



NOTICE OF ADDENDUM

August 27, 2015

From: *Surveyor General of Canada Lands*

Addendum 1.1

Addendum to: *Getting a Survey Done (1.0)*

Object: *Chapter 4: Northwest Territories*

The following modifications, additions, omissions, clarifications and corrections herein shall constitute an official amendment to the document it refers to.

DETAIL

This Addendum is published to amend *Chapter 4: Northwest Territories* of the publication *Getting a Survey Done*. Chapter 4 was under development when the last version of *Getting a Survey Done* was published in September 2014.

Chapter 4: NORTHWEST TERRITORIES

Note: In this Chapter references to federal legislation are followed by the abbreviation (S.C.). All other legislation referred to is Northwest Territories legislation.

4.1 Devolution and Integrated Land Management

1. On April 1, 2014 responsibilities for public land, water, and resources management in the Northwest Territories were transferred from Canada to the Government of the Northwest Territories (GNWT) (see Northwest Territories Act (S.C. 2014, c.2, s.2). Existing GNWT legislation regarding public land, water, and resource management generally remained the same and new GNWT legislation with regard to the transferred Territorial Lands generally mirrored the prior federal legislation.
2. In the Mackenzie Valley the *Mackenzie Valley Resource Management Act (S.C.) (MVRMA)* provides for an integrated system of land and water management. The Mackenzie Valley includes all of the Northwest Territories except the lands and waters in the *Western Arctic (Inuvialuit) Claims Act (S.C.) Settlement Area* and in Wood Buffalo National Park of Canada. Under the MVRMA the Mackenzie Valley Land and Water Board regulate the use of land and water through the issuance of land use permits and water licences. Three regional panels, the Gwich'in Land and Water Board, the Sahtu Land and Water Board and the Wek'èzhìi (Tłı̨chǫ) Land and Water Board perform these functions in their respective Land Claims and Self Government Agreement Settlement Areas. A Settlement Area is an area of land and water that a First Nation traditionally used and occupied, which was the subject of a land claim agreement and on which the First Nation still has certain rights.
3. In the Inuvialuit Settlement Area, the GNWT administers development of surface and subsurface lands for Northwest Territories Public Lands. The Inuvialuit Regional Corporation administers development of surface and subsurface lands for

Inuvialuit Owned Lands. Integrated Land Management in the Settlement Area involves Inuvialuit Land Administration providing comment on land and water use applications on public lands.

4. In 2014, an Intergovernmental Council on Land and Resource Management was established to provide for the GNWT and partner Aboriginal governments (including the Inuvialuit) to coordinate and cooperate on the management of public lands, settlement lands and rights in respect of waters.

4.2 Northwest Territories Public Lands

1. Northwest Territories Public Lands (lands under the administration and control of the Commissioner of the GNWT) include:
 - a. Commissioner's Lands.¹ These are lands that were under the administration and control of the Commissioner prior to devolution on April 1, 2014. For a more authoritative description see Section 2 of the *Commissioner's Land Act*. They do not include mines and minerals. They are generally comprised of large land tracts - called Block Land Transfers - in and adjacent to communities and roads, streets, lanes, and trails on public land for which administration and control was transferred from Canada to the GNWT until the 1990's and smaller parcels transferred after the 1990's.
 - b. Territorial Lands.² These are lands for which administration and control was transferred from Canada to the GNWT on or after April 1, 2014 (the date that the *Northwest Territories Lands Act* came into force). See Section 2. (1) of the Act. These lands comprise most of the land area in the Northwest Territories and include mines and minerals. The transfer also included mines and minerals under Commissioner's Lands.
2. These lands are Canada Lands as defined in the *Canada Lands Surveys Act* (S.C.) as they remain vested in Her Majesty in right of Canada (see definition of "public lands" and Section 51 of the Northwest Territories Act (S.C. 2014)).
3. The GNWT will, at least for the immediate future, maintain the separation of Commissioner's Lands and transferred Territorial Lands - in much the same manner as it was done before devolution.³

4.2.1 Surface Rights

Administration

1. The Lands Administration Division of the Department of Lands, GNWT, administers surface rights on Northwest Territories Public Lands.
2. Disposition of interests in Commissioner's Lands is made under the *Commissioner's Land Act* and the *Commissioner's Land Regulations*. The Lands Administration Division maintains records of leases, permits, and other land interest documents for Commissioner's Lands. Graphic information about parcels of land located within the jurisdictions of community governments is available online in the Administration of Territorial Land Acts System (ATLAS).

