



Ministry of
Energy and Mines

Mines Act Permit Fees

Consultation Summary Report

May 13, 2014

Introduction

British Columbia's mineral exploration and mining industry is considered to be a global leader that provides well-paying jobs that support communities. The provincial government is committed to supporting the mineral exploration and mining industry by removing barriers and making it easier to do business.

BC is experiencing a renewal in mineral exploration and mining. Exploration expenditure has been at record levels in 2012 and 2013. More new mines are opening or under construction than has occurred for decades. Government has increased permitting efficiencies through initiatives such as applications to multi-year area-based permitting and increased staffing levels. This has led to a decrease in the time it takes to process exploration, placer, quarry, and sand and gravel permits from more than 100 days to fewer than 60.

Government resources continue to be strained in order to meet the needs of an expanding mining and mineral exploration sector. A balanced budget continues to be an important priority. This has led government to consider charging fees for permitting to partially cover the costs associated with undertaking permitting activities. The fee-for-service approach is common in other natural resource sectors such as oil and gas exploration and development, forestry and lands and will help the Ministry of Energy and Mines maintain the improved performance achieved since 2011.

There are also important differences between the mining/mineral exploration sector and other natural resource sectors. Unlike some natural resource industries, prospecting and exploration activities do not generate immediate cash flow. These activities are dependent on attracting up-front financing in the hope of finding minable resources and generating a return on investment at some point far in the future.

Currently, there are no fees charged to offset government's costs for issuing *Mines Act* permits. The Mineral Exploration and Mining Strategy, released in 2012, committed to explore cost recovery options in order to ensure the permitting process remains timely and efficient. The Ministry of Energy and Mines is developing some choices for a sustainable funding model which recognizes the value of government's authorization activities to industry and the overall benefits of a well regulated mining industry to British Columbians. The revenue raised by the proposed fees will be used to replace existing contingency funding and will not increase capacity within the Ministry or improve service. While the Ministry will continue to pursue process efficiencies, the proposed fees will maintain rather than improve service.

On February 21, 2014, the Ministry of Energy and Mines released a discussion paper¹ outlining a proposed fee schedule and categories for potential *Mines Act* permit fees. The paper was made available for comment until March 31, 2014.

The Ministry received 477 comments related to the proposed fees. The majority of responses received were from individuals working in small-scale exploration and placer mining. The most common concern

¹ Available at: <http://www.empr.gov.bc.ca/Mining/Permitting-Reclamation/Pages/MinesActPermitFees.aspx>

was that the low-end fees (affecting small-scale miners, placer miners, and prospectors) were prohibitively expensive and could negatively impact the smaller exploration and placer miners in British Columbia. The other major concern raised was how the fee categories would be determined. The original Ministry proposal was to base the fees on area of disturbance. A number of submissions suggested that alternative approaches be considered that better reflect the costs associated with the exploration or placer program. For example, fees based on activities may better reflect the scale and costs of a program.

Response Metrics

In total, 477 responses were received, consisting of 188 emails and 289 letters.

The 188 emails received were sent from a variety of sources: individual miners and prospectors, medium-and-large scale mines and mineral exploration companies, sand and gravel quarries, aggregate producers, geoscientists and consulting geologists, ministry staff, mining associations, community members, small businesses, and local governments.

The 289 letters were composed of 264 form letters and 25 unique letters. Of the 264 form letters, 156 were from placer miners and small-scale miners, and 108 were from small business owners or employees.

There were 428 unique respondents to the discussion paper. This is lower than the 477 total responses received because many respondents submitted multiple letters, particularly form letters. The following chart breaks down unique respondents to the discussion paper by industry.

