

The Notice of Work Mineral Exploration Permit Application System

Challenges for AME Members and Possible Solutions

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OVERVIEW AND INTRODUCTION

The resource sector is a key part of the BC provincial economy that provides jobs and opportunities to communities and First Nations across the province. Resource development and land-use is complex and British Columbians expect that industry and government will manage provincial resources responsibly and sustainably. As such, permitting of resource activities must consider a wide range of factors and interests and consult with First Nations and stakeholders to ensure the integrity of BC's natural environment is maintained. Yet at the same time, permitting of resource activities should be efficient and streamlined and designed to support and facilitate a competitive and responsible resource sector.

Over the past several years, AME members have experienced challenges with timely approval of mineral exploration permits through the Notice of Work (NoW) system. This is considered one of the biggest factors to maintaining a healthy mineral exploration sector in British Columbia. Long delays in obtaining permits result in reduced or delayed expenditures, companies and expenditures moving out of the province, reputational challenges and impacts to staff, contractors and communities in British Columbia.

In order to establish and compile the issues faced by industry, AME has consulted with its members at workshops, through AME committee meetings and in discussions with regional exploration groups and individual members. AME also conducted detailed interviews with 15+ members in late 2018 and early 2019 who have collectively submitted more than 45 permits across all regions of the province in the past 2 years. These AME members are generally experienced NoW users who have submitted applications on behalf of their own company or are agents or contractors to several different companies. The interviews have provided specific examples of experiences with the NoW process and corroborate earlier discussions. The interviews have also shown that interactions and communication with Ministry of Energy Mines and Petroleum Resources (MEMPR) staff and inspectors and other government staff are respectful and helpful. Staff in MEMPR are knowledgeable and often willing to be proactive with identifying and resolving issues.

This document outlines the primary challenges that AME members have identified with the NoW process. It is aimed to support dialogue and discussion with the Province that will help to identify solutions to some of these issues. The document is organized into two sections. The first summarizes the issues under the following headings: timelines, FrontCounter BC; information requests and management of overlapping permits; long lead-time requests or permit conditions, communications and tracking; and business consequences. The second provides a selection of specific examples from AME members that support the summary in part one.

SUMMARY OF KEY CHALLENGES

TIMELINES

- A significant number of applications take 6+ months for review and approval with many taking even long longer.
- Review by FrontCounter BC can take 2-6 months before the application is forwarded to MEMPR.
- Very long delays with no communication either with FrontCounter BC or MEMPR. Often appears that little or no progress has occurred during these gaps in communication.
- Additional information requests outside existing guidance require considerable back and forth with delays between each interaction.
- Unclear where the permit is sitting for weeks or months at a time.

POSSIBLE SOLUTIONS

- Renewal of timeline standards.
- Establish fixed timelines for stages of the review (similar to environmental assessment). This could include FrontCounter BC, inspectors, other ministry or agency reviews and First Nation review.
- Identify and resolve bottlenecks.
- Review the role of FrontCounter BC and limit the review to non-technical issues.
- Review by FrontCounter BC should be based on clear guidance or checklists provided to proponents and agents.
- Limit the number of staff seconded to fires or other issues to ensure permit processing continues.

FRONTCOUNTER BC

- Very long time lines (2-6 months) for the initial response and to finalize the review and move an application forward. This appears to be the biggest challenge with meeting reasonable timelines.
- Lack of communication during the process.
- Lack of understanding of mineral exploration or on-the-ground work. This often results in unnecessary information requests.
- Variable requests dependent on the individual undertaking the review.

POSSIBLE SOLUTIONS

- Review timelines and service expectations.
- Limit review to items that are non-technical before forwarding to MEMPR.
- Detailed guidance and check lists that are the same for proponents and agents.

APPLICATION INFORMATION REQUESTS AND OVERLAPPING PERMIT MANAGEMENT

- Many requests, particularly by FrontCounter BC, are for information or formats that are not specified in the available guidance documents and are often specific to the individual reviewing the proposal. Requests can be trivial.
- Requests that are unnecessary and suggest a lack of understanding of mineral exploration methods and process, particularly for multi-year permits.
- Proponent is expected to resolve outstanding issues with overlapping permits and the database showing this information is not publicly available.
- Lack of consistency. In some cases, requests by FrontCounter BC are then questioned by an inspector.
- In multi-year permit applications, often see requests for details of drill holes or other information that will not be determined until after the project is underway or completed its first year.
- In the MYAB process there are two separate reports required – an annual summary of exploration activities and the MYAB plan annual summary. These cover different periods of time but have the same information resulting in a duplication of effort.