Link: [ATLAS](#)

3. Disposition of surface right interests in Territorial lands is made under the *Northwest Territories Lands Act*, the *Northwest Territories Lands Regulations* and the *Quarrying Regulations* pursuant to the Act. The Territorial Lands Administration Division maintains records of leases, permits, and other land interest documents for Territorial Lands.
4. Commissioner's public airport lands are administered by the Northwest Territories Department of Transportation. Disposition of interests in these lands is made under the *Public Airports Act* and the *Commissioner's Public Airport Lands Regulations*.

¹ This designation is used by the Lands Administration Division of the GNWT notwithstanding that Section 1 of the Territorial Lands Act defines territorial lands as meaning lands, or any interest in lands, under the administration and control of the Commissioner.

² See footnote 1.

³ *Devolution of Lands and Resources in the Northwest Territories, March, 2014 – Issue #3*

Survey Requirements

Transfer of Territorial Lands to Commissioner's Lands (and vice versa)

5. Until the 1990's Commissioners Lands were mainly comprised of Block Land Transfers for which the administration and control was transferred from the federal government to the GNWT by order-in-council using written land descriptions. Later transfers were mainly of smaller parcels and the policy was to survey them under the *Canada Lands Surveys Act* (S.C.).
6. After 2014 devolution, Northwest Territories legislation deals with the transfer of Territorial Lands to Commissioner's Lands (and vice versa):
 - a. Under Section 53 of the *Northwest Territories Lands Act* the Commissioner in Executive Council may, by regulation, order that any Territorial Lands or category of Territorial Lands be dealt with, for some or all purposes, as Commissioner's Land under the *Commissioner's Land Act* instead of under the *Northwest Territories Lands Act*.
 - b. Under Section 2. (3) of the *Commissioner's Land Act* the Commissioner in Executive Council may order that any Commissioner's Lands or category of Commissioner's Lands be dealt with, for some or all purposes, as Territorial Lands under the *Northwest Territories Lands Act* instead of under the *Commissioner's Land Act*.
7. The GNWT does not require that the land be surveyed when it is changed from Territorial Lands to Commissioner's Lands (and vice versa).

Sales

8. Under Section 3 (1) of the *Commissioner's Land Act*, the Commissioner may sell Commissioner's Lands, including the delegation of responsibility for the administration of Commissioner's Lands to a municipal corporation or any other person. Under Section 3 (3) an approved plan of survey, completed in accordance with the instructions of the Surveyor General, must first be filed in the Land Titles Office.
9. The *Northwest Territories Lands Act* and the *Northwest Territories Lands Regulations* contain provisions regarding the sale of Territorial Lands including survey requirements under Section 9 (1) of the Regulations. However, the policy of the GNWT (as the policy was when the federal government had administration and control of these lands) is to lease, not sell, Territorial Lands. The GNWT will order under Section 53 of the *Northwest Territories Lands Act* that the Territorial Lands be dealt with as Commissioner's Lands.
10. Surveys of Commissioner's Lands for sale, or delegation of responsibility to a municipality, are normally managed by and paid for by the entity receiving the land.
11. A Canada Lands Surveyor engaged to conduct a survey must open a survey project in MyCLSS before commencing the survey (see Section 1.6: *Commencement of a Survey Project* in this publication).

Leases, Permits and other similar interests

12. Under Section 3 (1) of the *Commissioner's Land Act*, the Commissioner may lease or authorize other dispositions of Commissioner's Land. The *Commissioner's Land Regulations* contain provisions for leases, including quarrying leases, and for hay permits. There are no requirements in the Act or the Regulations for surveys for leases. However, exclusive rights for some longer-term interests may be surveyed, and some non-exclusive interests, such as utility easements, may be described by descriptive (explanatory) plans.
13. There are no requirements under the *Northwest Territories Lands Act* or the *Northwest Territories Lands Regulations* for leases, permits or similar interests to be surveyed. Also there is no requirement for surveys for permits and leases for the removal of material such as stone, loam, gravel, sand, etc. issued under the *Quarrying Regulations*.

