

Mining Act Modernization

“What We Heard Q&A”

OPA Regional Sessions 2015

“What We Heard Q&A” is a compilation of responses to questions posed during several industry sessions organized by the Ontario Ministry of Northern Development and Mines (MNDM) during February 2014, and co-hosted with regional member associations of the Ontario Prospectors Association (OPA).

We sincerely appreciate the time and effort that participants gave to ensure MNDM received comprehensive, thoughtful feedback. Their questions are reflected below, and represent as closely as possible all concerns raised.

Special thanks to the OPA and all member prospector associations who hosted these special sessions: Porcupine (PPA), Northern (NPA), Boreal (BPA), Northwestern Ontario (NWOPA), Sudbury (SPDA), Sault Ste. Marie (SDPA) and Southern Ontario (SOPA).

You will note that questions have been consolidated into specific categories and numbered for easy reference. Answers are as comprehensive and timely as possible. If you have further questions or comments, please don't hesitate to contact us directly at miningact@ontario.ca

CATEGORY: Staking

- 1. Will MNDM consider a sliding scale for the cost of online staking? Currently, prospectors can stake 40 units for \$183.60; with online staking at \$35-\$50/cell, it will cost a prospector \$1,400-\$2,000 to acquire those cells.**
 - A. MNDM is considering a number of options that would assist prospectors with the transition to online claim registration, and this could include a different registration fee.

2. Will 'white space' in a boundary cell be unstakable?

A. Yes, but people could make agreements, transfers, etc. to reduce the number of boundary claims in a cell to one claim, so that it would become a single claim for the whole cell, with the former 'white space' is absorbed into the cell claim. If the same claim holder held more than one boundary claim in a boundary cell and there were no other claims in the cell, the claim holder could choose to merge the boundary claims, which would result in them becoming one single claim for the whole cell (the 'white space' would be absorbed).

3. Why is there a 25-cell maximum claim size?

A. This proposed maximum size was determined through industry consultation. It allows for the creation and management of larger claim blocks (600 ha. vs 256 ha.), but does not allow for unmanageable single claims (a 25-cell claim requires \$10,000 in annual assessment requirements).

4. What is the proposed cost to acquire a cell (register a cell claim)?

A. Based on industry feedback, the general consensus is to charge \$30-\$50 per cell unit. MNDM is also investigating the recommendation that there should be a reduced rate or a rebate for prospectors.

5. Was there a large influx of staking when online claim registration started in B.C. and other jurisdictions?

A. In most cases there was some initial increased in staking activity, but that came mainly from locally based stakers who seized the opportunity to stake formerly inaccessible areas.

6. Would people still need to have a prospectors licence to acquire claims?

A. Yes.

7. How would things work on opening days?

A. The first person to complete the registration transaction would acquire the cell(s).

8. Would postings about cancellations, openings, etc. still occur?

A. Yes, MNDM is still proposing that cancelled mining claims are posted in some form.

9. On opening days, can we have it where people can only stake one claim?

A. No; however, the Ministry proposes to place limits on the number of cells that can be registered in one session.

10. Could we do ground-staking for the first 24 hours after opening days?

A. No, ground staking will no longer be permitted after conversion.

11. In areas of Northern Ontario, where there are surface rights, will MNDM provide surface rights information for Notice of Staking and Notice of Intention to Perform Assessment Work?

- A. Notification to surface rights owners would continue to be fulfilled by claim holders. There is no longer a “Notice of Intention to Perform Assessment work”.

CATEGORY: Transition and Conversion:

1. Will MNDM consider having a period of voluntary conversion before moving to mandatory conversion? People need enough time to figure things out before conversion happens.

- A. No; however, claim holders are being given time to prepare for moving through the proposed one-time conversion process. A demonstration version of the proposed provincial grid has been available for viewing on CLAIMaps since March 2, 2015, so people can begin to consider the implications of conversion. Ministry staff are also available to guide claim holders through the proposed conversion process. Don't hesitate to contact the Provincial Recording Office for more information @ 1888-415-9845.

2. Will conversion of a claim to a lease require an OLS survey? If so, can iron bars just be put into the ground at the corner coordinates of the cells, or do survey lines need to be cut, too?

- A. The Surveyor General sets out provisions for all surveys of Crown Land. A survey would still be required for a lease a cell claim or boundary claim.

3. What happens to claims under dispute?

- A. As proposed, claims under dispute would be converted and shown on the grid as “claim under pending proceeding”. Once the dispute is settled, MNDM may make an entry into the system to register a claim according to proposed amendments to Ontario's Mining Act.

4. What happens if you don't want extra cell area resulting from conversion because of increased assessment work requirements?

