

## Application

A disposition holder must obtain approval from the Director to mortgage, assign, transfer or sublease a disposition (*Public Lands Act*: Section 43). Only a disposition which is a lease can be sublet (*Public Lands Administration Regulation*: Section 146(4)).

Application to mortgage, assign, or transfer the following must be rejected (*Public Lands Administration Regulation*: Section 149):

- (a) an approval
- (b) an authorization
- (c) a cultivation permit
- (d) a grazing permit
- (e) a haying permit
- (f) a head tax permit
- (g) a miscellaneous permit
- (h) a surface material licence
- (i) a mortgage or security interest in another disposition, or
- (j) a disposition that is sublet.

The Director must also reject:

- A mortgage as outlined in the *Public Lands Administration Regulation*: Section 152 (1)
- An assignment and transfer as outlined in *Public Lands Administration Regulation*: Section 153.

Mortgages, assignments, transfers and subleases of dispositions require an **Administrative Approval**.

For definitions and information to help you with the application process including fees, search the following on the Department website:

- PLAR Approvals Information Letter
- PLAR Table A1: AEP Dispositions
- PLAR Table A2: AER Dispositions

An application for a mortgage, assignment, transfer or sublease may be accepted or rejected by the director (*Public Lands Administration Regulation*: Section 13). The approval for a mortgage, assignment, transfer or sublease may be issued or refused by the Director (*Public Lands Administration Regulation*: Section 14)

If approved, the approval may include terms and conditions that must be met. When the Director issues an approval for a mortgage, assignment, transfer or sublease, it must be registered in the Department records and any related records must be amended to include the name of the mortgagee, assignee, transferee or sub lessee. An application for an Approval is deemed rejected if it is not registered a notice within 30 days of receipt. "Deemed rejected" applications can be appealed under the *Public Lands Administration Regulation*: Sections 211, 212, and 213.

Mortgages, assignments, transfers or subleases cannot be for a longer term than the term of the disposition they fall under.

## Mortgage

The Director may, before or after consenting to a mortgage, require a mortgagee to enter into an agreement with the Department respecting the form of instrument to be used in mortgaging dispositions, the manner in which the mortgagee will realize on the security, and any other matters related to the mortgaging of dispositions. An agreement may relate to one or more mortgages and may affect those mortgages retrospectively.

When the Director consents to mortgage a disposition, the Minister, the lender, and disposition holder (mortgagor) enter in to an agreement. The Department requires a Memorandum of Agreement (MOA) with the lender prior to consenting to a mortgage and prior to entering into any agreements with the mortgagor. MOA templates can be found by searching the following on the Department website:

- Memorandum of Agreement – Company

## Assignments

Requirements for the registration of an assignment is provided in the *Public Lands Act*: Sections 113 to 117. If an assignment is not prohibited, it can be registered by the Director (*Public Lands Act*: Section 114(1)). An assignment request may be refused by the Director (*Public Lands Act*: Section 114(3)).

Information on assignments is provided in a directive that can be searched for on the Department website:

- Assignments Issued under Part 4 of the Public Lands Administration Regulation

At this time full assignments for several types of dispositions may be made electronically. Information on which types of dispositions and how to do this can be found by searching for the following on the Department website:

- Electronic Assignments

An assignor may assign a disposition to himself and other persons and all are entitled to the interest in that assignment. Two or more holders of a disposition may assign the disposition to some of them and only the assignees are entitled to the interest in that assignment.

An assignment takes effect upon its registration. Once the assignment is registered the assignor is no longer the holder of the disposition, or no longer the sole holder of the disposition when the assignor assigns the disposition to himself and other persons.

A registered assignment is considered valid and supersedes an unregistered assignment.

## Transfers

When the holder of a disposition dies, the disposition may be transferred to another person. A transfer on the death of the disposition holder is administered as per the Public Lands Administration Regulation: Section 147. A copy of the grant of probate or letters of administration authorizing the personal representative to deal with the deceased disposition holder's assets must accompany the application.

Information on transfers is provided in a directive that can be searched for on the Department website:

- Administrative Approvals: Transfers – Part 5 of the *Public Lands Act* and Part 4 of PLAR

## Subleases

Currently, subleases are considered a private surface agreement between a lease holder and a third party. Only a disposition that is a lease can be sublet but a sublease cannot be further sublet (Public Lands Administration Regulation: Section 146(4)).

A sublease agreement must expire one day prior to the expiration of the lease.

Dispositions which may be subleased include:

- Farm Development Lease (FDL)
- Grazing Lease (GRL)
- Mineral Surface Lease (MSL)
- Miscellaneous Lease (DML/MLL)
- Pipeline Installation Lease (DPL/PIL)
- Surface Materials Lease (SML)

The purpose of the sublease must be the same as the lease it is part of and cannot contravene any of the lease's standards and conditions. If the proposed activity of the sublease is not consistent with the activity approved under the lease the lessee must apply to amend the lease before the sublease may be considered.

To request approval for a sublease, submit the proposed sublease agreement to the appropriate regulatory body.

The Director may allow for more than one sublease on one lease, change the terms and conditions of the lease, and request additional security for the lessee and sub lessee.