



# **Professional Reference Manual**

## **Chapter 11**

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## Chapter 11 – Mineral Tenure Surveys

### Part 1 – Mineral Tenure Act & Regulations To Govern – General Background

Currently the ability to acquire tenure to mineral and placer interests within the Province of British Columbia is authorized under the *Mineral Tenure Act*, R.S.B.C. 1996, c. 292, and its subsequent legislative amendments. This legislation, together with the *Mineral Tenure Act Regulations*, lays down the rules and operational requirements for acquiring and maintaining a mineral or placer title in **good standing** within the Province.

While the *Mineral Tenure Act* (MTA) addresses both mineral and placer titles, the focus of the discussion in this chapter will be on matters directly related to the survey of mineral titles.

A British Columbia Land Surveyor must be engaged to conduct all surveys required for lease purposes with one exception, pursuant to Section 18(1)(b) of the *Mineral Tenure Act Regulation* (B.C. Reg. 529/2004) an application for a placer lease can be supported by the submission of a technical plan; one not necessarily prepared by a practicing land surveyor. However, if called upon to conduct the survey of a placer title, the techniques to be adopted by the land surveyor for such a survey would not differ from those required for a mineral title.

The various Acts and Regulations governing mineral tenures have been designed to allow a Free Miner to quickly acquire secure title for the purpose of extracting resources from the ground. Historically, these Acts and Regulations recognized that the Free Miner did not need to have the skills of a land surveyor, geographer, or mapmaker to acquire a mineral tenure and to work a piece of ground. The Free Miner simply had to know where their workings were relative to the claim posts that they had set.

2-post claims were primarily located until March 1<sup>st</sup>, 1975 where after 4-post mineral claims were permitted. This was the first major change in the acquisition of mineral titles in several decades. The next major change came on November 30<sup>th</sup>, 2004 when ground staking was suspended, followed by a brief period where no staking or mineral tenure acquisition was permitted. Then at 12:00, January 12, 2005, Mineral Titles Online (MTO) website and the online acquisition of mineral tenures or **map-staking** was initiated.

Claims located on the ground before December 1<sup>st</sup>, 2004 are known as **legacy claims**. After 12:00, January 12<sup>th</sup>, 2005, the acquired mineral tenure became known as **cell claims**.

The switch from a ground based tenure location to a map acquisition of mineral tenure can be viewed as the most significant change in mineral titles in British Columbia history.

#### Caution

Any land surveyor undertaking mineral tenure surveys must be fully informed and very familiar with the Mineral Tenure Act, the Mineral Tenure Act Regulations, Mineral Titles Online, the Survey and Plan Rules, this Manual, and in particular, with this Chapter, and other related sources of information listed in this Chapter.

It is good practice to have a full understanding of all the requirements for mineral tenure surveys in order to protect your client, the public and the land surveying profession.

Since January 12<sup>th</sup>, 2005, the *Mineral Tenure Act* and its associated *Regulations* only make provision for the electronic acquisition of mineral titles through the use of the Mineral Titles Online (**MTO**) registry. This move, and the introduction of MTO by the Ministry of Energy, Mines and Low Carbon Innovation (**MEMLI**) has streamlined the process of acquiring and maintaining mineral titles. This change was addressed by the Association of British Columbia Land Surveyors with amendments to Part 11 of the General Survey Instruction Rules (**GSIR**), SR5-04, effective January 5<sup>th</sup>, 2005 (now Part 9 of the Rules).

Legacy claims and cell claims only acquire title to the ground open at the time of acquisition. The portion of the ground encumbered by prior mineral titles, reserves, under surface rights and such, is not acquired.

The fundamental difference between legacy claims and cell claims is that if the prior tenure is allowed to lapse, it is not absorbed into the legacy claim, but the open ground is absorbed into a cell claim. Therefore a legacy claim is always affected by prior tenures or tenures in effect at the time of staking whereas the ground held by a cell claim will expand to the full size of a cell as prior tenures lapse. This is a key distinction for the land surveyor to remember.

On, January 1<sup>st</sup>, 2008, Section 49 of the *Miscellaneous Statutes Amendment Act*, 2007, was given the force of law, and it states:

*“The identification on the ground of a legacy claim or legacy placer lease may be made by a map approved for that purpose by the Chief Gold Commissioner, and if there is a difference between the identification of a legacy claim or a legacy placer lease as determined by that map and the identification of the legacy claim or legacy placer lease as determined by stakes, marks or posts, the identification as determined by the map prevails.”*

This was known as **map freezing** and rivals map–staking as the most significant change in mineral titles in British Columbia. Map freezing, along with online mineral title acquisition, has eliminated many of the complexities normally associated with the completion of a survey of historical (pre December 1, 2004) titles or legacy titles.

The determination of boundaries based on a map location where conflicting interests exist presents the need for a new mindset; one not based on **posts on the ground always governing**, and the land surveyor must deal with the complexities associated with map freezing. This change was addressed by the Association with complete re-write of Part 11 of the GSIR, SR6-07, effective January 1<sup>st</sup>, 2008. Further amendments of Part 11 of the GSIR were made with SR7-08, effective November 4, 2008. These changes migrated to the Survey and Plan Rules in 2018.

The onus is on the land surveyor conducting a mineral title survey to become familiar with the legislation and regulations governing mineral tenures in British Columbia.

By referring to the *MTA*, the *Mineral Tenure Act Regulations*, Part 9 of the SPR and this Chapter, many of the questions to be asked prior to, or during the conduct of, a survey under the *MTA* can be answered. But for those where the answers are unclear or not evident many other resources are available.

These include, but are not limited to:

- (a) the Chief Gold Commissioner of the MEMLI;
- (b) the Surveyor General Services staff of the Land Title & Survey Authority;

- (c) Mineral Titles Online at [www.mtonline.gov.bc.ca](http://www.mtonline.gov.bc.ca);
- (d) the Mineral Titles Branch website and the Information Updates. In particular, at this writing, Information Update No. 31, Mining and Placer Lease Survey Procedure;
- (e) the Association for Mineral Exploration British Columbia (**AMEBC**) (formerly the BC and Yukon Chamber of Mines) [www.amebc.ca](http://www.amebc.ca).

Given the short history of map-staking, and the recent adoption of map freezing by the MEMLI, there are some unique situations that arise during the conduct of a survey under the *MTA*. Only through one's due diligence can a land surveyor ensure that the spirit and intent of the *MTA* is met. To effectively conduct a survey under the *MTA*, that due diligence requires the land surveyor to stay abreast of any legislative or regulatory amendments, bulletins posted by the MEMLI, recent court proceedings, practice advisories, this Chapter and other sources.

## 1) Tracking Mining Legislation - Regulations and Survey Procedures

This can be a laborious task, but the exercise can be somewhat simplified by following a few key guidelines.

### (a) Determining included minerals at the time of staking

Since Governor Douglas' first Proclamation on March 26<sup>th</sup>, 1853, the Province has taken steps to regulate the extraction of its valued mineral resources and an analysis of the definition of minerals over time clearly points to the Province's attempt to ensure its continued involvement with the extraction of those resources.

Study reveals clear shifts in Provincial policy where in the earliest of Crown Grants, in some cases, the Province conveyed the rights to both precious and base metals, to a shift that saw the complete cessation of the granting in fee simple of Provincial mineral rights on February 28<sup>th</sup>, 1957. (In 1958 a further amendment was enacted to allow a Crown Grant containing minerals to be issued where an application was filed prior to February 28, 1957. As a result of this amendment certain Crown Grants containing minerals were issued as late as the late 1960's.)

The shifts in Provincial policy can be traced through the ever-changing definition of **minerals** within the various *Mineral Tenure Acts*. This is very apparent when one considers the redefinition of minerals in 1988; one that saw some industrial minerals falling within the purview of the *MTA*. Previously, they were dealt with under the *Land Act* and as such passed with *Land Act* Crown Grants.

#### Tip

With Provincial legislation in a constant state of change, research should begin with a referral to the edition of the Revised Statutes of British Columbia (RSBC) published immediately before the location date of the legacy claim or claims.

These publications represent a consolidation of Provincial legislation and are a valued reference source as they track the statutory revisions to legislation between their respective publications.

