

PROVINCE OF BRITISH COLUMBIA
ORDER OF THE LIEUTENANT GOVERNOR IN COUNCIL

Order in Council No.

002

, Approved and Ordered

JAN - 9 2009

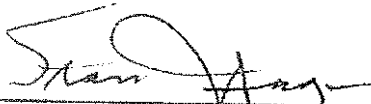


~~Lieutenant Governor~~

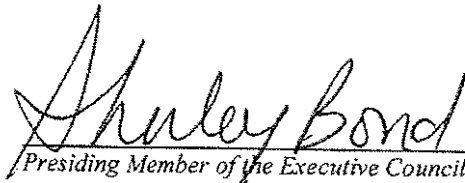
~~Administrator~~

Executive Council Chambers, Victoria

On the recommendation of the undersigned, the ~~Lieutenant Governor~~ ^{Administrator}, by and with the advice and consent of the Executive Council, orders that the Central and North Coast Biodiversity, Mining and Tourism Area Order is made.



Minister of Agriculture and Lands



Presiding Member of the Executive Council

(This part is for administrative purposes only and is not part of the Order.)

Authority under which Order is made:

Act and section:- *Environment and Land Use Act, R.S.B.C., 1996 c. 117, s. 7*
Other (specify):-

October 21, 2008

Resub O/20/2008/4

CENTRAL AND NORTH COAST BIODIVERSITY, MINING AND TOURISM AREA ORDER

Definitions

1 In this order:

“**biodiversity, mining and tourism area**” means crown land that is established as a biodiversity, mining and tourism area under section 2;

“**commercial logging**” means harvesting timber for the primary purpose of disposing of the timber for compensation;

“**compensation**” means a rate, remuneration, gain or reward of any kind paid, payable, promised, demanded, received or expected, directly or indirectly;

“**Crown land**” means land, whether or not it is covered by water, that is owned by the government;

“**first nation**” includes

- (a) a band, as defined in the *Indian Act* (Canada),
- (b) another legal entity representing a first nation, or
- (c) a person authorized by a band referred to in paragraph (a) or a legal entity referred to in paragraph (b);

“**natural boundary**” means the visible high water mark of the sea where the presence and action of the water are so common and usual, and so long continued in all ordinary years, as to mark on the soil of the bed of the sea a character distinct from that of its banks, in vegetation, as well as in the nature of the soil itself;

“**power development**” means, the works, as defined in section 6, developed or to be developed for a power purpose;

“**power purpose**” means the use of water in the production of electricity or other power.

Establishment of biodiversity, mining and tourism areas

- 2 (1) Subject to this section, the area described in column 3 of an item set out in the schedule to this order is established as a biodiversity, mining and tourism area with the name set out in column 2 opposite that description.
- (2) A biodiversity, mining and tourism area does not include the following:
- (a) a park, recreation area or conservancy;
 - (b) an ecological reserve named and described in Schedule A or Schedule B to the *Protected Areas of British Columbia Act*;
 - (c) an area that is established as a protected area by an order in council under the *Environment and Land Use Act*.
- (3) For the purposes of subsection (2), a “**park**”, “**recreation area**” and “**conservancy**” means a “park”, “recreation area” and “conservancy” as defined in section 1 of the *Park Act*.

Purpose of biodiversity mining and tourism areas

- 3 A biodiversity, mining and tourism area is established primarily
- (a) for the maintenance of the biological diversity and natural environment of that area;
 - (b) for the preservation and maintenance of social, ceremonial and cultural uses of first nations who claim aboriginal rights or aboriginal title or have treaty rights to some or all of the biodiversity, mining and tourism area;
 - (c) for mineral exploration and mining;
 - (d) for tourism and recreation;
 - (e) for power developments that are authorized by the exercise of powers under the *Land Act* and *Water Act*, as the exercise of those powers is restricted by section 6 of this order, and

- (f) to enable development and use of a biodiversity, mining and tourism area in a manner that is consistent with the uses referred to in paragraphs (a) and (b) and the restrictions set out in sections 5 and 6 of this order.