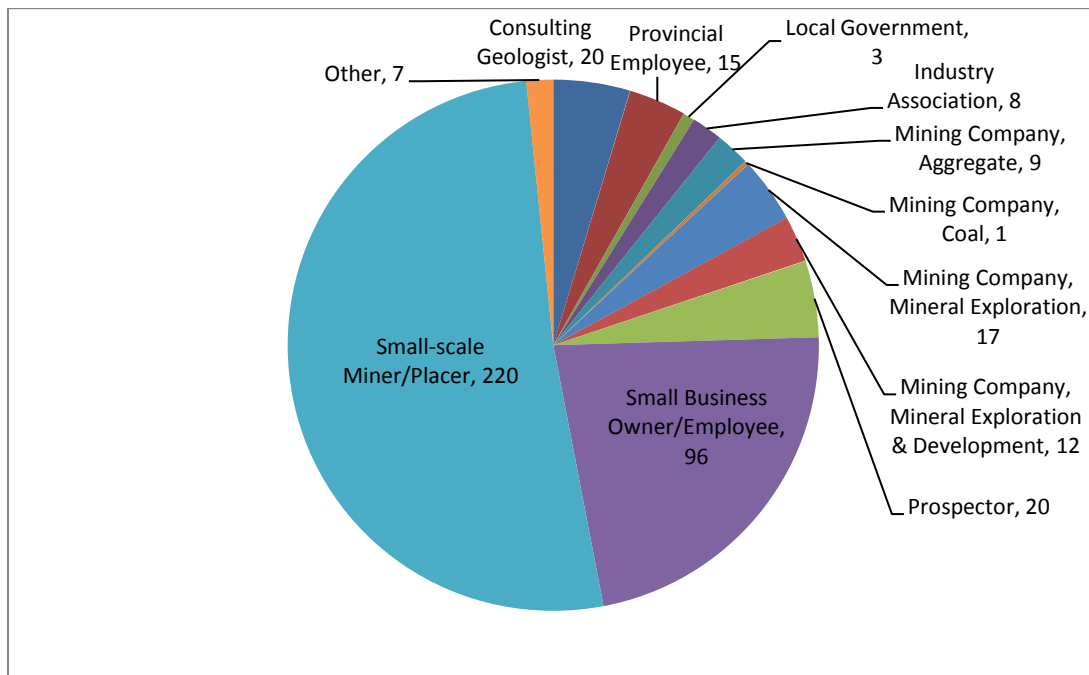


Figure 1: Unique Respondents by Industry

The majority of responses were from individual small-scale exploration and placer miners. The second largest response category was owners and employees of small businesses.

Thirty-nine medium-and-large-scale companies submitted responses. Twelve of these were mineral exploration and development companies, 17 were mineral exploration companies, 9 were aggregate/sand & gravel companies and 1 company was a coal mining company.

Three local governments submitted comments about the proposed fees: Quesnel, the Cariboo Regional District, and the District of Wells.

In addition to the responses received, Ministry of Energy and Mines officials met with numerous industry representatives, including the:

- Association for Mineral Exploration British Columbia
- Mining Association of British Columbia
- BC Stone, Sand and Gravel Association
- Placer Miners Association of British Columbia
- East Kootenay Chamber of Mines
- Smithers Exploration Group

Ministry staff also fielded many individual inquiries by phone throughout the consultation period.

Key Themes

Feedback received from across British Columbia regarding the proposed permit fees falls generally into one of seven categories:

1. Potential Impacts on the Small-Scale Sector
2. Secondary Economic Impacts
3. Inadequate Funding for Ministry of Energy and Mines
4. Transparency, Refunds and Value
5. *Mines Act* Section 9 Review Procedure
6. Performance Measures and Metrics
7. Inadequate Consultation Period

1. Impacts on the Small-Scale Sector

A major concern raised during the comment period was that the proposed low-end fees (\$2000-\$6000 range) were prohibitively high to the small-scale mineral exploration and placer miners. The majority of respondents working at the small-scale level were opposed to charging fees, although some were open to charging a small administrative fee, understanding the need to charge for providing a service (most of these suggestions cited fees between \$50-\$500).

