
FACTSHEET

May 7, 2008

Ministry of Energy, Mines and
Petroleum Resources

MINERALS AND PRIVATE LAND IN BRITISH COLUMBIA

- The Province of British Columbia amended the *Mineral Tenure Act* effective June 2, 2008 to give landowners additional rights regarding the notification process for access to land for mineral exploration purposes, including new notice requirements.
- This factsheet is for information purposes only and does not constitute legal advice. In the event of any conflict between this document and the *Mineral Tenure Act* and regulations or other applicable legislation, the provisions of the legislation will always prevail.

Land and mineral rights in British Columbia

General

- In British Columbia as in other Canadian provinces, private land ownership usually does not include the rights to minerals or other subsurface resources.
- In most cases, whether on Crown land or private land, minerals belong to the provincial government.
- Exceptions include some private land that was acquired from the Crown before the early part of the 20th century and land owned by the federal government.
- Rights to explore, develop and produce the Crown-owned minerals are obtained as a form of tenure from the province.

Who owns the minerals in my land?

- Until the early part of the 20th century, some of the land grants that were issued included mineral rights as well as surface rights.
- These land grants are typically found in areas of early settlement or early mineral development, or where land was granted to support railway development.
- Unless your land is in such an area, the minerals likely remain the property of the province. Even where mineral rights were originally included in the land grant, an owner may have since sold the land separately from the mineral rights or returned the rights to the Crown.
- Information regarding early private mineral ownership has not been well tracked over time and detailed research is required to determine ownership.
- Research can be carried out through the Land Title and Survey Authority offices in Kamloops, New Westminster and Victoria.

Who can explore for minerals?

- In B.C. only those persons licensed by the Province and agents of those persons may explore for minerals and acquire mineral tenures.
- Licensed persons hold “Free Miner Certificates” and are called “Free Miners”.
- Free Miners’ activities are governed by the *Mineral Tenure Act* and its regulations as well as other acts and regulations including the *Mines Act*.

Mineral tenures

- Free Miners can acquire exclusive rights to explore, develop and produce provincial minerals located under Crown or private land.

- Tenures in the form of “claims” are acquired by recording an interest on a provincial online registry and paying a fee. Claims grant exclusive rights to minerals in a defined area and are maintained in good standing by paying a fee and by meeting annual exploration or development work requirements.
- Exploration and development may be non-intrusive such as visual examination of surface features, collection of rock, soil or water samples or measurement of the subsurface with electronic instruments.
- If results of this work indicate further examination is warranted, the subsurface may be tested by drilling holes or digging pits. A *Mines Act* permit is required for any work that disturbs the surface with mechanical equipment.
- Free Miners wishing to apply for approval to produce minerals may convert their claims to leases which is a prerequisite for production. Additional requirements before production are a *Mines Act* permit and, for large operations, an *Environmental Assessment Act* certificate.

Free Miners Access

- While a Free Miner may enter Crown or private land in B.C. to explore for minerals belonging to the province, restrictions are placed on this access. A Free Miner’s right of entry does not extend to:
 - land occupied by a building,
 - the area around a dwelling house (the curtilage),
 - orchard land or land under cultivation, and
 - protected heritage property or land in a park.
- As of June 2, 2008, before entering private land to explore for minerals a Free Miner must provide notice to the landowner in the prescribed manner. Similarly, if the land to be entered is leased under the *Land Act*, the Free Miner must notify the lessee.
- The owner or lessee cannot prohibit entry but is entitled to compensation for loss or damage caused by the entry.
- If a person holds a mineral claim or mining lease, in addition to entry for exploration, the person may enter Crown or private land for development or production of minerals.
- Entry can only take place after notice has been given to the landowner and the free miner has obtained from a mine inspector the approvals required under the *Mines Act*.
- Permits under the *Mines Act* are required for work where any excavation is made or for work that will result in mechanical disturbance of the ground.

Notice for Entry on Private Land and Land Act Leases

New rights for landowners

- The Province of B.C. amended the *Mineral Tenure Act*, effective June 2, 2008, increasing the rights of landowners and holders of *Land Act* leases.
- Free Miners must now provide notification before entering private land or leased land for any mining activity, including non-intrusive forms of mineral exploration such as mapping surface features and collecting rock, water or soil samples. The new law also sets out how notification is to be given.

Notice requirements

- The Mineral Tenure Act Regulation specifies how a Free Miner must serve notice before entering on private land and land leased under the *Land Act*.
- In general terms, the requirements for private land notification are as follows:

- Notification may be hand delivered to the owner shown on the British Columbia Assessment Authority records or the Land Title Office records. Alternatively, notice may be mailed to the address shown on these records or sent by email or facsimile to an address provided by the owner.
- Mining activities cannot start sooner than eight days after notice has been served.
- Notice must include a description or map of where the work will be conducted and a description of what type of work will be done, when it will take place and approximately how many people will be on the site. It must include the name and address of the person serving the notice and the name and address of the onsite person responsible for operations.
- Notification requirements for *Land Act* leased land are the same as those for private land except that the address for notification is the one shown on the Integrated Land and Resource Registry.
- In certain circumstances, it is possible that after reasonable efforts, the Free Miner cannot identify or contact the owner of the property. In such instances, the Free Miner may apply to the Chief Gold Commissioner for an exemption from the notification requirements.

Miner responsibility

- Miners may enter on Crown land and privately owned land to search for or develop provincially owned minerals.
- Miners exercising this right must carry out their activities according to the laws of the Province, including those regarding safety and environmental protection. Oversight by government inspectors ensures compliance.
- Miners entering on private land must serve notice in the prescribed manner and compensate the owners for any loss or damages resulting from the mining activities.

Resolving issues

- Relations between miners and landowners are normally amicable and dialogue between the parties is usually sufficient to address either party's concerns.
- In the rare instances where help is needed, either party may apply to the Chief Gold Commissioner for advice and suggestions.
- If agreement still cannot be reached, one of the parties may apply to the Mediation and Arbitration Board for resolution. The Board will mediate, and if necessary, may impose a binding agreement.

For more information:

- More information is available online at www.em.gov.bc.ca/mining/titles/Land_Owner_Notice.htm or visit any FrontCounter BC or Service BC office.
- If you have questions after viewing the detailed online information, please contact the Mineral Titles Branch at mineral.titles@gov.bc.ca or 1-866-616-4999.

Contacts: Mineral Titles Branch
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