

MEMORANDUM OF UNDERSTANDING

BC & YUKON CHAMBER OF MINES



COUNCIL OF TOURISM ASSOCIATIONS of BC



MINING ASSOCIATION OF BRITISH COLUMBIA



January 22, 2004

MEMORANDUM OF UNDERSTANDING

BETWEEN:

BC & YUKON CHAMBER OF MINES

("BCYCM")

AND:

COUNCIL OF TOURISM ASSOCIATIONS of BC

("COTA")

AND:

MINING ASSOCIATION OF BRITISH COLUMBIA

("MABC")

(Collectively referred to as the "Parties")

WHEREAS the BCYCM and the MABC support and promote the BC mineral exploration and mining sectors to be leaders in sustainable mineral development through initiatives such as the BC Mining Sustainability Initiative;

AND WHEREAS the Council of Tourism Associations of BC represents tourism associations and businesses in BC and is mandated to advocating and educating the business community, the media and government on behalf of the tourism sector;

AND WHEREAS the Parties are resource-dependent industries, which create wealth from BC's land base and have a footprint on the landscape;

AND WHEREAS the Parties acknowledge the ongoing importance of promoting mineral exploration, mining and tourism in the economy of the Province of British Columbia;

AND WHEREAS both parties agree that a business-to-business approach to promoting good neighbour practices will result in furthering the growth and management of both industries in relative harmony;

AND WHEREAS the Parties desire that this Memorandum will lead to a better understanding of each others businesses and the impacts those businesses may have on each other's interests;

AND WHEREAS the Parties intend that this Memorandum will result in cooperation to pursue common goals and resolve differences that may arise from time to time.

Therefore the undersigned agree to enter this Memorandum of Understanding as follows:

1. PURPOSE

- 1.1. The purpose of this MOU is to provide a foundation of mutual recognition, respect, education, open dialogue and cooperation between the Parties and their respective Members.

2. PRINCIPLES

- 2.1. This MOU reflects the Parties' joint desire to create an atmosphere of business certainty and investment confidence in the province regarding access to land and land use as it pertains to relations between mineral exploration, mining and tourism. Certainty around land access and land use supports investment confidence, and ensures the growth of both industries.
 - 2.2. The Parties will consider the activities of each sector *in balancing* economic, social and environmental factors.
 - 2.3. The Parties respect each sector's business objectives and their pursuit of activities to maximize their economic benefits.
 - 2.4. The Parties recognize that they each have a responsibility to maintain high standards of environmental performance.
 - 2.5. The parties recognize that First Nations assert rights and title over crown lands and resources and will collaborate with government in consulting and finding workable accommodations for these interests in pursuing their business objectives.
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3. MUTUAL INTERESTS

- 3.1. The Parties will pursue constructive industry-*to*-industry dialogue that recognizes the need for the sustainability of each industry, and the need for certainty related to land access and land use for both industries.
 - 3.2. The Parties acknowledge that in areas outside parks and protected areas where tourism, mineral exploration and mining are allowed, potential conflict between respective members may occur. The Parties will encourage their members to pursue early business-*to*-business consultations to coordinate activities and take reasonable actions to avoid unnecessary and unreasonable interruption to each others' operations.
 - 3.3. The Parties agree that they will promote mutually beneficial business arrangements on an ongoing basis and seek business-*to*-business solutions to avoid conflicts when the potential for conflict arises.
 - 3.4. The Parties further agree that if conflict between their respective members should arise that cannot be resolved through dialogue or other arrangements, the Parties, at the request of their respective members, will assist in resolving conflicts as described in Section 7.
 - 3.5. The Parties will inform each other and, where appropriate, may collaborate on issues of common interest on matters in respect of public policy and legislation.
 - 3.6. The Parties will encourage all levels of government to create a business climate that promotes mutual business opportunities and takes into consideration the interests and reasonable operating requirements of each sector.
 - 3.7. The Parties agree that they will work with their respective memberships to promote a greater understanding of the benefits, opportunities, interests and normal business and operational practices of each other's members.
 - 3.8. The Parties will work together to encourage government to create and maintain current, easily accessible maps and databases identifying the all resource and land tenure locations and contact information for mineral industry and tourism operators.
 - 3.9. The Parties agree that during the planning and evaluation of lands for designation as protected areas, responsible authorities and proponents should:
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3.9.1 be encouraged to consider mineral resource and tourism potential before such designation; and,

3.9.2 consider whether reasonable access through areas proposed for protection can be accommodated for exploration, mining and tourism outside the protected area.

3.10 The Parties will hold regular meetings.

4. EXPLORATION AND MINING INTERESTS

4.1. The Parties recognize and support the Two-Zone system for mineral exploration and mining in British Columbia. Zone One includes lands on which exploration and mining is prohibited and includes the following: an area in which mining is prohibited under the *Environment and Land Use Act*; a park under the *Park Act* or the *Park (Regional) Act*; a park or ecological reserve under the *Protected Areas of British Columbia Act*; an ecological reserve under the *Ecological Reserve Act*; and a protected heritage property. In Zone Two, mineral exploration and mining are permitted, subject to applicable legislation, regulations, government policies, and the legal rights of other parties.

4.2. Subject to paragraphs 5.1 and 5.2, the Parties agree that in Zone Two, every effort will be given to provide access for mineral exploration and mining and security of tenure for mineral tenure holders.