Many respondents are concerned that the proposed fees target a sector of the industry (exploration) that carries out activities which do not guarantee return on investment. Mineral and coal exploration

respondents expressed concern that small-scale exploration activities should not be burdened with increased costs and that the implementation of fees would drive business into other jurisdictions or promote non-compliance with the requirement to hold a permit.

Another common concern is that the proposed permit fees are being implemented at a difficult time for the exploration sector given that it is currently challenging for the sector to raise investment funds.

Placer miners, in particular, felt they are being unfairly targeted by fees that rely on an “area of disturbance” metric, since placer mining activities often require a larger surface area than exploration activities.

2. Secondary Economic Impact

A large percentage of the feedback received was from residents and small businesses in communities that are heavily reliant on the mineral exploration and placer mining sectors. Local governments in Quesnel, the Cariboo Regional District and the District of Wells said high permit fees would indirectly impact local businesses. It was felt local businesses that supply mineral exploration and placer miners with materials, supplies and equipment would be negatively impacted if their clients were to relocate elsewhere or reduce exploration.

3. Inadequate Funding for the Ministry of Energy and Mines

Many respondents highlighted their concern that the Ministry of Energy and Mines, particularly the Mines and Mineral Resources Division (MMRD), has been operating on contingency funding since 2011 and still has insufficient resources to fully meet the needs of the industry for timely service. Some respondents highlighted the value of the economic activity that the mining industry generates and the number of direct, indirect and supplier jobs it creates to emphasize the need that the organization administering mining activity should be adequately funded.

Some respondents highlighted the need for additional inspectors on staff in the Ministry so that field inspection duties can be fulfilled appropriately. Other respondents noted the differences in funding and staffing levels between the Ministry of Energy and Mines and other provincial ministries and suggested that resources should be reallocated within government.

The Association for Mineral Exploration British Columbia (AME BC) noted that BC’s exploration and mining industry annually creates gross revenue and economic activity of \$8-10 billion, and the annual budget for the Mines and Mineral Resources Division within the Ministry of Energy and Mines is only \$11 million. “AME BC recommends that the BC Government rebuild the Ministry of Energy and Mines, including re-incorporation of First Nation consultation, by allocating an additional \$10 million annually to address permitting and regulatory issues in a timely manner.”

4. Transparency, Refunds and Value

Many of the letters received said that, despite recent improvements, existing regulations are too complicated and expensive. Many placer miners expressed their concern over the quality of existing

services in the mining and mineral exploration sector. In particular, many respondents voiced their displeasure in having to pay for the constitutionally required First Nations consultation process.

If fees are to be charged, any funding from fees should stay in the mining sector and not be used for other government purposes. Miners, prospectors and community members raised concerns that this money will be taken out of the industry without creating any improvement in existing services. Many people wanted to know what the Ministry of Energy and Mines will do with the money collected by charging permitting fees.

The majority of respondents responded negatively when asked whether or not they would appreciate a pay-for-expedited-service system. Most people see the ability to pay to have your permit application expedited as favouring the major mines and unfairly disadvantaging the small-scale miners and prospectors who cannot afford to pay to expedite their permits.

Many respondents suggest that a refund system be implemented in the event that permit applications are rejected, or if a permit application is withdrawn partway through the application process. However, other respondents cautioned that the added transactions and processing required by a refund system would create a more significant bottleneck effect in the system, prolonging the completion of permit applications.

Many miners asked why these funds are being requested as up-front fees instead of increased taxes on the mining industry. Most small-scale miners feel that they should not have to pay fees up front since mineral exploration and placer mining are speculative ventures that do not guarantee any return on investment.

5. *Mines Act* Section 9 Review Decision

One specific area of concern to placer miners, medium-scale mines and sand and gravel/quarry operations is the *Mines Act* section 9² criteria for advisory committee referral.