**(b) Be cognizant of key dates**

As the Regulations have been subject to so many amendments and will continue to be subject to many more, it is imperative that certain key dates in mining legislation be firmly etched in one's mind. For example, September 10<sup>th</sup>, 1974 is a key date in the Province's mining history as it marks the introduction of 4-post staking, (initially called modified grid type mineral claims), which became effective on March 1<sup>st</sup>, 1975. January 12<sup>th</sup>, 2005 marks the introduction of Mineral Titles Online. See **Appendix 1, Key Dates**.

**Tip**

**Appendix 1, Key Dates**, while not exhaustive, is a listing of some key dates to bear in mind, together with the significance and/or impact of the given date.

When required to identify Key Dates, one should refer to historic legislation, regulations, and old versions of the *General Survey Instructions to British Columbia Land Surveyors (GSI)*. Regulations can be found in Part II of the British Columbia Gazette and are readily available from within government.

**(c) Review early versions of the General Survey Instructions**

Historically, the publication of the GSI has done a good job of providing instructions to land surveyors that reflect the survey requirements necessary to satisfy the existing statutory provisions and regulations pertaining to mineral tenures at a given point in time. The various editions of the GSI over time reflect the efforts made to keep the GSI updated and in sync with the changes introduced to satisfy the mining industry. Historical volumes of the Surveyor General Instructions from 1918 to present are available on the Association website.

**(d) Stay abreast of recent court decisions**

Links to many court decisions can be found on the Association website.

**(e) Liaise with those who have experience with MTA surveys**

In addition to any support provided by the Association, when retained to conduct a survey under the MTA, after the land surveyor has become familiar with the *Mineral Tenure Act and Regulations*, Mineral Titles Online, the Survey and Plan Rules, this Manual, and in particular with this Chapter, and other related sources of information listed in this Chapter, they should not hesitate to contact those in the profession who are known to have conducted MTA surveys. While their numbers are not large, their experience should be shared to the benefit of others.

## Part 2 – Mineral Tenures

Map freezing of legacy claims may have eliminated the requirement to be totally cognizant of the *MTA* and regulations affecting the location of legacy claims. Subject to ties to and georeferencing of other tenures and surface rights that affect a mineral title, the recorded holder of a legacy mineral title holds the ground shown on the map approved by the Chief Gold Commissioner. Many of the rules and procedures discussed in the following sections no longer apply.

This discussion has been included in this Chapter to provide a historical overview of various iterations of *Mineral Tenure Acts*, Regulations, staking procedures and various survey rules and procedures so as to provide the land surveyor with a good understanding and insight into what historically was involved in legacy claim surveys. Additionally, when legacy claims are included in current surveys the land surveyor must have a good understanding of how the map was compiled in order to determine if the legacy coordinates received from the Mineral Titles Branch accurately reflect the intent of the legacy claim locators and the map. Blindly accepting the legacy coordinates received from the Mineral Titles Branch may not be good practice based on the comments in this paragraph.

### 1) Historical Location of Legacy Tenures

In order to locate a legacy tenure an individual or company purchased a Free Miner's Certificate (FMC) and claim post tags from the Mineral Titles Branch or a Government Agent; posts were cut or cairns were built; tags were filled in; lines blazed or marked; forms were filled in and filed with a prescribed fee; and title to a mineral claim was acquired.

The acquisition of a FMC did not require any particular qualification or talent, although for a brief period there was an open book test where Free Miners were tested on their knowledge of applicable staking regulations.

Many Free Miners were very good at staking mineral claims and reporting the location of the claims. Their efforts and expertise resulted in secure tenure. Unfortunately, there was a lot of poor staking done. This could be attributed to several factors, such as

- (i) dropping or "bombing" posts from helicopters;
- (ii) in-experience in the bush;
- (iii) the inability to read maps; or
- (iv) lack of knowledge as to what valley they were staking in at a particular time.

The plotted position of a mineral title on the map was based on the position reported by the Free Miner which could be erroneous, sometimes by kilometres. This all made a poor foundation for map freezing.

#### (a) Legacy Tenures

Over time claim staking has consisted of 1-post, 2-post, 4-post or Unit, Fractional, and Witness staking, with the primary methods of staking having been 2-post and 4-post claims.



## I. 2-Post Mineral Claims

2-post claims have been a mainstay for the Free Miner (prospector). They were the primary method of claim staking until March 1<sup>st</sup>, 1975, when 4-post or **Unit** mineral claims were permitted.

When 2-post staking the Free Miner cut or established post No.1, affixed a numbered tag with information about the claim, date of location, direction to the No.2 post and locator. The **location line** was then blazed or marked out up to 1500 feet (later changed to 500 metres) in length, and the No.2 post was set and a tag affixed. Distances up to a combined 1500 feet (500 metres) could be designated to either side of the location line. In many cases two No.1 posts or two sets of tags on one No.1 post were set and one claim was designated 1500 feet right of the location line and the other claim was designated 1500 feet left of the location line. This system worked well in British Columbia. The Free Miner could acquire a large area in a short time by running the location lines along a valley or mountain ridge, and staking a 3000 foot wide swath.

If a claim was staked long (over 1500 feet or, later over 500 metres), the end of the claim was established back along the location line to a virtual post 1500 feet (or 500 metres) from the No.1 post. As the No.1 post tag for the next claim was often at or on the No.2 post, this created gaps as the No.1 post for that next claim was never moved. For this reason, the experienced Free Miner would stake No. 2 posts slightly short of 1500 feet (or 500 metres).

The maximum area for a 1500 x 1500 foot claim was 51.65 acres. To eliminate open ground, gores, and such, a **fraction created** could be included in the claim, so long as the area did not exceed 51.65 acres or where the inclusion did not cause the area of the mineral title to exceed the area specified by the MTA Regulations. 2-post claims switched from 1500 foot increments to 500 metres on August 15, 1988. For a period of time after March 1<sup>st</sup>, 1975 the staking of 2 post claims was limited to individuals and to the staking of eight claims per year.

## II. 4-Post or Unit Mineral Claims

The introduction of 4-post or Unit mineral claims based on 500m x 500m units initially met some resistance. The argument was that a rectangular system based on cardinal bearings did not suit British Columbia as valleys and mountain ridges did not run true north, south, east or west.

There could be up to 20, 500m x 500m units in a 4-post claim, with the maximum of 8 units in one direction. As noted, bearings were cardinal; (000°) referred to the astronomic meridian through the **legal corner post**.

### Tip: Understanding a fraction created

A fraction created, or sometimes referred to as an included fraction, is formed by producing the side line of a claim being surveyed to meet the boundary of a previously located claim which is touched or crossed by the location line of the new claim. This rule could be confusing. Versions of the GSI & GSIR prior to SR6-07 should be referred to for more information and explanatory sketches.





*Claim Post*

date, and post number affixed; e.g. 1N 0W or 5N 1W. Corner post tags would be attached to the three corner posts. When the Free Miner had completed the circuit of the claim, blazing the boundaries and setting the posts, on returning to the LCP, the completion time would be marked on the LCP tag. The claim was considered to be valid at the completion time. The position of a 4-post claim is governed only by the position of the LCP; the blazed lines, ID and corner posts serve only to lead back to the LCP or to re-establish the LCP if it was lost or destroyed.

To locate a 4-post claim, the Free Miner would obtain numbered tags from the Mineral Titles Branch or a Government Agent. Four tags were required: one legal corner post (LCP) tag and three corner post tags.

The LCP would be cut or set and the LCP tag marked with claim name, locator, agent for (if applicable), date and start time, and number of units N, S, E or W; e.g. 5N 4W. Once the LCP was set the Free Miner blazed the external boundaries in cardinal directions; every 500m an ID post would be cut with the claim name,



*Claim Tags*

### III. Legacy Claims Miscellany

If the location documents for legacy claims were not filed with the Chief Gold Commissioner within a certain period, the claim would be considered **void ab initio** (not staked at all).

To clean up areas of poor staking, or to change claim configurations, the recorded holder could apply to the Chief Gold Commissioner to **abandon and relocate** claims.

