

Mineral tenure – disposition and acquisition

Disposition of mineral tenure refers to the rules for how mineral rights are made available and granted. Acquisition, meanwhile, refers to the rules that a person or company must follow to get tenure and to determine who is eligible to acquire tenure (e.g., physical staking or online map-staking).

The current rules for disposition and acquisition of mineral tenure have not been reviewed or modified for over a century. We're looking at ways to modernize the tenure disposition and acquisition regime to make it clear, straightforward, and consistent with Aboriginal and treaty rights across the Yukon. The new regime should meet the interests and needs of current and future Yukon residents, reflect a balanced approach to other land uses, and support a viable and responsible mineral exploration and mining sector.

We're considering several alternative approaches to disposition and acquisition of mineral tenure. Some of the approaches we're considering may be characterized as modifications or improvements to the current regime, while other approaches we're considering would constitute more significant changes. The latter would require more detailed analysis to understand the implications and consequences, as well as carefully thought-out transition plans. Some of these approaches are used in other jurisdictions while others are less common to the mineral resource sector. All of the approaches however, were designed to meet the following identified interests.

Interests

Balancing mining and other land uses

The disposition regime should allow decision-makers to consider other land uses and values, and to balance those interests and values with mining activities.

Clarity, certainty, and fairness

New legislation should provide a clear, certain and consistent regime that is efficient, easily understood, and consistent with Aboriginal and treaty rights across the Yukon. The rules should be fair to all participants.



Potential approaches

Under current legislation, anyone over 18 has the right to enter an area to prospect for minerals and stake a claim. Once a claim is staked, they have the exclusive right to explore for and mine the minerals located within the claim. If a claim is staked correctly, these rights are automatically granted, though exploration and mining activities are still subject to assessment and permitting requirements.

We're considering whether to retain this system, modify this system, or pursue an alternative.

If we were to modify the current system, the right to enter an area to prospect and stake a claim could be maintained as is, but legislation could require the approval of claims. That would mean that the right to explore and mine would no longer be automatic. If a claim was approved, these rights would be granted at that time. This would provide an opportunity to refuse a claim. Decision-makers would need clear criteria for approving or refusing claims for the system to be transparent and fair.

Alternatively, we could maintain the right for individuals to enter an area to prospect, stake claims and explore, but grant the right to mine the minerals on the claim through a later decision, after some exploration work has occurred or other requirements have been met.

Mining proponents consider certainty as essential to their businesses, and a lack of certainty will reduce the likelihood that they will invest in mineral properties. Both options above provide certainty, but at different stages. With the first option, certainty is provided to a proponent after a claim is approved. With the second option, the proponent gets certainty about the right to explore for minerals, but certainty about the right to mine would come later.

Another approach would be to no longer provide the rights to enter an area to prospect, stake claims, explore or mine. Instead, proponents would have to seek permission to do so, which would be granted through a licence or similar mechanism. This type of system is used in other resource regimes like oil and gas and forestry, but it is not typical of mining.

One of the drivers for modifying the current approach, or pursuing an alternative, is a recognition that mining is not always the best use of the land. Alternative approaches would create room to consider other land uses and values that could be affected by exploration and mining activities.



Where mineral activity can occur

We're considering different approaches to determine where mineral activity could occur and where it should not. Current legislation lists several places where claims cannot be staked, like Category A settlement land, airports, cemeteries and burial grounds. It also allows government to withdraw areas from staking and prospecting for a public purpose, such as the implementation of land use plans. Unless lands are withdrawn, mining activity can occur.

We could keep this approach but identify additional areas where mineral tenure cannot be acquired (e.g., private property, agricultural areas or Category B Settlement Land). We could also add more tools to withdraw areas, or expand the list of reasons that can justify withdrawal.

Another approach would be to specify where mineral tenure can be acquired through the designation of zones. Under this option, mineral tenure could not be acquired anywhere outside designated zones.

Should new legislation adopt an alternative approach to disposition of mineral rights, as described above, a proponent would identify the area where they are seeking to obtain mineral tenure in an application, or Yukon government could identify areas where applications could be made.

How tenure is acquired

We're considering revisions to some of the current rules for how mineral tenure is acquired. Currently, physical ground staking is required for both placer and quartz claims. Physical ground staking involves the placement of posts in the ground to mark the boundaries of a claim. We could keep physical ground staking and just update the rules and requirements. Alternatively, legislation could allow for online staking. Many other jurisdictions have moved to online staking for efficiency and to limit on-the-ground impacts.

We may want to have different approaches for placer and quartz mineral tenure. For example, we could have online staking for both quartz and placer, or only for quartz.

We're also considering changes to who is allowed to acquire mineral tenure. In the current system, anyone over 18 can stake a claim. We are considering keeping this the same, but we are also contemplating new requirements a person must meet before staking a claim or holding mineral tenure. For example, we could require training on Yukon's mineral management system, the assessment and regulatory regime applicable to mining activity, and the role and significance of land claim agreements and Aboriginal rights within the Yukon.

Addressing overlapping quartz and placer mineral claims



Currently, placer and quartz claims can overlap. Overlapping placer and quartz mineral claims can create problems related to the timing and use of the surface of the land for mining activity, conflicts related to the priority of mineral interests, and reclamation challenges due to different claimholders, schedules and mining strategies. To address these issues, we're considering several potential approaches.

We could keep the current system but create a mechanism to help resolve disputes.

Another approach would be to prohibit the overlap of quartz and placer mineral claims. Under this option, if a placer mineral claim was staked and recorded first, a quartz mineral claim could not be located on the same ground unless and until the placer mineral claim was abandoned or surrendered, and vice versa.

A third approach is to have a single form of tenure that combines both placer and quartz mining, rather than current method that differentiates these types of claims.

Questions

2.1 Do you have any thoughts or concerns about the approaches we're considering for disposition and acquisition, or additional things that you think we should consider?

2.2 How important is it to have mineral tenure granted as a legal right, in which claimholders have a legal right to explore and extract minerals? Please explain.

2.3 How important is it for the regulator to be able to decide whether or not to grant mineral tenure? Please explain.

2.4 How important are the following to you:

- establishing in advance where mineral activity can occur
- reducing the impacts of staking
- allowing online map staking

Please explain.

