

## **Notice of Proposed Regulations: *The Mineral Parcel Accretion Regulations***

### **Background:**

Accretion is the slow and natural accumulation of soil and other material that creates new, dry land along the boundaries of rivers or lakes. Accretion can also occur when a pond or lake shrinks or completely disappears to reveal dry land.

The Crown owns all waterbodies and the underlying mineral rights throughout Saskatchewan. In instances where accretion has been approved, the Crown's surface property decreases because the waterbody has contracted. The accreted land and, if applicable, the underlying Crown mineral rights become the adjacent owners' property. See Appendix B.

In April 2023, the Saskatchewan Legislature approved *The Miscellaneous Statutes (Accretion) Amendment Act, 2023* (the Act) to administer accretion in Saskatchewan. The Act can be found here: <https://pubsaskdev.blob.core.windows.net/pubsask-prod/140460/Chap-5-2023.pdf>. The Act provides the Ministry of Energy and Resources the authority to develop regulations outlining the conditions under which it will provide or withhold consent to the transfer of Crown mineral rights under accreted land to an adjacent private mineral owner. See Appendix A for a draft of the proposed regulations.

The proposed regulations will ensure that the movement of mineral property boundaries due to accretion will not disrupt existing or future resource exploration and development and will provide certainty of mineral ownership for established and emerging resource sectors. This is particularly important in instances where an oil and gas or potash unit agreement could be negatively affected by an amended mineral ownership boundary. Depending upon the terms, conditions, and age of the unit agreement, an amended mineral ownership boundary could force a recalculation and renegotiation of the royalty distribution among potentially hundreds to thousands of unique mineral owners. The proposed regulations seek to avoid this outcome and ensure that accretion does not negatively affect Saskatchewan's industry partners and private owners with producing mineral rights.

The Ministry of Energy and Resources also wishes to maintain discretion over the amendment of mineral boundaries associated with accretion to ensure that lands with environmental hazards are not being distributed to private owners before the land can be remediated, and to ensure that the Government of Saskatchewan is meeting its obligations and agreements with First Nations People.

### **Summary of Proposed Regulations:**

- 1) Conditions under which private mineral owners apply to the Ministry of Energy and Resources requesting the transfer of Crown mineral rights under accreted land:

- the applicant must hold at least some of the mineral rights under the land adjacent to the accreted surface. Accretion does not grant new rights to minerals where none had previously existed, and the owner can only apply for the mineral commodity type and fractional ownership interest that they held prior to the occurrence of accretion;
  - the applicant has submitted information indicating the location and extent of accretion on the surface and that their property abuts the accreted land;
  - the Ministries of Agriculture or Environment have first recognized and approved surface accretion on the land abutting the owner's land; and
  - the applicant has obtained consent from all mineral owners, mineral development companies, or unit operators, if applicable, that could be affected by the transfer of mineral rights under accreted land.
- 2) Conditions under which the Ministry of Energy and Resources may withhold consent to the transfer of Crown mineral rights under accreted land to an adjacent mineral owner:
- the mineral parcels under accreted surface land:
    - are or will be subject to resource exploration, development, and/or unit agreements or have been targeted for resource potential or storage activities;
    - have been selected by First Nations People under Saskatchewan's Treaty Land Entitlement (TLE) obligations or as part of other Government of Saskatchewan and First Nations' land agreements made outside of TLE;
    - are subject to environmental restrictions, land reclamation or remediation, or the decommissioning and/or abandonment of wells and mine facilities;
  - the mineral owner making application for the mineral rights under accreted land, or any other owners that could benefit from the application, are in arrears for fees, royalties, taxes, or any other outstanding amounts owed to the Ministry of Energy and Resources.

If the Ministry of Energy and Resources withholds consent in accordance with any of the above, private mineral rights owners can reapply once the identified issues and restrictions associated with the mineral parcel have been addressed, once resource development/exploration have ceased, or once land remediation activities have concluded.