Miners are concerned about the lack of transparency on how the decision is made to require a Section 9 review. Medium-scale aggregate companies are concerned that referral to a regional committee is a subjective decision made by an Inspector and that Section 9 does not provide any criteria for making this decision. A common request is for the Ministry to provide some clarity when a Section 9 review may be required so that operators know, before an application is submitted, whether their projects are likely to require an additional level of review.

Some companies are also concerned that opponents to a proposed application may lobby the Chief Inspector to refer it to a regional committee as a means to delay the process or render higher costs on the proponent.

² "The chief inspector must establish and chair an advisory committee and must establish regional advisory committees to review applications for mine approvals and reclamation permits, referred to them by the chief inspector, to assist the chief inspector in carrying out the duties of the chief inspector under this Act." *Mines Act*, RSBC 1996, c 293, s 9.

6. Performance Measures and Metrics

A number of respondents felt that the proposed fee system would benefit from the addition of performance measures to ensure the Province is accountable for enhanced service delivery. Many respondents were concerned that the discussion paper does not articulate how overall service to the industry will be improved by the implementation of permitting fees. While recognizing the performance increases of the past two years, many respondents indicated that new fees should support additional performance enhancements.

There is concern that the problems that currently affect the permitting process are not related to lack of funding, but are instead caused by hesitation in the decision-making process, particularly regarding consultation. The fear is that the proposed permitting fees will not address the lack of clarity about the procedural aspects of consultation and how responsibilities will be enhanced. One company stated that fee increases should be deferred until clear metrics are obtained, increased efficiencies are shown and timely decisions are made.

7. Inadequate Consultation Period

It was also raised that the six week consultation period for the proposed fees was inadequate. The two primary reasons for this were that: (1) the comment period was prohibitively short (February 21-March 31, 46 days total) and (2) the distribution of the discussion paper was too narrow. Many respondents feel that more meaningful consultation is required before the implementation of any permitting fees.

Many mining associations and major mining companies have requested the Ministry to involve industry throughout the fee regulation drafting and implementation process. It was felt that the Province could have connected more directly with the mining community, and that the choice to distribute the discussion paper through the four major mining associations and by posting it on the Ministry web site missed a significant component of the sector, many of whom found out about the proposed fees through word of mouth.

Specific Suggestions

There were many respondents who offered specific suggestions in order to improve the proposed permitting fees. Repeated suggestions include:

- Change the proposed fees so as to be activity-based instead of area-based, and introduce an exemption class for recreational miners.
- Do not count access roads as part of the disturbed area that triggers higher fees.
- Consider allowing the proposed fees to qualify as part of the tenure's annual assessment credit.
- Fees should be in the form of a small tax increase instead of large up-front fees.
- Remove the buying and selling of tenures that have not been tested, and introduce a timeline on completing tenure testing.

- Distribute the workload across multiple Ministries (such as FLNRO) so as to decrease the wait times on NoWs and the permitting process.
- Reallocate funding within government to ensure MMRD is appropriately funded and resourced.
- The fear is that the fees will reduce interest in the MYAB (Multi-Year Area-Based) program, leading to additional work and energy required by the industry and by the Ministry of Energy and Mines.
- Exempt lower end/lower risk/recreational activities from requiring a permit or having to pay permitting fees.
- Restructure the fee payment system such that the proposed fees are only payable upon completing of an approved permit, and not at the beginning of the process.
- Clarify the criteria for all of the “large” mine categories to specifically include or exclude sand & gravel, rock quarries and/or industrial minerals, as it is unclear in the current text.
- Investigate other revenue streams for the Province: money from the current revenue sharing agreements with First Nations, Strategic Engagement Agreements, and distributing work and employment more efficiently between Ministries.
- Environmental Assessment criteria are erroneous and subjective; therefore they should not be used to determine the different categories of fees. Metal and coal mines should not be lumped together with stone, sand and gravel.
- Study other jurisdictions (such as the Yukon) to understand better how they can charge low fees.