Relationship with First Nations

- 4 The minister who is responsible for the administration of section 5 (a) of the *Ministry of Lands, Parks and Housing Act* must
 - (a) before establishing a land use management plan for a biodiversity, mining and tourism area, consult with each first nation that claims aboriginal rights or aboriginal title or has treaty rights to some or all of the biodiversity, mining and tourism area, and
 - (b) in developing and implementing a land use management plan for a biodiversity, mining and tourism area, consider the interests and role of each first nation that claims aboriginal rights or aboriginal title or has treaty rights to some or all of the biodiversity, mining and tourism area,

Biodiversity, mining tourism area – commercial logging

- 5 (1) In this section, “**regional manager**”, “**district manager**” and “**timber sales manager**” means a “regional manager”, “district manager” and “timber sales manager”, as defined in section 1 of the *Forest Act*.
- (2) The minister who is responsible for the administration of section 12 of the *Forest Act*, a regional manager, a district manager and a timber sales manager must not invite applications for, offer to enter into or enter into an agreement referred to in section 12 of the *Forest Act* with respect to commercial logging in a biodiversity, mining and tourism area.
- (3) For greater certainty, subsection (2) does not apply to a road permit for the construction, maintenance or use of a road in a biodiversity, mining and tourism area.

Biodiversity, mining and tourism areas – Hydroelectric power

- 6 (1) In this section:
 - “**comptroller**” means comptroller as defined in the *Water Act*;
 - “**minister**” means the minister responsible for the administration of the *Land Act*;
 - “**regional water manager**” means regional water manager as defined in the *Water Act*;
 - “**water licence**” means a licence issued under section 12 of the *Water Act*;
 - “**works**” means
 - (a) anything capable of or used for
 - (i) diverting, storing, measuring, conserving, conveying, retarding, confining or using water,
 - (ii) producing, measuring, transmitting or using electricity,
 - (iii) collecting, conveying or disposing of sewage or garbage, or
 - (iv) preventing or extinguishing fires,
 - (b) booms and piles placed in a stream,
 - (c) obstructions placed in or removed from streams or the banks or beds of streams,
 - (d) changes in and about a stream, and
 - (e) access roads to any of the works referred to in paragraphs (a) to (d).
- (2) This section does not apply to transmission lines that are capable of or are used for transmitting electricity from a power development that, apart from the transmission lines, is located wholly outside all biodiversity, mining and tourism areas.
- (3) Subject to subsections (5) and (6), the minister must not, under section 11, 38, 39 or 40 of the *Land Act*, do any of the following for or in relation to works for a power purpose or proposed works for a power purpose that are or are to be located wholly or partially in a biodiversity, mining and tourism area:

- (a) dispose of Crown land in the biodiversity, mining and tourism area,
 - (b) grant a right of way or easement over Crown land in the biodiversity, mining and tourism area,
 - (c) grant a licence to occupy Crown land in the biodiversity, mining and tourism area, or
 - (d) grant an option to purchase Crown Land in the biodiversity, mining and tourism area.
- (4) Subject to subsections (5) and (6), the comptroller and a regional water manager must not grant all or part of an application for a water licence, issue to an applicant a conditional or final water licence under section 12 of the *Water Act* or issue a permit under section 26 of the *Water Act* for any of the following purposes:
- (a) for the diversion, use or storage of water from a stream if the diversion, use or storage, as the case may be,
 - (i) is for a power purpose, and
 - (ii) is located wholly or partially in a bio-diversity, mining and tourism area;
 - (b) for the construction of works that are a part of a power development located wholly or partially in a biodiversity, mining and tourism area, whether or not the works are in relation to a diversion, use or storage of water referred to in paragraph (a).
- (5) Subsections (3) and (4) do not prohibit a disposition of Crown land or the granting or issuance of a document referred to in subsection (3) or (4), as the case may be, if the disposition is made or the document is granted or issued on condition that the electricity or other power generated from the power development to which the disposition or document relates is only used and disposed of in accordance with subsection (6).
- (6) For the purposes of subsection (5), the electricity or other power generated from a power development in a biodiversity, mining and tourism area must
- (a) be used exclusively for activities that are carried on wholly or partially in the biodiversity, mining and tourism area,
 - (b) be used exclusively by the holder of the water licence for that power development or the immediate family members, employees or tenants of the holder of the water licence, and
 - (c) not be disposed of, for compensation, except to a person referred to in paragraph (b).