## The Process

The Ministry of Energy and Resources is seeking written comments from stakeholders from November 15, 2023 to December 15, 2023. Please direct any comments or questions about the proposed regulations to:

Energy and Resources Service Desk at [er.servicedesk@gov.sk.ca](mailto:er.servicedesk@gov.sk.ca)

Attn: Kyle Schutz, Manager, Policy

Lands and Corporate Services Division, Lands and Mineral Tenure Branch

Saskatchewan Ministry of Energy and Resources

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The deadline for submitting written comments/questions is **December 15, 2023**.



**APPENDIX A:  
DRAFT REGULATIONS**

*The Mineral Parcel Accretion Regulations*

EXISTING PROVISION	PROPOSED PROVISION	EXPLANATION/COMMENTS
<p><b>NEW</b></p>	<p><b>Title</b>  <b>1</b> These regulations may be cited as <i>The Mineral Parcel Accretion Regulations</i>.</p>	<p>These regulations establish criteria for providing or withholding consent to the transfer of Crown mineral rights under accreted land to an adjacent owner. Given that the Crown owns all water throughout the province, the recognition of accretion should only affect Crown owned mineral rights.</p> <p>The key objective of these regulations is to ensure that the recognition of accretion will not impact existing or potential mineral exploration, development, related subsurface activities, or the Crown’s obligations to and agreements with First Nations People.</p>
<p><b>NEW</b></p>	<p><b>Definitions</b>  <b>2</b> In these regulations:</p> <p>“<b>Act</b>” means <i>The Mineral Resources Act, 1985</i>;</p> <p>“<b>fractional interest</b>” means fractional interest within the meaning of <i>The Land Titles Act, 2000</i>;</p>	<p>Section 2 outlines the definitions used in these regulations and, where applicable, utilizes definitions as defined or used in other Saskatchewan acts and regulations.</p>

	<p><b>“mineral commodity”</b> means a mineral commodity as defined in <i>The Land Titles Act, 2000</i>;</p> <p><b>“spaces”</b> means spaces as defined in <i>The Crown Minerals Act</i>.</p>	
<p><b>NEW</b></p>	<p><b>Minister’s determination respecting accretion</b></p> <p><b>3(1)</b> For the purposes of clause 8.1(2)(b) of the Act, the minister may consent to the transfer of accreted land within a mineral parcel to the adjacent landowner if that adjacent landowner is the owner of a mineral parcel that lies directly beneath a surface parcel adjacent to the accreted land, and if that landowner:</p> <ul style="list-style-type: none"> <li>(a) applies to the minister in writing requesting the minister’s consent for the transfer of the accreted land within the mineral parcel;</li> <li>(b) provides the mineral parcel numbers or, if the mineral parcel numbers do not exist, the legal land descriptions, respecting both the mineral parcel that the adjacent landowner owns and the mineral parcel within which accretion has occurred;</li> </ul>	<p>Subsection 3(1) outlines the requirements and considerations for applying for Crown mineral rights under accreted land, such as but not limited to:</p> <ul style="list-style-type: none"> <li>a) applying to the minister in writing, which includes emails or online administrative systems;</li> <li>b) providing land location details to identify the properties affected by and immediately touching the accreted lands;</li> <li>c) showing that the Ministries of Agriculture or Environment have already approved accretion on the surface parcel in question, and that any potentially affected private mineral owners, explorers, producers, or operators of unit agreements have consented to the recognition of accretion; and</li> </ul>

