



Hon. George Heyman
Ministry of Environment and Climate Change Strategy
PO Box 9047 Stn Prov Govt
Victoria, BC V8W 9E2

January 19, 2018

RE: MABC Submission: Review of Professional Reliance Model

The Mining Association of British Columbia (MABC) is the voice of mining in BC, representing operating coal, metal and industrial mineral producers, as well as advanced development companies in the province. Our mandate is to support a strong and vibrant mining industry that creates opportunities and wealth for all British Columbians. MABC's members include some of this province's most iconic operating companies who directly employ thousands of British Columbians and indirectly support thousands of supplier and support jobs in every region of the province. In 2016, the mining industry contributed \$8.7 billion to the BC economy and \$650 million in direct payments to government.

MABC supports the goal of ensuring that the highest professional, technical and ethical standards are being applied to resource management in BC. It is important to note that the natural resource sectors share professional technical personnel with other industrial sectors, and many of the qualified professionals who provide skilled and certified expertise in the natural resource sector also provide their services in construction, transportation and other economically significant sectors. The professional reliance model is a key component of all professional practice in the province of British Columbia and affects all areas of our economy, not just the natural resource sector. The mining industry views an effective and efficient professional reliance model as a key component of maintaining the competitiveness of our natural resource industries.

Qualified Professionals in Mining

The mining industry directly employs and contracts with qualified professionals to plan, design and advise on operating decisions for our projects and operations. These professionals support the environmental assessment and permitting processes required for companies to operate and also work at operating mine sites in BC and around the world. These qualified professionals bring a wealth of experience and knowledge to the BC mining sector. Maintaining a strong, vibrant and world leading mining industry in BC is contingent on the expertise and knowledge of our qualified professionals.

BC's Voice of Mining since 1901

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The mining industry employs a diverse group of qualified professionals such as professional engineers (e.g. civil, mining, geotechnical, mechanical, electrical, metallurgical), professional geoscientists, professional agrologists, registered professional foresters, and registered professional biologists. Qualified Professional designations are granted based on a specific scope of practice defined by Government legislation and regulation. To be eligible for a professional designation an individual must be assessed by the relevant professional accreditation authority as having the required education, training, qualifications and experience.

Our industry relies on the role of the professional associations to ensure that qualified professionals meet their established technical and ethical standards. It is the responsibility of professional associations (in association with government) to establish the appropriate criteria to achieve and maintain professional accreditation, adjudicate individuals against these criteria, and discipline members who fail to maintain the established professional standard. The qualified professional also has a responsibility to adhere to the standards established for the profession.

For the mining industry, the current regulatory model goes well beyond monitoring, compliance and enforcement. The Environmental Assessment and Mines Act permitting processes provide detailed government oversight of the design and planning work produced by the qualified professionals employed by the mining industry. The Environmental Assessment and Mines Act permitting processes provide both a thorough review of plans and include engagement between industry, the regulator, local communities and First Nations.

Where oversight and/or review of a qualified professional's work is conducted, a properly functioning professional reliance model must also ensure that the oversight and/or review by government agencies is completed by a suitably qualified and experienced professional. Employment by government does not in itself qualify an individual to provide this oversight; the individual providing oversight must be acting within their area of professional expertise, must have sufficient experience in the subject matter being reviewed and be accredited by the appropriate professional association. It is also important that any oversight regime not break the chain of responsibility that is associated with a qualified professional's work.

Professional Reliance Regime in Mining

The *Mines Act* (the Act) and Health, Safety and Reclamation Code for Mines in British Columbia (the Code) govern mineral exploration and mining in the province, and provide the overall context for the professional reliance regime in the mining sector. Mine construction and development also require authorizations under federal and provincial statutes, such as the *Canadian Environmental Assessment Act 2012*, *Fisheries Act* and *Navigation Protection Act*, and provincial statutes, such as the *Environmental Assessment Act*, *Environmental Management Act* and *Water Sustainability Act*. Each of these statutes has their own professional reliance regime.

MABC comments focus on the professional reliance regime under the BC Mines Act and Code. In 2016, Part 10 of the Code underwent significant revision under the guidance of a government, labour, industry, and First Nation steering committee. The result provided further clarity on the role of qualified professionals at all stages of mine design, operations, reclamation and closure.

