavit thereof, shall be stayed until the controversy shall have been settled or decided by a court of competent jurisdiction, or the adverse claim waived. * * *

An adverse claim must be made during the period of sixty days publication, which is construed to mean on or before the sixtieth day after the date of first newspaper publication, such date being excluded in the calculation.—13 L. D. 236. See *p. 379*.

The proceedings are as follows: the adverse claimant subscribes and verifies his

KK. ADVERSE CLAIM.

United States Land Office at Pueblo, Colorado:

In the matter of the application of *E. H. Cook* for a United States patent to the *Bear Lode* mining claim, situate in *Cripple Creek* mining district, County of *Teller*, State of Colorado.

To the Register and Receiver of the United States Land Office, and to the above named claimant:

Whereas, *E. H. Cook* (the applicant) did, on the 16th day of December, A. D. 1899, file in the district land office of the United States, at Pueblo, Colorado, a certain plat of a survey of a certain lode, together with his application for a United States patent for said lode, naming and calling the said lode in said plat and application the *Bear Lode*, situate in *Cripple Creek* mining district, County of *Teller*, State of Colorado; said survey and plat being designated as mineral survey No. 11,310, and consisting of 1385 linear feet, together with surface ground 300 feet in width; and the said *E. H. Cook* did, at the same time and place, give notice that he would apply for a United States patent for the above described lode and premises in substance as follows:

[Here attach copy of newspaper publication.]

And Whereas, the first publication of said notice of said application appeared in the *Cripple Creek Star*, a weekly newspaper published at *Cripple Creek*, in said County and State on the 18th day of December, A. D. 1899.

Now Therefore, I, *Edward F. Bishop*, a citizen of the United States over the age of twenty-one years, residing in and my postoffice address being *Denver*, in the County of *Arapahoe*, in said State, do, on this first day of February, A. D. 1900, enter this, my protest, and adverse claim against the issuing of a patent to the said *E. H. Cook*, for his pretended claim upon the so-called *Bear Lode*, as set forth in his said plat and field notes as aforesaid, for the following reasons, to wit:

1. The surface ground and veins or lodes contained therein as set forth and described in the plat and field notes of the said *E. H. Cook*, or a great portion thereof, are not the property of the said applicant, neither is he entitled to hold the same under or by virtue of the local laws, rules and customs of miners in said mining district, the laws of the State of Colorado, or the Statutes of the United States relating to mining claims.

2. Because a great portion of the premises described in said plat and notice of said applicant, and claimed by him as the so-called *Bear Lode*, is claimed adversely, and is owned by this protestant, and is in fact a portion of the premises claimed and owned by this protestant as the *Elephant Lode*, as will appear by reference to an abstract of title herewith filed, made a part of this protest and marked Exhibit A.

3. Because this protestant (and his grantors) have held, occupied and possessed a great portion of the premises set forth and described by the said *E. H. Cook* in his plat and notice of the so-called *Bear Lode*, long prior to the pretended discovery and location of the so-called *Bear Lode*; such occupation and