Major Mines Feedback

A major mining company in BC indicated that they continue to experience serious challenges in advancing permitting activities in a timely fashion due to the lack of capacity within key agencies, which leads to unpredictable timelines and lengthy delays. In these uncertain economic times, and with many commodity prices at all-time lows, such costly delays can force project proponents to delay or cancel major investment decisions.

The company supports a fee-for-service framework in the event that the fees effectively enhance service. Specifically, they suggest:

- New fees should support additional performance enhancements.
- Instilling accountability through performance-based metrics.
- Ensuring pricing is reasonable and considerate of the cumulative impact of the increasing costs of mining in BC.

Industry Association Feedback

Association for Mineral Exploration British Columbia (AMEBC)

AME BC said the proposed fees will set a “dangerous precedent and be a major disincentive to prospecting and exploring for new deposits in BC...These proposed fees will have a long-term detrimental effect to BC’s competitiveness with other jurisdictions, regional and community economic development, job growth, and the sustainability of mining in British Columbia.”

AME BC said that most major mine projects are a direct result of small-scale mineral exploration that supports jobs and regional economic and community development. Prospecting does not generate cash flow, depends on venture capital, and is generally a risky investment. AMEBC made the comparison that imposing permitting fees on mineral exploration was like imposing a tax on research.

AME BC is concerned that the proposed *Mines Act* permit application fees, combined with existing fees, taxes, new levies and a very difficult ongoing investment climate, will have the immediate effect in BC of:

- 1) Reducing venture capital investment even further;
- 2) Reducing prospecting and exploration work on the ground; and,
- 3) Decreasing the opportunity for new significant discoveries to be found in BC.

AMEBC believes that more work needs to be done to improve BC’s competitiveness with other jurisdictions, and introducing permit application fees will not help. Instead, the Ministry should continue to improve internal processes, train knowledgeable staff and reallocate Government revenue to rebuild MMRD.

AME BC recommends that all prospecting and exploration activities be exempt from any *Mines Act* permit fees given that these activities produce no revenue for prospectors and explorers and are necessary to sustain the industry. They also recommend that the BC Government rebuild the Ministry of Energy and Mines, including re-incorporation of First Nation consultation, by allocating an additional \$10 million annually to address permitting and regulatory issues in a timely manner. Finally, they believe that the BC Government should continue to undertake focused work with industry towards reducing red tape and increasing permitting efficiency.

Mining Association of British Columbia (MABC)

MABC said that BC is generally very competitive and fosters a positive tax policy environment. However, they also believe that there are policy changes negatively impacting the mining industry: corporate tax increase, the return to the PST and the hydro rate increase.

MABC highlighted the approval process for major projects as one of the biggest challenges facing the industry. They believe that the rationale of the proposed policy change as well as the timing is troublesome, as it will affect competitiveness in the sector during a harsh economic climate.

MABC is concerned that the Ministry is functioning on contingency funding and is not adequately resourced in comparison to other resource agencies. The Discussion Paper was cited as inadequate since

it omitted any discussion on a wide range of policy changes affecting the mining sector; environmental assessment fees, carbon tax, etc. MABC also highlighted that the paper omitted any discussion on how service will be enhanced as a result of new fees, and feels there is a need to establish performance measures/metrics. Improvements to the existing system are needed prior to work being done on fee implementation.

MABC noted that it is unclear how the proposed fee schedule would be applied to an operation with multiple permit amendments and that the associated costs would not be marginal.

BC Stone, Sand & Gravel Association (BSSGA)

BSSGA cautioned that fees collected should not be put into general revenue, since this would amount to a “speculation tax.” BSSGA supported the idea of fees for the \$4,000 to \$6,000 class, but felt that the \$2000 fee category is an impediment to smaller operations. BSSGA also believes that a refund mechanism should be implemented for applications that are not approved.

