A Two-Zone Land Use System for Mineral Exploration and Mining in BC

Introduction

The Province of British Columbia made a commitment to work aggressively to revitalize the province’s mineral exploration and mining industries. Investment in mineral exploration and mining is fundamental to a strong, competitive and vibrant provincial economy. A key factor in attracting investment is certainty regarding access to land for development.

In the past, numerous land designations derived through land use planning or legislation have created significant uncertainty for mineral investors. This, combined with other factors, such as resource prices, has contributed to a serious decline in mineral exploration in the province.

To increase investor confidence a new “two-zone” land use system for mineral exploration and mining has been created to clearly define lands as either open or closed to exploration and mining. While this concept is not new, its recent confirmation in legislation demonstrates that B.C. is open to mineral development.

The two-zone system is meant to increase certainty about land use for mineral exploration and mining, and will not limit treaty negotiations or settlements.

This paper provides background on the two-zone system and legislation and on their implications for land use planning and permitting. Additional information on implementation of the two-zone system will be maintained on the Ministry of Sustainable Resource Management and Ministry of Energy and Mines websites.

Background

Mineral resources, which include coal for this discussion, present unique challenges for land use planning and resource management that require a different approach than those used to manage other natural resources and values:

- minerals are hidden in the subsurface,
- mineral deposits are site-specific and immovable and must be developed where they are found, and
- mines offer exceptionally high resource value from a very small portion of the provincial land base.

Mineral exploration and mining are financially risky and capital intensive businesses that largely occur on Crown land with benefits accruing to the Crown and to local communities through jobs and taxes. As a result, mineral development can be viewed as a partnership between the owner of the resources (i.e. the Province) and the developer (i.e. the minerals sector).

In order to optimize returns from our mineral resources, the Province must provide the minerals sector with secure access to the land base for exploration. The two-zone system for minerals provides that security.

The Province will continue to uphold environmental standards. The Mines Act and its Mineral Exploration Code, Environmental Assessment Act and other legislation are designed to ensure impacts on other resource values and land uses are minimized.

January 2003
“Two Zones” - What Are They?

Every strategic land use plan approved in British Columbia to date confirms that all lands outside of protected areas are open to mineral exploration and development, subject to applicable mineral legislation. This concept is the basis of the two-zone system. However, over the past decade the complex land zoning system that has evolved from these plans has eroded certainty that reasonable access for mineral development outside of protected areas would indeed be provided.

In addition, there is confusion among many stakeholders regarding the application to the minerals sector of the growing number of land designations derived from other legislation, such as the Forest Practices Code. In turn, the minerals sector is concerned that management tools designed for other resources may be inappropriate for managing its activities.

To ensure clarity, the Province has confirmed in legislation a two-zone system for mineral exploration and mining. The two-zone system ensures mining applications are considered, subject to all applicable laws, anywhere but in a park, ecological reserve, protected heritage property or an area where mining has been prohibited by an order under the Environment and Land Use Act.

This system is consistent with government commitments to provide greater access to Crown land and resources, to stimulate mineral exploration in BC and to revitalize the economy.

Legislation

In May, 2002, Section 14 of the Mineral Tenure Act was amended by Bill 54 to include the following provision:

(5) Unless the location is one of the following, a land use designation or objective does not preclude application by a recorded holder for any form of permission, or approval of that permission, required in relation to mining activity by the recorded holder:
(a) an area in which mining is prohibited under the Environment and Land Use Act;
(b) a park under the Park Act or the Park (Regional) Act;
(c) a park or ecological reserve under the Protected Areas of British Columbia Act;
(d) an ecological reserve under the Ecological Reserve Act;
(e) a protected heritage property.

This amendment creates the following two zones for mineral activities:

“Mineral Zone”: Land open to mineral and coal exploration, tenure acquisition and mine development, including suitable access required to undertake these activities, subject to appropriate legislation.

“Protected Zone”: Crown land closed to mineral development through either legislation or order-in-council, as identified in Section 14 (5) (a) through (e) of the Mineral Tenure Act.

Mineral zone lands include many different designations such as special, general or enhanced resource management zones; old growth management areas; riparian management zones; wildlife habitat areas; forest ecosystem networks; access management areas; wildlife management areas; wildland or wilderness areas. Mining-specific legislation and environmental regulatory requirements will be applied to ensure high standards of work. Other legislation will continue to apply.
Implementing the Two Zone System:

Protected Zone: When a new protected area is established, any existing mineral claims and all mineral activities within the zone will be suspended, unless they are subject to specific exemption provisions. Where appropriate, compensation negotiations will be initiated with affected tenure holders.