On abandonment, only the recorded holder had the right to acquire mineral title for a set period, over the areas held by the abandoned claim, and then the relocated claims would have to be filed with the Chief Gold Commissioner within the prescribed period in order to remain valid. The effective date and completion time for the new claims was the location date and completion time of the abandoned claims.

Claims were allowed to be challenged - the staking up to one year after location, and the filing of work up to one year after the statement of work was submitted. Caution had to be

exercised in active or “hot” mineral potential areas when abandoning a claim or relocating it, as this opened the opportunity for others to protest the staking for up to one year and perhaps acquire title to the ground by an adverse action.

As noted in Part 1, legacy claims only acquired the open ground available at the time of staking. If part of the ground was already covered by a prior mineral tenure, then that area was excluded from the new claim. If the underlying claim was allowed to lapse after the new claim had been located, the new claim would not acquire this ground. A legacy claim was always affected by prior claims or other subsurface rights, such as Crown Grants.

The survey of legacy claims was broken down into four phases:

- office research;
- a location line survey;
- posting external boundaries; and
- plan preparation.

The office research involved searching the records in the Gold Commissioner’s office for all claims in the area of the survey, obtaining the claim records, and the locator’s documents and sketches. This typically was not a straight line search. Claim data was taken from the files and off the Mineral Title Reference Maps. Starting with the Reference Map that showed open ground, all the subsequent maps would be obtained. The claims shown on each map would be noted and combined with the claims’ data extracted from the files. This data was then sorted by date, (a spread sheet worked well for this) and in complicated areas, a time line plot was found to be very useful. From this information, the priority of location and those tenures affecting a particular title could be determined.

With the office research information, the land surveyor moved on to the next phase: the location line survey, locating all claim posts for the claim to be surveyed, as well as those of other tenures or interests that affected the title under survey. As noted previously, not all claims were located where they were shown on the locator’s sketch and subsequently on the Mineral Title Reference Maps. So it was often necessary to go back and revise the priority of location spreadsheet and time line plot.

Many times it was difficult to find a claim post or a legal corner post, and searches could take days or weeks. Before a land surveyor could use the reported position on the locator’s sketch, the original locator would have to be contacted and if available, or willing, brought in to locate the posts or re-establish the posts and file an affidavit or Statutory Declaration with the Chief Gold Commissioner detailing the re-establishment. If the original locator was not available, a

#### Tip

The fact that an existing legacy claim is always affected by any prior mineral titles is the most significant difference between legacy claims and cell claims.

Statutory Declaration regarding the location of posts could be taken from someone who had firsthand knowledge of the location. Once all due diligence was exercised in trying to locate the claim posts, as a last resort the land surveyor could use the position as described on the locator's application to record a mineral claim and the accompanying location sketch.

Once the land surveyor was satisfied that there was sufficient data in order to reach a conclusion, the claim would then be posted and the final plan would be drafted. The plan would be reviewed by the Surveyor General Branch and the Mineral Titles Branch, and if all was satisfactory it would be accepted by the Surveyor General Branch. After the Notice of Intention to Apply for a Lease had been placed in the local newspapers and Part I of the BC Gazette, the plan would be approved by the Surveyor General and filed in the Crown Land Registry.

## 2) Cell Claim Tenures

With the introduction of electronic mineral title acquisition or map-staking, at 12:00 on January 12<sup>th</sup>, 2005, only an individual or company holding a valid Free Miner's Certificate (FMC), a BCeID (a user name and password required for entry on the MTO and many other government online sites) and a credit card can acquire new mineral or placer claims through MTO. These claims are known as cell claims. While MTO made provision for valid old ground staked claims to continue as legacy claims there was no allowance made for new ground based staking.

A cell claim, as defined under the *MTA*, means "a claim consisting of a cell or cells," with a cell being a geographic area shown electronically on a map of British Columbia, for the purpose of the MTO registry. Defined by the Mineral Title Online Grid Regulation (B.C. Reg. 530/2004), and styled after the historical petroleum and natural gas grid, which is based on the North American Datum of 1927, NAD 27 system of latitudes and longitudes converted to NAD83, CSRS. A cell is a quarter unit on this grid. (See **Section 2) a) Cell Claim Coordinates** below).

Originally a new cell claim could only consist of up to 25 complete or adjoining cells. Order in Council No. 229, deposited April 20, 2012 as B.C. Reg. 89/2012 amended *Mineral Tenure Act Regulation* B.C. Reg. 529/2004 to allow the number of complete or partial adjoining cells on a new cell claim to increase from 25 to 100. See *Mineral Tenure Act Regulation* B.C. Reg. 529/2004 Section 4(1). To adjoin, cells must share a common boundary other than just a corner. The size of a cell ranges from around 21 hectares in southern B.C. to 16 hectares in northern B.C.

### Tip

Be careful when converting legacy claims to cell claims; if you are not the first recorded holder of a legacy claim within the cell to convert you will lose ground.

### Tip

Order in Council No. 229, deposited April 20, 2012 as B.C. Reg. 89/2012 gave, Bill 20 - 2010, Miscellaneous Statutes Amendment Act (No. 3), 2010 Section 66 the force of law.

See Mineral Tenure Act Regulation B.C. Reg. 529/2004 Section 5.1, that enables and sets some conditions for the subdivision of cell claims.

Cell claims only acquire the rights to open ground at the time of acquisition; however, as prior tenures lapse a cell claim will expand to cover the full size of a cell.

Legacy claims may be converted by the recorded holder into cell claims. The Mineral Titles Branch has encouraged their clients to do so and does not charge a fee for this. A cell encumbered in whole or in part by one or more legacy claims was only available for registration as a claim by the legacy claim holders until July 11<sup>th</sup>, 2005 for mineral legacy claims and until November 30<sup>th</sup>, 2005 for legacy placer claims. After that, as long as the open ground in a cell is not considered by the Chief Gold Commissioner to be too small or too irregular to be workable, the ground is open to any Free Miner to acquire. The advantage of being the first Free Miner to acquire part of a cell encumbered by one or more legacy claims (held by others) was that the part cell would increase to full size as the legacy claims lapsed or were cancelled, except where the legacy claims are taken to lease.

Two or more cell claims held by the same recorded holder can be amalgamated into one cell claim. Amalgamated cell claims can hold any number of cells. However, the cell claim could become too large to be practical and workable. When converting or amalgamating claims the expiry date of the new cell claim is the earliest of the expiry dates of the converted or amalgamated claims. Failure to recognize and deal with this by topping up with **cash-in-lieu**, applying work, or other means can be costly.

Cell claims may be reduced in size or abandoned at any time. The ground held by an abandoned claim is not available for reacquisition until its normal expiry or good to date.

All claims, whether newly acquired, converted from legacy claims, or amalgamated, are assigned a number (500,000+) by MTO. New claims can also be assigned a name like 'Lucky Strike' or any other appropriate identifier that the Free Miner chooses.

As noted, a FMC and a BCeID is required for any transactions on MTO. The application forms for these are included on the Mineral Titles Branch website described in Part 1. Other holders of a FMC and a BCeID can be designated to act as an agent to carry out certain specified tasks.

Bill 20 - 2010, *Miscellaneous Statutes Amendment Act* (No. 3), 2010 Section 66, (*Mineral Tenure Act*, Section 24.3), authorizes the subdivision, in accordance with the MTA Regulations, of cell claims into two or more cell claims not less than one cell in size. The enactment of this provision is pending.

### Good Practice

It is good practice to have your client assign agency on their FMC and BCeID to the land surveyor so that the land surveyor can acquire any open ground found during the course of a survey.

This tip is particularly valid when surveying legacy claims and on georeferencing tenures that affect or may affect the title under survey.

### (a) Cell Claim Coordinates

Issued, maintained and obtainable from the Surveyor General, grid coordinates are based on the North American Datum of 1983 Canadian Spatial Reference System (NAD83 CSRS). Cell claim coordinates can also be obtained through MTO.

NAD83 (CSRS) is realized through the current active and passive control that is published in MASCOT. (MASCOT is maintained by the Ministry of Forests, Lands Natural Resource Operations and Rural Development. (MFLNRORD) The grid coordinates were calculated by converting the P.N.G. Grid from NAD27 to NAD83 using the version NTV 1.1 National Transform, however, as the transformed coordinates were adopted as NAD83 (CSRS) by regulation - no additional transform or datum conversion is needed - both the cell coordinates and the MASCOT framework are in the same reference system - NAD83 (CSRS).