	<p>(c) submits evidence satisfactory to the minister that:</p> <ul style="list-style-type: none"> <li>(i) ministerial consent has been given pursuant to <i>The Provincial Lands Act, 2016</i> with respect to accretion on the surface parcel overlying the mineral parcel for which the application mentioned in clause (a) is being made; and</li> <li>(ii) consent has been obtained from the following persons that could be adversely affected by the transfer of accreted land within the mineral parcel: <ul style="list-style-type: none"> <li>(A) mineral owners;</li> <li>(B) existing Crown disposition holders;</li> <li>(C) non-Crown disposition holders;</li> <li>(D) unit operators; and</li> </ul> </li> </ul> <p>(d) satisfies any other condition that the minister considers necessary in order</p>	<p>d) including any other requirement necessary to ensure that mineral owners, explorers, producers, and larger operating/unit agreements are not being negatively impacted by the transfer of Crown mineral rights under accreted land, and that accretion will not affect Saskatchewan’s resource potential or other important strategic projects determined to be in the public interest.</p>
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	<p>to consent to the transfer of accreted land within the mineral parcel.</p> <p>(2) If the minister's consent is given pursuant to subsection (1), the transfer of accreted land within a mineral parcel includes only those mineral commodities and fractional interests that are held by the adjacent landowner in the adjacent land at the time that landowner submits the application.</p> <p>(3) For the purposes of subsection 8.1(5) of the Act, the minister may withhold consent to the transfer of accreted land within a mineral parcel if:</p> <ul style="list-style-type: none"> <li>(a) the mineral parcel is subject to: <ul style="list-style-type: none"> <li>(i) Crown dispositions;</li> <li>(ii) non-Crown dispositions;</li> <li>(iii) a combination of both Crown dispositions and non-Crown dispositions;</li> <li>(iv) an agreement for a unit operation; or</li> <li>(v) an application or request respecting any of the</li> </ul> </li> </ul>	<p>Subsection 3(2) states that if the minister approves an application for the transfer of Crown minerals under accreted land, the applicant is only entitled to those mineral rights and fractional ownership interests that they held at the time of submitting their application. For example, if an applicant only owns a 25% interest in coal, they will only be entitled to 25% of the Crown's interest in Coal under the accreted lands.</p> <p>Subsection 3(3) outlines the considerations and requirements that the minister may rely upon to ensure that existing and potential resource development and other considerations will not be affected by the transfer of Crown minerals under accreted land, such as but not limited to:</p> <ul style="list-style-type: none"> <li>(a) agreements or applications respecting both Crown and private exploration and development of minerals, resources, and/or disposal/storage activities;</li> <li>(b) selections for public bidding for Crown mineral dispositions;</li> </ul>
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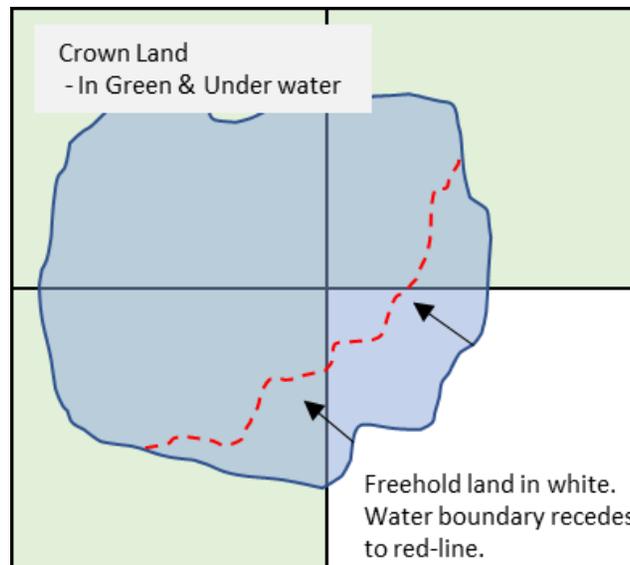
	<p>instruments mentioned in subclauses (i) to (iv);</p> <p>(b) the mineral parcel has been nominated for competitive public bidding for Crown dispositions;</p> <p>(c) the mineral parcel or spaces have been staked, selected or otherwise claimed for exploration or development;</p> <p>(d) the mineral parcel has been set aside for the purposes of fulfilling the Crown's obligations and agreements made with Indian Bands pursuant to:</p> <p>(i) <i>The Crown Minerals Act</i>; or</p> <p>(ii) <i>The Saskatchewan Natural Resources Transfer Agreement (Treaty Land Entitlement) Act</i>;</p> <p>(e) the mineral parcel is subject to:</p> <p>(i) environmental controls;</p> <p>(ii) well suspension or well abandonment activities;</p> <p>(iii) land reclamation or remediation activities; or</p>	<p>(c) mineral claims or electronically/physically staking lands for mineral exploration and development;</p> <p>(d) land selections by and provincial agreements with First Nations People;</p> <p>(e) environmental issues that need to be addressed before the lands can be transferred;</p> <p>(f) outstanding amounts owed to the Ministry of Energy and resources; and</p> <p>(g) anything else that can be considered beneficial for the people of Saskatchewan.</p>
