



Mineral Titles

Information Update

No. 38 – Permissible Activities without a Mines Act Permit ***(Interim Guidance)***

Date: December 3, 2019

PURPOSE

The purpose of this Information Update is to provide guidance to recorded holders and their agents regarding the types of activities that the Province interprets as unlikely to meet the definition of a “mine” under the Mines Act. As a result, these activities may generally be undertaken by recorded holders in the absence of a *Mines Act* permit ([s. 10\(1\)](#), *Mines Act* [RSBC 1996] Chapter 293) or written exemption ([s. 10\(2\)](#), *Mines Act* [RSBC 1996] Chapter 293).

Recorded holders or their agents are encouraged to reach out to regional permitting inspectors with the Mines Competitiveness and Authorizations Division of the Ministry of Energy, Mines and Low Carbon Innovation (EMLI) if they have any questions regarding whether a permit (or exemption) is required for their planned exploration activities.

SCOPE

The following applies to all recorded holders in British Columbia and their agents.

DEFINITIONS

“coal title” means a coal licence or coal lease.

“hand-held tools” means tools that can be transported in whole by a single individual, including hand-held drills, rock saws, backpack drills, jigs/shaker tables, and metal detectors.

“hand-panning” means to wash earth and gravel by agitation in a hand-held pan so as to separate and recover minerals or placer minerals having the greatest specific gravity.

“inspector” means a person appointed or delegated by the Chief Inspector as an inspector of mines.

In the event of a discrepancy between this information and the provisions of the *Mineral Tenure Act*, *Coal Act*, the *Water Sustainability Act*, the *Mines Act*, and regulations under these acts, the acts and regulations will apply.

If questions persist, recorded holders or their agents are encouraged to seek independent legal advice.

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“gravel bar” means an elevated area of unconsolidated sediment (such as sand or gravel) deposited above the water flow.

“mine” includes:

- (a) a place where mechanical disturbance of the ground or any excavation is made to explore for or to produce coal, mineral bearing substances, placer minerals, rock, limestone, earth, clay, sand or gravel,
- (b) all cleared areas, machinery and equipment for use in servicing a mine or for use in connection with a mine and buildings other than bunkhouses, cook houses and related residential facilities,
- (c) all activities including exploratory drilling, excavation, processing, concentrating, waste disposal and site reclamation,
- (d) closed and abandoned mines, and
- (e) a place designated by the chief inspector as a mine;

“mineral title” means a mineral or placer claim or lease.

“recorded holder” means a person whose name appears as the owner of the mineral or coal title on the record of that title in the registry.

“riparian setback” means, with the exception of the Fraser River, 10 horizontal metres out from the natural boundary (i.e. the high water mark) of any watercourse, wetland, or waterbody. The riparian setback on a gravel bar within a watercourse is defined as 3 metres from the edge of the water (see Figures 1 and 2). On the Fraser River, the riparian setback on a gravel bar within a watercourse is defined as 10 metres from the edge of the water, and all work and disturbance must remain at least 1 metre in elevation above the current water level.

“watercourse” means the area between the high water marks on the opposite banks and includes the banks, the gravel bars, and the stream at whatever level it is running.

POLICY

[Section 10\(1\) and \(2\)](#) of the *Mines Act* require the recorded holder or agent to be in receipt of a permit or a written exemption before undertaking any work in, on, or about a mine. For activities that do not meet the definition of a mine under the *Mines Act*, a *Mines Act* permit or written exemption is not required. Early-stage exploration activities that cause nil or negligible disturbance to the respective mineral or coal title area will generally not meet the definition of a mine.

The following describes activities that can commonly be undertaken by recorded holders or their agents in the absence of a *Mines Act* permit or written exemption. If disturbance is found to be excessive, the Chief Inspector could designate the place as a mine. This

designation would result in an application for a *Mines Act* permit or written exemption being issued before work on the site can continue.

MINERAL AND COAL

The following list describes the types of mineral and coal exploration activities that the Province views as falling outside the definition of a mine. These activities can generally be undertaken by recorded holders or their agents without a *Mines Act* permit or a written exemption:

- airborne geophysical surveying;
- baseline data acquisition, such as mapping, taking photos, and measuring water quality;
- ground geophysical surveying without the use of exposed electrodes;
- establishment of grid lines that does not require the felling of trees. If tree felling and/or vegetation disturbance is proposed, an authorization under the Forest Act may be required;
- geological and geochemical (soil or rock) sampling conducted using hand-held tools;
- pitting, trenching, drilling, or channel cutting using hand-held tools, consistent with the following:
 - no use of explosives or expanding grout;
 - the total volume of each pit or trench does not exceed 3 cubic metres in volume;
 - each pit or trench does not exceed 1.2 metres in depth;
 - the cumulative total of all un-reclaimed pits and/or trenches does not exceed 5 pits and/or trenches at any one time; and,
 - not conducted within a stream and/or the riparian setback.

