

November 15, 2006

Virginia Greene, Deputy Minister, Ministry of Tourism, Sport & the Arts (TSA)
Bill Irwin, A/ADM, Tourism and Resort Development, TSA
Dave Byng, ADM, Regional Client Services, Integrated Land Management Bureau
Warren Mitchell, A/ADM, Crown Land Administration
Kathy Chopik, Director Sustainable Resource Development
Lawrence Alexander, Barrister Legal services, Ministry of Attorney General.
Nancy Wilkin. ADM for Environmental Stewardship Ministry of Environment

Re: Resolution of commercial recreation tenure security issues

Greetings,

Commercial tourism businesses, which operate under *Land Act* and *Park Act* tenures in British Columbia, have been struggling with tenure security for many years.

While we have made considerable headway with some tenure issues through the efforts of the MTSA's tourism sector Joint Steering Committee (JSC), we have run into significant hurdles on a number of key issues. This is the reason for our meeting with you on November 23rd, 2005. These issues relate specifically to the way in which government makes decisions that may result in "takings" of our tenured bundles of rights, and the way in which our operators are compensated – or not – if/when these takings occur. These are very fundamental business issues that may stand in the way of achieving the government's challenge to double tourism over the next 10 years. We are seeking help from you to address and resolve these issues.

At our meeting, we wish to focus our discussion on three key points:

1. Termination. Of the contracts studied in Canada and Alaska, Parks Canada tenures, the BC commercial recreation park use permit, and Alberta leases and licences of occupation include a provision for termination due to public interest; however, Alberta offers compensation. Yukon, Ontario, and all but one type of Alaska's CR tenures do not include a provision for termination due to public interest. All licences of occupation and temporary use permits administered by MTSA include provisions for termination due to public interest or if the government requires the land for their own use - without compensation. This situation decreases contract security and certainty, reduces the likelihood that tenure operators will invest further in their business and decreases the willingness of lending institutions to finance such operations.

We are specifically asking government, in all CR contracts, to remove provisions similar to clause 8 of the *Land Act* Licenses of Occupation which states that:

“if we require the Land for our own use or, in our opinion, it is in the public interest to cancel this Agreement and we have given you «NOTICE_CANCELLATION_PUBLIC_INTEREST» days’ written notice of such requirement or opinion this Agreement will, at our option and with or without entry, terminate and your right to use and occupy the Land will cease”

Instead, we will ask that government’s ability to terminate a tenure in the “public interest” be contingent on a successful consultation and accommodation process.

2. Status with respect to other resource tenures. Currently, commercial tourism, despite the government’s focus on this industry, takes a back seat when it comes to other resource sectors. We ask that government amend clause 5 in CR tenures, which places CR tenure rights in a secondary role to all subsisting grants and rights under the *Coal Act, Forest Act, Mineral Tenure Act, Petroleum and Natural Gas Act, Range Act, or Water Act*. The amendment should guarantee CR tenure rights. Where conflicts with other tenure rights exist, the CR policy (and related policies under other legislation) should require a consultation and accommodation process with all affected tenure holders.
3. Compensation When “takings” are necessary fair compensation should consider such factors as intensive improvements, trail networks and smaller infrastructure improvements, business start-up costs, and the current value of future earnings. A fair compensation policy should also consider compensation for the loss of natural resources (e.g. viewscapes, wildlife habitats, watersheds), which are integral to the success of a CR business. Government decisions that have a material impact on the presence/use of natural resources must result in compensation if increased security is to be realized.

As background to these issues, please find attached a copy of our report entitled “Towards Greater Commercial Recreation Tenure Security”. We encourage you to read it. The report was prepared by Aaron Heidt (graduate student) and Dr. Peter W. Williams, both of the Center for Tourism Policy and Research at Simon Fraser University. Their research commenced in May 2005 and was carried out throughout the summer under the guidance of a committee composed of Dave Butler, Jim DeHart, Brian Gunn, and Tim McGrady. The report offers a comprehensive look at tenure security for tourism operators in this province in the context of other BC resource sectors and other tourism jurisdictions in North America and within the province. It also includes a comprehensive member survey about concerns with tenure security. The report has been peer-reviewed by senior individuals close to the industry and by tourism sector members of the JSC. In our opinion it is a very timely and illuminating report.

You’ll see that the authors of this report have made nine recommendations. We believe that most of these recommendations can be dealt with through the JSC. However, we firmly believe that the three issues noted above need to be addressed at your level.

We believe that the process for moving forward and resolving these three important business issues should include the development of a working group consisting of key Ministry senior staff and commercial recreation tourism representatives. Perhaps we can call it the "adventure tourism tenure security working group." We will be asking you to commit to such a process at the meeting on November 24th.

If we can resolve these issues we firmly believe that we will be in a significantly better position to respond to government's recent challenge. At stake is helping to sustain and grow a healthy and viable nature-based tourism sector which supports the economy with jobs and tax revenue.

We thank you for your attention to these matters and we look forward to the results of our meeting on Wednesday November 23, 2005 from 1500 to 1630 hrs.

For information or questions please contact members of the committee: Dave Butler 250 426 3599; Jim DeHart 250 923 7238; Brian Gunn 250 286 4080; or Tim McGrady 250 337 1953.

Yours sincerely,

*Original signature
on file*

Scott Barsby
BC Commercial
Snowmobile Operators
Association

*Original signature
on file*

Dave Butler
BC Helicopter and Snowcat
Skiing Operators
Association Alliance of BC

*Original signature
on file*

Brian Collen
Sea Kayak Guides

*Original signature
on file*

Jim DeHart
BC River Outfitters
Association

*Original signature
on file*

Dale Drown
Guide Outfitters Association
Of BC

*Original signature
on file*

Brian Gunn
Wilderness Tourism
Association of BC

*Original signature
On file*

Will Harding
Council of Tourism
Associations of BC

*Original signature
on file*

Brad Harrison
Backcountry Lodges of BC
Association

*Original signature
on file*

Karl Klassen
Association of
Canadian Mountain
Guides

*Original signature
on file*

Evan Loveless
Commercial Bear Viewing
Association of BC

Cc: Lin Gallacher Executive Assistant for ADM TSA