

Title: Annual Labor

Division of Mining, Land & Water November 2008

Upon prospecting, and the discovery of a locatable mineral and the staking of mineral location, annual labor must be performed on the location each year in the further development of the locatable mineral so that it can be mined. The minimum amount of labor that must be performed is dependent upon the size of the location. For traditional or ¼-¼ section MTRSC locations, \$100 worth of work or more is necessary. For ¼ section MTRSC locations, \$400 worth of work or more is necessary.

What is an annual labor year?

Except for locations staked on State-selected land (see below), the first labor year for a claim begins at noon the first September 1 following the date the location notice is posted. Thereafter, each annual labor year begins at noon on September 1 and ends the following September 1. During the labor year, or within 90 days after the close of that year, the owner of the mining claim/leasehold location or other person having knowledge of the facts must record an affidavit describing the labor or improvements made within the assessment year (including any labor in excess of the requirement for that year). **FAILURE TO TIMELY RECORD AN AFFIDAVIT OF ANNUAL LABOR CONSTITUTES ABANDONMENT OF ALL RIGHTS ACQUIRED UNDER THE MINING CLAIM OR LEASEHOLD LOCATION.**

What are the annual labor requirements for mining claims, leasehold locations, and mining leases on State land?

Every year, a minimum of \$100 or \$400 worth of labor or improvements must be performed on or for the benefit or development of **each mining claim**, or leasehold location on State land. Every year \$100 worth of labor or improvements must be performed on or for the benefit or development of each partial or whole forty (40) acres of **each mining lease**.

What are the labor requirements for locations on State-selected land?

Annual labor is not due on locations made on State-selected land until the State receives tentative approval or patent of the selection from the federal government. The first labor year for a mining claim or leasehold location made on State-selected land begins at noon on the first September 1 after the federal government conveys the selection.

What information must be included on the affidavit of annual labor?

The affidavit **must** state:

1. The name and/or ADL number and legal description of the mining location.
2. The name and current mailing address of the owner(s).
3. The number of days work was done.
4. The dates the labor was performed.
5. The character and value of the labor.
6. The name and mailing address of the person who did the work.
7. The actual amount paid for the work and improvements.
8. If the work was not done by the owner or the owner's lessee, a Statement of who paid.

(If you use the State Annual Labor form and fill it out completely, all of the above-required information will be included.)

Can I make a cash payment instead of performing annual labor?

Yes. The holder of a mining claim, leasehold location, or mining lease may make a cash payment to the State equal to the value of labor required (\$100 or \$400 per claim). A cash payment made instead of performing annual labor must be paid in person or mailed (postmarked) **during the labor year** (September 1 through September 1). A cash payment made instead of performing annual labor may only be made for one labor year at a time. In addition, cash-in-lieu payments may only be made for up to five consecutive years before labor must be performed again. The cash payment must be described on the recorded affidavit of annual labor.

Can an affidavit of annual labor be amended?

Yes. An affidavit may be amended within two years of the date by which the affidavit was required to be filed. If additional labor is claimed in an amended affidavit, that labor may not be used to fulfill labor requirements in a subsequent year. If an affidavit does not include the essential facts listed in 11 AAC 86.220, the affidavit is void and may not be amended.

Can I claim the cost of staking my location as annual labor?

No. The value of work involved in the staking and filing of your location is unacceptable as annual labor. Only the labor performed **after** the discovery and posting of the location is acceptable.

Can I claim the value of work that I perform in excess of the amount required?

Yes. If more than the required minimum annual labor is performed in any one year, the excess value may be carried forward and applied against labor requirements in the subsequent year or years for as many as four years. In order to receive credit for this excess labor, the description and value of the labor must be included on the affidavit filed for the year in which the excess work is performed. **IF EXCESS LABOR IS BEING USED TO FULFILL AN ANNUAL LABOR REQUIREMENT FOR A MINING CLAIM,**

LEASEHOLD LOCATION, OR MINING LEASE, AN AFFIDAVIT MUST BE TIMELY RECORDED IN ORDER TO RECEIVE CREDIT AGAINST THE LABOR DUE.

What type of work qualifies as annual labor?