PLACER

The following list describes the types of placer exploration activities that the Province views as falling outside the definition of a mine. These activities can generally be undertaken by recorded holders or their agents without a *Mines Act* permit or a written exemption:

- hand-panning with a shovel and a pan only, consistent with the following:
 - material below the high water mark is processed in the watercourse and is not removed from the riparian setback;

- activities that occur in or about streams occur in accordance with regional terms and conditions and timing windows¹;
- other hand-conducted exploration activities, consistent with the following:
 - all activity is limited to dry, non-vegetated portions of gravel bars and/or areas outside of the riparian setback (aside from a narrow foot path to access areas outside of the riparian setback – see “Figure 2” for reference) that does not disturb vegetation, with no puddles present at the time of excavation;
 - the total volume of each pit or trench does not exceed 3 cubic metres in volume;
 - each pit or trench does not exceed 1.2 metres in depth;
 - the cumulative total of all un-reclaimed pits and/or trenches does not exceed 5 pits and/or trenches at any one time;
 - excavated material from a gravel bar is processed within the watercourse and is not transported away from the gravel bar for processing;
 - sluice boxes, high bankers, jig/shaker tables, settling ponds, tailings piles, or any holes are not located within a riparian setback;
 - sluice boxes, high bankers or jig/shaker tables are not used within the flowing water of any watercourse;
 - sluice boxes or high bankers are readily moved by hand and do not contain any moving parts driven by mechanical means, with the exception of a small portable water pump; and,
 - there is no use of mechanically-powered suction dredging and/or hand- or mechanically-powered “sniping” equipment in any watercourse.
 - there is no use of hydraulic mining (“hydraulicizing”) equipment.

GENERAL CONSIDERATIONS

In undertaking permissible activities in the absence of a *Mines Act* permit or written exemption, recorded holders or their agents should consider the following legal requirements, policy guidance and additional factors. The following is not an exhaustive list, and it is the responsibility of the recorded holder or agent to be aware of any other requirements that may apply.

¹ <https://www2.gov.bc.ca/gov/content/environment/air-land-water/water/water-licensing-rights/working-around-water/regional-terms-conditions-timing-windows>

Recorded holders or their agents:

- are encouraged to engage with Indigenous Nations with overlapping interests before undertaking any activities on the recorded holder's mineral or coal titles;
- are encouraged to obtain a valid First Aid certification and bring a minimum level-2 first aid kit with them during exploration;
- must not exceed the access rights that are granted under the *Mineral Tenure Act* and should be aware that there are no exclusive rights to the land granted under the *Mineral Tenure Act*;
- must stop work immediately if they believe they have uncovered any archaeological materials, in accordance with the *Heritage Conservation Act*. Recorded holders or their agents should record the find location, leave the remains in place, and contact both the applicable EMPR regional office and the Archaeology Branch;
- must not cut, damage, or destroy trees without an appropriate Forest Act authorization if so required;
- must only access site via footpaths or existing roads and trails, as per the *Mineral Tenure Act*;
- should ensure all activities are conducted in a manner that does not expose persons to undue risks to health and safety arising out of, or in connection with, exploration activities;
- should not take any sample larger than what can be reasonably carried in whole by an individual without mechanical means (e.g. vehicle, helicopter);
- should conduct all activities and dispose of all waste in a manner that ensures full protection to waterways and the land base;
- should ensure that all water discharged from a sluice box, high banker or backpack drill is discharged into a settling pond for infiltration and that no sediment laden water is discharged into a watercourse;
- should ensure all pits or trenches are flagged while exploration works are ongoing and made safe when record holder not present;
 - all pits or trenches should be backfilled and reclaimed as soon as possible (or within 12 months) following completion of mapping, sampling, or other activities;
- should contact the applicable EMPR regional office prior to engaging in hand-powered "sniping" activities in any watercourse;
- when conducting placer exploration activities, all holes and any settling ponds should be leveled and contoured as gravel is processed to ensure that all depressions are filled to avoid the entrapment of fish should water levels fluctuate due to seasonal variation;

- when conducting placer exploration activities, water intakes should be screened in accordance with Fisheries and Oceans Canada specifications (screen openings must not exceed 2.5 mm), and size of pumps does not exceed a 38 mm (1.5 inches) suction intake;
- should minimize water running through gravity pumps by turning off the mechanism for action when not in use;
- should be aware that water use is subject to restrictions under Section 56 of the Water Sustainability Regulation;
- should not place fuel within the high water mark or a riparian setback;
 - all pumps should have incorporated fuel spill protection components;
 - emergency spill kits should be retained on site while exploration activity is ongoing;
- should not leave or store refuse or other materials on their mineral or coal titles when not actively conducting exploration activities. Such materials will be considered “discarded or abandoned” and, as such, must be removed;
- should not construct or occupy permanent facilities on Crown land. Tents, trailers, or campers are permissible provided they are located outside of the riparian setback while undertaking exploration onsite. These permissible articles must be removed at the end of the seasonal work program; and
 - may only occupy their mineral or coal titles while legitimate exploration activity is occurring; and
 - must not use their mineral or coal titles for recreational camping or other recreational or residential purposes.