14. Surveys on Commissioner's public airport lands are carried out under the *Canada Lands Surveys Act* (S.C.) and are managed by the GNWT, Department of Transportation. The Director, Lands Administration (Commissioner's Lands), Department of Lands, GNWT approves these plans.

4.2.2 Mining Rights

Administration

1. The GNWT's Department of Industry, Tourism and Investment (ITI), Mining Recorder's Office, is responsible for the administration and control of the Territorial Lands subsurface mineral rights in the Northwest Territories that were transferred to the Commissioner on or after April 1, 2014. Prospecting and staking claims are exempted on some lands that are described in section 5 of the *Mining Regulations* (e.g. Lands used as a cemetery). The Mining Recorder is not responsible for mineral rights on First Nation Reserves, First Nations Land Claims Agreement Settlement Lands that include subsurface rights, and lands excluded in the 2014 transfer (listed in Schedule 4 of the *Northwest Territories Lands and Resources Devolution Agreement*). Mineral development is not permitted in National Parks.
2. Mining is administered under the *Mining Regulations* pursuant to the *Northwest Territories Lands Act*. The Mining Recorder's office in Yellowknife administers these mining rights.
3. The Mining Recorder is responsible for issuing coal exploration licences and permits and coal mining leases under the *Coal Regulations* pursuant to the *Northwest Territories Lands Act*.
4. The Mining Recorder is responsible for issuing dredging leases under the *Dredging Regulations* pursuant to the *Northwest Territories Lands Act*.
5. Documents pertaining to mineral tenure (including mineral claims, mineral leases, prospecting permits and coal exploration licenses) are recorded in the Mining Recorder's Office in Yellowknife. Mineral tenure information is available online in the GNWT's Mineral Tenure Map Viewer.

Link: [Mineral Tenure Map Viewer](#)

Survey Requirements

6. Under Section 57 of the *Mining Regulations*, a plan of survey of a claim prepared in accordance with the *Canada Lands Surveys Act* (S.C.) must be recorded with the Mining Recorder before a lease of the claim can be granted.
7. There are no provisions for surveys in the *Coal Regulations*.
8. Under Section 8 of the *Dredging Regulations*, surveys must be carried out under the instructions of the Surveyor General when so directed by the Minister.
9. A Canada Lands Surveyor engaged to conduct a survey must open a survey project in MyCLSS before commencing the survey (see Section 1.6: *Commencement of a Survey Project* in this publication).

4.2.3 Oil and Gas Rights

Administration

1. The *Oil and Gas Operations Act* and associated regulations deal with oil and gas development within the onshore. The onshore includes the land north of the 60th parallel, west of the boundary of Nunavut, not within Yukon and landward of the Beaufort Sea. For the authoritative description of the onshore see Section 2, *Northwest Territories Devolution Act* (S.C.).

2. The *Petroleum Resources Act* and associated regulations deal with the administration of oil and gas rights (Exploration Licences, Significant Discovery Licences and Production Licences) on petroleum lands. Petroleum lands are defined as lands within the administration and control of the Commissioner, or in respect of which the Commissioner has the right to dispose of or exploit the natural resources (see Section 1, *Petroleum Resources Act*).
3. The *Oil and Gas Land Regulations* pursuant to the *Northwest Territories Lands Act* deal with the division of land into grid areas, sections and units for oil and gas purposes, with surveys and with drilling approvals and rights to extract oil or gas from Territorial Lands. Territorial Lands" means lands, or any interest in lands, under the administration and control of the Commissioner (see Section 1, *Northwest Territories Lands Act* and Section 2, *Oil and Gas Land Regulations*).
4. The Office of the Regulator for Oil and Gas Operations, Department of Industry, Tourism and Investment (ITI) in Yellowknife regulates oil and gas development in the Northwest Territories, except for the Inuvialuit Settlement Area. Development in the Inuvialuit Settlement Area is regulated by the National Energy Board. As well the Norman Wells Proven Area has been excluded from the transfer of natural resources to the GNWT (see *Devolution Agreement*: Section 3.49, page 41). Oil and Gas development is not allowed in National Parks.
5. The Petroleum Resources Division, ITI in Inuvik administers oil and gas rights in the Northwest Territories, except for the excluded areas mentioned in paragraph 4 above. The Office of the Registrar of the Petroleum Resources Division, also in Inuvik, maintains a registration system for the registration and retrieval of information respecting oil and gas interests and instruments.

