
Designated Subsurface Development Area Process Guideline

Ministry of Energy and Resources

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Governing Legislation:

Part 2 of *The Mineral Resources Act, 1985*

Record of Change

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If there are any concerns with the content of this guideline, please direct inquiries to the ER Service Desk at er.servicedesk@gov.sk.ca or 1-855-219-9373

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1. Introduction:

This guideline is intended to aid project proponents in applying for Designated Subsurface Development Areas (DSDA) in accordance with Part 2 of *The Mineral Resources Act, 1985* (the “Act”). This guideline does not replace or override the requirements of the Act or any regulations made thereunder; it is a reference to be used in conjunction with existing legislation.

While this guideline has been developed specifically for the mining industry, its general principles may also be applicable to other sectors. Where applied outside the mining context, it should be adapted as necessary to reflect sector-specific considerations. This guideline may be updated as required to incorporate additional industries.

Questions or comments regarding this guideline can be directed to mineralland@gov.sk.ca.

1.1 DSDA Application Form:

The DSDA application form can be accessed online [here](#). Once completed, the application and any supporting documents must be emailed to mineralland@gov.sk.ca. Once received, the Ministry of Energy and Resources (“ER”) will issue an identification number for the application, to be used in all correspondence and public notifications.

Please contact the email above if you require clarifications or assistance.

1.2 Two Methods of Applying for DSDAs:

The Act provides two methods for applying for DSDAs (see **Appendix A** for a flow-chart):

- **Through Order in Council** (see Section 2 of this guideline); or
- **Through Minister’s Order** (see Section 3 of this guideline).

2. Application and Assessment Criteria for DSDAs – Order in Council:

2.1 Application Content:

A DSDA application should include the following:

- Land locations requested to be included in a DSDA, indicating the section, township, range, and meridian, or mineral parcel numbers;
- The production of the specified mineral resource to be allocated to the individual mineral parcels;

- An indication of whether the applicant intends the DSDA to apply to individual mineral parcels or to a larger consolidated area that includes the identified parcels;
- Information related to the detailed assessment criteria listed in subsection 3.2(2) of the Act, and which is expanded upon in subsection 2.3 of this guideline;
- The name and company of the applicant's desired DSDA operator; and
- A list of affected persons such as, but not limited to, the listed mineral owners and/or confirmed and potential beneficiaries or heirs.

Please note that there are many variables that can affect application review and processing times, including reviewing supplemental information, the number of mineral parcels and complexity of mineral ownership, geological assessments, and determining and contacting affected persons. As a result, review timelines will require a minimum of six months. Applicants should submit a complete DSDA application in advance of any planned exploration or development activities to allow sufficient time for review.

2.2 Criteria for Assessing a DSDA Application under Subsection 3.2(2) of the Act – Order in Council:

The following information is requested to meet the requirements of subsection 3.2(2) of the Act and to allow ER to assess a DSDA application to be submitted and reviewed by Cabinet through Order in Council:

1. *The Applicant has Provided Evidence of Geological Suitability:*

Evidence of geological suitability may include an 'NI 43-101' technical report known as the 'Standards of Disclosure for Mineral Projects', which is a Canadian securities document summarizing scientific and technical information about a mining project, or an equivalent international report.

Other documents that may be used to support evidence of geological suitability include:

- Declaration of resource presence from a professionally designated geoscientist;
- Existing and proven resource development within known resource areas, such as potash mines and processing plants, coal mines, brine mineral wells, processing facilities, etc.; or
- Other geologically suitable mapping acceptable to the Ministry of Energy and Resources (ER).

2. *The Applicant has Made Reasonable Efforts to Locate/Confirm Affected Persons:*

It is the applicant's responsibility to provide ER evidence of all efforts to locate or confirm affected persons. Reasonable efforts to locate or otherwise confirm affected persons may include but is not limited to:

- Reporting how much time has elapsed since the death/disappearance of the mineral title or uncertified mineral title holder and any potential beneficiaries and heirs;
- Finding the mineral title or uncertified mineral title holder's – or their beneficiaries and heirs' – death certificates, obituaries, etc.;
- Obtaining property tax assessment records, if available, to potentially identify the current mineral owners or their heirs/beneficiaries;
- Successful and unsuccessful attempts to identify or contact family members, friends, neighbours, employers, estate lawyers, co-workers, etc. of the deceased mineral title or uncertified mineral title holder and their places of origin and last known location;
- Social media searches, historical and/or current public records, genealogical websites, Google, newspapers, online news sources, etc. for potential owners, beneficiaries, and heirs;
- Copies of the last will and testament of the last known mineral title and/or uncertified mineral title owner, if available;
- If applicable, attempts to advertise online or in newspapers where the deceased and their beneficiaries or heirs have resided, or where it is believed or known that these next-of-kin live or have lived;
- Detailed notes of the steps taken and the results of trying to find and confirm mineral title and/or uncertified mineral title owners and their beneficiaries and heirs, including a family tree indicating potential next-of-kin;
- A list of reasons why the owner, possible owners, heirs, or beneficiaries cannot, or are unwilling to, confirm their ownership of the mineral titles or uncertified mineral titles;
- Information collected by private investigators, if applicable;
- Records of interviews and phone conversations with potential owners, heirs, beneficiaries, and next-of-kin; and
- City/town records where the mineral titles or uncertified mineral titles and owners were/are located.

3. *The Applicant has Made Reasonable Efforts to Obtain Voluntary Agreements or Consent with Respect to the Right to Explore, Develop, and Produce Minerals:*

Below are examples of what could be submitted to ER to show the applicant's efforts to reach private agreements with known and active mineral owners:

- Summaries of negotiations and compensation offers to the mineral title or uncertified mineral title holder. Compensation offers should be equal to or greater than the average Crown rates;
- Methods, timelines and frequency of discussions and negotiations with known private mineral owners; and
- A list of reasons why private mineral owners have refused to provide consent or enter into agreements.

4. Provide Evidence that the Applicant has Adequate Control of the Area with Respect to Mineral Development:

ER considers 'adequate control' to include, but is not limited to:

- The DSDA applicant demonstrates a pre-existing stake in the area, such as through a unit agreement involving a mineral ownership issue within the established unit; or
- The DSDA applicant has a Crown tenure or an interest in private minerals for non-unitized leases.

DSDA applicants can support their claim to adequate control by providing maps and/or land schedules displaying the applicant's current mineral rights holdings and development agreements within the targeted development area. Additional evidence could include ER's regulatory approval to conduct operations in the area or existing resource mining and processing operations within the desired DSDA and/or broader development area.

5. The Applicant Shows how DSDAs will Facilitate Orderly Operations, Prevent Waste, and Ensure the Greatest Possible Mineral Recovery:

DSDA applicants must demonstrate the benefits of ER approving a DSDA for the planned project area and identify the risks and losses of ER not approving the DSDA. This information should be verified and declared by a professionally designated geoscientist that can:

- Describe loss in estimated product tonnes of unprocessed and refined product;
- Describe how some mineral owners are preventing efficient and timely mineral exploration and development, including descriptions of how the mineral parcel is necessary for accessing a larger mineable area;
- Indicate any geological, mining, or engineering implications, such as how the problem parcel is preventing the expansion of existing mining into new development and production areas;
- Estimate the potential public and private losses associated with any permanently stranded assets if a DSDA is not approved;
- Describe potential implications for the environment, natural resources, public health, and safety if a DSDA is not granted;
- List the number of unique mineral owners and the area of mineral parcels in hectares that could be negatively impacted if a DSDA is not approved;
- Provide technical requirements and considerations showing how access to the problem parcel is essential for safe mining operations and showing how alternative mining routes, if any, are not economically viable or safe; and
- Identify any potential legal/liability risks of proceeding or not proceeding with a DSDA for the land and project area in question.

6. Supplemental Information to Support a Decision for a DSDA:

The applicant may consider submitting any supplemental information that could support ER's review and decision for a DSDA application that has not been explicitly addressed above. This supplemental information could include, but is not limited to, mining reports, financial and legal risk assessments, and mineral ownership chains indicating the history of the mineral titles or uncertified mineral titles within a mineral parcel.

Please contact the Lands and Mineral Tenure Branch (LMT) of ER if you have any questions regarding supplemental information at mineralland@gov.sk.ca. LMT may also contact the applicant for additional information to support any data or reports submitted with the DSDA application for further validation of claims.

2.3 Notice and Opportunity for Feedback:

If ER is satisfied that an application is sufficient to proceed, ER will, in accordance with subsection 3.2(3) of the Act, give notice of the proposed DSDA to every affected person. In accordance with section 8.2 of the Act, notice may be served by letter mail or email, or any other prescribed means. Recipients are deemed to receive notice in accordance with the timelines in section 8.2 and have 30 days from deemed receipt to provide representations regarding the application. For public awareness only (and not as service under section 8.2) ER may also post an informational notice about the proposed DSDA online listing the affected lands, mineral parcel numbers, mineral title numbers, and uncertified mineral title numbers.