Any questions regarding this Information Bulletin should be directed to:

Mineral Titles Branch

mineral.titles@gov.bc.ca

1-866-616-4999

FIGURE 1

Depiction of the 10 metre riparian setback from a watercourse

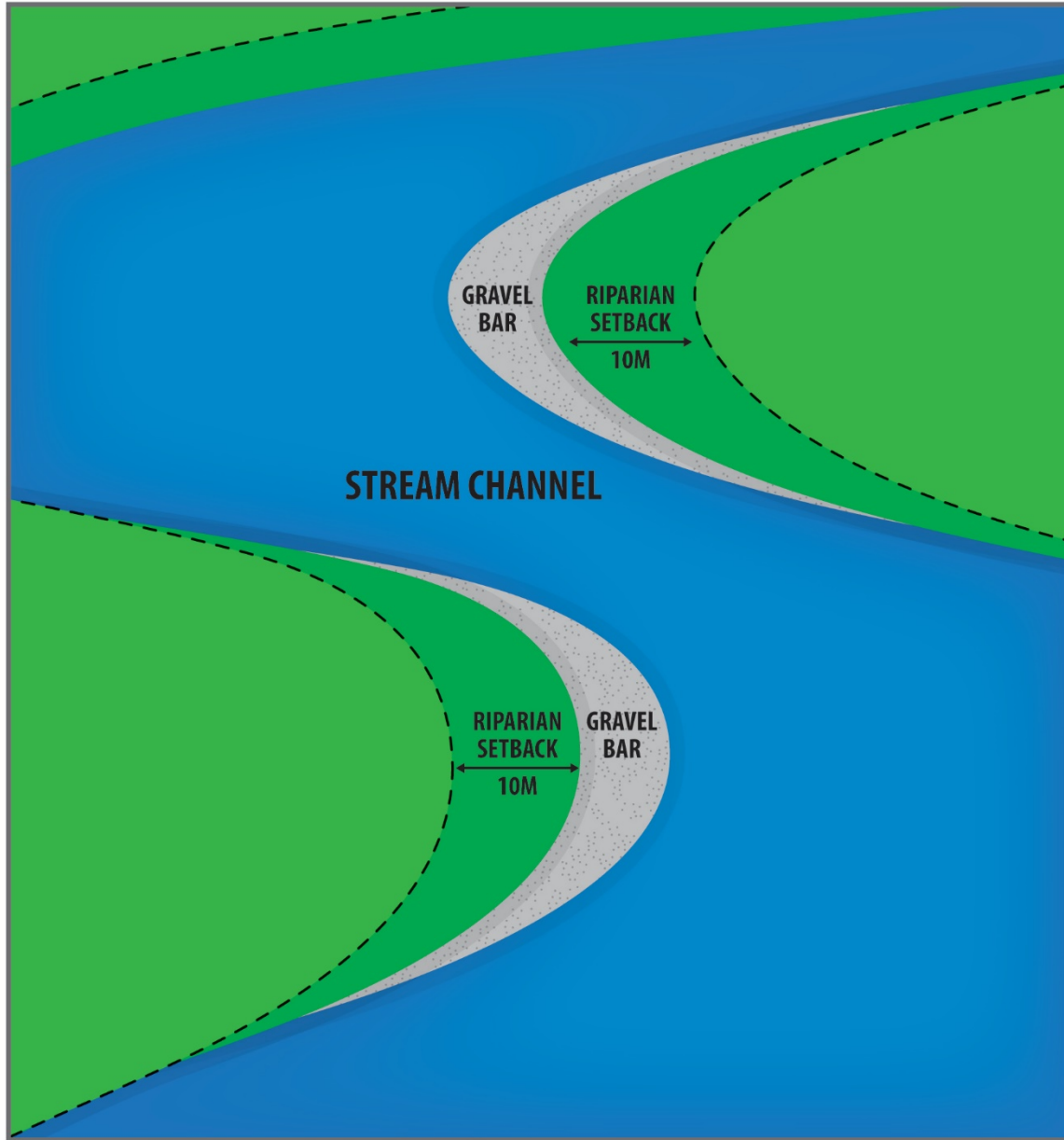


FIGURE 2

Depiction of the 3 metre riparian setback on a dry un-vegetated gravel bar and the foot path across the 10 metre riparian setback along the watercourse