Survey Requirements

6. Legal surveys are carried out under the *Oil and Gas Land Regulations* for the purpose of establishing:
 - a. the position of a well on land within a unit of a grid area pursuant to Section 11, 12, 19 or 20 (2)(a) of the Regulations; and
 - b. the position of a boundary or boundaries or a grid area or any subdivision thereof pursuant to Section 11 or 12 of the Regulations.
7. A Canada Lands Surveyor engaged to conduct a survey must open a survey project in MyCLSS before commencing the survey (see *Section 1.6: Commencement of a Survey Project* in this publication), and must consult with the Surveyor General Branch in Yellowknife to determine whether or not the grid area in which the Canada Lands Surveyor will be working has been established by a prior survey approved by the Surveyor General.

4.3 Settlement Lands

1. These are lands identified as Settlement Lands of a Northwest Territories First Nation under its land claim agreement. Settlement Lands are held in fee simple title, and the title is registered in the Land Titles Office in Yellowknife. Settlement Lands are not Canada Lands, except for Tłı̄ch̄ō Lands which are included in the definition of Canada Lands in the *Canada Lands Surveys Act* (S.C.).
2. Settlement Lands include surface lands (approximately 10% of the area of the Northwest Territories) and lands comprising both surface and subsurface lands (approximately 4% of the area the Northwest Territories).
3. Maps showing Settlement Lands and Settlement Areas in the Northwest Territories are available online on the Aboriginal Affairs and Intergovernmental Relations (GNWT) website: [Settlement Areas](#).

Administration

4. Each First Nation (see table below) has its own requirements with respect to granting surface, mining, and oil and gas rights on its Settlement Lands.

First Nation	Land Administration	Office Location
Inuvialuit	Inuvialuit Land Administration, Inuvialuit Regional Corporation	Inuvik
Gwich'in	Gwich'in Land Corporation	Fort McPherson
Sahtu Dene and Métis	Deline Land Corporation Ltd.	Deline
	Tulita Land Corporation	Tulita
	K'ahsho Got'ine Land Corporation	Fort Good Hope
Tłı̨chǫ	Tłı̨chǫ Government	Behchokǫ
	Tłı̨chǫ Community Governments	Behchokǫ Whati Gamèti Wekweę̀tj
There are still three unsettled regions in the NWT: Dehcho, Akaitcho and the NWT Métis Nation		

5. First Nations in the Mackenzie Valley and in the Inuvialuit Settlement Area participate in the management of lands in their Settlement Areas through membership in Land and Water Boards and the Intergovernmental Council on Land and Resource Management. See Section 4.1 in this Chapter.
6. The National Energy Board is the regulator of oil and gas activities in the Inuvialuit Settlement Area under GNWT legislation and regulations.⁴
7. Specific interests in Settlement Lands may be registered in the Land Titles Office in Yellowknife if they comply with the provisions of the *Land Titles Act*.

Survey Requirements

8. Surveys for interests in Settlement Lands that are registered in the Land Titles Office must comply with the survey provisions of the *Land Titles Act*.
9. Tłı̨chǫ Lands (lands for which the fee simple interest is vested in the Tłı̨chǫ Government) are defined as Canada Lands in the *Canada Lands Surveys Act* (S.C.). The Tłı̨chǫ Government has the power to enact laws regarding the granting of interests in Tłı̨chǫ Lands under Chapter 7.4.2 of the *Tłı̨chǫ Land Claims and self-Government Agreement*. It may therefore require that surveys be carried out under provisions of the *Canada Lands Surveys Act* (S.C.).