SCHEDULE

Column 1 Item No.	Column 2 Name of biodiversity, mining and tourism area	Column 3 Description of biodiversity, mining and tourism area
1	Adeane Point	All those parcels or tracts of Crown land that on September 30, 2008 are situated in Range 1, Coast District and contained within the boundaries as shown on the official plan for the Adeane Point Biodiversity, Mining and Tourism Area, deposited in the Media Vault, GeoBC, Victoria as Official Plan: BMTA-Adeane Point, dated September 30, 2008. The whole Biodiversity, Mining and Tourism Area containing approximately 1 900 hectares.
2	Alwyn Lake	All those parcels or tracts of Crown land that on September 30, 2008 are situated in Range 5, Coast District and contained within the boundaries as shown on the official plan for the Alwyn Lake Biodiversity, Mining and Tourism Area, deposited in the Media Vault, GeoBC, Victoria as Official Plan: BMTA-Alwyn Lake, dated September 30, 2008. The whole Biodiversity, Mining and Tourism Area containing approximately 1 454 hectares.

Column 1 Item No.	Column 2 Name of biodiversity, mining and tourism area	Column 3 Description of biodiversity, mining and tourism area
3	Ape Lake	<p>All those parcels or tracts of Crown land that on September 30, 2008 are situated in Range 3, Coast District and contained within the boundaries as shown on the official plan for the Ape Lake Biodiversity, Mining and Tourism Area, deposited in the Media Vault, GeoBC, Victoria as Official Plan: BMTA-Ape Lake, dated September 30, 2008.</p> <p>The whole Biodiversity, Mining and Tourism Area containing approximately 20 951 hectares.</p>
4	Banks/Principe	<p>All those parcels or tracts of Crown land that on September 30, 2008 are situated in Range 4, Coast District and contained within the boundaries as shown on the official plan for the Banks/Principe Biodiversity, Mining and Tourism Area, deposited in the Media Vault, GeoBC, Victoria as Official Plan: BMTA-Banks/Principe, dated September 30, 2008.</p> <p>The whole Biodiversity, Mining and Tourism Area containing approximately 13 280 hectares.</p>
5	Barer Creek	<p>All those parcels or tracts of Crown land that on September 30, 2008 are situated in Range 2, Coast District and contained within the boundaries as shown on the official plan for the Barer Creek Biodiversity, Mining and Tourism Area, deposited in the Media Vault, GeoBC, Victoria as Official Plan: BMTA-Barer Creek, dated September 30, 2008.</p> <p>The whole Biodiversity, Mining and Tourism Area containing approximately 5 368 hectares.</p>
6	Bentinck Estuaries	<p>All those parcels or tracts of Crown land that on September 30, 2008 are situated in Ranges 3 and 4, Coast District and contained within the boundaries as shown on the official plan for the Bentinck Estuaries Biodiversity, Mining and Tourism Area, deposited in the Media Vault, GeoBC, Victoria as Official Plan: BMTA-Bentinck Estuaries, dated September 30, 2008.</p> <p>The whole Biodiversity, Mining and Tourism Area containing approximately 111 hectares.</p>
7	Citeyats	<p>All those parcels or tracts of Crown land that on September 30, 2008 are situated in Range 4, Coast District and contained within the boundaries as shown on the official plan for the Citeyats Biodiversity, Mining and Tourism Area, deposited in the Media Vault, GeoBC, Victoria as Official Plan: BMTA-Citeyats, dated September 30, 2008.</p> <p>The whole Biodiversity, Mining and Tourism Area containing approximately 32 hectares.</p>
8	Fish Egg	<p>All those parcels or tracts of Crown land, except that part below the natural boundary of the sea, that on September 30, 2008 are situated in Range 2, Coast District and contained within the boundaries as shown on the official plan for the Fish Egg Biodiversity, Mining and Tourism Area, deposited in the Media Vault, GeoBC, Victoria as Official Plan: BMTA-Fish Egg, dated September 30, 2008, except; 1) that part below the natural boundary of the sea.</p> <p>The whole Biodiversity, Mining and Tourism Area containing approximately 16 037 hectares.</p>