#### Tip

To obtain a listing of all cell coordinates in a cell claim follow these steps:

- (1) Go to Mineral Titles online at [www.mtonline.gov.bc.ca](http://www.mtonline.gov.bc.ca);
- (2) In the yellow boxes at the bottom click on "Tenure Search";
- (3) Enter a tenure number and then click on 'Next';
- (4) Go to Tenure Events at the bottom and click on the blue "acquisition" event number or "conversion" event and it will take you to the appropriate Cell Event Detail which will provide you with the Cell ID's and the Cell UTM Coordinates.

The MTO Help Guide can also direct you to location of cell coordinates and other mineral tenure data.

### 3) Legacy Tenures after the Map Freeze

After, January 1<sup>st</sup>, 2008, and map-freezing, critical factors such as when a claim was located, whether multi-parcel claims were permitted and priority of location that were so important to the land surveyor before the map freeze, lost much of their significance. What is important, and what the land surveyor must remember about legacy claims, is that they were and still are affected by other tenures, such as Crown Grants, reserves, parks and other subsurface rights that typically are not georeferenced, so it is unlikely that their correct spatial orientation will be depicted on the map.

The extent of the legacy claims is defined by the position shown on a map approved by the Chief Gold Commissioner, regardless of where the claim posts are on the ground.

If on field survey, ties to, and georeferencing of other tenures that may affect the title(s) under survey are found to encroach into the title under survey, the area shown on MTO will be reduced accordingly.

However, if the boundaries of the affecting tenures are found on the ground to be further away from the boundaries of the title under survey then the boundaries of the title under survey as shown on MTO apply. The gap found to exist between the above mentioned boundaries should be dealt with appropriately.

#### (a) Crown Grants Acquired by Auction

Some reverted, escheated or surrendered Crown granted 2 post claims were acquired/re-issued via an auction process and became legacy claims. While the Crown Grant was surveyed and defined by a District Lot number after the map freeze on January 1, 2008, with map confirmation,

section 24.1(5) of the *MTA Act* states that the map position prevails over the position determined by posts on the ground.

Legacy Coordinates for these tenures must be obtained from the Mineral Titles Branch. If the underlying Crown Grant survey is still valid it will have to be re-established during a *MTA* survey in accordance with the Rules. If there is a difference in the map position versus the ground position the map position prevails. However, on a case by case basis the Mineral Titles Branch may consider amending the map to conform to the ground position.

### **(b) Legacy Claim Coordinates**

Legacy Claim Coordinates are obtained from the Mineral Titles Branch GIS Analysis, see Information Letter No. 31, Mining and Placer Lease Survey Procedures.

In many cases there is not a unique set of coordinates for each legacy claim corner within the MTO system. The Province has not been able to invest the time and money to fully resolve all legacy claims to ensure that there are no overlaps at all between adjacent legacy claims in the system and no inappropriate gaps. There are also several areas of the province where legacy claim boundaries do not line up. Where adjacency is an issue and affects the security of a title, the land surveyor and the Mineral Titles Branch should work at identifying these issues early in the survey process so that they can be dealt with appropriately. This may lead to amendments to legacy claim boundaries so that vertices and boundaries match between two adjacent legacy claims.

**The process for issuing legacy claim coordinates is as follows:**

1. The Mineral Titles Branch receives a request for legacy claim coordinates.
2. The Mineral Titles Branch will check that there are no overlaps at all between adjacent legacy claims in the system and no inappropriate gaps in between the requested legacy claims and will work with their Tenure Business Group to make any necessary amendments.
3. The Mineral Titles Branch will provide the centimetre level UTM coordinates. This will include a map, a text file listing of the coordinates, and a disclaimer. This disclaimer will provide direction on correct use of these coordinates.
4. If anomalies are identified by the land surveyor and are determined to affect the integrity of the proposed lease area, the Mineral Titles Branch will consider an amendment.
5. The Mineral Titles Branch will forward the proposed amendments to the Tenure Business Support group.
  - Tenure Business Support will advise the Mineral Titles Branch of any issues or effects on adjacent titles.
  - The Mineral Titles Branch will decide if an amendment should proceed.
  - Tenure Business Support makes amendments and notifies the Mineral Titles Branch which titles have been amended.



6. If anomalies are identified, and the Mineral Titles Branch decides that an amendment should proceed, the Mineral Titles Branch will provide the land surveyor with new coordinates of the amended legacy claims.
7. The land surveyor carries out the survey using new (correct) coordinates as provided by the Mineral Titles Branch.

#### 4) Recent Legislation and Rule Changes

As discussed in this Chapter, amendments to the MTA were introduced during the 38th Parliament and were included within Bill 12-2007 (*Miscellaneous Statutes Amendment Act, 2007*). Sections 44 to 53 (inclusive) of Bill 12 applied to existing Sections of the *Mineral Tenure Act*, R.S.B.C. 1996, c. 292, with Sections 49 and 50 having a direct impact on both the requirements and processes involving surveys under the MTA.

Section 49 or map freezing resulted in the mapped position of legacy claims confirmed as of January 1<sup>st</sup>, 2008.

Section 50 amended MTA Section 42. With the repeal of Subsection 2 of Section 42, the mandatory requirement for a survey was removed and replaced with a discretionary requirement pursuant to Subsection 1 (b) which states, “*if required to do so by the chief gold commissioner, have the mineral claim over which the mining lease will be issued surveyed by a British Columbia land surveyor and have the survey approved by the Surveyor General.*”

Additional amendments to the MTA were introduced during the 39th Parliament and were included within Bill 20-2010 (*Miscellaneous Statutes Amendment Act (No. 3), 2010*). Sections 62 to 71 (inclusive) of Bill 20 applied to existing sections of the *Mineral Tenure Act*, R.S.B.C. 1996, c. 292.

**Order in Council No. 229 deposited April 20, 2012 as B.C. Reg. 89/2012 ordered that effective July 1, 2012:**

- a. Sections 61, 65 and 69 of the *Miscellaneous Statute Amendment Act (No.3), 2010*, S.B.C.2010, c.21, are brought into force, and
- b. The *Mineral Tenure Act Regulation*, B.C. Reg. 529/2004, is amended as set out in the attached Appendix.

**Copies of the amendments can be found at:**

[http://www.bclaws.ca/EPLibraries/bclaws\\_new/document/ID/freeside/529\\_2004](http://www.bclaws.ca/EPLibraries/bclaws_new/document/ID/freeside/529_2004).

**Some amendments that may be of interest to the land surveyor and their clients:**

1. Section 4(1) – Registrations of new claims: The number of complete or partial adjoining cells that can be included in an individual claim will increase from 25 to 100.
2. Section 5.1 – Subdivision of cell claims: Will be able to register two or more subdivided cell claims with some conditions. The subdivided cell claims will have the same recording date and expiry date as the original cell claim.



3. Section 8(4) and (5) – Value of exploration and development work required:
  - Mineral Claim:
 

1st and 2nd anniversary years:	\$5/ha
3rd and 4th anniversary years:	\$10/ha
5th and 6th anniversary years:	\$15/ha
Subsequent anniversary years:	\$20/ha
  - Placer Claim: \$20/ha (all anniversary years)
4. Section 10(5) and (6) – Cash in lieu of exploration and development work: CIL will be double the value of exploration and development work for mineral and placer claims.

See **Appendix 1, Key Dates** for details of the above noted legislation.

The GSIR amendments, SR6-07 and SR 7-08, as now set out in Part 9 of the Rules fit the model of a performance based system rather than that of a prescriptive based system. They are intended to accommodate the needs of those parties involved in both the regulatory and operational requirements of the industry. In doing so, and at the specific request of the Mineral Titles Branch, the resulting rules reflect initiatives that would:

- (i) streamline and expedite the mining lease process;
- (ii) reduce the ‘up front’ burden of survey costs; and
- (iii) provide a survey that took the operational requirements of the stakeholder(s) into consideration.

