Association for Mineral Exploration

April 22, 2026

Honourable Ravi Parmar, Minister of Forests
PO BOX 9049, STN PROV GOVT.
Victoria BC V8W9E2 CANADA

Sent via email: FOR.Minister@gov.bc.ca

Dear Minister Parmar,

Re: Response to HCA Technical Paper

We are writing in response to your most recent technical paper on the Heritage Conservation Act (HCA) dated March 26, 2026. We would like to thank you and your team for engaging on this issue and for working to understand our concerns.

We believe this process should remain paused at least until DRIPA reform has been completed. Premier Eby has been clear about the risks following the Gitxaala decision, stating that it is "opening the door to a tidal wave of litigation, the end results of which are unpredictable and uncertain." We share the Premier's assessment. Proceeding with HCA reform while foundational questions about DRIPA remain unresolved risks producing legislation that is immediately vulnerable to legal challenge, thereby compounding, rather than reducing, the regulatory uncertainty that is already deterring investment in British Columbia's mineral exploration sector.

Legislative certainty is the cornerstone of a competitive investment environment. A newly reformed HCA enacted atop an unsettled DRIPA framework would fail to deliver that certainty and could materially undermine British Columbia's standing as a destination for mineral exploration capital at a time when global competition for critical minerals investment is intensifying.

AME PRINCIPLES

1. Final authority must rest with the province
2. Science and facts are foundational
3. Enforcements must remain the sole responsibility of the province

FEEDBACK

We're appreciative of the removal of:

- Heritage Management Zones (HMZ),
- Mandatory Disclosure of Records of Engagement

While we also appreciate the change in language regarding intangible heritage, consent-seeking, and enforcement delegation, the substance of these proposals remains largely intact.

The updated document expressly contemplates that each of these matters may be advanced through agreements between the Province and First Nations governments, effectively preserving the policy outcomes that the language changes appeared to address. AME's specific concerns are set out below.

- **Intangible heritage** – 4.1 removes the terms "intangible heritage," "cultural landscapes," or "mortuary landscapes," but goes onto say that definitions may be rewritten. Government must ensure that the rewriting of definitions will not expand the scope of what is protected under the HCA. Broader cultural concepts such as oral histories, language, and traditional knowledge are proposed to be reflected as "cultural practices" and be eligible for recognition under the HCA. While the Technical Paper states that this will not result in land-based protection and that the recognition tool "would not protect land or pose any obligations on any party," the practical scope of "cultural practices" is undefined. Further, the Technical Paper notes that "definitions in the HCA may be re-written," which introduces material uncertainty as to the final legislative text.
- **Consent-seeking** – The updated document replaces the language from "consent-seeking" to "consultation and co-operation" in alignment with section 35 of the *Constitution Act,* 1982, which appears to be a major win. The Technical Paper also expressly states that the proposed legislation would not enable Declaration Act s. 6&7 agreements for permitting decisions. However, the document goes on to affirm First Nations' inherent right to self-determination, including self-government, recognized and affirmed by Section 35 of the Constitution Act, 1982 and the United Nations Declaration on the Rights of Indigenous Peoples, which includes jurisdiction/law-making authority/responsibility in relation to the protection, management, and development of their heritage. If the document is meant to recognize some jurisdiction, law-making authority, or responsibility, the province must expressly lay out what is intended, or the scope of these terms will be determined by the Courts. Further, while s. 6&7 agreements are excluded from permitting, the document remains vague about the scope of operational agreements and jurisdictional agreements that could alter how the HCA applies in agreed-upon areas.
- **Enforcement delegation** – The Technical Paper confirms that specific compliance and enforcement agreements will not be included in the proposed legislative package, which AME acknowledges as a positive step consistent with our principles. However, section 4.15 contemplates First Nations involvement in compliance and enforcement through information-sharing agreements under operational agreements and through existing mechanisms such as Guardians programs. AME seeks explicit confirmation that these programs and similar initiatives will not function as de facto enforcement, and that statutory enforcement authority will remain exclusively with provincial officers.

Other areas of concern include:

- **Public Interest** – The inclusion of "public interest" as a statutory decision-making criterion is positive and is notably absent from the current HCA. However, the document frames the public interest not as the overarching objective, but as one of four alphabetically ordered criteria with no indicated hierarchy or weighting. AME recommends that public interest, defined to include economic considerations.
- **Overlapping Claims** – 3.2 – Does not deal with overlapping territory issues regarding a "deposition framework." Likely to lead to confusion of which nation artifacts need to go to.
- **Transparency on Decision Making** – 3.3 – Must provide more detail of the ability of a proponent to understand the decisions made – generally saying: "to support procedural

fairness to proponents on HCA permit decisions, with advance notice to the affected First Nation and safeguards to prevent further disclosure" – is not enough.

- **Culturally Modified Trees (CMT)** – 4.2 – Concern regarding CMTs being automatically protected – there are trees culturally modified every day. What is the criteria, or threshold for automatic protection?
- **Authority** – 4.3 – Moving decisions from the Cabinet to ministries likely does nothing but decrease scrutiny.

While AME is appreciative of changes that completely remove Heritage Management Zones (HMZ), and mandatory disclosure of records of engagement, the document still leaves many questions to be answered. At the present time it remains inconsistent with the principles that AME set out in the Fall and more detail is required.

Again, we urge your government to pause and think carefully about the compounding impact that comes with reforming the HCA while so many questions remain around DRIPA. Should this not be met we wish to be included in further drafting, or technical work moving forward.

Sincerely,

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CC:

The Honourable David Eby, Premier of British Columbia

The Honourable Jagrup Brar, Minister of Mining and Critical Minerals

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