Column 1 Item No.	Column 2 Name of biodiversity, mining and tourism area	Column 3 Description of biodiversity, mining and tourism area
9	Gits'oohl	<p>All those parcels or tracts of Crown land that on September 30, 2008 are situated in Cassiar District and contained within the boundaries as shown on the official plan for the Gits'oohl Biodiversity, Mining and Tourism Area, deposited in the Media Vault, GeoBC, Victoria as Official Plan: BMTA-Gits'oohl, dated September 30, 2008.</p> <p>The whole Biodiversity, Mining and Tourism Area containing approximately 560 hectares.</p>
10	Ug ^{wi} wa' / Inland Cape Caution	<p>All those parcels or tracts of Crown land, except that part below the natural boundary of the sea, that on September 30, 2008 are situated in Range 2, Coast District and contained within the boundaries as shown on the official plan for the Inland Cape Caution Biodiversity, Mining and Tourism Area, deposited in the Media Vault, GeoBC, Victoria as Official Plan: BMTA-Inland Cape Caution, dated September 30, 2008, except; 1) that part below the natural boundary of the sea.</p> <p>The whole Biodiversity, Mining and Tourism Area containing approximately 16 966 hectares.</p>
11	King	<p>All those parcels or tracts of Crown land that on September 30, 2008 are situated in Ranges 2 and 3, Coast District and contained within the boundaries as shown on the official plan for the King Biodiversity, Mining and Tourism Area, deposited in the Media Vault, GeoBC, Victoria as Official Plan: BMTA-King, dated September 30, 2008.</p> <p>The whole Biodiversity, Mining and Tourism Area containing approximately 17 110 hectares.</p>
12	Ksi <u>G</u> alsgiist	<p>All those parcels or tracts of Crown land that on September 30, 2008 are situated in Cassiar District and contained within the boundaries as shown on the official plan for the Ksi <u>G</u>alsgiist Biodiversity, Mining and Tourism Area, deposited in the Media Vault, GeoBC, Victoria as Official Plan: BMTA-Ksi <u>G</u>alsgiist, dated September 30, 2008.</p> <p>The whole Biodiversity, Mining and Tourism Area containing approximately 31 617 hectares.</p>
13	Kswan	<p>All those parcels or tracts of Crown land that on September 30, 2008 are situated in Cassiar District and contained within the boundaries as shown on the official plan for the Kswan Biodiversity, Mining and Tourism Area, deposited in the Media Vault, GeoBC, Victoria as Official Plan: BMTA-Kswan, dated September 30, 2008.</p> <p>The whole Biodiversity, Mining and Tourism Area containing approximately 56 037 hectares.</p>
14	Kunsoot River	<p>All those parcels or tracts of Crown land that on September 30, 2008 are situated in Range 3, Coast District and contained within the boundaries as shown on the official plan for the Kunsoot River Biodiversity, Mining and Tourism Area, deposited in the Media Vault, GeoBC, Victoria as Official Plan: BMTA-Kunsoot River, dated September 30, 2008.</p> <p>The whole Biodiversity, Mining and Tourism Area containing approximately 4 664 hectares.</p>

