

BACKGROUND ON MINING IN ONTARIO

Extracts from Facts about Exploration and Mineral Development in Ontario, April 2007 and Frequently Asked Questions about Mineral Staking in Ontario, April 2007, Ministry of Northern Development and Mines

The Mining Act Ontario's *Mining Act* is the legislation which provides for acquiring land for mineral exploration and development. Ontario's Ministry of Northern Development and Mines (MNDM) administers the *Mining Act*, which sets out rules for all aspects of mineral exploration and development.

The "purpose of the *Mining Act* is to encourage prospecting, staking, and exploration for the development of mineral resources and to minimize the impact of these activities on public health and safety and the environment through the rehabilitation of mining lands in Ontario " (1996).

Mineral Rights in Ontario In Ontario, the ownership of surface rights and mining rights varies from one parcel of land to the next. There have been different practices since the early days when Ontario was a British colony. The current system has been in place since the turn of the last century, where the Crown reserves the mineral rights in most new land grants. That means if you bought Crown land, or a previous owner did, it's likely you only own the surface rights.

Put simply, mining rights are the rights to the minerals located in, on or under the land.

Staking involves marking a section of land to claim the sole right to prospect for minerals and the statutory privilege to later apply for a lease.

The "free-entry system" (without prior consent) of staking lands is the standard practice to acquire mineral rights in British Columbia, Quebec, New Brunswick, Manitoba, Nova Scotia and Ontario.

Is it unusual for staking to take place on occupied land? Since most mining claims are staked in Northern Ontario, staking usually occurs on unoccupied

Crown or private land. But, there are also circumstances when staking occurs on land that is occupied.

Why isn't entering a property for staking considered trespassing?

Trespass is prohibited by law -- but the same law contains an exception. Anyone who has a legal right to go on the land is not trespassing. The *Mining Act* gives the holder of a prospector's licence the right of entry on land open for staking. A surface rights owner cannot prevent a mineral rights holder from having access to the land for prospecting and mineral exploration.

Does someone have to notify me before they enter my land to stake it? No.

Under the *Mining Act*, the holder of a valid prospector's licence can enter lands open for staking without notifying the surface rights holder; however MNDM encourages prior notification by the prospector. The *Mining Act* does require notification at the point when the mining claim holder wishes to do exploration work (assessment work) on the claim.

How will I be notified if a claim holder intends to perform assessment work on my private surface rights?

Currently, the *Mining Act* requires notice be sent to the surface owner the day before beginning assessment work. MNDM provides a form — “*Notice of Intention to Perform Assessment Work*” — to be used for notification purposes.

How to determine if you have the mineral rights to your property

The Ministry of Northern Development and Mines provides a searchable map on the Internet at the following address:

www.mndm.gov.on.ca/mines/lands/claimsmmap3/disclaimer_e.asp

At this web page, scroll down to the bottom of the page and click on "Yes" to accept the disclaimer. When the map of Ontario comes up, click on "Southern Ontario"- and then just click on the area in which you are interested - until the map zooms to the area of your property. A solid black circle on your property indicates that you own the mineral rights; a half circle means the the Crown or a third party owns them.

ADDITIONAL INFORMATION DRAWN FROM OTHER SOURCES

What can exploration include? Prospectors can stake a claim on land where the Province owns the mineral rights. This includes Crown land throughout Ontario. Preliminary exploration work can include clear cutting up to 10,000 square metres (1 hectare/2.3 acres) of area; excavation of up to 1,000 tonnes (metric tons) of material; surface stripping of overburden over an area of up to 10,000 square metres or a volume up to 10,000 cubic metres; surface stripping of overburden over an area of up to 2,500 square metres or a volume of up to

2,500 cubic metres within 100 metres of a body of water; drilling; trenching; and blasting. Up to 1,000 tonnes (metric tons) of rock can be removed without a requirement to restore the land. (section 78.1 of the *Mining Act*)

Is an environmental assessment required before exploration work can start? No. These exploration activities can occur on the claimed lands without any requirement for environmental assessment, conservation authority or municipal approval.

Land Use Planning and Development The Ontario Ministry of Municipal Affairs and Housing provides the legislative and policy framework for Ontario's municipal governments. The *Planning Act Amendment* of 2004 and the Provincial Policy Statement, which came into effect in 2005, are two of the key documents which guide land use planning and development in Ontario.

"The Provincial Policy Statement recognizes the complex inter-relationships among economic, environmental and social factors in planning and embodies good planning principles. It includes enhanced policies on key issues that affect our communities, such as: the efficient use and management of land and infrastructure; protection of the environment and resources; and ensuring appropriate opportunities for employment and residential development, including support for a mix of uses. The new policies fulfill the government's commitment to provide strong, clear policy direction on land-use planning to promote strong communities, a clean and healthy environment, and a strong economy."

What is the Planning Act? The *Planning Act* sets out the ground rules for land use planning in Ontario. Among other things, the Act

- recognizes the decision-making authority and accountability of municipal councils in planning
- provides the basis for considering provincial interests, such as protecting and managing our natural resources

Municipalities do not have the authority to zone lands to restrict locations where mining can take place. In practice, the Ministry of Northern Development and Mines has the right of override; i.e. it can insist that the Official Plans of municipalities include mining.

Further information can be found on a number of internet sites including the following

www.mndm.gov.on.ca

www.tayvalleytwp.ca

www.canaryinstitute.ca/publications.html

- Understanding Mineral Rights in Ontario

- Protecting Your Water Rights: A Guide to Environmental Legislation and Limits on Mining Activities in Ontario

www.miningwatch.ca