

Subject: **NOTIFICATIONS PURSUANT TO THE PUBLIC WORKS
ACT**

BACKGROUND

Notifications for public works (1) and highways may be issued pursuant to sections 21 and 32 of the Public Works Act. The Crown may use this method of obtaining title to land if the land is an existing parcel already described on a certificate of title, or by a new plan of survey if it is part of an existing parcel and if the owners have agreed to sell it to the Crown.

A transfer of land is not required (2) except in case of lands of the Crown in Right of Canada where a transfer should be submitted with the notification. (3)

REGISTRATION PROCEDURE

1. Notifications must be referred to the Surveys section for processing.
2. The notification must contain a statement that the land is required for a public work and that the consent of all the owners has been obtained. The transfer, in case of lands of the Crown in Right of Canada, must be in favour of the Crown in Right of Alberta and is to be registered concurrently with the notification by attaching it to the notification.
3. A proper legal description of the land must be provided in the notification. Notifications can only be issued in respect of land which:
 - a) consists of a lot or parcel shown on a plan that is registered under the Land Titles Act,
 - b) is the subject matter of one certificate of title, or consists of one or more legal subdivisions within the meaning of the Surveys Act, S.A. 2000, c. S-30,
 - c) can be described sufficiently without the necessity of a plan of survey or an additional plan of survey. (4) or
 - d) is shown on a new plan of survey that accompanies the notification if title to only part of an existing parcel is being acquired.

Section 82 of the Land Titles Act authorizes the registration of these notifications and the issuance of certificates of title to the Crown free from encumbrances. The Crown is not entitled to any mines and minerals in the land referred to in the notification unless they are expressly acquired. (5)

4. The notification must be signed by the Minister having jurisdiction over the public work or his designate (e.g., the Minister of Infrastructure for highway lands). Attestation requirements do not apply. (6)

5. Upon the registration of the notification, the existing certificate of title is cancelled and a certificate of title is issued to His Majesty the King in right of Alberta free from all encumbrances (7) and caveats other than the interests shown in item 12 of Surveys - Examination of Road Plans and Other Public Works Plans [SUR-5](#).
6. Pursuant to [Tariff item 2](#), no fee is charged.

STATUTE AND CASE REFERENCES

Statute references are to the Land Titles Act, R.S.A. 2000, c. L-4, unless otherwise indicated.

1. s. 1(c) of the Public Works Act, R.S.A. 2000, c. P-46 defines "public work" as: "includes the undertaking of all the works and property that may be acquired, made, built, constructed, erected, extended, enlarged, repaired, maintained, improved, formed, excavated, operated, reconstructed, replaced or removed at the expense of the Crown or for which there is legislative authority to pay out or apply public money otherwise than by way of subsidy only."
2. s. 32, Public Works Act
3. s. 13 of the Federal Real Property and Federal Immovables Act, Statutes of Canada 1991 c. 50; and s. 14 of the Interpretation Act RSA2000 c. 1-8
4. s. 21, Public Works Act
5. s. 82(5)
6. s. 159
7. s. 82(2)(c)