## Part 3 – Current Mineral Title Surveys

### 1) Translating the Survey and Plan Rules Part 9- Surveys Under the Mineral Tenure Act Into Practice

#### (a) Requests for a Mineral Tenure Survey (SPR 9-2)

A *MTA* survey may be conducted, when required by the Chief Gold Commissioner, requested by the recorded holder of a mineral title, ordered by a court, or as required by legislation, such as *MTA* Sections 42, 44 and 45.

**The Mineral Titles Branch Information Update No. 31, Mining and Placer Lease Survey Procedure** discusses the land surveyor preparing and submitting a *MTA* **survey strategy** to the Mineral Titles Branch for review and comments. The Mineral Titles Branch may in turn consult with the Surveyor General and additional survey requirements may be identified.

#### Note

If an existing rule is self-explanatory it will not be addressed in this section.

#### Tip

For survey plan preparation GeoBC is a valuable source for Trim Data and Mapping, Mineral Tenure Cell Grids and Claim Data that can be downloaded and imported into your plan.

The land surveyor is in the best position to determine what is required and whether or not a full survey with full monumentation is needed or a partial survey with limited or no monumentation will suffice.

In order to ensure the quiet enjoyment of a mineral tenure it is good practice to have the boundaries of the mineral tenure delineated on the ground. In doing so, such a survey will:

- (i) ensure the quiet and non-contentious enjoyment of security of tenure;
- (ii) provide for the continued practice of allowing multiple tenures to be assigned to the landscape with clearly defined parameters; and
- (iii) continue to build on the strength and expansion of the existing cadastre.

#### Good Practice

It is good practice for the land surveyor to assess all their client's current and long-term survey needs on a mining project and in accordance with the client's budgetary considerations to develop a survey strategy covering control, mapping and cadastral survey requirements.

The land surveyor should sit down with the client to determine the extent of survey required in order to ensure that the client's best interests are foremost.

Such a meeting will result in a survey strategy that forms an integral part of the submission to the Mineral Titles Branch. By doing so, the interests of both the general public and the client will be assured.

The land surveyor must consider the best interests of the public, holders of adjoining properties and those of their client. The land surveyor should discuss the prospective development and mining plans with their client and, in accordance with the client's budgetary considerations, develop a survey strategy covering control, mapping and cadastral requirements. This survey strategy should be submitted to the Chief Gold Commissioner through the Mineral Titles Branch.

The Rules require that all plans associated with MTA surveys are to be electronic plans. MTA survey plans and any monumentation placed are identified by the electronic plan number.

#### Tip

It should be noted that with *Mineral Tenure Act* surveys, there has always been an advantage to being the first legal survey in an area in order to pick up any open ground.

#### Note

*Mineral Tenure Act* Surveys are identified by the electronic plan number.

### (b) Extent of a mineral title

Rules 9-4(1) and (2) state that the extent of a mineral title shall be defined by, in the case of cell claims, the mineral title online grid, and in the case of legacy claims, by the position shown on a map approved by the Chief Gold Commissioner provided in the form of legacy claim coordinates issued by the Mineral Titles Branch. SPR 9-4(3) refers to approved surveyed parcel(s) referred

to in the Chief Gold Commissioner's Records. One extent may affect another depending on the priority of location.

### **(c) Co-ordinate Based Cadastre (SPR 9-4)**

MTA legislation and regulations has in effect created a co-ordinate based cadastre to define the extent of various mineral titles. There is no legal precedent to determine what defines the boundary of a cell claim or a legacy claim after the map freeze, the survey post placed on the boundary or the co-ordinates defining the boundary issued by the Mineral Titles Branch. In many cases recent surveys are basically control surveys with very few, if any, monuments set on boundaries, however land surveyors should be cautious when redefining boundaries of mineral tenures.

All plans contain coordinate tables with the boundary co-ordinates issued by the Mineral Titles Branch listed, which supports the argument that co-ordinates govern.

A survey post set to define a mineral title can only be considered an original monument as defined in Section 11 of the *Land Survey Act*, and may only govern if it is referred to in the Chief Gold Commissioner's records. Otherwise, on re-survey, the mineral title online grid or map position would define the extent of the mineral title.

Further, if the boundary posts are destroyed the only method of re-establishing the boundary, in many cases, will be from the co-ordinates issued by the Mineral Titles Branch and shown on the plan of survey.

This issue will require more thought and discussion. In the meantime, land surveyors need to proceed very cautiously when questioning the position of a post, set on the boundary of a cell claim or a legacy claim after the freeze, that has not been disturbed and is within the accuracy limits of today's equipment and the required accuracies defined by the Rules. Before taking any adverse action it is strongly recommended that the land surveyor consult with the Surveyor General and the Chief Gold Commissioner.

### **(d) Other Tenures or Interests (Rule 9-5)**

While some types of tenure or interests have been alluded to in this rule, the onus is on the land surveyor to recognize all existing tenures or interests that may have an impact on the undersurface rights of the mineral title(s) under survey. This determination must include both an analysis of the definition of included minerals contained within the legislation in effect at the time of the acquisition of the claim or claims, together with a review of any existing Crown Grants of the surface directly impacting the title(s) under survey. It is possible that mineral rights may be split between different

#### **Tip**

Be aware that not all minerals were reserved to the Crown under early grants. Some subsurface rights were transferred with early surface grants, so it is possible that those rights may still be unavailable and as such they would not be included within the bundle of subsurface rights associated with the title under survey.

### Good Practice

Do your due diligence when researching any existing granted surface interests that may impact the titles under survey.

### Good Practice

Ensure that all supporting information is obtained and presented in a systematic, organized, and professional manner to the Surveyor General and to the Chief Gold Commissioner through the Mineral Titles Branch.

owners or tenure holders; a situation that has come about as a result of the evolution of Provincial mining legislation.

**Rule 9-5(3)** states that “the land surveyor must procure sufficient evidence in order to reach a conclusion as to the true location of the mineral title boundary being surveyed.” This is a holdover from earlier versions of the *MTA* Part of the Rules. This rule would apply to the re-establishment of Crown Grants and mining leases that affect or may affect. This rule may also be interpreted as a need to review all legacy claim coordinates received from the Mineral Titles Branch to ensure that they correctly represent the correct relationship of legacy claim boundaries. This is one of the reasons why the land surveyor must be familiar with **Parts 1 and 2 of this Chapter** which

provide a general background and discuss the historical location on mineral tenures in British Columbia. In situations that cannot be simply resolved, the land surveyor is directed to seek written directions from the Chief Gold Commissioner.

## (e) Monumentation (Rule 9-6))

**The Mineral Titles Branch Information Update No.31 – Mining and Placer Lease Survey Procedure** does comment on the minimum number of survey monuments required. Sufficient monumentation to adequately define the boundary, or portion of the boundary, being surveyed is required. The number of posts set and lines cut and blazed is at the discretion of the land surveyor. Considerations and governing factors include:

- (i) terrain and vegetation;
- (ii) the sophistication of the client, who may have their own surveyor on-site. We want to ensure that our clients stay within their boundaries and that neighbouring operations do not encroach on our clients’ operations.
- (iii) orthophotos referenced to the cadastre to help our client be visually aware of the boundary locations,
- (iv) to promote the quiet enjoyment of secure titles and such.

The balance of Rule 9-6 suggests that the more monumentation placed the better and well-marked capped posts, bearing the year of survey, commission number of the land surveyor, the letters MT, the electronic plan number and the monument number in accordance with Rule 9-8(2), rather than traverse hubs, which are strongly discouraged.

For the running and marking of boundaries, bearing trees and cairns refer to **Part 7** of this manual.

#### (f) Plans (Rules 9-7 and 9-8)

Plans must have a title similar in form to the following:

**“Plan of Survey of (or Part of) (description of mineral title(s) being surveyed), Land District,”**

The titles being surveyed could be claims and/or leases.