In determining what labor or improvements qualify as annual labor, the guiding principle must be the extent to which the labor and improvements develop or benefit each location or facilitate the extraction of ore from each location.

The following labor and improvements are examples of what is considered acceptable:

- Drilling or excavating, including ore extraction.
- Mining cost directly associated with production of ore.
- Prospecting work to develop and expand an established discovery.
- Development work towards an actual mine, such as shafts, tunnels, inclines, crosscuts and drifts, settling ponds and dams; bringing water from direct mining or milling purposes; clearing of brush, timber, debris, or overburden where necessary to facilitate the extraction or processing of minerals; construction of trails, roads, or landing strips providing access to claims.
- Geochemical, geological, geophysical, or airborne surveys if conducted by qualified experts and verified by a detailed report filed in the recording district office in which the claim is located. NOTE: Airborne surveys may not be applied as labor for more than two consecutive years or for more than a total of five years on any one location, and each of those surveys must be non-repetitive.
- Construction costs of worker housing, mills, and equipment storage buildings where reasonably necessary for the development of the location. **NOTE: Construction of a cabin, bunkhouse, or other structure on a mining location must be pre-approved in a plan of operation, and be necessary for the development of the location and the structure must only be used during periods of mining or development.**
- Reasonable value of the use of equipment for mining or development purposes on the location. Repairs of equipment used for prospecting, sampling, or production of minerals. NOTE: The equipment must have been on site at the location during the assessment year for repairs to be acceptable for annual labor, although the actual repairs may have been performed elsewhere.
- Costs of moving workers, materials, and equipment among contiguous locations. For example, the cost of moving and setting up a drill rig on the locations is acceptable as annual labor, but **NOT** the cost of transporting it to or from the locations.
- Watchman services of a bonafide employed watchman on the property where reasonably necessary to protect mining equipment of substantial value, but **NOT** merely for warding off trespassers or to prevent relocation.

NOTE: WORK INVOLVED IN MAINTAINING THE LOCATION: e.g., BRUSHING OR MARKING THE LINES OR REPLACING THE CORNER POSTS OR LOCATION NOTICE, IS CONSIDERED A DUTY THAT STATE LAW IMPOSES ON THE CLAIMANT IN ADDITION TO THE ANNUAL LABOR REQUIREMENT. THEREFORE, THE MAINTENANCE WORK IS NOT ACCEPTABLE AS ANNUAL LABOR.

Does the work have to be done within the boundaries of the location?

The work does not necessarily have to be done within the boundaries of the location, but work performed outside the boundaries must develop or benefit the location in order to qualify as annual labor.

How do I determine what my labor is worth?

The value assigned to labor performed must be reasonable and appropriate to the type of work, which was performed. For hand labor, the Division of Mining, Land and Water suggests the value of \$200 for each laborer working a 10-hour day, but we recognize that wide variations may occur. The value of the use of equipment utilized for mining or development purposes on the location is equal to the current rental rates charged for that type of equipment.

Can I apply my annual labor work to adjacent mining claims?

Annual labor work conducted on a claim or mining lease may be applied to all adjacent claims or leases that are owned by the claim or lease holder. "Adjacent" means those claims that share common sidelines, either wholly or partially (i.e. contiguous).

Is the work I perform before the beginning of my first labor year acceptable as annual labor?

Although no annual labor is required for the time between the posting of the location and the following September 1, the Division does accept annual labor affidavits for such labor and allows such labor to be credited towards annual labor requirements for the subsequent year or years as long as an affidavit of annual labor is timely recorded. **IF NO SUCH AFFIDAVIT IS FILED, THIS CREDIT CANNOT BE CLAIMED IN A LATER YEAR.**

Where can I get answers to questions not covered in the Fact Sheet?

Further information can be obtained at the following offices:

Public Information Center
550 West 7th Ave., Suite 1260
Anchorage, AK 99501-3557
Ph: 907-269-8400; TDD 907-269-8411
Office Hours: 10:00 AM to 5:00 PM

Public Information Center
3700 Airport Way
Fairbanks, AK 99709-4699
Ph: 907-451-2705; TDD 907-451-2770
Office Hours: 9:00 AM to 5:00 PM