

## Natural Resource Road Act

December 15, 2011

The Association for Mineral Exploration British Columbia (AME BC) has outlined its concerns and issues on the proposed Natural Resource Road Act, as follows:

1. Mineral resources:

- The Province's mineral resources are hidden and the potential for new resource discovery is an evolving science;
- The nature of mineral resource exploration requires a maximum search area at the early stages, which often uses light weight vehicles and has a very low impact on the landscape; and
- Access is a crucial factor leading to the success of exploration for the hidden mineral resources.

2. Resource roads are assets:

- Resource roads enable economic activity by providing relative easy access to members of the mineral exploration sector in their quest to discover mineral deposits which in turn spur further investment and development in the province;
- Road access is crucial infrastructure to mineral resource development and is recognized by the international investment community as an asset. Road infrastructure in otherwise remote areas is a major competitive advantage unique to BC;
- These roads also provide an effective means to support the fighting of forest fires especially with the growing incidence of interface fires;
- Resource roads play a crucial part in providing the general population with access and freedom to enjoy their province including access to the back country for recreational purposes, hunting and fishing; and
- All roads should be considered a provincial asset to be made generally accessible to all British Columbians - government should develop stronger policies around road stabilization, with road deactivation being the last resort.

3. Mineral exploration

- Mineral exploration can be seen as a process with activity in the early stages characterized as being "no-disturbance to very low impact";
- Prospecting and grassroots exploration activity is by its nature sporadic and seasonal and therefore not conducive to restrictions that are practical for other users such as negotiations for agreements, notice periods, etc;

- Exploration funds are spent without return or revenue generation;
- Early to middle stage mineral exploration does not entail significant road construction; and
- Early stage exploration must be unfettered by costs, notice, agreements and other concerns that would otherwise limit this activity.

#### 4. Certainty of access

- The Coal Act, Mineral Tenure Act and Mining Right of Way Act contain language that guarantees access to the provincial land base for exploration and access to titles once established;
- These legislated provisions must be preserved as they are recognized internationally as an asset and a competitive advantage unique to BC and therefore essential to the viability of mineral exploration in the province;
- Sections 9 and 10 of the Coal Act, Sections 11, 11.1 and 19 of the Mineral Tenure Act and Sections 2,3 and 10 of the Mining Rights of Way Act currently define these provision and must be carried forward; and
- Section 4 of Industrial Roads Act provides direction to road administrators to protect a mine from interference or damage and this provision must be carried forward.

#### 5. Allocation of capital cost of road construction:

- Capital costs of construction are largely or completely covered by reduction in tenure fees, royalty, stumpage or other deductions in taxation;
- Road construction costs are an economic factor in resource extraction decisions and subsequent road users should not be viewed as a new revenue source; and
- Recovery of capital costs should not be a component of any road usage agreement.

#### 6. Allocation of a maintenance or user fee cost:

- The allocation of a maintenance fee or road user cost should only be applied once mineral exploration activities have progressed to the requirement of a Mines Act permit;
- The allocation of any fee must be commensurate with the use of the road including factors such as frequency use, vehicle type and weight, travel scheduling, actual road usage (e.g. the first 3 km of the road vs. the exploration project at the end of the road);
- The administration of a maintenance fee or user cost should be incorporated into the work approval package prepared by Front Counter BC; and

- Information on road usage fees must be transparent as these additional costs are required for budget preparation.

#### 7. Road maintenance

- The contact point(s) (i.e. government and/or the designated maintainer) must be transparent and simple to avoid additional red tape;
- The designated maintainer's standard of maintenance should be tied to their intended use of the road, a higher use of the road should trigger a review of the designated maintainer;
- The designated maintainer, compliance costs, radio frequencies and other information should be easily accessible preferably via web download and tagged to specific road; and
- The concept of a designated maintainer should be applied to that entity that has significant and regular use of a road; it should not be applied to any exploration user given the limited use of a road.

#### 8. Personal liability

- Liability should be strictly limited to the user of a road;
- Legislation should be drafted to establish the absolute and limited liability of government and the road user; and
- Specific direction to the Courts as to the limitation on liability should be included in this proposed legislation as well as in other appropriate legislation such as the Workers Compensation Act, the Motor Vehicle Act and the proposed Off Road Vehicle Act.

#### 9. Scope of the proposed legislation

- For ease of administration, all roads whether main haul, production, or spur roads should be subject to the legislation; and
- Roads under specific statutes (mine or oil and gas mills or plants, active logging area) could be exempt for the length of time of that specific activity.

#### 10. Historical roads

- Roads that are currently unmaintained but still useable should retain this status;
- A user of an unmaintained road should be allowed to conduct minor road access maintenance such as unplugging a culvert or removing a fallen tree, without being named the designated maintainer; and
- The application of a designated maintainer should adhere to point six above.

#### 11. Authority over a road

- The Discussion Paper proposes a process for an existing access to be taken over by a higher use and therefore a different designated maintainer;
- Reversion of the road to the lower use must also be accompanied by a lowered standard of maintenance in line with the current or proposed usage;
- Use of a road must take into account issues of incompatibility (e.g. exploration drilling on a skid trail and a mountain bike path) and provide priority to the industrial user;
- The Discussion Paper suggests an authority to block road usage, as such the application of this authority should be transparent and readily available;
- The adjudication or conflict resolution process must be a gradient, the first level should be a local government official with the ability to appeal to specific ministry advocates, i.e. mineral explorationist to the Chief Gold Commissioner or Chief Inspector; and
- The Commercial Arbitration process and Courts must be the last resort due to cost, time and the generally low utility of any decision rendered by those bodies.

#### 12. Administration of the Act

- Any requirement of notification or agreement must not add to the administration burden as this acts as a drain on exploration funding;
- Requirements for additional funding must not be added to the mineral exploration sector as this will diminish funds available for mineral exploration;
- The mineral exploration sector does not generate revenue in contrast to a timber resource extraction or a mine; and
- The bureaucracy that will manage this legislation must be part of existing permit review and issuance processes to ensure the one window approach wherever possible.

#### 13. Miscellaneous:

- The overall policy of the legislation should be directed to encouraging road use rather than acting as a barrier and in this regard land use planning process should not factor into road use;
- Caution must be exercised to ensure that provisions of this legislation does not enable anti-development groups to block road use or construction;
- Similarly maintenance standards should be used as a tool to defeat a specific road use;
- Direction should be provided to override other authority to deactivate roads, such as the desire to deactivate roads in order to acquire carbon credits;

- Any action to deactivate a road should also include full advance notice to potential users within the geographic area including known industry, commercial and recreational associations;
- Public input to road use decisions should be limited geographically, and on a time basis to avoid decision paralysis - a website should be made available for general public input and information access;
- Enforcement of provisions of this proposed legislation must be enforceable on private land owners respecting access to public and resource roads; and
- Appropriate weight should be afforded to specific users groups; for example, oil and gas producers are generally limited to the north east part of the province and provisions for oil and gas roads should not be generally applied across the province, recognizing the desire for overall consistency of rules.