

Mineral Tenure Act Regulation – Proposed Amendments

Summary Report 2011



Ministry of
Natural Resource
Operations



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Ministry of Natural Resource Operations

Mineral Titles Branch

March 2011

Executive Summary

Discussions between the former Ministry of Energy, Mines and Petroleum Resources (the Ministry) and the mineral exploration sector (industry) have revealed that a balanced fee structure, affordable to both the individual prospector and company (Junior, Senior and Major) is necessary to promote further mineral exploration in British Columbia.

Eleven (11) mining associations and organizations submitted feedback to the Ministry via face-to-face meetings with Ministry Titles staff and a 73-day industry comment period in the fall of 2010. Participants were asked to provide input on proposed amendments to the *Mineral Tenure Act Regulation*, including a new fee structure and revised annual exploration work requirements (claim maintenance). In total, 117 industry representatives participated in information sessions and 25 submitted additional feedback by email during the comment period.

The majority of feedback mirrors consultations held with industry in 2008 and reflects the primary goals of the amendments, which are to:

1. Increase the efficiency of the current mineral subsurface tenure process;
2. Increase the amount of mineral land available for actual exploration and development; and
3. Update the fee and work requirement structure to align with current industry exploration costs.

Key findings from the consultation include:

- Restricting the use of cash in lieu, in addition to proposals to double the fee payment, was strongly supported by industry.
- The majority of industry representatives were in favour of a yearly staged increase for the exploration work requirements (mineral) but felt that the initial two years and years eight and beyond needed to be lower to allow individual prospectors and smaller companies to prosper.
- Industry representatives were in agreement with increasing the claim registration fee for both mineral and placer development but felt that current proposals (\$1.75/ha and \$6.00/ha respectively) were too high.
- No consensus was reached regarding proposed increases to lease rental fees; however, the general perception from industry was that the jump from \$5.00/ha to \$20.00/ha for placer development was too high and not comparable to proposed increases for mineral lease rentals (from \$10.00/ha to \$25.00/ha).
- Approximately 50% of industry participants recommended a revision of the proposed Portable Assessment Credit (PAC) fee increase and utility without specific suggestions.
- Increases to the maximum production limits for placer activities were endorsed by industry, with recommendations to make legacy and claim amounts equivalent.
- Overall support was received for eliminating the work registration fee, increasing the maximum claim size, and increasing administrative fees.
- A number of out-of-scope issues and recommendations were identified by industry, including the need for a more streamlined permitting process; improved services from

Executive Summary

the ministry with respect to inspections, permitting and titles acquisition and maintenance; greater support and incentives for current and future mineral explorers; education and training on applications, sampling procedures, and consultation requirements; and further review of Mineral Titles Online.

Background – Mineral Tenure Act Regulation Amendment

The mining industry has been a major contributor to the B.C. economy for over a century, with an estimated \$5.7 billion supporting 12,800 jobs and the development of everyday goods and services in 2009. There is significant mineral potential in BC, with approximately 50 metal, coal and industrial mineral mines currently in production.

The Mineral Titles Branch, now within the Ministry of Natural Resource Operations, is responsible for administering and regulating the acquisition and maintenance of mineral, placer and coal rights in British Columbia. The Mineral Titles Branch administers the *Mineral Tenure Act* (MTA) and regulations, and manages the Mineral Titles Online (MTO) registry. Title to subsurface resources held under the MTA is acquired and maintained via the automated MTO registry.

The launch of MTO in 2005 was a major change for the industry and a decision was made at the time to maintain the fee levels and exploration work requirement structure that had existed under the manual system in order to allow the industry time to adjust. A commitment was also made at that time to review the mineral titles fees, work exploration requirements and administration at a later date, in recognition of the need to modernize them.

Online staking now allows claims to be acquired or “registered” without ever setting foot on the land. MTO has significantly reduced the cost of acquiring a claim, and, as a result, has allowed some claims to be registered (and either held or sold to other free miners) by persons who have no intention of ever conducting any mining activity on the land.