4.4 Federal Lands

1. Federal Lands are those that remained under the administration of various Government of Canada departments when the GNWT obtained administration and control of public land on April 1, 2014. These excluded lands are listed in Schedule 4, Inventory of Exclusions from Transfer of Administration and Control of the *Northwest Territories Lands and Resources Devolution Agreement*. They include more than 900 parcels of land used for federal government operations, First Nation Reserves and National Parks. They are Canada Lands as defined in the *Canada Lands Surveys Act* (S.C.).
2. The Federal Lands used for federal government operations includes mineral and oil and gas rights.
3. The *Territorial Lands Act* (S.C.) and associated regulations applies to Federal Lands used for federal government operations that are under the administration and control of the Minister of Indian Affairs and Northern Development.
4. The *Federal Real Property and Federal Immovables Act* and the *Federal Real Property Regulations* applies to Federal Lands used for federal government operations that are administered by Ministers other than the Minister of Indian Affairs and Northern Development.

⁴ Northwest Territories, Industry Tourism and Investment webpage: <http://www.iti.gov.nt.ca/infopage/regulatory-roadmap-introduction>.

4.4.1 Surface Rights

Administration

1. The Resource and Land Management Directorate, Northern Affairs Organization, Aboriginal Affairs and Northern Development Canada in Yellowknife manages surface rights on Federal Lands used for federal government operations.

Survey Requirements

2. The *Territorial Lands Act* (S.C) and the regulations pursuant to it regarding surface interests in land and surveys are mirrored by those applying to Northwest Territories Public Lands (see Section 4.2.1 of this Chapter).
3. A Canada Lands Surveyor engaged to conduct a survey of Federal Lands in the Northwest Territories must open a survey project in MyCLSS before commencing the survey (see *Section 1.6: Commencement of a Survey Project* in this publication).

4.4.2 Mining Rights

Administration

1. The Resource and Land Management Directorate, Northern Affairs Organization, Aboriginal Affairs and Northern Development Canada in Yellowknife manages mining rights on Federal Lands used for federal government operations.

Survey Requirements

2. The *Territorial Lands Act* (S.C.) and the regulations pursuant to it regarding mining rights and surveys are mirrored by those applying to Northwest Territories Public Lands (see Section 4.2.2 of this Chapter).
3. A Canada Lands Surveyor engaged to conduct a survey of these Federal Lands in the Northwest Territories must open a survey project in MyCLSS before commencing the survey (see *Section 1.6: Commencement of a Survey Project* in this publication).

4.4.3 Oil and Gas Rights

Administration

1. The Northern Oil and Gas Branch, AANDC, in Gatineau, Quebec manages oil and gas rights on Federal Lands used for federal government operations.
2. Copies of licenses and other documents pertaining to oil and gas rights on lands in the Northwest Territories are available from the Office of the Registrar, Northern Oil and Gas Branch in Gatineau, Quebec.

Survey Requirements

3. The *Territorial Lands Act* (S.C.) and the *Oil and Gas Land Regulations* pursuant to it regarding surveys are mirrored by those applying to Northwest Territories Public Lands (see Section 4.2.3 of this Chapter).
4. A Canada Lands Surveyor engaged to conduct a survey of these Federal Lands in the Northwest Territories must open a survey project in MyCLSS before commencing the survey (see *Section 1.6: Commencement of a Survey Project* in this publication).

4.4.4 First Nation Reserves

1. The Resource and Land Management Directorate, Northern Affairs Organization, Aboriginal Affairs and Northern Development Canada in Yellowknife administers First Nation Reserve Lands.
2. In the Northwest Territories there are two First Nation Reserves: Salt River No. 195 for the Salt River First Nation and Hay River Dene No. 1 for the K'atlodecche First Nation.

3. See Chapter 2 in this publication for information on land administration and survey requirements on First Nation Reserves.

4.4.5 National Parks

1. There are three National Parks in the Northwest Territories (Aulavik, Tuktot Nogait, and Wood Buffalo), two National Park Reserves (Nahanni and Nááts'ihch'oh) and one National Historic Site (Saoyú-ᑭehdacho). They are administered by Parks Canada.
2. See Chapter 3 in this publication for information on land administration and survey requirements on National Parks and National Park Reserves.

4.5 Titled Lands

Titled lands are those for which a certificate of title has been issued under the *Land Titles Act* or the *Condominium Act*.

Administration

1. The Northwest Territories Department of Justice administers the *Land Titles Act* and the *Condominium Act*. Title information may be obtained from the Land Titles Office in Yellowknife.

