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BRIEFING NOTE

MINERAL CLAIMS AND RESOURCE USE PERMITS IN STRATHCONA RECREATION AREA

During the past year, Resource Use Permits were issued by the Minister of Environment and Parks to Cream Silver Mines Limited because the Crown believed it would be liable for compensation for expropriating Cream Silver's mineral interests if Resource Use Permits were not issued. Cream Silver's interests are chattel interests and are distinct from Crown granted mineral claims which have been ruled by the Supreme Court of Canada as interests in land. Compensation is due to owners if interests in land are expropriated.

The Friends of Strathcona Park have recently received a legal opinion, which has been supported by a second legal opinion from the Ministry of Attorney General, that the Minister of Environment and Parks has some discretion in issuing Resource Use Permits in Strathcona Recreation Area. This discretion applies to those chattel interest mineral claims issued in Strathcona Park subsequent to March 26, 1965, the date on which the legislature enacted the Park Act. It is further the opinion of the Ministry of Attorney General that compensation would not be due to chattel interest mineral claims issued after the enactment of the Park Act. This opinion affects 96 of Cream Silver's 106 mineral claims in Strathcona Recreation Area.

For those chattel interest mineral claims issued prior to March 26, 1965, located in Strathcona Recreation Area, the opinion is uncertain. Not issuing a Resource Use Permit for these claims may amount to expropriation which may in turn entitle the owner to compensation. With respect to all Crown Granted mineral claims in Strathcona Recreation Area, the Crown would be expropriating the interests of the owner and would be liable to pay compensation by refusing to issue a Resource Use Permit.

Notwithstanding the above legal opinions on the specific points at issue, the Ministry of Attorney General felt that ultimately compensation would be payable under common law if chattel interest mineral claims were expropriated. Although the Ministry of Attorney General continually advised litigation to fully clarify the legal situation, the government decided as a matter of policy not to engage in litigation but to instead issue Resource Use Permits for mineral claims in Strathcona and other recreation areas. It is this legal strategy which is now at issue.

It is apparent that these are very complicated legal issues which should be revisited by the Ministry of Attorney General. We cannot comment on the question of legal strategy, i.e. whether the government should pursue litigation to clearly resolve the rights and obligations of the parties.

You should be aware that although nothing that government does now will affect Cream Silver's current Resource Use Permit, this permit will soon expire. If litigation is pursued, Cream Silver's development plans will be severely affected.