4.3. The Parties acknowledge that mineral resources are hidden and areas of high mineral potential are not always readily determinable. In areas where exploration and/or mineral development activities are being pursued, COTA will encourage its members to:

4.3.1 make themselves aware of known mineral potential in areas where they wish to operate;

4.3.2 take into consideration issues that may have the potential to adversely affect exploration and mining activities; and,

4.3.2 make reasonable efforts to minimize impacts on essential components of exploration and mining activities such as access and security of tenure.

5. TOURISM INTERESTS

- 5.1 COTA has identified lands that it believes are important in establishing and maintaining a tourism land base. BCYCM and MABC acknowledges that in Zone Two, certain areas have been identified by COTA that have high tourism use and values. In these areas, the BCYCM and MABC will encourage their members involved in mineral exploration and mining activities to:
- 5.1.1 take into consideration issues that have the potential to affect tourism operations; and,
 - 5.1.2 make reasonable efforts to minimize impacts on tourism activities and natural features important to those tourism activities.
- 5.2 The Parties agree that during the planning, environmental assessment, operation, closure and reclamation of any mining project, responsible authorities, project proponents, and mine operators should be encouraged to consider impacts and reasonably accommodate tourism activities and values.

6. PROTOCOLS

To support a beneficial ongoing business relationship, and avoid conflict, the Parties agree to promote the following protocols between their respective members co-existing in a given geographical area:

6.1 Consultation

- 6.1.1 The Parties undertake to communicate with each other regularly on issues of concern and to the extent practical, coordinate communications to the public on matters of mutual interest.
 - 6.1.2 Members of the BCYCM, MABC and COTA whose interests are in the same general area should strive to make themselves known to each other, and commit to on-going open communication with the objective of reaching early agreement on aspects that could potentially affect each other's ongoing operations.
 - 6.1.3 Members having difficulty in resolving differences will be encouraged to advise their respective Associations, after which the Parties should consider whether to recommend the conflict resolution process described in Section 7 or propose some other approach.
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6.2 Mutual Understanding and Promotion

6.2.1 The Parties will encourage their Members to undertake to provide education to their employees and clientele on current business and operational practices employed by each industry, economic and policy issues, and contribution to local and provincial economies.

6.3 Compensation

6.3.1 The Parties agree with the principle that should existing tenured tourism business interests be displaced or subjected to a substantial direct and measurable economic loss as a result of a future mining project that is initiated on a mineral tenure established after the tourism tenure was established, fair market compensation should be provided to the tourism operator.

6.3.2 The Parties agree with the principal that should existing mineral tenures be displaced or subjected to a substantial direct and measurable loss as a result of a tourism tenure established after the mineral tenure was established, fair market compensation should be provided to the mineral tenure holder.

6.3.3 The Parties agree to work with government on the structure and delivery mechanism for the compensation process.

7. CONFLICT RESOLUTION

The Parties agree that, where significant unresolved disputes exist between specific members, they will encourage those members to pursue resolution of the dispute through the procedures outlined in Appendix A.

8. GENERAL TERMS

In keeping with the intent of this memorandum, the Parties agree that:

8.1. This MOU is effective from the date of signing.

8.2. They will act in good faith for the implementation of this MOU.

8.3. The MOU will be reviewed from time to time and may be amended at any time by the mutual consent of the parties.

- 8.4. Nothing in this memorandum shall encumber or fetter the mandate, authority, or responsibilities of either party in any way, or create legally binding obligations between the parties or their Members.
- 8.5. The parties will work together to encourage widespread understanding and support for the MOU.
- 8.6. A Party will provide not less than 30 days written notice of a decision to propose amendments to this memorandum and not less than 90 days of a decision to unilaterally withdraw from this memorandum.

AGREED TO THIS _____ DAY OF _____, 2004 by

Shari Gardiner, President
BC & Yukon Chamber of Mines

Don Monsour, President
Council of Tourism Associations

Gary Livingstone, President and CEO
Mining Association of British Columbia

APPENDIX A

CONFLICT RESOLUTION

The Parties will encourage Members of their respective organizations to resolve potential conflicts by employing one or more of the following approaches to conflict resolution:

1. Dialogue and consultation between the affected Members;
2. Peer group consultation;
3. Mediation; and/or
4. Reference for conflict resolution through the Mediation and Arbitration Board.

Members wishing to avail themselves of Peer Group Consultation or Mediation with the assistance of the Associations must submit a written request for assistance to their respective Associations confirming their mutual willingness to seek assistance in resolving their dispute; their agreement to assume associated costs; their agreement to the selection of a conflict resolution mechanism as described below; and their agreement that recommendations made under either of these mechanisms will be made available to the executive of both Associations.

The Associations will review the request for assistance and the circumstances of each case in considering and recommending an appropriate course of action. The participation of an Association or its members in any form of conflict resolution is voluntary and an Association may decline to accept a request for assistance at its sole discretion if it determines that it is not in the best interest of its membership.

PEER GROUP CONSULTATION

- Members notify their respective Association of their desire to employ peer group consultation.
- The Associations appoint respective peer group members and arrange for onsite viewing/discussion of issues.
- Peer group undertakes assessment and develops a report containing recommended solutions for consideration by the Members.

MEDIATION

- The Members notify their respective Association of their desire to employ mediation.
- With the assistance of the Association the Members will agree upon a mediator.
- The mediator meets with the Members.
- The mediator considers the input received and based on this and any other information relevant to the issue provides recommendations for a resolution of the dispute for consideration of the parties to the dispute.

MEDIATION AND ARBITRATION BOARD

In the event that Members do not resolve their conflicts through consultation, peer group consultation or mediation, the Associations recommend that the Members pursue conflict resolution through the Mediation and Arbitration Board of British Columbia.