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	<p>(iv) <i>The Reclaimed Industrial Sites Act;</i></p> <p>(f) the adjacent landowner who has applied in accordance with subsection (1), or any adjacent landowner who has not applied but who holds an ownership interest in minerals in an adjacent mineral parcel, is in default respecting taxes, royalties, fees or other amounts requiring payment to the minister; or</p> <p>(g) any other reason exists that the minister considers to be in the public interest.</p> <p>(4) If applicable, the adjacent landowner who has applied in accordance with subsection (1) is responsible for all fees and charges associated with obtaining a survey, subdivision approval, title transfer and any other fees, charges or associated costs that are necessary to give effect to the transfer of accreted land within a mineral parcel.</p> <p>(5) If the minister provides consent pursuant to subsection (1), the minister shall not require any payment or other charge for the value of the accreted land within the mineral parcel.</p>	<p>Subsection (4) states that the applicant is responsible for all costs associated with applying for and completing the transfer of Crown minerals under accreted lands.</p> <p>Subsection (5) notes that if an application is approved, the minister will not charge for the value of the transferred Crown minerals under accreted land to a private owner. This is out of</p>
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	<p>(6) The minister may request a change to the boundary of a mineral parcel to include accreted land within the mineral parcel if the Crown owns a complete or partial ownership interest of the adjacent mineral parcel and no application has been made pursuant to subsection (1).</p>	<p>fairness to private owners because where the Crown gains property through the process of erosion – i.e., where waterbodies expand and cover formerly dry land – the Crown is not obligated to compensate private owners for the loss of their property.</p> <p>Subsection (6) provides the Ministry of Energy and Resources the authority to amend a mineral boundary in alignment with an accreted surface boundary. The goal of this provision is to ensure simple surface and subsurface administration to the greatest extent possible for Saskatchewan’s industry partners and for ministerial administration.</p>
<p><b>NEW</b></p>	<p><b>Coming into force</b>  <b>4(1)</b> Subject to subsection (2), these regulations come into force on the day on which section 1-1 of <i>The Miscellaneous Statutes (Accretion) Amendment Act, 2023</i> comes into force.</p> <p>(2) If section 1-1 of <i>The Miscellaneous Statutes (Accretion) Amendment Act, 2023</i> comes into force before the day on which these regulations are filed with the Registrar of Regulations, these regulations come into force on the day on which they are filed with the Registrar of Regulations.</p>	<p>Section 4 notes that these regulations may become effective once the associated act is brought into force.</p>

APPENDIX B:

EXAMPLE OF ACCRETION



- The Crown owns all water in Saskatchewan and the underlying mineral rights.
- The red line indicates that the waterbody was contracted from its original position and has created new, dry land. If approved, this newly created dry land produced through accretion accrues to the adjacent private ('freehold') property owner. This accrual could also contain certain underlying Crown mineral rights depending upon the determination of the Ministry of Energy and Resources and the mineral commodities and fractional ownership interests held by the adjacent mineral owner prior to applying.
- Where the waterbody boundary contracts on Crown surface land, the Crown gains surface property. Consequently, there is no loss of total Crown property, just a redrawing of the water and land boundaries.