
FACTSHEET

May 7, 2008

Ministry of Energy, Mines and Petroleum
Resources

INFORMATION FOR FREE MINERS AND MINERAL TITLE HOLDERS NOTICE FOR ACCESS ON PRIVATE LAND

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

Subsurface Rights in British Columbia

- 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. There are a few important exceptions including some lands that were granted by the Crown before the early part of the 20th century and land owned by the federal government. In the *Act* lands in which minerals are owned by the provincial government are referred to as “mineral lands”.
- The *Act* allows Free Miners (persons holding a valid free miner certificate issued under the *Act*) to enter mineral lands to explore for minerals whether the surface is Crown or privately owned. This right of entry does not include:
 - land occupied by a building;
 - the area around a dwelling house (the curtilage);
 - orchard land or land under cultivation; or
 - protected heritage property or land in a park.
- Free Miners may acquire mineral titles which provide exclusive rights to explore for, develop and produce provincially-owned minerals on Crown or private land.

Miner’s responsibility

- Free Miners and mineral title holders 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 landowner for any loss or damages resulting from the mining activities.

Obligation to notify landowners

- For many years, miners have been required by the *Act* to serve written notice on landowners before entering private land to carry out “a mining activity by a method using mechanical equipment that disturbs the surface”.

- Further, the *Act* required miners to provide copies of the notice to the Chief Gold Commissioner and an inspector under the *Mines Act*. The laws did not define how written notice should be provided nor did it call for notice to be provided unless mechanical equipment was employed.
- In recognition of growing societal demands for increased privacy and security, the *Act* was amended effective June 2, 2008 to require that notice be provided to landowners before entry to a property to carry out any mining activity.
- This includes prospecting, mapping, sampling and geophysical surveying activities as well as activities that disturb the surface. The amendments also extend notification requirements to include holders of *Land Act* leases.
- Regulations pursuant to the *Act* amendments clarify for miners and landowners when and how notice is to be delivered.
- To ensure that the *Act* does not set unreasonable requirements, the Chief Gold Commissioner was provided with new powers to exempt miners from the notice requirements in certain circumstances.
- Additionally, to further simplify the process, the requirement to provide government with copies of the entry notices has been eliminated.

Determining land ownership

- Miners must ensure that any entry on private land or *Land Act* leases is preceded by notice as required by the *Act*.
- In many cases, private land will be obvious through the presence of fences or buildings. In other instances, private land may not be readily apparent so it is helpful to do research before setting out to the field. Resources may include local maps and tax roll data in regional government offices.
- The provincial government has also prepared online tools to help miners determine the location of private land and the addresses of the owners.
- A new feature available on the Mineral Titles Online system displays the location of private land and *Land Act* leases in an area selected by the user.
- A link to the online Integrated Land and Resource Registry shows the names and addresses of the holders of *Land Act* leases in the selected area. It also provides parcel identifiers (PID) for private land within or adjacent to the selected area.
- The PID can be used to determine the addresses of the landowners through the Land Title Registry or the British Columbia Assessment Authority records.
- Step by step guidelines for the use of these online tools are provided at www.em.gov.bc.ca/mining/titles/Land_Owner_Notice.htm .

Notifying landowners

- Amendments to the Mineral Tenure Act Regulation (“Regulation”) effective June 2, 2008 specify the minimum requirements for serving notice before a miner enters on private land.
- The notification requirements provide an opportunity for dialogue that may help to build good relations between a miner exercising a right of entry and the landowner or *Land Act* lessee.
- The Regulation sets out the legal obligations, but 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.
- The Regulation does not require routine filing of proof of notice with the government but, in the event of a future dispute, it may be in the miners' best interests to retain proof that notice has been served.
- Notification must include a description or map of where the mining activity 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.
- Landowners may be concerned about potential impacts to their property or their privacy so a lay person description of intended operations will help build good relations.
- Notification must include the name and address of the person serving the notice and the name and address of the onsite person responsible for the operations.
- Mining activities may commence eight days after notice being served. Notice may not be served more than 12 months in advance of the proposed start of activities.
- Notification requirements for *Land Act* leased land are the same as those on private land except that the address for notification is the one shown on the Integrated Land and Resource Registry.

Exemptions from notification requirements

- In some circumstances, it is possible that after reasonable efforts have been made to serve notice a miner is still unable to contact the landowner. In such instances, the miner may apply to the Chief Gold Commissioner for an exemption from the notification requirements.
- An application for exemption must be made in writing to the Chief Gold Commissioner, Ministry of Energy, Mines and Petroleum Resources, 8th Floor, 1810 Blanshard St., Victoria, B.C., V8W 9N3.
- The application should clearly document the efforts made to contact the landowner and why the efforts have not been successful.
- To access an application form, please go to www.em.gov.bc.ca/mining/titles/Land_Owner_Notice.htm or contact the Mineral Titles Branch at mineral.titles@gov.bc.ca or 1-866-616-4999.
- The Chief Gold Commissioner considers each application on its own merits but the following factors may be taken into account:
 - the government registries do not show a valid landowner;
 - notice mailed to the address shown on the government registry is returned;
 - the landowner refuses to accept a notice; and/or
 - it is not possible to determine the location of private land in the area where the miner is conducting exploration.

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, either 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 about the *Mineral Tenure Act* and the Mineral Tenure Act Regulation are available online at www.em.gov.bc.ca/mining/titles/Land_Owner_Notice.htm
- 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.

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