The process to review and update the fee levels and exploration work requirements was designed to modernize the MTA Regulation in order to better implement key provincial policy principles in support of the mineral exploration sector. The key policy principle is that a claim is to be used for the exploration and development of minerals. A higher front-end fee for the acquisition of new claims will require a more stringent business case for registering a mineral claim on the part of the free miner. Revising the exploration work requirements will signal that claims are expected to be explored.

Targeted information sessions were organized throughout the province during the fall of 2010 to provide information to industry on proposed amendments as a follow-up to consultations completed in 2008 (See “Appendix 1” for further information). Feedback obtained during this period will be considered in the development of proposals to Cabinet, and will help inform decision-making regarding mineral tenure acquisition and maintenance requirements in B.C.

A Discussion Guide and Question & Answer (Q&A) were developed to guide discussions with industry and obtain feedback. Email submissions were sent directly to Ministry Titles Policy & Planning staff.

For the purposes of this study:

Claim registration fee is defined as the registration fee required in order to register a new mineral claim, currently \$0.40 per hectare.

Background – Mineral Tenure Act Regulation Amendment

Work registration fee means the registration fee required when exploration work or cash payment instead of work is registered, in order to advance the expiry date of a mineral claim, currently \$0.40 per hectare, per year.

Exploration work requirement means the minimum monetary value of exploration work required in order to advance the expiry date of a mineral claim, currently \$4.00 per hectare in each of the first 3 years of the life of a claim and \$8.00 per hectare thereafter.

Payment Instead of Exploration and Development (PIED) is the cash equivalent of the exploration work level (and is also known as “cash in lieu” or CIL).

New claim acquisition limit is defined as the maximum number of cells that can be acquired at one time, currently set at twenty-five (25) cells.

Portable Assessment Credit (PAC) refers to a “credit” that can be used as follows: when technical exploration work has been conducted, and is not applied to a claim to advance the expiry date, the value of the work can be applied to PAC. A one-time total PAC withdrawal is allowable when a minimum of 10 years of exploration and development work has been recorded on a claim. The current value of this credit is calculated on a basis of \$16.00 per hectare.

Discussion

According to participating industry representatives, the need for a balanced approach to mineral acquisition and maintenance in B.C. is critical for a future vibrant mining sector. While many did not feel the new fee structure would completely address the issue of claims being held and not explored, it was generally agreed that updated fee levels were required to more accurately reflect today's exploration and development costs and to encourage filing of work. It was also noted that the acquisition of large tracts of land was relatively easy and inexpensive, and both government and industry are concerned as to whether these large tracts are being adequately explored. On the other hand, prospectors expressed concern over changes that may significantly hinder their ability to acquire tracts large enough to attract investment. The timing for changes to the *Mineral Tenure Act Regulation*, according to industry, should ensure a smooth transition by taking into account the exploratory budgetary planning season.

The following issues and recommendations were raised during information sessions and via feedback submitted by email:

Restrict Payment Instead of Exploration and Development (Cash in Lieu)¹

The importance of maintaining the option to use cash in lieu, while restricting its usage, was identified in each of the nine industry information sessions and in feedback submitted by email. It was recognized that the purpose of cash in lieu is to maintain a claim in good standing under circumstances where exploration and development work is not possible, and that it was often not being used for that purpose. A number of mechanisms were identified by industry, some of which include a restriction on the use of cash in lieu (e.g., a maximum of two consecutive years in a row, or once a year); requiring industry to earn the right to use cash in lieu (e.g., for every year of work conducted, one year of cash in lieu would be earned); and/or developing an application system whereby cash in lieu must be justified prior to being granted.

Current proposals to make the cash-in-lieu payment double the amount of the work assessment requirement were generally agreed to, pending consideration of the above.

Revise Exploration Work Requirement Fees and Restrictions²

Industry cautioned that the annual exploration work requirement fees needed to stay at a level conducive to keeping both individual prospectors and the companies in business. While the average life span of a claim is estimated at 3.6 years, excessive increases to the fee structure, in addition to field expenses, consulting fees, etc., may be a detriment to prospectors wishing to maintain their claims beyond the three-year mark. In general, it was recommended by industry to lower the amounts for the first two years (e.g., to \$5.00/ha) and initiate an annual staged increase, capping off at \$20.00/ha in year eight and subsequent years.

