

Notice of Confirmation of Staking To Surface Rights Owners (effective April 4, 2011)

The new Mining Act provides clear rules that support responsible exploration and development, and help reduce regulatory burden. Sharing information fosters mutual understanding between surface rights owners and mining rights holders.

To ensure timely and proper notice is given regarding staking activities, Section 46.1 of the Mining Act requires that a Licensee give notice of confirmation of staking to the surface rights owners **within 60 days** from making an application to record the staking of a mining claim.

46.1 (1) If a mining claim is staked on land for which there is a surface rights owner, the licensee shall, within 60 days of making the application to record the mining claim:

- (a) give confirmation of staking the mining claim to the surface rights owner in the prescribed manner and file proof at the recorder's office that confirmation of staking the mining claim has been given; or
- (b) apply to a recorder for an order waiving confirmation. 2009, c. 21, s. 24

Order to waive confirmation (2): A recorder may issue an order waiving confirmation if he or she determines that it is not feasible to provide confirmation of staking to the surface rights owner. 2009, c21, s24

Claim invalid if no confirmation (3): If the licensee does not comply with subsection (1) or if the recorder decides not to issue an order waiving confirmation, then the mining claim becomes invalid 60 days after the date the application to record is made, even if the claim was recorded. 2009, c21, s24

Cancellation of application (4): The recorder shall cancel a claim that becomes invalid under subsection (3), make a note of the cancellation on the mining claim abstract and notify the licensee in writing of the cancellation. 2009, c21, s24

It is the Licensee's responsibility to give confirmation of staking to the surface rights owner(s) at their last known address. While confirmation remains the licensee's responsibility, the Ministry will endeavour to advise Licensees by letter if according information available to the Ministry, it appears that their application to record includes lands for which there is a surface rights owner.

When mining claims are staked on a land where there is a surface rights owner, the Licensee must:

- Give Confirmation of staking to the surface rights owner(s); and
- File Proof that confirmation of staking has been given to the surface rights owner(s) with the Provincial Recording Office.

If giving the confirmation is not feasible, the licensee may apply in writing to a recorder for a waiver, providing reasons to support the request. An order waiving confirmation is not automatic – the recorder will make a case-by-case determination. Failure to comply with these requirements within 60 days after making the application to record the mining claim(s) will result in the claim becoming invalid and being cancelled.

For further information, please contact: Ministry of Northern Development, Mines and Forestry

Provincial Recording Office, Willet Green Miller Centre

933 Ramsey Lake Road, 3rd Floor, Sudbury, Ontario P3E 6B5

Tel: 705-670-5742 (Greater Sudbury area)

Toll-Free Tel: 1-888-415-9845

Fax: 705-670-5681 (Greater Sudbury area)

Toll-Free Fax: 1-877-670-1444