- A. Claim holders could choose to keep the entire cell or abandon the entire cell.

5. Can we give extra area acquired through the conversion process a one-year to two-year assessment work credit?

- A. MNDM has considered this and is proposing to extend the anniversary date for all converted mining claims by 12 months.

6. Can people abandon cells they don't want?

A. Yes, there would be provisions for cell abandonment.

7. Will there be cells where mining claims are impacted by provincial parks, patents, etc.?

A. Yes. These areas would not form part of the cell claim or boundary claim.

8. What if claim holders know their claims are shown incorrectly on the map during the proposed staking hiatus leading up to map-freeze but cannot georeference?

A. There would be plenty of opportunity for claim holders to provide accurate data during the two-year transition period before staking hiatus and conversion. Also, the mining recorder would give notice and time for a claim holder to respond to any changes to claim location or boundary as a result of the transition process. The claim holder should consult with the Provincial Mining Recorder as soon as possible.

9. Will claims lapse during the staking hiatus?

A. MNDM would not allow claims to lapse during the staking hiatus. MNDM is proposing a special exclusion of one assessment year to avoid potential claim lapsing during staking hiatus and to help ensure a smooth conversion process.

10. Why doesn't 'white space' get absorbed into boundary claims?

A. It would be difficult to determine which boundary claim should get the 'white space'. Once there is only one boundary claim holder in a particular cell, the boundary claim would expand to the entire cell.

11. Will exploration permits expand at conversion?

A. No, the permit would continue to apply only to the area for which it is issued.

12. What will happen to mining claims that expand onto land where the surface rights are held, but not the mineral rights, for lands in southern Ontario?

A. Claims would not expand to areas where surface rights are held because the mining rights are withdrawn; if surface rights owners apply to open the mining rights and there is claim in the cell, that claim would expand to include it.

13. Would people be able to amalgamate cell claims more than once?

A. Yes, claim holders would be able to amalgamate individual cell claims up to a maximum of a 25 unit cell-claim.

14. Would people be able to sub-divide claims?

A. No; however, claim holders would have the option for partial abandonment if there is a multi-cell claim (i.e. claim holders could abandon one or more entire cells that make up the multi-cell claim, but could not abandon part of a cell claim).

15. What is the importance of converting legacy claims to cell claims?

A. In the proposed online system, the cell is the basic unit for a mining claim and legacy claims do not conform to the cells in the new system. It is important to convert the legacy claims to cell-based claims because all mineral tenure and mining claim administration rules in the new system would be based upon the cell system.

16. How would MNDM account for different agreements on adjacent claims held by the same person?

A. Provisions would allow for the creation of boundary claims, which would preserve the boundaries of the legacy claim in that cell, if claim holders were to request that.

17. What about 'area of interest' agreements based on a specific spatially defined area?

A. It would depend on the individual agreement and what the particular provisions say about the area of interest. Clients would have enough time to review their agreements and determine how to structure their agreements before conversion in 2017.

18. What happens when there are more than two different boundary claim holders and one boundary claim cancels?

A. If the two remaining boundary claims are held by different claim holders, each claim would remain a boundary claim and the area of the cancelled boundary claim would become 'white space'. If the remaining boundary claims are held by the same claim holder, the claim holder could choose to merge them and they would become a single claim for the entire cell (as much as is available for claims). They would no longer be boundary claims and the cell would no longer be a boundary cell. If the claim holder does not merge them, the boundary claims remain as separate boundary claims in the boundary cell and the area of the cancelled boundary claim would become 'white space'.

19. Will legacy claim data be available through the MLAS system?

A. Yes, it would be available.

20. To implement MNDM's proposal to transition to the online registration of mining claims, are there necessary Mining Act amendments that would need to be enacted by Legislature?

A. Yes, the Ministry is currently developing a proposed Bill, which is being targeted for introduction to the Legislature as soon as can be scheduled.

21. a) Why the decision to create a one-time staking hiatus for the whole province, instead of several smaller geographic hiatuses?

- A. The decision to freeze the entire province leading up to conversion was made because it would allow for conversion that is fair, would treat all claims in the same manner, would be shorter, and would create less disruption overall than multiple staking hiatuses.

21. b) Can staking not occur during the staking hiatus, but only have registration considered after conversion is complete?

- A. The Ministry has considered this option and has determined that it is not feasible.

22. How will clients be notified of when the staking hiatus begins?

- A. Clients would be notified through the various communications that MNDM currently uses to communicate with clients, including e-mail.

23. What if I do not want the rest of a grid cell because of additional assessment work requirements, hazard liabilities, etc.?

