

CRITICAL REFORMS: MINING IN MANITOBA

MANITOBA'S FREE ENTRY MINING SYSTEM

Manitoba uses a 'free entry' system for mineral claims (e.g., copper, zinc, nickel, gold, silver), as do most other Canadian provinces and territories. The process for making other types of claims (e.g., quarries, diamonds, natural gas and petroleum) in Manitoba may vary, as the laws respecting these resources are different.

'FREE ENTRY' MINING SYSTEMS

Also referred to as 'free miner' or 'open-entry' systems, they allow any individual or company that holds a valid prospector license to "stake a mining claim" on Crown or private land and thereby gain ownership of that land's mineral rights without needing to get prior permission or approval from Indigenous rightsholders, the government, or local land occupants. A prospector is only required to make reasonable efforts to notify owners or occupants after staking a claim on private land or occupied Crown land.

Understanding Mining Claims

The holder of a recorded mineral claim has the exclusive right to explore for and develop minerals in the claim area, but staking and recording a claim does not mean that a mine will be developed. Further steps and legal approvals are required, including a mineral lease before production can begin, a range of other permits and approvals, and the project must undergo an impact assessment and be licensed under Manitoba's Environment Act. For more information, see our Fact Sheet on the Regulatory Framework.

Understanding surface and subsurface property rights

Surface property rights and subsurface property rights to land are different. Most people only have surface rights to the land they own. This means their ownership does not extend below the top surface layer. Subsurface property rights can extend from the surface layer down to an unlimited depth underground.. Subsurface property rights typically default to provincial governments, but these subsurface rights can be claimed by companies or individuals who register to become prospectors. **Manitoba's 'free entry' system.**

The process of staking a mining claim in Manitoba is relatively easy. Manitoba operates an online Integrated Mining and Quarrying System (IMaQS) for submitting applications and payments.

- Get a Prospectors Licence: A prospectors licence is required to explore for minerals or record a claim (except for Manitoba Government claims). Any individual over 18 can obtain a prospectors license by registering with IMaQS online and paying a small fee.

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Staking a Mining Claim in Manitoba (Continued)

- Stake and/or record your claim: There are specific [requirements](#) as to how claims must be staked depending on where the claim is made. [Claims in unsurveyed territory need to be physically staked](#). Physical staking refers to the process of erecting claim posts to mark the boundaries of the claim area. In unsurveyed territory, a Manitoba Mineral Exploration Work Permit is generally required (although not always), as is a Timber Permit if exploration activities will result in damage to timber on Crown lands. [Mining claims in surveyed territory do not have to be physically staked](#), but claims need to coincide with existing surveyed land parcels. Mining claims in survey territory must also be registered by submitting an [application form](#) to the provincial government.
- Make every reasonable effort to notify the owner or occupant of the private land (or Crown land) of the staking. A claim is considered [properly staked and recorded if no notice of dispute is filed against a claim within 180 days](#) and all other requirements have been completed.

Problems with 'free entry' mining

There are numerous problems with 'free entry' mining systems, including

- **Does not respect Indigenous rights / Duty to Consult and Accommodate** - Indigenous peoples have a special relationship with the land. They have Treaty and Inherent Rights in perpetuity, which includes rights to occupy and use land. Treaties (sacred covenants and relationships between nations which set out how to peacefully co-exist and share the land) are said to only address land [to the depth of a plough](#). Governments have a constitutional duty to consult with and accommodate Indigenous rightsholders before making decisions that could impact Indigenous rights. The nature of "free entry" systems, however, means that no opportunity to consult exists before claims are made. Consultation, if any, only occurs when further permitting is contemplated for more intrusive exploration or development activities. Courts in [Yukon](#) and [British Columbia](#) have held that free-entry mining systems breach the duty to consult and [UNDRIP](#).
- **Creates landowner conflicts** - The holder of a mining claim has mineral access rights, meaning they can [enter, use and occupy the surface of the land](#) for the purpose of exploring or developing their claim (unless [cancelled by the Minister if the parcel of land is required for a public purpose](#) such as an urban centre or summer resort area). This can often lead to conflicts with those who hold surface rights to the same piece of land. These are often addressed by a surface rights agreement. The Mining Board hears applications [if parties cannot reach an agreement or if there is dispute over an agreement](#).
- **Lack of government oversight** - A 'free entry' system assumes that mining and mineral extraction is the ['first and best' use of land.](#) All lands are open for staking and mineral exploration unless expressly withdrawn by law or regulation. The system is designed to encourage mining activity by setting a lower barrier to entry. If a prospector submits an application in accordance with the law and regulations it must be accepted. Free entry systems do not provide the government with any discretion in determining whether to register mining claims.

WANT TO LEARN MORE?

For more info, use this QR code to visit the [Project page](#) on the Manitoba Eco-Network website.



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