BSSGA is concerned about the \$40,000 to \$300,000 fee categories, and would like to see the EA threshold revisited for sand and gravel and quarries.

BC Placer Miners Association (BCPMA)

BCPMA believes that there needs to be a much lower threshold on placer and small-scale mineral exploration under which a lower fee or no fee at all, would apply. They strongly believe that the proposed fees will drive business away from British Columbia or promote additional non-compliance and illegal mining.

Cariboo Mining Association (CMA)

CMA strongly believes that the proposed fees are financially prohibitive to small-scale miners and prospectors. They urge the Province to reconsider high fees on the small-scale sector of the industry, as reducing business at the small-scale will have a “trickle-down” effect on the larger mining companies, for which new mines may never be discovered.

CMA’s response was supported by ninety-nine letters from community members and small business owners expressing their concern that the fees will negatively impact their community’s economy. By driving away small-scale miners and prospectors, the communities in the Cariboo Regional District will suffer a reduction in revenue from the sale of food, equipment, lodging, fuel and other services to these miners.

East Kootenay Chamber of Mines

The East Kootenay Chamber of Mines is concerned that the proposed fees are financially prohibitive to small-scale miners, placer miners and prospectors. They believe that since finances are hard enough to raise at the junior mining level, the Province should be working to create incentives for the industry or else the investment will go to other jurisdictions.

Smithers Exploration Group

The Smithers Exploration Group firmly believes that the proposed fees will be detrimental to BC's mining and mineral exploration industry by forcing small-scale miners and prospectors out of business. They also fear that the fees will serve as a deterrent to acquire multi-year area-based permitting.

Kamloops Exploration Group

The Kamloops Exploration Group believes that the proposed fees will be prohibitive to small-scale miners, placer miners and prospectors. They firmly believe that if any fees are to be introduced, they need to be re-evaluated and introduced at a time when the economic climate is more favourable. The Kamloops Exploration Group also expressed concern that small businesses and mining communities would suffer economically as a result of these fees.

Chamber of Mines of Eastern BC

The Chamber of Mines of Eastern BC believes that the proposed fees are being implemented at the wrong time, and if implemented, will have a negative impact on BC's mining economy.

Conclusion

The responses received from industry and from individuals throughout British Columbia have proven valuable in shaping the direction that the Province will take the proposed permitting fee initiative.

In particular, the Province heard that the proposed fees would be harmful to the junior exploration sector. Exploration activities are dependent on attracting up-front financing in the hope of finding minable resources and generating a return on investment at some point far in the future. Added costs at a time when raising financing is difficult, would have an impact on the small scale exploration sector and downstream economic impacts to communities across the province.

The Province also heard that the proposed fees would harm the small scale placer sector and hobbyist miners in particular. Many placer mining operations have small annual returns but collectively provide economic benefit to small communities throughout British Columbia. These operations are not in an economic position to absorb the impact of permit fees.

A number of submissions suggested that alternative approaches be considered that better reflect the costs associated with the exploration or placer program. For example, fees based on activities would better reflect the scale and costs of a program.

Many people asked what exactly the Ministry of Energy and Mines will do with the money collected by charging permitting fees and sought improved service and performance measures. The Ministry needs to be clear that revenue raised by the proposed fees is to replace existing contingency funding and will not increase capacity within the Ministry or improve service.

Respondents also stressed the need to ensure that criteria for fee categories are clear and transparent.

In response the Ministry will:

- Revise the fee structure eliminating fees for small scale junior exploration, placer, aggregate and quarries;
- Propose a revised fee structure based on activities and production capacity rather than area of disturbance to better reflect the scale and cost of the mining program;
- Clarify criteria for all fee categories (the use of Section 9 committee reviews as a criteria for the large regional mine category, in particular); and,
- Engage in further consultation with industry to ensure fees proposed for advanced exploration, large placer, aggregate, quarries, and major mines are reasonable.