POSSIBLE SOLUTIONS

- Clearer and detailed guidance and checklists that can be used by proponents; FrontCounter BC; inspectors and to referring ministries and First Nations.
- Improved understanding of mineral exploration by those reviewing applications, particularly the nature of multi-year exploration processes.
- Address challenges with overlapping permits; make the database publicly assessable and support proponents with resolution of outstanding issues.

LONG-LEAD TIME REQUIREMENTS

- Requests for items such as wildlife surveys and archaeological surveys are often sent late in the process and result in longer delays or lack of ability to undertake the work as the summer season has passed.
- No prior communication that long-lead time or complex issues will be attached to the permit.
- The rationale for some requests is unclear and suggest a lack of understanding of the work being proposed (e.g. archaeological survey on a tailings facility).

POSSIBLE SOLUTIONS

- Conduct early review for other requirements or surveys and work proactively with proponents much earlier in the process to identify long-lead requirements.
- Optional walkthrough by inspectors with proponent early in the process.

- Critical review of all permit conditions by experienced inspectors with clear knowledge of mineral exploration and provincial regulations.

CLIENT COMMUNICATION AND TRACKING

- Lack of proactive communication; client has to initiate most communication unless issues are found.
- It can be months without any notification of status of the application.
- No knowledge of where the permit is and the steps it has gone through and where it is going.
- Lack of transparency in the process.
- No real understanding of timelines due to lack of tracking or information on proposal status.
- Do not know which First Nation or Ministry is being referred to.

POSSIBLE SOLUTIONS

- A tracking system that can be monitored by proponents and that improves transparency in the process.
- A process flow-chart is needed.
- Earlier and improved communication on where an application is in the process and where it is going.

BUSINESS IMPACTS

- Long delays and uncertainty in the permitting process has a number of consequences to competitiveness of mineral exploration in BC including:
 - Expenditures that are pushed to the following year.
 - Expenditures that are reallocated to different projects some of which are outside of the province.
 - Exploration activities that are moved to other jurisdictions outside of BC.
 - Reputational impact to the province that reduces the ability of industry to finance exploration.
 - Strained relationship between industry and government.
 - Failure of industry to meet the terms of option or joint venture agreements.
 - Inability to maintain staff, or hire local contractors including First Nations.

SELECTION OF SPECIFIC COMMENTS FROM AME MEMBERS

The comments in this section relate to experiences with the NoW process in the past 12-18 months. Some comments have been edited for clarity. Specific dates, location and company or project information have been removed or generalized to respect the confidentiality of AME members.

TIMELINES

- Application with FrontCounter BC for 90 days before moving forward.
- Waited 157, 105 and 110 days until first feedback from FrontCounter BC on three 2018 permit applications. The average times between receipt of the client acknowledgment letter and the permit issuance was 85 days. The combined average time between submittal through FrontCounter BC and receipt of permit was 174 days.
- A one-year permit submitted in mid-September went to an inspector in the second week of December after spending 12 weeks with FrontCounter BC.
- Application submitted in early September; client contacted FrontCounter BC in mid-October; lots of small changes requested by Font Counter (such as clarity between drill location and drill site) and still with FrontCounter BC in the middle of December.
- Early September MYAB (Multi-Year Area-Based) application took until mid-October (40 days) for first contact from FrontCounter BC regarding issues with maps.
- Issues identified by FrontCounter BC addressed in mid-April. MEMPR got back in late July with a question for clarification (99 days later).
- A one-year permit application sat with FrontCounter BC from mid-September to mid-November (62 days) before notification of an overlapping permit was received.
- A MYAB application took 92 days before notification of an overlapping permit.
- A permit submitted in late April had not received the client acknowledgement letter by early October when the permit was withdrawn.
- Application submitted in mid-March received Client Acknowledgement Letter in late June.
- Application submitted in mid-March received permit on October 30 with long lead time conditions that could not be addressed until the following year due to the winter season.
- All applicants regardless of complexity appear to end up in the same pile which leaves less complicated applications stuck behind complex ones.
- The cost, rigour and scope of requirements are not what is challenging it is the lack of confidence in the timelines.
- A number of concerns due to staff being taken away for fires. Nothing moved for weeks or months.