- In accordance with Rule 9-8(1), to align the survey data with other mineral title data, all data is to be expressed in relation to the UTM projection on the mapping plane. A combined scale factor to convert to ground level may be useful and may be included.
- All exterior corners and monumentation found or placed during the survey must be consecutively numbered with their coordinates shown in a table. Coordinate Tables showing claim coordinates received from the Mineral Titles Branch must be shown to the same significant figures as received, to the millimetre for cell claims and to the centimetre for legacy claims. Coordinate Tables for monumentation found or placed should reflect the accuracy of the survey, showing these coordinates to the millimetre is discouraged.
- All information shown on the plan image must be expressed in the UTM projection.
- Areas are to be based on grid bearings and distances.
- The bed of a body of non-tidal water does not get eliminated from the area of a mineral tenure survey. There is a No Staking Reserve over tidal waters, **O.I.C. 309, 1967**, which includes some lakes identified as tidal.
- Water courses and bodies of water should be shown. This information may be derived from field ties, existing mapping or orthophotography, GeoBC, TRIM Mapping or other georeferenced sources. The source of this data must be noted in the plan’s legend.
- Unit numbers are not required, mineral title designation including the claim name and cell numbering, if applicable, is required.
- Highways, public roads, forest service roads, *Oil and Gas Activities Act* roads and other ways shall be shown.
- Rule 9-8(8) requires accurately calculated and plotted positions of other surveyed tenures or interests and requires ties to all surveys in the vicinity of the mineral titles being surveyed. This requirement is in addition to the requirements under Rule 9-5(2).
- Rule 9-8(9) requires notations on the plan providing details of any boundaries cut, cleared and blazed. The land surveyor should use the same considerations and governing factors as discussed in **Section f** above when determining which boundaries should be cut out and/or blazed.
- Plans of surveys will be filed in the Crown Land Registry once the plan is reviewed and confirmed by or for the Surveyor General.

## (g) Plan Submission Requirements

A completed copy of both the **Mineral Title Plan checklist** and the **Mineral Title Plan Information Form**, obtained from the Surveyor General website, found under Submissions to the Surveyor General, is to be submitted with any *MTA* plan submission.

Mineral title plans are submitted to the Surveyor General for approval and filing in the Crown Land Registry.

Prior to filing a mineral title plan, the land surveyor should contact Surveyor General Operations and request an **SG file number**. This file number is to be entered on the **Survey Plan Submission to Surveyor General EFS Form**.

Plan submissions to the SG should be accompanied by the following supporting information (ideally, in digital format):

1. A completed Mineral Title Plan Information Form (available at [www.ltsa.ca](http://www.ltsa.ca));
2. Copies of relevant correspondence with the Mineral Titles Branch (e.g. letter advising of the Chief Gold Commissioner's requirement to have the mineral claim surveyed by a BCLS or the correspondence discussing the survey strategy and such);
3. A copy of cell and/or legacy claim coordinates supplied by the Mineral Titles Branch;
4. A map from Mineral Titles Online indicating the location of the surveyed mineral claim(s);
5. A map from ParcelMap BC showing the approximate location of the surveyed mineral claim(s). The Integrated Land and Resource Registry (**ILRR**) web site has mineral and placer title layers that can be included with cadastral data on a map. Some land surveyors prefer to use this site rather than ParcelMap BC;
6. While not mandatory, the preparation and submission of a detailed survey report is considered good practice, and
7. Additionally, while not mandatory, digital copies of the plan in the form of GIS Shape files, or .dxf or .dwg along with .text or .asc files of the coordinate listings are useful and appreciated by the Mineral Titles Branch and the Surveyor General.

The plan is to be submitted to the SG via the **Electronic Filing System (EFS)**; however supporting information must be submitted manually or electronically to the SG's general mailbox at [surveyor.general@ltsa.ca](mailto:surveyor.general@ltsa.ca). The SG file number should be referenced on supporting information.

### Good Practice

The LTSA fees for MTA survey plans can be quite high.

It is considered good practice for the land surveyor to receive payment for these fees before the plan is submitted to the Surveyor General

## APPENDIX 1: Key Dates

### Caution

This appendix has not been updated since Version 2.2. Users should ensure that sufficient research is conducted to confirm content accuracy.

Filing, deposit, or O.I.C Date	Reg. No.	Impact or Effect
1893 May 15	-	Claims located prior to that date require familiarity with the Statutes in force at the time of location.
1948		<b>Included Fraction</b> - A mineral claim could have one included fraction at each end of the location line, but could not have more than one <i>included</i> fraction at either end of a location line.
1957 March 28		The Crown introduced legislation to cease Crown Granting mineral rights and, instead lease mineral rights .
1959 May 14 (Filing Date) April 20 (O.I.C. 824)	139/59	<b>Effective April 21<sup>st</sup>, 1959</b> various sections of the <b>Mineral Act Amendment Act, 1959</b> came into force including the section which dealt with an <b>Included Fraction</b> - Where a location line at the No. 2 post end cut a boundary of a previously located mineral claim and the location line was staked long, on pull back of the location line to 1500' from the No. 1 post the location line then failed to cut the boundary of the previously located mineral claim, no included fraction was created since any portion of the location line beyond the legal length of a two post claim is void ab initio.
1959 November 12	302/59	General Instructions respecting the survey of Mineral claims and Placer Leaseholds in B.C. ( <i>Previous regulations dated August 15<sup>th</sup>, 1946 are cancelled</i> )
1959	374/59	<b>Section 32 of the Mineral Act</b> applies where it is impossible to mark the location-line of the claim owing to the ground being covered by water. ( <i>As to Reg. made by O.I.C. No. 675, approved April 12<sup>th</sup>, 1947</i> )
1960 October 7 (O.I.C.2304)	208/60	<b>Effective 11:59 p.m. November 1<sup>st</sup>, 1960</b> a Reserve was placed on the mining of all Crown ores of iron within the Province except where previous alienation has taken place.
1967 January 30 (O.I.C. 309)	100/68	<b>Prohibits Mining in or upon land under tidal waters and forming part of the continental shelf.</b> This extends to lakes that are considered tidal, where their outlets flow completely backwards at high tide such as the Nitinat, Kennedy and Harrison Lakes ( <i>Amended in 1989 under BC Reg. 4/89 and in 1990 under BC Reg. 148/90</i> )
1970 April 23	99/70	<b>Mineral Act Survey Instruction Regulations.</b> (Previous regulations numbered BC Reg. No. 302/59 and BC Reg. No. 236/60 are cancelled)
1973 July 24 (O.I.C. 2543)	207/73	Under Section 57 of the <b>Mineral Act Reverted Crown Granted Mineral Claims (RCG MCs)</b> - application to record could be made without the necessity of staking and where adjoining RCG MCs did not collectively exceed 40 acres they could be applied for as one mineral claim. ( <i>Amended by BC Reg. 390/74 and BC Reg. 141/76 and Repealed and substituted by B.C. Reg. 290/77</i> )
1974 June 18 (O.I.C. 1986)	390/74	<b>No assignment, subletting, or transfer within one year of the first recording of work for a Mineral Claim acquired pursuant to Section 57 of the Mineral Act.</b> ( <i>Repealed and substituted by B.C. Reg. 290/77</i> )