Column 1 Item No.	Column 2 Name of biodiversity, mining and tourism area	Column 3 Description of biodiversity, mining and tourism area
15	K'waal-Ecstall	<p>All those parcels or tracts of Crown land that on September 30, 2008 are situated in Ranges 4 and 5, Coast District and contained within the boundaries as shown on the official plan for the K'waal-Ecstall Biodiversity, Mining and Tourism Area, deposited in the Media Vault, GeoBC, Victoria as Official Plan: BMTA-K'waal-Ecstall, dated September 30, 2008.</p> <p>The whole Biodiversity, Mining and Tourism Area containing approximately 50 521 hectares.</p>
16	NeġiĻ / Nekite Estuary West	<p>All those parcels or tracts of Crown land that on September 30, 2008 are situated in Range 2, Coast District and contained within the boundaries as shown on the official plan for the Nekite Estuary West Biodiversity, Mining and Tourism Area, deposited in the Media Vault, GeoBC, Victoria as Official Plan: BMTA-Nekite Estuary West, dated September 30, 2008.</p> <p>The whole Biodiversity, Mining and Tourism Area containing approximately 322 hectares.</p>
17	Porcher	<p>All those parcels or tracts of Crown land, except that part below the natural boundary of the sea, that on September 30, 2008 are situated in Range 5, Coast District and contained within the boundaries as shown on the official plan for the Porcher Biodiversity, Mining and Tourism Area, deposited in the Media Vault, GeoBC, Victoria as Official Plan: BMTA-Porcher, dated September 30, 2008, except; 1) that part below the natural boundary of the sea.</p> <p>The whole Biodiversity, Mining and Tourism Area containing approximately 18 097 hectares.</p>
18	Rachael Islands	<p>All those parcels or tracts of Crown land, except that part below the natural boundary of the sea, that on September 30, 2008 are situated in Range 5, Coast District and contained within the boundaries as shown on the official plan for the Rachael Islands Biodiversity, Mining and Tourism Area, deposited in the Media Vault, GeoBC, Victoria as Official Plan: BMTA-Rachael Islands, dated September 30, 2008, except; 1) that part below the natural boundary of the sea.</p> <p>The whole Biodiversity, Mining and Tourism Area containing approximately 50 hectares.</p>
19	Shelter Bay	<p>All those parcels or tracts of Crown land, except that part below the natural boundary of the sea, that on September 30, 2008 are situated in Ranges 1 and 2, Coast District and contained within the boundaries as shown on the official plan for the Shelter Bay Biodiversity, Mining and Tourism Area, deposited in the Media Vault, GeoBC, Victoria as Official Plan: BMTA-Shelter Bay, dated September 30, 2008, except; 1) that part below the natural boundary of the sea.</p> <p>The whole Biodiversity, Mining and Tourism Area containing approximately 6 286 hectares.</p>
20	South Bentinck	<p>All those parcels or tracts of Crown land that on September 30, 2008 are situated in Ranges 2 and 3, Coast District and contained within the boundaries as shown on the official plan for the South Bentinck Biodiversity, Mining and Tourism Area, deposited in the Media Vault, GeoBC, Victoria as Official Plan: BMTA-South Bentinck, dated September 30, 2008.</p> <p>The whole Biodiversity, Mining and Tourism Area containing approximately 28 098 hectares.</p>

Column 1 Item No.	Column 2 Name of biodiversity, mining and tourism area	Column 3 Description of biodiversity, mining and tourism area
21	Waump	<p>All those parcels or tracts of Crown land that on September 30, 2008 are situated in Range 2, Coast District and contained within the boundaries as shown on the official plan for the Waump Biodiversity, Mining and Tourism Area, deposited in the Media Vault, GeoBC, Victoria as Official Plan: BMTA-Waump, dated September 30, 2008.</p> <p>The whole Biodiversity, Mining and Tourism Area containing approximately 10 556 hectares.</p>