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Item

5235 Whitney Boulevard  
Rocklin, California 95677

August 12, 1971

Mr. Fred W. Masters  
Post Office Box 242  
Tonopah, Nevada 89049

Re: Location of claims on public domain not open to mineral entry.

Dear Mr. Masters:

This letter is to advise and serve notice to the Barcelona Mining Company, its Board of Directors, and all John Does associated with said mining company that representatives of the Barcelona Mining Company did, during the months of June and July of 1971, enter upon and stake mining claims on property owned by Frank J., Stewart G. and Robert E. Warren and certain adjacent claims owned by James Perkins and others.

Under the direction of Mr. Fred W. Masters of 5437 East Lake Mead Boulevard, Las Vegas, and Post Office Box 242, Tonopah, a Mr. C. F. Edge and Mr. A. Stalkup, acting as agents of the said Barcelona Mining Company, placed location monuments and corner and side center posts on the above private property with the full knowledge that it was not open to mineral entry. Indeed, some of the Barcelona Mining Company (hereinafter known as BMC) posts were placed within a few feet of existing mining posts marking the boundaries of the Warren and Perkins properties.

Evidence of this illegal entry was noted by Robert E. and Alma Warren, during the weeks of July 5 and 12, while on said property to perform a portion of the required annual assessment work.

At that time the above agents of BMC were advised by R. Warren that the Warren and Perkins interests held valid mining claims adjacent to the west, north and south of the two Barcelona patented mining claims owned by Miss Esther M. Siefert of New Washington, Ohio. Mr. Masters advised me that the BMC has an option to purchase said patented mining claims.

I further advised Mr. Masters, Edge and Stalkup that there was no "open ground" to the immediate west, north and south of the patented claims; and I pointed out that with the approval of James Perkins and partners, the Warrens had deliberately overlapped their claims to avoid leaving fractions between the Warren, Perkins and Siefert claims. At that time also I described for Mr. Masters the extent and location of the Warren claims in relation to the patented property. Aware at that time that agents of the BMC were overstaking a majority of the Warren property, I was careful to stress that there were no fractions left to locate and therefore no justification for placing location markers on the Warren and Perkins properties. I pointed out, also, that the Perkins group owned the tunnel claim and that it might be helpful to get permission before attempting to re-open the tunnel. Mr. Masters advised his attorney said permission is not necessary.



Despite this ill-considered action by agents of the BMC, I, nevertheless, suggested that development of the mining properties could best take place in an atmosphere of cooperation between the claim owners. I invited Mr. Masters to visit Mrs. Warren and myself at my father's quicksilver camp in Antone Canyon, some three miles to the northeast. I pointed out that I had accumulated considerable geologic information about the two Barcelona claims and the tunnels and other mine workings which I would be pleased to make available to BMC at no cost.

Mr. Masters sent Mr. Edge to our camp on Sunday, July 11. At that time I showed Mr. Edge some of the information I had gathered, still hoping that the BMC agents would adopt an attitude of cooperation. Mr. Edge did not offer to remove the BMC posts from my property; so that afternoon Mrs. Warren and I photographed the BMC posts in relation to the Warren and Perkins posts.

On the next day I discussed the action by BMC with an attorney; and on the following day I advised Mr. Masters and Edge that I was aware of their attempt to claim property owned by Perkins and Warren. However, in a second effort to avoid ill feelings between BMC and the two property owners, I again invited Mr. Masters and Edge to dinner at our camp on the evening of July 15, pointing out that I planned to return to California the following day.

I suggested that if BMC would remove its posts from my property, I would make available the information I had compiled on the Barcelona. I furthermore offered to grant BMC rights to surface access on my Peach claims so BMC could mine its extralateral rights from the surface. I stressed I was aware that because of the "apex" law which gives BMC full rights to follow veins outside of the sidelines of the patented claims - that it was not necessary to stake my property to exercise this right.

Mr. Masters and Edge stated they would visit on Thursday. Mr. Edge came early while I was working on the claims. He left a note with Mrs. Warren stating that BMC attorney Charles Garner had advised Mr. Masters that BMC "had done nothing wrong."

Mr. Garner's statement surprised me. As a Nevada resident and attorney, he should be aware that an attempt to claim validly located and posted property is considered to be "claim jumping." This is recognized as an offensive and highly disreputable practice by the courts in Western states.

Mr. Garner should have advised his client - before acting to stake my property - that their right to mine the veins which might dip outside the Barcelona patented claims and into my property is clearly protected by law. He should also have advised his clients that legal libraries contain landmark cases which clearly point out that as long as the first location remains in full force and effect, it operates as a complete bar to a second location of the premises.



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In other words, a relocation of land that at the time is covered by a valid and subsisting location is wholly void. A simple check of the recorder's office in Tonopah would have established that the Warren claims are properly located and posted and that the location work and annual assessment work has been faithfully performed. Mr. Garner then could have avoided this unpleasantness by advising his clients that a locator with knowledge that a particular tract was claimed by another may not enter such land to establish a mining claim thereon.

Despite these actions by agents of the Barcelona Mining Company, I am still willing to cooperate, and to provide whatever assistance and information which might help in re-opening the tunnel and preparing the property for production. In return, I merely ask that the BMC posts be removed from my property.

Should BMC choose to ignore this third offer of cooperation, I am prepared to take action on one or more of the following alternatives:

1. A civil action can be initiated to quiet title to the property. BMC would be obligated upon judgment on my behalf for considerable court costs. (This expenditure would better be directed to re-opening the tunnel.)

2. BMC may be liable for an action in damages, inasmuch as this over-staking is prejudicing the exercising of option to purchase the Warren and Perkins claims held by an American and Belgian firm. Mr. Murray Bennett, geologist representing the Forest Oil Corporation, has advised me by letter of the following: "It has come to my attention that there has recently been over-staking by the Barcelona Mining Company on your F & R and Peach claims, both tracts under option to Forest Oil. Inasmuch as Forest Oil is attempting to obtain a partner to continue their exploration efforts in the Barcelona area, including your claims, this over-staking is of concern to them, casts a cloud on any potential agreement and could well prevent any further exploration until the matter is cleared."

3. Take no action at this time. Should BMC subsequently discover valuable minerals on my property and mine same, I can request a court judgment awarding me the proceeds, plus any damages that such entry may have caused to my property.

I have delayed writing this letter 'till now awaiting the action by your Board of Directors which Mr. Edge's note said would be taken within 10 days.

Still hoping for an amicable settlement of this action, I remain,

Yours truly,



Robert E. Warren

cc: Barcelona Mining Co., Inc.  
Elaine Mr. Pringle  
Bernadine M. Pollack  
Marlene P. Luna  
James C. Perkins, Jr.  
John H. Schilling

Warren Ervine  
Esther Siefert  
Robert List  
Inspector of Mines  
Murray A. Bennett  
Frank J. Warren  
Stewart G. Warren