

## Chilean mining exploration claims: a brief guide

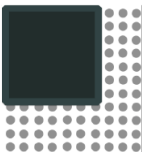
As in most jurisdictions, the State has absolute, exclusive, inalienable and non-lapsable ownership of all minerals. According to the legal framework, mining concessions or claims, both for exploration and exploitation, are granted by a judicial resolution from the civil courts in a voluntary and non-contentious judicial proceeding. The main consideration behind this judicial nature of the concession is the non-intervention of any other authority except the technical support provided by the National Geology and Mining Service (SERNAGEOMIN). The procedure to incorporate a mining concession is based on the godfathering principle that grants preference to obtain it to the first petitioner before the local ordinary court. In 2015, 17,532 concessions of exploration and 4,787 of exploitation were assigned nationwide.<sup>1</sup>

Mineral claims or concessions are real property rights, distinct from and independent of title to surface property. They can be transferred, signed over and mortgaged and generally enjoy the same standing as other real rights contemplated in legal acts or contracts. Mining concessions are regulated by civil laws applicable to all real property. Concession awards are kept in force by payment of an annual licence (patent), which remains as sole obligation and assurance mechanism. The Organic Constitutional Law 18.097 instructs the Mining Code determine the form and amount of the license.

- **Exploration Concessions** referred as "*Pedimento*" must be filed with the competent Court and a one-time processing fee paid. The Court will direct that a full copy of the claim be filed with the Registry of Discovery of the Mining Titles Registrar, and that a full copy of such filing be published in the Official Mining Bulletin. The file will be forwarded to the National Geology and Mining Service (SERNAGEOMIN) for review. Unless the Service objects, the Court will award the exploration concession requested. Upon determination, successful applicants will be required to pay an annual licence. The Court will direct that an excerpt of the award be published in the Official Mining Bulletin and filed with the Registry of Discovery of the Mining Titles

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<sup>1</sup> Servicio Nacional de Geología y Minería (Sernageomin), 2015. Anuario de la Minería de Chile



Registrar. As a rule of thumbs, the process to obtain an exploration concession takes 6 months and costs 1/5 compared to Exploitation concession.

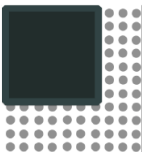
The exploration concessions will last for two years, effective the constitution sentence by the court. However, before the expiration of that period, a one-time extension petition can be filled. A two year extension can be granted from the end of the first period and always do abandonment of at least half of the total area originally granted.

## **Step-by-Step Exploration Staking procedure**

Four stages can be identified on the exploration concession filling process, on which the petitioner is required to directly (or through a representative) carry forms, payments and procedures with different authorities. These are identified in the flow diagram presented on the figure below and can be summarized as follows.

### **Stage 1:**

1. The petitioner must submit the *Pedimento* to the Court office which jurisdiction correspond to the midpoint of the surface area of interest. This document is a motion request for an exploration concession that must contain:
  - The geographical coordinates or U.T.M., corresponding to the midpoint of the upper face of the grant requested (accurately second or 10 meters, respectively).
  - The sides of the pediment that should be at least a thousand meters or multiples of one thousand meters will of the dealer.
  - Name that will be given to the exploration concession requested.
  - Surface area expressed in hectares (cannot exceed 5,000 hectares).
2. The Judge of a Civil Court review the petition and if it meets the points outlined above and those indicated in the Mining Code, he orders to register and publish within 30 days from the date he dictates it (next Stage). If the report is unfavorable the petitioner is requested to correct the observations within 8 days, otherwise shall be deemed not submitted such document. In some cases the Court can request the SERNAGEOMIN for a technical revision of the documents.
3. The petitioner must directly pay the *Pedimento* tariff or fee to the *Tesorería General de la Republica* (General Treasury) within 30 days from the date of filing of the motion to Court. As detailed in the Article 51 of the Mining Code, the tariff is calculated as follow (where UTM



is the *Unidad Tributaria Mensual*, a tax unit used in Chile which is adjusted in a monthly base according to inflation<sup>2</sup>):

- Area below 300 ha: 0.005 x UTM x Hectares
- Area over 300 ha to 1,500 ha: 0.02 x UTM x Hectares
- Area over 1,500 ha to 3,000 ha: 0.03 x UTM x Hectares
- Area over 3,000 ha: 0.04 x UTM x Hectares