- A. A legacy claim that falls within a grid cell due to conversion would become a cell claim for the entire cell (as much as is available for claims) unless there are other legacy claims held by other claim holders in the same cell. The claim holder could surrender the cell claim or allow it to cancel. Also, unpatented mining claim holders are not responsible for mine hazards created by others that already existed when their claim was staked (or their cell claim was registered), unless the claim holder has done something that materially affects the hazard.

24. What happens if I am the only claim holder in a cell, but I hold two abutting claims in that cell, with a different joint venture agreement on each claim?

- A. Prior to conversion, claim holders would be given the opportunity to request that their two abutting legacy claims be converted into two separate boundary claims, and they won't merge together to form a single cell claim.

CATEGORY: Assessment Work

1. Will MNDM consider reducing assessment work requirements that may be created by conversion?

- A. MNDM is considering a number of options to reduce any additional assessment work requirements resulting from conversion.

2. What will the assessment work requirements be for a new grid cell and boundary cell? Will boundary claim holders have full assessment work obligations?

- A. The Ministry anticipates that assessment work requirements for cell claims would remain at the current rate, with a reduced rate applied for boundary claims.

3. Will assessment work requirements be area-based by hectare, or will it be a flat rate per cell?

A. Assessment work would continue to be flat rate, applied on a per claim basis.

4. How will the assessment work requirements for boundary cells be determined? If it's a flat rate per boundary claim holder, what happens if one holder only has a 10% sliver of a cell? Can MNDM do a hectare-based rate?

A. No. Assessment work requirements would be consistently based on a flat rate; however, the Ministry is considering a reduced flat rate for boundary claims.

5. Are people going to be limited to transferring only up to \$96,000 from a particular cell?

A. The Ministry is reviewing this regulation and is considering increasing that limit.

6. How much assessment credit has been given for georeferencing?

A. Since November 1, 2012, clients have been able to claim assessment credits for georeferencing their claims. Since then, \$22,940,600 worth of assessment credits has been applied to 5,541 claims.

7. Could assessment work be distributed beyond a 25-cell mining claim?

A. Yes, the assessment work regulation would continue to provide for the distribution of assessment work to any contiguous mining claims.

8. What are the timelines around MNDM decisions on assessment work changes?

A. The details of assessment work (eligibility, required amount, etc.) are currently in the Assessment Work regulation, which would be rewritten and finalized as part of the package of regulations needed to implement Phase 3 of MAM. The Ministry is considering keeping the assessment work requirements for a cell claim at the current rate of \$400 annually, and setting a reduced rate for boundary claims.

9. Is assessment work credit available for georeferencing mining claims based on lots and concession lines?

A. The current assessment work regulation does not provide assessment credit for georeferencing mining claims staked in territory that has been subdivided into lots and concessions.

10. Would we be able to use 'cash-in-lieu' to satisfy assessment work requirements in boundary claims?

A. Yes.

11. What happens when assessment work comes due during the staking hiatus.

- A. The Ministry is considering a one-year exclusion for assessment work, so no assessment work would be required immediately before, during or after the staking hiatus until after conversion is completed.

12. Will banked credits get split between two cells where a grid line intersects during conversion?

- A. Banked credits on mining claims would be put into a "Conversion Bank" for holders to distribute to their mining claims, based on a set of rules which are currently being developed.

13. Would assessment work be pro-rated where patents/leases encroach on a cell?

- A. No; however, the Ministry is considering reducing assessment work requirements if, due to the proposed conversion process, a legacy claim converts into a cell claim for a cell that is not fully open for claim registration. This reduction would not be permanently attached to that cell, so if the converted claims were to lapse and a new claim were registered for that cell, the full assessment work rate would apply to the new claim in that cell.

14. Would users of the proposed IT system only be able to assign agents themselves?

- A. Yes, claim holders would assign their own agents. A person would not be able to assign an agent for someone else.

15. If I have a single-unit legacy claim and apply five years of assessment work credits, and my legacy claim becomes four cell claims on conversion, is the anniversary date (due date) going to be five years out for all four cell claims?

- A. Yes, this is what is proposed.

CATEGORY: Training

1. Will MNDM provide online learning modules for the new online system, as well as extended one- or two-day workshops for the prospecting/exploration community?

- A. MNDM would provide extensive training, workshops, demos, etc. for the prospecting/exploration community before the new system is launched.

2. How are people who are not computer literate supposed to use the proposed IT system?

- A. Ministry staff would provide assistance, and there would be help functions for those who are not computer literate.

3. Will there be staff in ServiceOntario to support people in using the proposed IT system?

- A. While ServiceOntario locations may have computers available for the public to access our online system, ServiceOntario representatives would typically direct clients to the Provincial Recording Office for assistance.