¹ *Mineral Tenure Act Regulation (MTAR)* – Section 10

² *MTAR* – Section 8(4)

Discussion

Some requests were also made to allow credit for physical work conducted prior to permit issuance, and to broaden the definition of physical work to include the building of roads and related activities. This issue was addressed in previous regulation amendments (2005).

Increase the Claim Registration Fee³

Increases to the claim registration fee for both mineral and placer claims were supported by the majority of participants, with recommendations to lower proposals to double the current fee rates (e.g. \$0.80/ha for mineral; \$4.00/ha for placer) in lieu of the proposed \$1.75/ha and \$6.00/ha amounts respectively. The rationale was that these levels would help to modernize the fee structure, while remaining affordable to all of industry.

It was also recommended by some industry participants that a percentage of the fee increase be refunded as part of the first year exploration work requirement.

Revise Portable Assessment Credit (PAC) Increase and Review Utility⁴

Mixed feedback was received on the proposal to increase the PAC withdrawal rate from \$16.00/ha to \$50.00/ha, with some industry participants recommending further assessment of its utility. Additional recommendations included increasing the 30% PAC maximum use restriction; allowing for increased PAC usage for claims 10 years or older; and incorporating PAC into Mineral Titles Online.

Reduce Proposed Placer Lease Rental Fee Increase⁵

There was overall endorsement for an increase to the lease rental fees for both placer and mineral development, with recommendations to lower the proposed placer rental fee increase from the current \$5.00/ha to \$20.00/ha. It was felt by some participants that the increase should be more proportionate to the proposed mineral lease rental fee increase (from the current \$10.00/ha to \$25.00/ha).

Harmonize Maximum Production Amounts (Legacy & Cell Placer Claims)⁶

A majority of industry participants were supportive of increases to the maximum production amounts for placer (from 2,000 m³ to 10,000 m³ of pay dirt for a legacy claim, and from 1,000 m³ per cell to 20,000 m³ per cell for a cell claim); however further feedback emphasized that legacy and cell claim amounts should be equivalent.

Increase Current Maximum Claim Size & Administrative Fees⁷

³ MTAR – Schedule 'B' Prescribed Fees

⁴ MTAR – Section 9(5)

⁵ MTAR - Schedule 'B' Prescribed Fees

⁶ MTAR – Section 17(2)

⁷ MTAR – Section 4(1) & Schedule 'B' Prescribed Fees

A proposed increase to the maximum size of a new mineral claim (from 25 cells to 100 cells) was viewed as an improvement by industry, as it allowed prospectors to stake the same amount of ground with fewer claims. For the most part, increases to the administrative fees for mineral claim acquisition and maintenance were supported, recognizing that fees were outdated and should better align with current government expenditures.

Eliminate Work Registration Fees⁸

Elimination of the charge to register exploration work (currently set at \$.040/ha) was perceived as a positive change by industry, on the basis that it would encourage filing of exploration work and aid future explorers in their planning. Additional benefits include saving costs and reducing environmental impacts by avoiding the repetition of previous exploration work due to the unavailability of unregistered exploration work and related data.

Streamline Permitting Process (out of scope)

Issues around permit delays and inconsistent rules for permit acquisition were voiced at all information sessions with recognition of – and strong support for – the move towards a multi-year permitting process. It was recommended by some participants that permit applications be handled solely by the ministry, eliminating the involvement of FrontCounterBC, in order to expedite the process. Other concerns raised included the need for more communication, fewer restrictions on permitting, and new mechanisms for granting permit extensions.

Need for Improved Services (out of scope)

Issues around vandalism and theft were raised, combined with the need for greater enforcement and inspection. It was suggested that a percentage of revenue gained from mining be allocated directly to the ministry for enhanced service and support to ensure proper management of the resource and in recognition of ministry staffing and resource constraints.