Survey Requirements

2. Surveys of titled land made by Canada Lands Surveyors must be carried out in accordance with Section 22 of the *Canada Lands Surveys Act* (S.C.), the *Land Titles Act*, the *Land Titles Plans Regulations*, and the instructions of the Surveyor General.

In addition, surveys of condominiums must be carried out in accordance with the *Condominium Act*.

Bringing Land Under Land Titles Act

3. Following receipt of letters patent in fee simple by notification to the Registrar, the issuance of certificates of title requires that an official plan of survey prepared under the *Canada Lands Surveys Act* be filed in the Land Titles Office in Yellowknife (see Section 58 of the *Land Titles Act*).

Subdivisions or Consolidations of Titled Land

4. Under Section 88 of the *Land Titles Act*, a plan of survey is used for the subdivision or consolidation of lots or other parcels created by a previously filed or registered plan of survey.

There is also provision under Section 80 (1) of the *Land Titles Act* for the owner of an estate or interest in land that is less than a lot or other parcel to provide the Registrar with a plan of survey or a descriptive plan. In practice, descriptive plans are normally used only for encumbrances such as easements (see *Encumbrances* below), not for certificates of title.

5. A “plan of survey” is defined in Section 1 of the *Land Titles Act* as a plan in which the boundaries of the lots or other parcels created by the plan are defined by monuments, or by monuments and natural features. Although it is not prepared under the *Canada Lands Surveys Act* (S.C.), the plan of survey must comply with the instructions of the Surveyor General and the *Land Titles Plans Regulations*.
6. A Canada Lands Surveyor engaged to conduct a survey must open a survey project in MyCLSS before commencing the survey (see Section 1.6: *Commencement of a Survey Project* in this publication).
7. If the titled land includes Northwest Territories Public Lands (Commissioner’s Lands or Territorial Lands), a survey is required under the *Canada Lands Surveys Act* (S.C.). The survey must also comply with the *Land Titles Act*.
8. Before issuing specific instructions or lot numbers for a proposed consolidation or subdivision of titled lands, the Surveyor General Branch requires a sketch plan prepared in accordance with Sections 5 and 6 of the *Community Planning and*

Development Regulations and Sections 3 and 4 of the *Land Titles Plans Regulations* that has been approved by the subdivision authority. Pursuant *Community Planning and Development Act*, the subdivision authority is a municipal corporation that has been designated as such by the Minister of Municipal and Community Affairs, or if a municipal corporation is not so designated, the Director of Planning. The Director of Planning resides in the Lands Administration Division of the Department of Lands, GNWT.

9. Under Section 9 (2) of the *Land Titles Plans Regulations*, monumentation may be deferred for up to one year after the plan is registered if permitted by instructions from the Surveyor General.
10. Under Section 10 of the *Land Titles Plans Regulations*, a plan of survey may be compiled if permitted by instructions from the Surveyor General.

Encumbrances (Utility Easements)

11. A descriptive plan is used for describing an encumbrance that is for only a portion of a parcel shown on a plan of survey (see Sections 96 and 97, *Land Titles Act*).
12. A “descriptive plan” is defined in Section 1 of the *Land Titles Act* as a plan prepared from a plan of survey that has been filed or registered in a land titles office, property descriptions on a certificate of title, or any other information in which some or all of the boundaries of the lots or other parcels created by the plan are not defined by monuments.
13. Descriptive plans are not prepared under the *Canada Lands Surveys Act* (S.C.), and neither instructions from nor endorsement by the Surveyor General is required. However, in practice they are exactly the same as explanatory plans for utility easements that are approved by the Surveyor General.

Certificates of Title for Condominium Units

14. Under the *Condominium Act*, property may be divided into parts called “units” that are to be owned or leased individually and parts that are to be owned or leased in common.
15. Condominium plans may be for building units (e.g., an apartment space) or for bare land where the unit is defined by its horizontal boundaries. These plans are registered in the Land Titles Office in Yellowknife, and the Registrar issues a certificate of title for each unit, including its proportion of the common property.
16. Condominium plans must be certified by Canada Lands Surveyors. There is no legislated requirement that they be carried out in accordance with instructions from the Surveyor General or approved by the Surveyor General. However, the Surveyor General maintains national standards for condominium surveys.

(Original signed on August 27th 2015)

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