



Mineral Titles

Information Update

No. 4 – Surface Use by Recorded Holders of Mineral Titles

Revision Date: November 4, 2015

MINERAL LANDS, FREE MINERS, RECORDED HOLDERS AND MINING ACTIVITY

For the purpose of this information update:

“mineral lands” means land in which minerals and placer minerals are owned by the provincial government.

“Free miner” means a person who holds a valid free miner certificate (FMC) issued under the *Mineral Tenure Act* (the “Act”).

“Recorded holder” means the owner of a valid mineral title.

“Mining Activity” means any activity related to the search for a mineral or placer mineral; the exploration and development of a mineral or placer mineral; or, the production of a mineral or placer mineral. This includes reclamation of previously mined areas and the monitoring and long term protection, control and treatment of a previously mined area.

These terms are defined in section 1 of the Act.

RIGHT OF ENTRY

As provided in section 11 of the Act, a free miner has the right, subject to the relevant provisions in the Act and regulations, to enter mineral lands for the purpose of mineral and placer mineral exploration.

If the land to be explored includes privately held surface, section 19 of the Act provides that a person must not begin a mining activity unless a person first serves notice on the owner of every surface area, the holder of a crown land lease or the holder of a disposition of crown land. Any damage or modification to the private land by the mineral tenure holder may require compensation to the land owner.

A free miner's right of entry does **not** extend to the following areas:

- land occupied by a building;
- the curtilage of a dwelling house;
- orchard land;
- land under cultivation;
- land lawfully occupied for mining purposes, except for the purposes of exploring and locating for minerals or placer minerals, as permitted by the Act;
- protected heritage property, except as authorized by the local government or minister responsible for the protection of the protected heritage property; and
- land in a park, except as permitted by section 21.

In the event of a discrepancy between this information and the provisions in the *Mineral Tenure Act* and Regulation, the provisions in the statute and regulations will apply.

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Mineral Titles

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SURFACE USE

A mineral title does **not** convey surface rights to the recorded holder. There may be situations where a surface tenure exists in the same area as a mineral tenure. Section 14(1) of the Act provides the recorded holder with the right to use the surface for mining purposes only:

14 (1) Subject to this Act, a recorded holder may use, enter and occupy the surface of a claim or lease for the exploration and development or production of minerals or placer minerals, including the treatment of ore and concentrates, and all operations related to the exploration and development or production of minerals or placer minerals and the business of mining.

No mechanized mining activity may be conducted by the recorded holder until the recorded holder receives a permit, if required, under section 10 of the *Mines Act*.

No other use of the surface, such as residential or recreational use, is authorized by a mineral title.

CONSTRUCTING BUILDINGS

Buildings **must not** be constructed on mineral or placer claims or leases without specific approval by the regional Inspector of Mines as part of a Notice of Work, or as may be authorized by a license of occupation under the *Land Act*.

CUTTING TIMBER

Timber on a mineral title may be cut only for the purposes of mining and only if the recorded holder of the mineral title has obtained a free use permit or licence to cut under the *Forest Act* and if the mineral title is located on Crown Land.

For more information on Landowner Notification and surface use on privately held land, please review [Information Update No. 29b](#) for Mineral and Placer.

For more information on Free Miner Certificates, please reference [Information Update No. 1](#)