

PROVINCE OF BRITISH COLUMBIA
ORDER OF THE LIEUTENANT GOVERNOR IN COUNCIL

Order in Council No. **235** , Approved and Ordered **APR 16 2008**

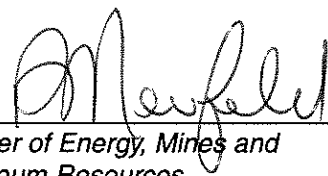


Lieutenant Governor

Executive Council Chambers, Victoria

On the recommendation of the undersigned, the Lieutenant Governor, by and with the advice and consent of the Executive Council, orders, effective June 2, 2008, that

- (a) *sections 7, 8, 46 and 52 of the Miscellaneous Statutes Amendment Act, 2007, S.B.C. 2007, c. 8, are brought into force,*
- (b) *the Coal Act Regulation, B.C. Reg. 251/2004, is amended as set out in Schedule A, and*
- (c) *the Mineral Tenure Act Regulation, B.C. Reg. 529/2004, is amended as set out in Schedule B.*



Minister of Energy, Mines and
Petroleum Resources



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:- Miscellaneous Statutes Amendment Act, 2007, S.B.C. 2007, c. 8, s. 69
Coal Act, S.B.C. 2004, c. 15, s. 26 (2) (d.1)
Mineral Tenure Act, R.S.B.C. 1996, c. 292, s. 65 (2) (p), (r), (s) and (u.1)
Other (specify):- oic 553/2004; 1161/2004

SCHEDULE A

1 The following section is added to the Coal Act Regulation, B.C. Reg. 251/2004:

Notice requirements before entering private land

- 2.1 (1) A recorded holder must not begin the exploration for or development or production of coal until 8 days after giving notice, in accordance with subsections (2) to (4), to every owner of the surface area on which the recorded holder intends to carry out that activity.
- (2) The notice must include the following information:
- (a) the name and address of the recorded holder;
 - (b) the name and address of the person responsible for operations on the site where the exploration for or development or production of coal will occur;
 - (c) a map, or the equivalent in a written description, of the surface area in which the exploration for or development or production of coal will occur;
 - (d) identification of the dates on which the exploration for or development or production of coal will occur;
 - (e) a description of the exploration for or development or production of coal that will occur on the dates referred to in paragraph (d);
 - (f) the approximate number of people who will be working on the site when the exploration for or development or production of coal occurs.
- (3) The notice is deemed to be given to
- (a) an owner referred to in subsection (1) who is not the government if
 - (i) mailed to the owner's mailing address as shown on any record relating to the current ownership of the surface area in the land title office or the British Columbia Assessment Authority,
 - (ii) sent by facsimile transmission to a fax number provided by the owner as an address for notification purposes,
 - (iii) sent by e-mail to an e-mail address provided by the owner as an address for notification purposes, or
 - (iv) hand delivered to the owner, or
 - (b) the government if
 - (i) mailed, sent by facsimile transmission or e-mailed to the chief inspector as defined in the *Mines Act*, or
 - (ii) hand delivered to the chief inspector as defined in the *Mines Act*.
- (4) A notice that is given to an owner under subsection (3) (a) (i) to (iii) or (b) (i) is conclusively deemed to have been given 8 days after it is mailed, faxed or e-mailed.
- (5) A recorded holder required to give notice under subsection (1) must, in accordance with subsections (2) to (4), give amended notice to every owner referred to in subsection (1) if

- (a) there are changes to the dates identified in subsection (2) (d) affecting more than 7 days, or
 - (b) there are substantial changes to the description of the exploration for or development or production of coal referred to in subsection (2) (e).
- (6) The recorded holder referred to in subsection (5) must not begin the exploration for or development or production of coal as set out in the amended notice until 8 days after the notice is given under subsection (5).

SCHEDULE B

- 1** *Section 1 of the Mineral Tenure Act Regulation, B.C. Reg. 529/2004, is amended by repealing the definition of “exploration and development” and substituting the following:*

“exploration and development” means

- (a) physical exploration and development, or
- (b) technical exploration and development,

or, except with respect to paragraph (b) of the definition of “mining activity” in the Act,

- (c) determining ownership of land,
- (d) serving notice under section 19 (1) of the Act, or
- (e) making reasonable efforts to serve notice under section 19 (1) of the Act if an exemption has been granted under section 19 (1.1) of the Act; .