FRONTCOUNTER BC (SEE ALSO INFORMATION REQUESTS)

- Lack of understanding of mineral exploration and permit requirements (e.g. seeking clarity regarding drill location vs. drill site).
- Checklists provided to FrontCounter BC should also be provided in guidance to applicant.
- Level of review seems to differ between offices. In some, FrontCounter BC only completes an initial review, in others significant review.
- FrontCounter BC would request additions or changes that would then be questioned during MEMPR review.
- There should be better clarity on the form as to how geographic data should be submitted. There is no place that indicates what exact mapping format the First Nation will require for the referral process and MEMPR comes back later in process to request this.
- Lots of discretion to individuals to ask for different information as requirements are not clearly defined.

- Map was rejected based on nomenclature (MYAB permit). It was labelled Permit Area in the application and was rejected because the FrontCounter BC agent required it be called MYAB Area.
- Request for details of drill locations and pump sites on 5-year permit when those sites will be determined on a yearly basis and provided in annual plans. Drilling in the second year depends on results from first year and so on.
- Requests to name Mine Manager when work is likely months or a year away due to uncertainties in permitting timeline.
- Find the mapping requirement to be clear (scale and minimum requirements are in guidance). Only one issue with mapping and was quickly resolved with FrontCounter BC.

APPLICATION INFORMATION REQUESTS AND OVERLAPPING PERMIT MANAGEMENT

- Information requirements are inconsistent and not provided in application information or guidance.
 - Mapping was requested to be printable to a 8.5" x 11" for referrals. Time was required to redo all maps and the permit application had to be resubmitted when these requirements are not evident in the application guidance.
 - Required a shape file that is not in the FrontCounter BC required map package.
 - Requirements for line cutting permit, work area delineation and level of detail on maps is unclear. It is up to the proponent to get the level of detail correct, but there is lack of clarity and common understanding of what 'detail' is needed.
- Results in many requests after the fact that are time consuming for all.
- Lack of shared understanding or familiarity with exploration methods and on-the-ground activities and ambiguity on application requirements.
- An archaeological assessment was requested on a dry tailings facility.
- Multiple delays related to specific interpretation of disturbance related to access (excavated trail vs. exploration trail).
- A requirement for the recording of all helicopter flight paths in advance of any work.
- A request for specific GPS coordinates for drill collars on a multi-year, multi-area application.
- Detail required is not reasonable given the stage of development (drill holes location prior to IP surveys and geophysics).
- In the MYAB process there is ambiguity created by the two separate reports required - annual summary of exploration activities and the MYAB plan annual summary. These cover different periods of time but have the same information - this is a duplication of effort.
- Mapping requirements being identified during review are not included in the guidance.
- Many different guidance documents that are hard to find. A lot of searching documents to see if it pertains to the proposed activity.

OVERLAPPING PERMIT MANAGEMENT

- Overlapping permit management has become the responsibility of exploration companies. The applicant was required to manage issues with a previous permit and outstanding bond issue. Old permits are not on BC

mapping programs making it difficult for applicants to know this issue exists. The government should put a system in place to release these permits and keep the tenure clear (send letter, confiscate bond).

- Informed late in the process (at MEMPR initial review) of overlapping permits that need to be resolved. The existing permit layer is not available publicly, except the dot within iMap which doesn't show spatial area nor responsible company. This lack of available data impedes the ability of companies to screen for overlapping permits at the onset.
- A permit application sat with FrontCounter BC for 105 days before notification of an overlapping permit was received. The permit database is government only and this screening for overlapping permits is not something that applicants can do for themselves.
- The onus to contact the previous permit holders and resolve outstanding issues is put on the applicant and can be time consuming. This should be the responsibility of government.
- Large MYAB property covered a lot of overlapping permits with different status. Proponent expected to resolve the issue, but does not have access to information and is not in a position to manage any outstanding bonds – that needs to be done by the province.

LONG-LEAD TIME REQUIREMENTS

- Client given long-lead requirements late in the process (e.g. wildlife and archaeological assessments, erosion or sediment control plans).
- Request for a songbird survey after breeding season. The permit would not be issued prior to the completion of the survey and the client lost their claims due to the year wait to complete this information requirement.
- Request for a migratory bird survey outside of the annual migration cycle.
- Application for small drill program submitted in February. In June received permit with many long lead items in conditional permit including; flight path plan, archaeological overview assessment, drill site archaeology assessment, wildlife management plan for bear and moose interactions.
- Received requirement for archeological walk-over 6 months after application was submitted. Delays work or can't be done due to weather. Should have provided notification of this much earlier so work could get done and be ready when permit issued.
- Worked in compliance with Caribou habitat guidelines for seven years (no work during calving period, no trail building during winter etc.). New staff now requests different procedures.

