

Mineral & Placer Rights in British Columbia

The administration of government-owned mineral and placer mineral rights in British Columbia is today under the Mineral Tenure Act and the Mineral Tenure Act Regulation. Title to minerals or placer minerals may be acquired and maintained under these provisions. There are Crown granted 2 post mineral claims that were issued under a former statute and are maintained by payment of an annual mineral land tax; these tenures are not administered under the Mineral Tenure Act.

The Act provides for mineral claims and mining leases for lode minerals, and placer claims and leases for placer minerals; all are termed “mineral titles” in the Act. A mineral title may be registered over mineral lands, defined as land in which minerals or placer minerals or the right to explore for, develop and produce minerals or placer minerals is held by the government. The mineral title acquires and subsequently holds the available mineral or placer mineral rights as defined in section 1 of the Mineral Tenure Act.

In addition to mineral or placer mineral rights, a mineral title conveys the right to use, enter and occupy the surface of the 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 business of mining [section 14]. This right is subject to the related provisions in the Mineral Tenure Act and the Mines Act, and may also be subject to other rights and conditions that may exist.

A mineral title does not convey “surface rights” such as those held by private property. No residential or recreational rights are included in any mineral or placer claim or lease.

There are certain areas within mineral lands that are not available; these are termed “alienated land” and include all parks and ecological reserves, protected areas, and Indian Reserves. Where a mineral title is registered and a portion overlies any of these areas, no rights are acquired to the alienated land.

There are also reserves established under the Mineral Tenure Act that may prohibit the registration of claims within a certain area, or place conditions on any claims registered within that area. The rights of the mineral title holder to the minerals or placer minerals, and the right to enter onto the land, will be governed by the reserve, and may be non-existent for a No Registration Reserve or subject to specific conditions for a Conditional Reserve.

With the exception of private surface that includes freehold mineral rights, private lands are mineral lands. However, section 11(2) of the Mineral Tenure Act provides that a free miner’s right of entry does not extend to land occupied by a building, the curtilage of a dwelling house, orchard land, and land under cultivation. The exercise of rights on private land is governed by section 19 of the Act, with recognition as to the priority of the first right acquired, so free miners or recorded title holders should contact the owners of any private land before entering upon that land for any purpose. Written notice must be given to the private land owner(s) prior to commencing any surface disturbance with mechanized equipment on private land. In all cases, free miners and recorded holders are liable for any loss or damage caused by reason of their entry onto private land. Entry onto private land must be with agreement of the land owner, or authorized by an Order of the Mediation and Arbitration Board.