2.4 If an Application is Denied:

Pursuant to section 3.3 of the Act, ER will send the applicant a written response identifying the reasons for the DSDA application denial. The applicant may contact ER at mineralland@gov.sk.ca within 30-days of being notified that the minister has denied a DSDA application to make representations to the minister respecting the minister's decision. Following consideration of any representations, the Minister shall determine whether to refer the matter to Cabinet for further consideration or to uphold the initial decision.

3. Application and Assessment Criteria for DSDAs – Minister's Orders:

The minister may designate a DSDA through a Minister's Order for certain privately owned minerals once the minister is satisfied that the following criteria have been met:

- 1. At least five years have elapsed since the applicant or minister commenced a search for the registered owner of the mineral titles or uncertified mineral titles that are proposed to be included in a DSDA:***

For this criterion, the five-year period begins on the date of the first documented search and initial attempt to contact potential mineral owners or their heirs and beneficiaries. Records of subsequent and ongoing efforts to contact mineral owners are also required. Applicants should specify in their application the number, dates, and frequency of all contact attempts.

2. *The applicant has taken reasonable steps to ascertain the possible existence of “affected persons”, such as beneficiaries, heirs, executors, administrators, trustees or other legal representatives:*

Reasonable steps to ascertain the existence of such “affected persons” are outlined in clause 2.3(b) of this guideline.

3. *The applicant has reason to believe that no person claiming to be a registered owner has had their claim confirmed by a court or submitted documentation to the minister establishing their right to or ownership of the titles to be included in a DSDA.*

As a practical matter, the applicant should confirm that no court records or legal requests have been filed within public repositories such as a courthouse within the jurisdiction of the lands or a claim or ownership or beneficiary status within Saskatchewan’s Land Titles Registry.

4. Approved DSDA Orders – Public Notice:

After the DSDA has been approved, a public notice indicating the approval and effective date of the DSDA will be posted on the Government of Saskatchewan’s website [here](#). The notice will remain posted for the duration of the DSDA. Public notices for proposed DSDAs will include the following information regarding any uncontrolled interest:

- Legal description of each mineral parcel or mineral parcel numbers using Information Services Corporation’s (ISC)’s nine-digit parcel ID number;
- Term of the Order;
- Operator; and
- Production allocation.

5. Operating Agreement Respecting DSDAs:

Operating agreements under section 3.8 of the Act will include, among the regulatory disposition terms and conditions, provisions such as:

- Annual rental and royalty payments for the minerals included in the DSDA, to be paid to the Ministry of Finance for the benefit of the private mineral owners as a “just and equitable” share of the proceeds in accordance with s. 3.8(1)(c) and s. 3.9(1) of the Act; and
- Production allocation details for private lands included in the DSDA.

Unless otherwise approved by the minister, operators shall not explore for, develop or produce minerals associated with an uncontrolled interest unless an agreement is in place, pursuant to section 3.8(2) of the Act.

6. Payment to Holder of Uncontrolled Interest:

Remittance of DSDA Proceeds:

To remit proceeds of the minerals on behalf of an affected person's mineral interests that have been included in a DSDA, an applicant must initiate a payment by one of the below methods, and submit backup documentation indicating the DSDA number, mineral owner (if known), and mineral and parcel number to eftrevops@gov.sk.ca.

1) Cheques:

Must be made payable to the Minister of Finance and mailed to Ministry of Energy and Resources at 610 - 1945 Hamilton Street, Regina, SK S4P 2C7. Backup documentation can be mailed with cheque.

2) Electronic Funds Transfer (EFT):

To make a wire transfer, please contact the ER Service Desk and ask for an "EFT Application Form" to obtain the banking details.

3) Online Banking:

To make a payment through your bank's website or mobile application, please add "SK ENERGY & RESOURCES GEN PAY" as a new payee and enter your BA ID as your account number. Visit your bank's website for instructions on how to add a new payee.

4) MasterCard or Visa:

To arrange payment by credit card, please contact the ER Service Desk.

For more information contact the ER Service Desk at ER.Servicedesk@gov.sk.ca or 1-855-219-9373.

Appendix A: DSDA Application Process

