

TITLE 47
MINES AND MINING

CHAPTER 10
MINING TUNNELS

47-1001. RIGHT TO CROSS LOCATED CLAIM. Any person or company who has or who may hereafter have a tunnel or crosscut, the mouth of which is located upon his own ground or upon ground in his lawful occupation, shall have the right to drive and continue the same through and across any located or patented claim in front of the mouth of the tunnel, but not to follow or drive upon any vein belonging to the owner of such claim.

[(47-1001) 1899, p. 442, sec. 1; reen. R.C. & C.L., sec. 3236; C.S., sec. 5550; I.C.A., sec. 46-901.]

47-1002. OWNER OF INTERSECTED CLAIM MAY INSPECT TUNNEL. Each tunnel or crosscut may be driven and worked for the purpose of drainage and for the purpose of reaching and working mining ground of the tunnel owner beyond the intersected claim. The owner or owners of any vein or any claim or claims so intersected, or his duly authorized agent, shall have the right to enter such tunnel upon application to the owner or owners or person in charge of said tunnel, without resorting to any process of law, for the purpose of making a survey and inspecting such vein or veins as may be crossed within the boundary lines of such intersected claim, and if the owner or owners of such tunnel shall, by bulkheading, damming back, or in any manner prevent the inspection or survey herein provided for, or if such owner or owners shall in any manner prevent the natural drainage of water from such intersected claim or claims without the consent of the owner or owners thereof, it shall work a forfeiture of all rights granted under the preceding section.

[(47-1002) 1899, p. 442, sec. 2; reen. R.C. & C.L., sec. 3237; C.S., sec. 5551; I.C.A., sec. 46-902.]

47-1003. TITLE TO ORE TAKEN FROM INTERSECTED CLAIM. If any ore, the property of the owner of the claim intersected or crossed, be extracted in driving such tunnel, it shall be the property of the owner of the vein from which it was taken and the owner of the tunnel shall be liable for all actual damages or injury done to the owner of the claim crossed by his tunnel.

[(47-1003) 1899, p. 442, sec. 3; reen. R.C. & C.L., sec. 3238; C.S., sec. 5552; I.C.A., sec. 46-903.]

47-1004. BURDEN OF PROOF AS TO DISCOVERED VEIN. In all actions between the tunnel owner and others involving the right to any vein discovered in such tunnel, the burden of proving that the vein so discovered is not the property of the adverse claimant in such action shall be on the tunnel owner.

[(47-1004) 1899, p. 442, sec. 4; reen. R.C. & C.L., sec. 3239; C.S., sec. 5553; I.C.A., sec. 46-904.]