## Stage 2:

Once the Court orders to register and publish the motion, the Secretary of the Court shall provide an authorized copy of the motion that includes the role number of the record. The petitioner must fulfill the following procedures within 30 days starting the day of the Court's resolution:

1. The registration of the *Pedimento* has to be filled with the *Conservador de Minas*<sup>3</sup> assigned within the jurisdiction of the submitted *Pedimento*.
2. This registration then must be published one time in the Official Bulletin of Mining (*Diario Oficial de Minería*)<sup>4</sup> within the jurisdiction of the submitted *Pedimento*

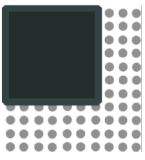
## Stage 3:

1. The petitioner must pay a Proportional Patent directly to the *Tesorería General de la República*. The amount of the first patent shall be proportional to the time between the date of the request for sentencing and the last business day of the following month of February. As established in the Article 144 of the Mining Code, the exploration concession patent is calculated as a fiftieth of a UTM by the number of hectares. Subsequent patents will be for periods of one year, which must be paid in advance in the month of March each year.
2. At this point, the petitioner is in the condition to request the sentencing of constitution on his favor for the exploration concession from the Court. The petitioner must complete this application within 90 days starting the day of the Court's resolution in Stage 1, which dictated the order to register and publish the *Pedimento* motion. This application may cover all or part of the order land, but in no case land located outside it. The application must be accompanied by the following documents:
  - Proof of payment of *Pedimento* tariff
  - Proof of payment of proportional patent
  - A certified copy of the registration of *Pedimento* in the *Conservador de Minas*

<sup>2</sup> In June 2016 the value of the UTM was CLP 45,633 (approximately equivalent to US\$ 67)

<sup>3</sup> The *Conservador de Minas* is a solicitor that acts as a minister of faith according to the Article 446 of the Organic Code of Courts, which is the Chilean legal body that regulates the organization and powers of Courts of Justice as well as the status and functions of the auxiliaries of the administration of justice.

<sup>4</sup> The Official Bulletin is the means of publication of laws, decrees and other legal rules issued by state bodies. In addition certain public and private acts of obligatory insertion are published.

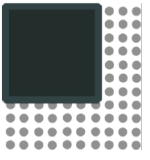


- Copy of the Official Bulletin of Mining where the *Pedimento* was published
  - Map describing the configuration of the perimeter of the exploration concession, U.T.M. coordinates of the perimeter and bearing and distance relationship with the midpoint stated in the *Pedimento*. Scales and other characteristics of the map are determined by the Regulations of the Mining Code
3. The Court checks whether the submission is correct (if any errors or omissions are found then the petitioner will have eight days to correct them) and then send the file to SERNAGEOMIN to provide a technical revision over the application. If the response is favorable from SERNAGEOMIN, the Judge will declare constituted exploration concession. If contains observations, the Judge informs the petitioner to correct the observations within 30 days.

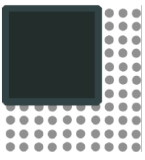
#### **Stage 4:**

Subsequent procedures from the to the constituent sentencing:

1. The petitioner is entitled know to request from the Secretary of the Court the following documents:
  - An excerpt of the constitution of mining exploration concession sentencing, which is a summary containing the information of the holder (petitioner), the number of role the record, the Court, the date of sentencing and grant type, the filing date of the petition, the data of this registration, the name of the award and the UTM coordinates of each of the vertices of the perimeter of the mining exploration concession.
  - Two full copies of the constitution sentencing.
  - The original and an official copy of the concession map.
2. The petitioner must publish the excerpt of the sentencing in the Official Bulletin of Mining within the competent jurisdiction on the first working day of any month prior to the final registration, and within 120 days from the Court sentencing day.
3. Being published or pending publication of the excerpt, the petitioner must submit to SERNAGEOMIN the original map of the mining exploration concession and the copy of the constitution sentencing. Upon submission, a proof of remittance will be given to the petitioner.
4. Lastly, provided the publication of the excerpt in the Oficial Bulletin, the petitioner is entitled to register the exploration concession constitution sentencing in the Registry of Discovery of the *Conservador de Minas*. The petitioner have to submit the copy of the map of the mining exploration concession, the copy of the constitution sentencing, a copy of the Official Bulletin with the published excerpt, and the proof of remittance from SERNAGEOMIN.



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