Mineral Zone: Mineral tenure acquisition is permitted throughout the mineral zone, subject to the Mineral Tenure Act (or the Coal Act for coal resources). The Ministry of Energy and Mines (MEM) administers exploration and development of mineral resources through a single-window permitting process. The two-zone system does not change the permitting system or environmental standards for mineral activities.

The Mines Act, Mineral Tenure Act and related performance-based codes of practice, regulations and guidelines remain the primary permitting, compliance and enforcement instruments for mineral activities. Authorizations required from other agencies, for example Forest Practices Code of British Columbia Act special use permits or Forest Act cutting permits, will be facilitated through the single window administered by MEM.

Mining activities in the mineral zone lands remain subject to the Mines Act, and, where applicable, the Environmental Assessment Act as well as all required environmental regulations and approvals. Broad public consultation occurs as applicable under these acts.

Additional details on mine permitting can be found on the Province of British Columbia website at:
Ministry of Energy and Mines
www.em.gov.bc.ca/Mining/MinePer
Environmental Assessment Office
www.eao.gov.bc.ca

Implications for Other Resources

The legislated two-zone system for minerals must be addressed in the context of broad resource management direction contained in land use plans. Any resource management objectives and strategies developed in new plans will be required to accommodate the access to land provisions for exploration and mining established in the two-zone system.

MEM will consider site-specific information on other natural resource values, guidance from approved land use plans and the recommendations of other permitting agencies in its review of permit applications for mineral activities. Reviews will be conducted in a timely manner.

The numerous land designations within the mineral zone reflect the wide range of other resources potentially present in a mining area and the varying sensitivities of those resources to industrial development. Mining proponents must plan their work to minimize impacts to these other resources. During exploration there is generally greater flexibility to adjust activities to avoid impacts. However, flexibility to avoid conflict with other resources becomes limited as exploration advances and mining begins.

Decisions on how impacts are to be prevented or mitigated are made in the permitting process and reclamation plans are required. Where disturbances to other resources cannot be avoided, temporary or even permanent impacts may occur. It is important to recognize that these higher impact and higher cost mineral activities are closely scrutinized by government and occur only when there is a strong potential for successful development and for social and financial benefit from mining. Where permit conditions cannot reasonably mitigate mining impacts, through seasonal or other restrictions, it may be necessary to change or where possible, to find alternate sites for land designations (e.g. old growth management areas, wildlife habitat areas).
Continual Improvement

Integrating exploration and mining activities into land designations that are primarily intended to manage surface values will not be without challenges. Reduced levels of exploration activity in recent years have provided little opportunity to gain experience with this integration. Each exploration site has unique characteristics. There is currently no commonly accepted single best management practice that will accommodate mineral activities in all areas such as old growth management areas, wildlife habitat areas or areas with specific timber-related visual quality objectives. The Mineral Exploration Code is being revised to introduce results-based provisions to address this situation.

The Ministries of Energy and Mines, Water Land and Air Protection, and Sustainable Resource Management will monitor how mining activities are being integrated with other resource values and will communicate this experience with stakeholders from time to time to assess and build confidence in the two-zone system.

✔ Industry proponents will benefit from this information sharing in planning and carrying out their activities.
✔ Government staff will recognize a wider range of tools is available for land planning and resource management.
✔ Participants in land use planning processes will benefit by understanding how mineral activities are integrated with other resources.
✔ Investors will see that sustainable resource management is being carried out in British Columbia.

Monitoring and communication will continually improve certainty for mineral investment and in managing mineral activities to conserve other values.

For More Information:

For more information about the two-zone system for minerals and related legislation for mineral exploration and mining in BC, please contact either of the following.

Ministry of Sustainable Resource Management
Graeme McLaren
Manager, Minerals Oil and Gas
Economic Development Branch
PO Box 9367 Stn Prov Govt
Victoria, BC V8W 9M3
Ph: (250) 953-3574
Fax: (250) 356-0338
Email: graeme.mclaren@gems7.gov.bc.ca
Web: www.gov.bc.ca/srm

Ministry of Energy and Mines
Greg McKillop
Director, Mineral Policy and Program Development
Policy and Legislation Branch
PO Box 9318 Stn Prov Govt
Victoria, BC V8W 9N3
Ph: (250) 952-0501
Fax: (250) 952-0271
Email: greg.mckillop@gems3.gov.bc.ca
Web: www.gov.bc.ca/em

Information on the two-zone system for minerals is available online at:
srmwww.gov.bc.ca/rmd/ecdev/mog/twozone/or
www.em.gov.bc.ca/Mining/Two-Zone/two_zone_system.htm

For related information, view a brochure on “Special Management Zones and the Mineral Sector” at:
www.em.gov.bc.ca/mining/landuse/landusegraphics/smz%20brochure.pdf

January 2003