CATEGORY: Information Technology / Technical Items

1. When will the grid become available? People need time to figure out how they may want to delineate or accommodate boundary claims etc.

- A. A demonstration version of the proposed provincial grid has been available for viewing on CLAIMaps since March 2, 2015.

2. Is the datum for the grid going to be NAD 83?

- A. Yes, we have proposed - NAD83 CSRS CBNv6 2010.0 realization.

3. Are First Nation reserves going to be shown on a map?

- A. Publicly available information such as reserve boundaries would appear on the map.

4. Would legal land surveys be based on map coordinate rather than claim posts?

- A. Yes. While the survey monuments would be based on bars in the ground, the location of those survey bars will be based on the claim coordinates from the grid.

5. Can we get access to surface rights owner information?

- A. This information is not filed with MNDM. Claim holders would have to obtain this information through their local land registry offices or municipal offices. However, the Ministry is currently looking at ways to provide better access to this type of information.

6. Would there be a fee to amalgamate claims after the conversion process?

- A. Fees have yet to be determined for the various transactions under the proposed new system.

7. Would clients be able to shrink mining claims after amalgamation?

- A. Yes, but only through abandonment and/or forfeiture; not through the sub-division of multi-cell mining claims (i.e. you could not divide a 24 cell mining claim into two 12-cell mining claims).

8. How would MNDM define a 'prospector' when implementing prospector assistance programs?

- A. We welcome ideas and recommendations from the prospecting community on this question. Please send these to miningact@ontario.ca

9. Can clients have drawdown cash accounts?

A. The Ministry continues to look into this option, even though it has been rejected in the past.

10. How will MNDM account for 'propagation delays' along the network, so that somebody in Toronto cannot stake a claim any faster than someone in Red Lake? Will MNDM have everyone delayed so that any click of the button takes a common amount of time to process? This is a similar consideration in online stock trading.

A. When it comes to the design of our claim registration transaction, differences in latency between Toronto and Red Lake may not be a big factor. It could be a difference of a few milliseconds. Milliseconds for automated non-human stock trading are significant, but our claim registration transaction would have interactive steps and the requirement to prove the user is human. In this scenario, clients would have to have completed the 'human test' to lock cells at the exact same time for reduced latency to give someone an advantage.

11. What happens if the U.S. government changes the access of GPS technology? Is there going to be a fallback?

A. This is unlikely to happen; however, in the event this does take place, our system would adopt available options accordingly.

12. How will MNDM account for shifting tectonic plates?

A. When the grid was designed and developed, continental drift was considered. The Ministry's Office of The Surveyor General and the geomatics lead for the Province of Ontario worked together to develop the grid in a datum that would provide the ability to model for continental drift. As a result, the grid was defined as a NAD83 CSRS CBNv6 2010.0 realization. This realization provides the ability to model for continental drift in the future.

13. What if the proposed IT system goes down?

A. A complete failure of the system should be extremely rare. "Disaster Recovery Plans" and Business Resumption Plans" must be in place prior to the MLAS system becoming operational. However, proposed amendments to the Mining Act include provisions for extending time in the event a deadline falls on a day when the system is unavailable.

14. Would the IT system be available 24 hours a day, seven days a week?

A. Yes, 24/7.

15. Would the proposed online site run on different web browsers, e.g. Google Chrome, Firefox, etc.?

A. We are testing various web browsers including IE, Chrome and Firefox (i.e. browsers that are familiar and useful to our clients).

16. Is the proposed grid going to be released for download?

- A. Not immediately. It is currently released as a demonstration only for viewing on CLAIMaps. The Ministry's intention is to make the grid available for download after proposed legislation is passed.

17. Did we use the National Topographic System for the proposed grid?

- A. Yes.

18. Would the grid overlay in southern Ontario be aligned with lots and concessions?

- A. No, the grid would uniformly overlie the entire province of Ontario.

19. Will the grid apply to lots and concessions?

- A. Yes, the grid would apply to the entire province of Ontario.

20. Would the speed at which claims show up on the map be enhanced?

- A. The proposed new online system should provide for newly registered mining claims to immediately appear on the map.

21. Are patented lands impacted by the conversion process?

- A. Patents would not be affected by the conversion process.

22. Can georeferenced claims be shown on CLAIMaps?

- A. The Ministry is working toward having all georeferenced mining claims shown on our CLAIMaps site.

23. Can there be a systematic way of assigning claim numbers where adjacent claims are in sequence?

- A. MNDM will consider this.

CATEGORY: Prospector support

1. Will MNDM provide support for prospectors and loss of income?

- A. MNDM is considering a number of options brought to the Ministry's attention through stakeholder consultation to assist prospectors and stakers who may be impacted by transition to online claim registration.