MABC offers the following comments:

- The Act and Code is administered by the Chief Inspector of Mines, appointed by the Minister of Energy, Mines and Petroleum Resources. Under the Act, the authority conferred on the Chief Inspector or designated delegate includes mine approvals, mine inspections, appointments, reviews, administrative penalties and investigations.
- The Act and Code define qualified professionals. For example, in the Code “qualified professional means an individual who (a) is registered, and in good standing, with a professional organization in British Columbia governed under an enactment, and (b) is acting within his or her area of professional expertise”.
- The Code clearly outlines the roles and responsibilities of qualified professionals and defines certain activities that are undertaken by qualified professionals in relation to the design, construction and operations of mines. The information that must be provided to the regulator, and the actions that must be undertaken by qualified professionals are largely defined in Part 10 of the Code. The Ministry of Energy, Mines and Petroleum Resources reviews the information prepared or endorsed by qualified professionals as part of the process to authorize works at a mine. This information includes design standards and plans to construct mine facilities such as tailings storage facilities, mill processing facilities, and reclamation and closure plans.
- The Code provides for independent third party professional review, such as reviews of the design, construction and operation of tailings storage facilities.
- The Act provides for inspections and identifies reporting requirements and timelines, and specifies actions to address any contraventions of an inspection order, regulation, permit, or the Act and Code. The Act also provides for administrative penalties for contraventions.
- The Code provides a comprehensive framework for government monitoring and reporting, including the role of independent qualified professionals.
- The current professional reliance regime provided by the Act and Code is comprehensive, well defined and includes oversight for design and planning activities as well as for operations, reclamation and closure of mine sites. This provides the provincial government with the authority for mine approvals, and clearly articulates the roles and responsibilities of qualified professionals in relation to mine-related approvals.

With consideration of the above, MABC makes the following recommendations regarding the professional reliance model:

- The professional reliance model must ensure that accountability is associated with a professional designation and oversight and/or review by government agencies of a qualified professional's work is completed by a suitably qualified and experienced professional.
- The review process must maintain a clear line of professional responsibility for the Qualified Professional's work.

Public Education and Information

In our increasingly connected world, it is important for government and industry to continue to lead the shift toward increased transparency and engagement. As B.C.'s voice of mining, MABC supports an open dialogue around best practices in our industry and how we can collaborate, innovate and enhance public confidence. As part of this dialogue, the public needs to be made aware that there is thorough oversight and review from government of the planning and design of mining projects as well as a strong compliance and enforcement regime for operating mines.

The Ministry of Energy, Mines and Petroleum Resources has taken significant steps to enhance public knowledge of mining through increased disclosure and transparency by collaborating with the Environmental Assessment Office, the Ministry of Environment, and Climate Change Canada to develop the BC Mine Information website which provides mine-related information from these organizations readily available online in a single user-friendly format. The site includes authorizations issued under the *Environmental Assessment Act*, *Mines Act*, and *Environmental Management Act*, inspection records, annual reclamation reports, and dam safety inspection reports for 19 mines in BC.

Given the comprehensive framework, outlined above, MABC recommends including information about the robust nature of the professional reliance model specific to the mining industry as part of the ongoing dialogue with British Columbians about regulatory oversight and the BC mining industry.

Summary

As previously noted, the current professional reliance regime provided by the Act and Code is comprehensive and clearly articulates the roles and responsibilities of qualified professionals in relation to mine-related approvals. The environmental assessment and permitting processes for mines in BC provide government oversight and review of the planning and design work performed by qualified professionals for BC's mines.

Any change to professional reliance requirements considered as a result of this provincial review needs to consider the benefit expected as a result of a change with the resources required to deliver on the recommendation. Any recommended change should support a modern outcome based legislative and regulatory framework that enhances public safety and BC's world leading environmental stewardship. To that end, we encourage government to continue engagement with the mining industry as this review unfolds, and also consider input from processes like the Advisory Task Force on Corporate Practice of the Association of Professional Engineers and Geoscientists of British Columbia.

Any changes considered for the professional reliance model need to ensure that all government oversight and reviews are performed by suitably qualified and experienced professionals and that a clear chain of responsibility is maintained for professional work. It is key that any professional reliance system have clear lines of responsibility for qualified professionals. If the responsibility for a qualified professional is not maintained, then the foundational rationale for professional practice in the province is undermined.

BC has a world-class regulatory framework for mining. MABC looks forward to ongoing opportunities to help inform a fact-based dialogue about regulation and oversight in the BC mining industry.

MABC welcomes further opportunities to engage with the provincial government on this important matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'Bryan Cox', with a stylized flourish at the end.

Bryan Cox
President and CEO

CC: Honourable Michelle Mungall, Minister of Energy, Mines and Petroleum Resources
Honourable Scott Fraser, Minister of Indigenous Relations and Reconciliation
Honourable Doug Donaldson, Minister of Forests, Lands, Natural Resource Operations and Rural Development