Filing, deposit, or O.I.C Date	Reg. No.	Impact or Effect
1974 September 10 (Filing Date) September 5 (O.I.C. 2889)	611/74	<b>Unit System of Staking introduced by Regulation with an effective date of March 1<sup>st</sup>, 1975</b> <ul style="list-style-type: none"> <li>- M.C. square in shape (500 x 500 metres) with area not less than 25 ha, established by Legal Corner post (LCP), with boundaries measured horizontally, subject to prior interests (claims, CG M.C.s, or areas not open for staking, etc.)</li> <li>- M.C. shall consist of one parcel only, being the parcel closest to the L.C.P.</li> <li>- Allowed for fractions not exceeding 25 ha in size with two boundaries common with boundaries of existing M.C.s</li> <li>- Unique Unit numbering system. (Amended by BC Reg. 153/75 and Repealed by BC Reg. 587/77)</li> </ul>
1974 November 13 (Filing Date) November 7 (O.I.C. 3551)	743/74	<b>No staking Province wide between January 15<sup>th</sup>, 1975 and February 28<sup>th</sup>, 1975, inclusive.</b>
1975 February 18 (Filing Date) February 14 (O.I.C. 596)	153/75	<b>Multi-parcel claims</b> – Prior to this date, a mineral claim could only be in one parcel. If split the tenure holder was only entitled to that portion of the ground nearest the No. 1 post. After this date, a claim could consist of any number of parcels except those parcels of less than 25 ha which were completely bounded by existing CG M.C.s or RCG M.C.s or leases or existing located M.C.s or fractional M.C.s
1975 December 4 (Filing Date) November 28 (O.I.C. 3680)	778/75	General Instructions Respecting the Survey of Mineral claims located on or before February 28 <sup>th</sup> , 1975 - cited as the “ <i>Mineral Act Survey Instructions, Two-post Staking System</i> ” - applied to mineral claims located between May 15 <sup>th</sup> , 1893 and February 28 <sup>th</sup> , 1975. ( <i>Previous B.C. Reg. 99/70 cancelled.</i> )
1975 December 8 (Filing Date) December 4 (O.I.C. 3768)	783/75	General Instructions Respecting the Survey of Mineral Claims located after February 28 <sup>th</sup> , 1975 - cited as the “ <i>Mineral Act Survey Instructions, Unit System</i> ”
1976 February 18 (Filing Date) February 16 (O.I.C. 533)	141/76	Amends previous O.I.C.s <ul style="list-style-type: none"> <li>- Where a CG M.C. has reverted to the Crown pursuant to the provisions of the <i>Escheats Act</i> or the <i>Mineral Land Tax Act</i>, no disposition could be made until title to the MC was registered in the name of the Crown and two consecutive publications appeared in a newspaper in circulation within the mining division in which the CG M.C. was located. (<i>Repealed and substituted by B.C. Reg. 290/77</i>)</li> </ul>
1977 July 25 (Filing Date) July 21 (O.I.C. 2369)	290/77	Regulations Pursuant to Section 57 - regarding the acquisition of Reverted Crown Granted Mineral Claims (Repealed by BC Reg. 587/77)
1977 December 20 (Filing Date) December 15 (O.I.C. 3818)	587/77	Major re-write and consolidation of the <i>Mineral Act Regulations</i> . Between 1977 and 1988, when the next major release of these Regulations occurred there were numerous changes made to the Regulations. Most of these changes applied to fees and assessment work. Regulations to consider include: BC Reg. 494/79, BC Reg. 153/81, and BC Reg. 112/82 and, with the exception of Part C, repealed by BC Reg. 297/88). The balance of the Reg. was repealed by BC Reg. 529/2004.

Filing, deposit, or O.I.C Date	Reg. No.	Impact or Effect
1978 February 14 (Filing Date)	49/78	General Instructions Respecting the Survey of Mineral Claims and 2-Post Claims Authorized under Section 38 of the <i>Mineral Act</i> as Amended, 1977 and cited as the " <i>Mineral Act Survey Instructions</i> " the purpose of which was to place before B.C. land surveyors, in convenient form for reference, the rules that guide the land surveyor in performing their duties under the <i>Mineral Act</i> and in accordance with the regulations governing the locating of mineral claims and 2-post claims under the Act. (Previous BC Regs. 778/75 and 783/75 cancelled.)
1980 April 25 (Filing Date) April 24 (O.I.C. 923)	154/80	Uranium Moratorium - no free miner shall locate or record a mineral claim in respect of uranium on land in the Province.
1983 February 23 (Filing Date)	91/83	<i>Mineral Act Survey Instructions</i> , B.C. Reg. 49/78 amended.
1988 July 15 (Deposit Date)	275/88	Certain sections of the <b><i>Mineral Tenure Act</i>, SBC 1988, c. 5</b> were brought into force by the Regulation.
1988 August 8 (Deposit Date)	296/88	Certain sections of the <b><i>Mineral Tenure Act</i>, SBC 1988, c. 5</b> were brought into force with an effective date of <b>August 15<sup>th</sup>, 1988</b>
1988 August 8 (Deposit Date) August 5 (O.I.C. 1433)	297/88	<b><i>Mineral Tenure Act Regulations</i></b> enacted <b>August 15<sup>th</sup>, 1988</b> served to amalgamate the <i>Mineral Act</i> and <i>Mining (Placer) Act Regulations</i> . This Regulation replaced all but Part C of BC Reg. 587/77. (Repealed by BC Reg. 529/2004) Technical surveys for Placer Titles were introduced at this time.
1989 January 16 (Deposit Date)	4/89	<b>Tidal waters</b> open to those having a right to a mineral substance under Sections 48 (2 and 6) of the <i>MTA</i> .
1989 March 21 (Deposit Date) March 21 (O.I.C.379)	62/89	Defines <b>Recreational Areas</b> (where one- post claims were permitted) with an effective date of <b>April 17<sup>th</sup>, 1989</b> with subsequent amending Regulations to address legal description changes (BC Reg. 256/91, BC Reg. 151/94, BC Reg. 51/97, BC Reg. 97/97, BC Reg. 259/98, BC Reg. 94/2001, BC Reg. 209/2001). (Repealed by BC Reg.529/2004)
1989 March 21 (Deposit Date) March 21 (O.I.C. 380)	63/89	<b>Effective April 17<sup>th</sup>, 1989</b> the existing <i>Mineral Tenure Act Regulations</i> were amended to permit the staking of <b>1-post claims</b> The Regulation. set out the size and shape of 1-post claims and the method of staking.
1990 February 1 (Deposit Date) February 1 (O.I.C.173)	30/90	Amended BC Reg. 297/88 by adding a section on the <b>Disposition of Crown Granted 2 post claims</b>

Filing, deposit, or O.I.C Date	Reg. No.	Impact or Effect
1990 April 20 (Deposit Date) April 12 (MO M84)	148/90	Amended BC. Reg. 100/68 to remove an area in Skeena Mining Division, Range 2, Coast District from the existing Reserve over <b>tidal waters</b> .
1990 June 29 (Deposit Date) June 28 (O.I.C.989)	210/90	Amended BC Reg. 297/88 by adding a section that required a <b>Plan of Survey to be submitted with a notice of intention to apply for a placer lease</b> . The plan had to be prepared by a land surveyor and approved by the Surveyor General.
1991 May 14 (Deposit Date) May 14 (S.G. Reg.)	156/91	<b>General Survey Instruction Regulation</b> , with Part 10 being specific to Surveys Under the <i>Mineral Tenure Act</i> .
1994 May 2 (Deposit Date) April 26 (MO M103/94)	138/94	Established a mineral and placer reserve over all Crown granted land alienated after August 15, 1988.
1995 November 2 (Deposit Date) November 2 (O.I.C. 1305)	454/95	<b>Amends certain sections of the MTA Regulations under BC Reg. 297/88</b> with certain sections coming into force on December 1 <sup>st</sup> , 1995 and others on February 1 <sup>st</sup> , 1996. The amendments saw the addition of a section dealing with the "Minimum standard of knowledge required for one to acquire a free miner's certificate".
1995 November 2 (Deposit Date) November 2 (O.I.C. 1304)	455/95	Brings Sections 1 to 8, 10 to 29 and 31 to 47 of the <i>Mineral Tenure Amendment Act</i> , 1995, S.B.C. 1995, c. 50 into force on December 1 <sup>st</sup> , 1995.
1996 February 2 (Deposit Date) (SG Reg.)	33/96	<b>General Survey Instruction Regulation</b> , including Part 10 - Surveys under the <i>Mineral Tenure Act</i>
1999 May 28 (Deposit Date) May 27 (O.I.C. 636)	157/99	<b>Amends sections of BC Regs. 297/88 and 587/77</b> . Exploration and development activities under BC Reg. 297/88 are repealed and substituted. Other amendments deal with the use of GNSS for positioning LCPs, grouping, and common anniversary dates.
2001 October 2 (Deposit Date) October 2 (SG Reg.)	229/2001	<b>General Survey Instruction Regulation</b> , including Part 11 - Surveys under the <i>Mineral Tenure Act</i>