CLIENT COMMUNICATION AND TRACKING

- FrontCounter BC – no communication when review is complete and application has moved forward; do not know how long it was with FrontCounter BC or when it moved on.
- Client has to initiate contact to get a status update. Updates or status are never sent unless there is an issue and information request.
- No prior communication that complex conditions or restrictions may be attached to permits that resulted in significant additional delays and reduced work due to winter season. E.g. Caribou Mitigation and Monitoring Plan to be completed by a professional biologist prior to any work on the project, a professional biologist required to determine when caribou have left the project area.

- Good communication with MEMPR staff about application prior to going to referrals. In some cases, a heads-up that First Nation may request an archeological survey.
- Extensions to First Nations referral without notifying client.
- No information on which agencies or First Nations are receiving the application for referral.
- Tracking status is inadequate (“waiting”, “received” and “in process”) and often incorrect. In one instance a permit application was still shown as pending more than two years after it had been issued. In another case the status changed to "approved" when the permit draft is available to inspectors but still weeks until the inspector reviewed the application.
- Status only obtained by calling the office.
- No transparency – need specific tracking details. This is critical to project planning, budget allocation, staffing etc.

REFERRALS

- Unclear which First Nations the application will be referred to.
- “Do not use the Consultative Areas Database.”
- General comment that there is no certainty around First Nation identification for consultation or engagement and uncertainty as to what should or should not be provided to First Nations (what is governments requirements and responsibility vs applicants).
- Applicants are encouraged to engage with First Nations prior to submittal but there is no formal way of getting advance notice as to whom the government will be consulting with - the consultative areas database is not a trusted source.
- First Nation requests outside and beyond scope of permit.
- Extension requests or lack of response by First Nations can add significantly to the timelines.
- Forests are currently formally managed for commercial purposes, yet the application of commercial harvesting/re-forestation standards to mineral exploration activities is inappropriate.

MEMPR

- Inspectors are generally professional and knowledgeable, and in many cases help work through issues.
- Have had some challenges with new and inexperienced inspectors.
- Inspector is proactive and made a small changes to the application to help move it forward. This avoids time consuming back-and-forth and allows the application to keep its position in the queue.
- Some requests can be challenging and outside scope of requirements – e.g. a map of all forestry access roads.
- Inspectors have come back with individual requests on map scale & detail that are outside of guidance.
- “Pre-application discussion” with MEMPR has been very helpful to advanced identification of ancillary permits and plans rather than the iterative nature of discovery.
- In some cases has facilitated meeting with First Nation.
- There should be an option for a pre-application review to help identify potential issues, long-lead time requirements and potential requests from First Nations and other ministries.

- Has generally found that the MEMPR staff have a good understanding of mineral exploration activities and the experience to conduct the review, although all could benefit from additional training and consistent application of regulation throughout the province.
- Communications are very timely- email turnaround is quick but it is very inspector dependent.
- Generally, we have always found the mining inspectors to be professional, experienced and cooperative; willing to find ways to solve issues. This continues to be the case with the exception that we are now seeing the occasional inspector new to the exploration world and the mines branch. Suddenly there's a three-page list of requirements we have never seen before.
- Regional differences are more a consequence of individual differences with FrontCounter BC staff or MEMPR staff than specific differences between regional offices.

BUSINESS CONSEQUENCES

- No longer feasible to acquire a property and expect to work it the same year
- Did not pursue exploration on an optioned property because the costs of carrying the option through the extended permitting was too high.
- Approximately \$300,000 - \$400,000 budgeted, but not spent advancing the project due to delays in permitting.
- Delays and uncertainty in permit issuances resulted in dropping the ground or joint venture and, in some cases, leaving the province and taking investment elsewhere.
- Not able to execute field program in the year planned. Deferred to next year.
- Permit delay that meant a field season was missed but moved effort to property with existing permits.
- Investors won't fund a second year due to permitting delays in getting initial work done.
- Unlikely to option a property that does not already have a permit.