

Land Act Right of Way Titles

Titles Based upon Statutory Right of Way Plans over Untitled Crown Land

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At the 2017 AGM in Victoria I presented on the topic of Land Act Right of Way Titles (SRW Titles). The Surveyor General Division receives questions related to these titles and I find that it isn't generally well understood what the origin of these titles are and thus how they should be dealt with.

So, what is a SRW title?

A SRW title is a title created over untitle Crown Land in order for a statutory right of way charge to be registered. These titles are raised

British Columbia" in the register as the fee simple owner of the land covered by the grant.

Where the grantee of the right of way referred to in subsection (1) applies for registration of his title to the right of way, the registrar shall, on compliance with the Act, register the title to the right of way by endorsing a memorandum of it on the register.

When the Land Title Office receives a SRW plan over untitle Crown lands, they treat the plan as a general filing according to the practice described

The Land Title Examiner will create a legal description and PID that will be used for the title. This legal description includes a reference to the land district involved as well as to the plan number, such as:

That part of Unsurveyed Crown Land, Peace River District shown on Plan EPP1234

Or, if the lands being dealt with are within surveyed, but untitle Crown land, the description may be more like:

That Part of District Lot 100, Peace River District shown on Plan EPP1234.

Or, if the different areas from an SRW plan are dealt with individually the resulting legal descriptions will follow one of the following formats:

That part of Unsurveyed Crown Land within Peace River District shown as Area 1 on Plan EPP1234.

That part of Unsurveyed Crown Land, Peace River District having an area of 20 square metres shown on Plan EPP1234.

Plan Preparation and Survey Requirements

Whether you are preparing a Land Act plan or a Land Title Act plan which crosses a portion or all of a SRW Title, the extent of the SRW plan referred to in the title should be shown on your new plan as you would show any other SRW plan; that is, as dashed lines. Also, if your boundary under survey crosses the SRW plan referred to in the



View of the mighty Peace River, northeastern British Columbia

under Section 24 of the Land Title Act Regulations (BC Reg. 334/79) which reads:

Where a right of way is granted over Crown land under section 40 of the Land Act, the registrar shall, on receiving the grant, enter "Her Majesty the Queen in right of the Province of

in Practice Bulletin 01-11. Then, once the SRW charge document has been filed (which may come many months, or even several years, after the filing of the plan), they raise title to the land defined by the SRW plan in the name of the Crown, pursuant to Section 24 of BC Reg. 334/79, in order to register title to the charge.

title, the posting requirements are the same as set out in the General Survey Instruction Rules for the crossing of any SRW.

If a new parcel being defined by a Survey Plan under the Land Act is Crown granted, the grant will make reference to the charge so that when the Land Title Office raises a new title for the granted land, the new title will be subject to, and consequently endorsed with the charge from the SRW Title, and the SRW Title will be extinguished for the portion of the SRW that falls within the lands now granted. The result of this extinguishment is that the legal description on the SRW title is updated to note the exception. For example, if the granted lands are defined as District Lot 5678, the SRW Title's legal description is updated as follows:

That part of Unsurveyed Crown Land, Peace River District shown on Plan EPP1234 except part in District Lot 5678.

As SRW Titles are raised to register title to the SRW charges over land defined on SRW plans, you may find that there are overlapping SRW Titles in an area where SRW plans cross each other, and this is not a concern from the land surveyor's perspective. If the lands are Crown granted in the future, these multiple SRW charges will be referenced in the Crown grant document and then endorsed on to the title of the granted lands, and the SRW Titles will be extinguished or amended as appropriate.

Tips for identifying SRW Titles

The simplest way to identify a SRW Title is by looking at the combination of the owner name and the description of the land. If the owner name is

“Her Majesty the Queen in right of the Province of British Columbia” or a variant implying the Provincial Crown; the legal description refers to “as shown on plan ” or a variant in language referring to a SRW plan; and there is a SRW charge listed on the title that corresponds with that SRW

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plan, then it's almost certain that it is a SRW Title. The “From Title” field may also make reference to “s. 24 BC Reg. 334/79”.

Practices varied in the past and some legal descriptions don't refer to a SRW plan. In order to be certain that these are in fact SRW Titles, you need to look at the root of the title to ensure that the title wasn't raised by another mechanism, such as a Crown grant or Dominion Patent. If the title was raised by another mechanism it must be treated as any other indefeasible title.

Searching for SRW Plans and SRW Titles over untitled Crown Land

The following are methods to search for SRW plan images and SRW Titles in myLTSA.

In order to obtain the plan image of a SRW plan over untitled Crown land, if you know the SRW Plan number you can simply search in myLTSA search services by the plan number.

In order to obtain the SRW Title related to a SRW Plan over unsurveyed Crown land, you can search for the title in myLTSA search service under

Short Legal Description, Subdivided, and enter the SRW Plan number under ‘Plan’.

In order to obtain the SRW Title related to a SRW Plan over untitled, but surveyed, Crown land, you can search for the title in myLTSA search

service under Short Legal Description, Unsubdivided, and enter the underlying parcel information, such as Land District and District Lot.

If you do not know the SRW Plan number and the SRW Plan runs through Unsurveyed Crown Land there is no simple mechanism within myLTSA search services to find the plan. I would recommend utilizing ParcelMap BC to search in the area of interest for any SRW plans. If the SRW is unmapped, you may want to try utilizing the OGC's online services by downloading the survey_plan.csv spreadsheet and searching.

More help

Please visit the LTSA website for further practice information. You may find the following documents helpful:

Land Title Practice Bulletin 01-11 - Statutory Right of Way Plans and Form C Applications for Statutory Right of Way over Untitled Crown Land

Land Title Practice Note PN 06-10 – Standardized Legal Descriptions ❖