Filing, deposit, or O.I.C Date	Reg. No.	Impact or Effect
2001 November 30 (Deposit Date) November 30 (SG Reg.)	275/2001	<b>Amends BC Reg. 229/2001</b> by addressing errors contained within the Regulation. Applies to Part 11 with respect to Section 180.
2003 March 20 (Deposit Date) March 19 (O.I.C. 242)	97/2003	Repeals major sections of the Recreation Area Regulation 62/89 including Schedules 1,3,4,9,14,19,20,22,24 and 27.
2004 January 22 (Deposit Date) January 21 (SG Reg.)	6/2004	General Survey Instruction Regulation, includes the repeal and substitution of the definition of “1 post claim”, “2 post claim”, “4 post claim”, “fractional mineral claim” and “placer claim”
2004 October 22 (Deposit Date) October 20 (Reg. of CGC)	472/2004	Effective December 1, 2004 to January 11, 2005 Reserve for minerals and placer minerals over all mineral lands within the Province.
2004 December 3 (Deposit Date) December 2 (O.I.C. 1161)	529/2004	<b>Effective January 12<sup>th</sup>, 2005</b> brings into force sections of the <i>Mineral Tenure Amendment Act, 2004</i> , S.B.C. 2004, c.22. This Regulation is comprehensive addressing items such as the conversion of legacy claims, registration of new claims, the amalgamation and reduction of cell claims, etc. <b>It marks the change from “ground staking” to “map staking”.</b> For subsequent amending Regs. see BC Reg. 187/2005, BC Reg. 215/2006, BC Reg. 274/2006
2004 December 3 (Deposit Date) December 2 (O.I.C. 1162)	530.2004	<b>Effective January 12<sup>th</sup>, 2005</b> , the <b>Mineral Title Online Grid Regulation</b> establishes the mineral title online grid which is to be used to determine the location in British Columbia of mineral and placer cell titles under the <i>Mineral Tenure Act</i> .
2005 January 12 (Deposit Date) January 12 (MO M3/2005)	5/2005	<b>Mineral Definition Modification Regulation</b> wherein a “ <b>fossil</b> ” is defined as not being a mineral and it does not include limestone, dolomite, coal, petroleum or natural gas
2006 October 12 (Deposit Date) October 12 (O.I.C. 715)	274/2006	<b>Amends BC Reg. 529/2004</b> by adding Section 3.1 which deals with the <b>disposition of Crown granted 2 post claims.</b>
2012 April 20 (Same Deposit Date)	89/2012	<b>Brought into force Sections 61,65 and 69 <i>Miscellaneous Statutes Amendment Act (No. 3)</i> and amended B.C. Reg./ 529/2004</b> – see Part 2, Item 4) above for the implications of this regulation.

## Recent Legislation and Rule Changes

### February 2012

Map freezing was addressed by the Association with complete re-write of Part 11 of the GSIR, SR6-07, effective **January 1<sup>st</sup>, 2008**. Further amendments of Part 11 of the GSIR were made with SR7-08, effective **November 4, 2008**.

Amendments to the *MTA* were introduced during the **38<sup>th</sup> Parliament** and were included within **Bill 12-2007 (*Miscellaneous Statutes Amendment Act, 2007*)**. Sections 44 to 53 (inclusive) of Bill 12 applied to existing Sections of the *Mineral Tenure Act*, R.S.B.C. 1996, c. 292, with Sections 49 and 50 having a direct impact on both the requirements and processes involving surveys under the *MTA*.

On, **January 1<sup>st</sup>, 2008**, Section 49 of the *Miscellaneous Statutes Amendment Act, 2007*, was given the force of law, and it states:

*"The identification on the ground of a legacy claim or legacy placer lease may be made by a map approved for that purpose by the Chief Gold Commissioner, and if there is a difference between the identification of a legacy claim or a legacy placer lease as determined by that map and the identification of the legacy claim or legacy placer lease as determined by stakes, marks or posts, the identification as determined by the map prevails."*

Section 50 amended *MTA* Section 42. With the repeal of Subsection 2 of Section 42, the mandatory requirement for a survey was removed and replaced with a discretionary requirement pursuant to Subsection 1 (b) which states:

*"if required to do so by the chief gold commissioner, have the mineral claim over which the mining lease will be issued surveyed by a British Columbia land surveyor and have the survey approved by the Surveyor General."*

Additional amendments to the *MTA* were introduced during the **39<sup>th</sup> Parliament** and were included within **Bill 20-2010 (*Miscellaneous Statutes Amendment Act (No. 3), 2010*)**. Sections 62 to 71 (inclusive) of Bill 20 applied to existing sections of the *Mineral Tenure Act*, R.S.B.C. 1996, c. 292.

#### **Section 62: (*MTA*, Section 6.31)**

- adds the subdivision of claims to the list of matters that are not effective until registered.

#### **Section 63: (*MTA*, Section 6.7)**

- enables the co-existence in a single cell of a mining lease and a placer claim or a mining lease and a placer lease.

#### **Section 64: (*MTA*, Section 12)**

- clarifies that mineral claims, placer claims, mining leases and placer leases are distinct mineral titles, and deletes a redundant provision.

#### **Section 65: (*MTA*, Section 22)**

- ranks the terms or conditions that can be imposed in respect of a mineral reserve and provides that if mineral reserves overlap each other and the terms or conditions are inconsistent with each other, those having the highest rank prevail;

- gives the amendments retroactive effect so that the ranking applies to any mineral reserves overlapping on the date the Section comes into force.

**Section 66: (MTA, Section 24.3)**

- authorizes the subdivision, in accordance with the regulations, of cell claims into two or more cell claims not less than one cell in size.

**Section 67: (MTA, Section 42)**

- adds a requirement that an applicant for a mining lease provide information that satisfies the chief gold commissioner that the lease is required for the production of a mineral;
- makes housekeeping amendments so that the Section parallels Section 45 of the *Act* when the policy that applies to the issuance of mineral leases and to placer leases is the same.

**Section 68: (MTA, Section 45)**

- adds a requirement that an applicant for a placer lease provide information that satisfies the chief gold commissioner that the lease is required for the production of a placer mineral;
- makes housekeeping amendments so that the Section parallels Section 42 of the *Act* when the policy that applies to the issuance of mineral leases and to placer leases is the same.

**Section 69: (MTA, Section 65)**

- removes the limitation that fees set under the *Act* must be directly tied to the cost of providing services.

**Section 70: (MTA, Section 65)**

- provides authority for regulations respecting the subdivision of cell claims.

**Section 71: (MTA, Section 67)**

- authorizes the chief gold commissioner to delete from the registry claims that were registered after the forfeiture or expiry of a claim and before the chief gold commissioner relieves the claim holder of the forfeiture or expiry, and provides that no compensation is payable in respect of the deletion.

## APPENDIX 2: Administrative Areas

The following is a listing of some administrative areas accompanied by informal discussion about them.

### Areas administered by Energy, Mines and Petroleum Resources

- No Staking Reserves – Mineral
- No Staking Reserves - Placer
- No Acquisition Reserves - Coal
- Designated Placer Lease Areas
- Designated Placer Claim Areas
- Conditional Staking Areas - Mineral - and their conditions
- Conditional Staking Areas - Placer - and their conditions
- Release Required Areas - Mineral - and their conditions
- Release Required Areas - Placer - and their conditions
- Surface and Restrictions Orders - and their conditions and/or restrictions
- Section 23 *Mineral Tenure Act* Recreation Areas – It is likely that these have all been cancelled
- Mining Divisions

#### Caution

This appendix has not been updated since Version 2.2. Users should ensure that sufficient research is conducted to confirm content accuracy.

### Parks

- Provincial
- National
- Regional, local parks may be included as well.

### Indian Reserves

- All, not just those noted in Tantalus

### Treaty Settlement Lands

- Such as the Nisga'a Settlement.

### Other Protected Areas

- Ecological Reserves
- Recreations Areas
- Designated Protected Areas - with any special conditions (i.e. is petroleum or mineral exploration/development allowed or not)
- Protection Areas (all were located on the North and Central coasts and may have now expired)
- Protected Heritage Property under Section 23 of the *Heritage Conservation Act*
- Creston Valley Wildlife Management Area
- Victoria, Vancouver and Nanaimo Water District Lands
- Conservation Study Area (only 1 and it is identical in its effect to a Protected Area)





*Association of*  
**British Columbia  
Land Surveyors**

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