Review Consultation Activity Guidelines (out of scope)

A large factor delaying development expressed by representatives from the mining industry was the amount of time and funds required for consultation with First Nations. It was recognized that part of this issue was being addressed by the new multi-year permit system; however, more detailed information on typical consultation activities and costs was requested. Some participants were in favour of broadening consultation activities to include other stakeholders and interest groups with respect to exploration work requirement allowances.

Greater Support and Incentives for Mining (out of scope)

⁸ MTAR – Schedule 'B' Prescribed Fees

Discussion

Concern was raised in every session regarding the risk and difficulties associated with mineral exploration in BC, including high start-up costs and stringent legislative and regulatory requirements. The proposal to increase the fee structure for mineral tenure acquisition was viewed by some as unfair to the “legitimate miner” and a potential detriment to individual prospectors and future explorers. The need for more education and incentives for mining was identified, such as a “Prospector’s Assistance Program” similar to those found in other jurisdictions such as Quebec, Yukon, and Newfoundland.

Education & Training (out of scope)

The development of targeted information sessions was recommended by industry for education and training on a variety of topics, including permit applications, proper sampling procedures, consultation with First Nations, and Mineral Titles Online. A small percentage of industry participants requested that examinations for Free Miner Certificates be reinstated.

Review of Mineral Titles Online (out of scope)

A number of issues pertaining to Mineral Titles Online (MTO) were identified, including unreliable access due to slow-speed dial-up or intermittent connectivity from externally linked databases; difficulties conducting searches on BC Online; and the need for additional education and training on navigating the MTO website. Other recommendations included adding a default new expiry date for statements of work and incorporating the Portable Assessment Credit (PAC), electronic notices of work, and plotting of active crown grants.

Next Steps

As noted above, the timing for changes to the *Mineral Tenure Act Regulation*, according to industry, should ensure a smooth transition that takes into account the exploratory budgetary planning season.

It is anticipated that remaining Government policy decisions and completion of a proposed regulation amendments package will be completed during the spring of 2011.

Assuming that the decision is to go forward, Government will continue its outreach and communication with industry and other interested parties, with the goal of having final regulation changes in place as soon as possible after completion of the package.

Appendix 1 – Consultation Process

The Ministry Titles Branch facilitated a series of information sessions with industry representatives in the fall of 2010 in order to obtain their input on proposed amendments to the *Mineral Tenure Act Regulation*. The Ministry sought industry views on the establishment of a new fee structure and revised claim maintenance requirements.

A Discussion Guide and Question & Answer (Q&A) were developed to identify the goals of the proposed amendments and to provide further background and information. These materials were forwarded to participants in advance of each session and made available for download from the Ministry website.

Relevant associations and organizations were invited to participate in the following two-hour sessions held throughout the province:

- Vancouver (September 20)
- Kamloops (October 5)
- Quesnel (October 6)
- Smithers (October 7)
- Vancouver (October 12)
- Cranbrook (October 13)
- Nelson (October 14)
- Nanaimo (October 20)
- Kamloops (October 23 – Placer Miners AGM)

Ministry representatives provided an overview of the proposed amendments with an opportunity for participants to ask questions and provide input throughout the meeting. Additional feedback was solicited via email during a comment period lasting from September 1 through November 12, 2010, and received by phone.

The following groups were invited to take part in the information sessions:

- Association of Mineral Exploration BC
- Mining Association of BC
- Kamloops Exploration Group
- Cariboo Mining Association
- Smithers Exploration Group
- Prince George Exploration Group
- Vernon Placer Miners Association
- BC Placer Miners Association
- East Kootenay Chamber of Mines
- Chamber of Mines of Eastern BC
- Vancouver Island Exploration Group

A total of 117 representatives from the mining sector participated in the information sessions, including individual prospectors, consultants, and Junior, Senior and Major companies, and 25 submissions were received by email during the comment period.

Appendix 1 – Consultation Process

Discussions between industry and Ministry staff also took place at the Placer Annual General Meeting on October 23, and at the Minerals South Conference on November 3 and 4, 2010, where the proposed changes and a session summary were presented and staff manned a booth visited by approximately ten interested parties.



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