- 2** *The following sections are added:*

Notice requirements before entering private land

- 2.1** (1) A person must not begin a mining activity until 8 days after, but within 12 months of, serving notice in accordance with subsections (2) to (4) of this section on the persons listed in section 19 (1) (a) (i) to (iii) of the Act.
- (2) The notice must include the following information:
- (a) the name and address of the person serving the notice;
 - (b) the name and address of the person responsible for operations on the site where the mining activity will occur;
 - (c) a map, or the equivalent in a written description, of the surface area in which the mining activity will occur;
 - (d) identification of the dates on which the mining activity will occur;
 - (e) a description of the mining activity that will occur on the dates specified in paragraph (d);
 - (f) the approximate number of people who will be working on the site when the mining activity occurs.
- (3) The notice is deemed to be served on a person listed in section 19 (1) (a) (i) to (iii) of the Act if
- (a) mailed to the person’s mailing address as shown on any record relating to the current ownership of the surface area in the land title office or the British Columbia Assessment Authority,
 - (b) mailed to the person’s mailing address as shown on the Integrated Land and Resource Registry maintained by the minister responsible for the *Land Act*,
 - (c) sent by facsimile transmission to a fax number provided by the person as an address for notification purposes,

- (d) sent by e-mail to an e-mail address provided by the person as an address for notification purposes, or
 - (e) hand delivered to the person.
- (4) A notice that is served on a person under subsection (3) (a) to (d) is conclusively deemed to have been given 8 days after it is mailed, faxed or e-mailed.
- (5) A person required to serve notice under subsection (1) must, in accordance with subsections (2) to (4), serve an amended notice to the persons listed in section 19 (1) (a) (i) to (iii) of the Act if
- (a) there are changes to the dates identified in subsection (2) (d) affecting more than 7 days, or
 - (b) there are substantial changes to the description of the mining activity referred to in subsection (2) (e).
- (6) The person required to serve an amended notice under subsection (5) must not begin a mining activity as set out in the amended notice until 8 days after the notice is served under subsection (5).

Exemption from notice requirements

- 2.2 The chief gold commissioner may exempt a person from the requirements of section 19 (1) of the Act if
- (a) the person seeking the exemption applies, in writing, to the chief gold commissioner for the exemption, and
 - (b) includes in the application evidence satisfactory to the chief gold commissioner that the person seeking the exemption has made reasonable efforts to serve notice on the persons listed in section 19 (1) (a) (i) to (iii) of the Act.

3 Section 7 is amended

(a) by adding the following subsection:

- (2.1) Despite subsection (2) and in accordance with section 8 (1.1), one or more of the following exploration and development activities carried out before the related claim or block of claims is registered or recorded may be registered:
- (a) determining ownership of land;
 - (b) serving notice under section 19 (1) of the Act;
 - (c) making reasonable efforts to serve notice under section 19 (1) of the Act if an exemption has been granted under section 19 (1.1) of the Act. , **and**

(b) by repealing subsection (3) and substituting the following:

- (3) The chief gold commissioner may accept
- (a) for technical exploration and development, airborne geophysical or geochemical surveys, and
 - (b) exploration and development activities of
 - (i) determining ownership of land,
 - (ii) serving notice under section 19 (1) of the Act, and

- (iii) making reasonable efforts to serve notice under section 19 (1) of the Act if an exemption has been granted under section 19 (1.1) of the Act

extending beyond the boundaries of the claim or block of claims.

4 Section 8 is amended by adding the following subsection:

- (1.1) If an exploration and development activity referred to in section 7 (2.1) is carried out before the related claim or block of claims is registered or recorded, the activity may be registered on that claim or block of claims after the claim or block of claims is registered or recorded.

5 Section 9 is amended by adding the following subsection:

- (2.1) If a report about
 - (a) determining ownership of land,
 - (b) serving notice under section 19 (1) of the Act, or
 - (c) making reasonable efforts to serve notice under section 19 (1) of the Act if an exemption has been granted under section 19 (1.1) of the Acthas been approved under section 33 of the Act and any of the exploration and development credit has not been applied to a claim for the purposes of section 8 of this regulation, that remaining credit may be applied to the portable assessment credit account of the recorded holder or the person who determined ownership of land, served notice or made reasonable efforts to serve notice.

6 Schedule A is amended

(a) by repealing section 1 (3) and substituting the following:

- (3) This Schedule applies to the reporting of
 - (a) technical exploration and development as defined in section 1 of the Mineral Tenure Act Regulation, and
 - (b) the following exploration and development activities:
 - (i) determining ownership of land;
 - (ii) serving notice under section 19 (1) of the Act;
 - (iii) making reasonable efforts to serve notice under section 19 (1) of the Act if an exemption has been granted under section 19 (1.1) of the Act. , **and**

(b) by adding the following section:

Specifications for determining ownership and serving or attempting to serve notice

- 13.1** (1) A report about determining ownership of land must include the following:
- (a) a list of all the properties that were researched to determine ownership;
 - (b) a statement of the actions taken to research the properties referred to in paragraph (a);
 - (c) an itemized cost statement of the costs associated with the actions referred to in paragraph (b).

- (2) A report about
- (a) serving notice under section 19 (1) of the Act, or
 - (b) making reasonable efforts to serve notice under section 19 (1) of the Act if an exemption has been granted under section 19 (1.1) of the Act
- must include an itemized cost statement of the costs associated with preparing the notice, serving the notice or making reasonable efforts to serve the notice, as applicable.