

Date: 20060117

Docket: T-1062-05

Citation: 2006 FC 41

Toronto, Ontario, January 17, 2006.

PRESENT: THE HONOURABLE MR. JUSTICE VON FINCKENSTEIN

BETWEEN:

BUL RIVER MINERAL CORPORATION LTD. and  
GALLOWAI METAL MINING CORPORATION

Applicants

and

THE MINISTER OF NATIONAL REVENUE

Respondent

**REASONS FOR ORDER AND ORDER**

**Background**

[1] The Applicants are Alberta corporations who carry on mining exploration activities in British Columbia. The Applicants did a review of their taxation matters and became aware of a mining exploration tax credit (the "METC") under section 25.1 of the *Income Tax Act*, R.S.B.C. 1996, c.215 (the "BCITA"). The Applicants applied for the METC on November 30, 2004 in respect of the taxation years 1998, 1999 and 2000.

[2] Under s. 25.1 of BCITA, the application for the METC is to be filed with the tax return for the application taxation year, and under s. 25.1(7) of said Act applicants are not entitled for the METC unless the documents are filed within 36 months of the taxation year. The Applicants in this case failed to meet either requirement.

[3] The federal government of Canada and the province of British Columbia (“BC”) made an agreement authorized under both the Income Tax Act, R.S.C. 1985, c.1 (5<sup>th</sup> supplement) (the “ITA”) and the BCITA pursuant to which the Canada Revenue Agency (“CRA”) collects provincial income tax on behalf of BC.

[4] This application arises from a ruling of the Respondent (in this application also referred to as the federal Minister, the CRA, or the Minister of National Revenue) dated February 16, 2005, under signature of one Gy Karan, that stated that the request for a waiver :

- a) in respect the 1998 and 1999 taxation year returns were beyond the three-year period for reassessment and were therefore denied; and
- b) in respect of the 2000 taxation year was granted, subject to audit that the taxpayers were ‘eligible taxpayers’ and the expenses were ‘qualified mining exploration expenses’.

This decision was based on an exercise of the discretion set out in s. 220(2.1) of the ITA (which is incorporated into the BCITA by virtue of s. 47(1) of the BCITA). The decision was

subject to two conditions:

- (1) the Applicants were “eligible taxpayers” and
- (2) the expenses were “qualified mining exploration expenses”.

[5] In a letter dated May 27, 2005, Ms. Paula Fuerst, on behalf of CRA, informed the Applicants that the waiver was retracted as Mr. Karan “was not aware that the Vancouver TSO is administering the “METC” and Calgary TSO did not have the authority to make decisions in this regard”.

[6] The Applicants are now seeking an order of *mandamus* compelling CRA to comply with the decision dated February 16, 2005 whereby the Applicants’ request for a waiver was granted with respect to the 2000 taxation year. No action was taken with respect to the 1998 and 1999 taxation years.

### **Issues**

[7] The pleadings of both sides cover many issues. However, by counsels’ own admissions, the pleadings are largely not relevant to the argument that was advanced before me. The application before me was only argued on the following two issues :

Was the Respondent’s assumption of jurisdiction over the Applicants’ request to waive the filing of the METC documents correct in law, in light of:

- 1) the statutory stipulation in s. 25.1(9) of the BCITA reserving certain authority to the BC Minister; and
- 2) the prescribed time limit set out in s. 25.1(7) of the BCITA.

### **Statutory Provisions**

[8] The relevant BC statutory provisions are sections 1(1), 1(7), 1(8.1), 25.1, 47, and 69 of the BCITA which for convenience are set out in Annex 1.

[9] The relevant federal statutory provisions are sections 220(2.01), 220(2.1) and 248(1) of the ITA which for convenience are set out in Annex 2.

### **Analysis**

[10] It is undisputed that Canada and BC entered into a collection agreement regarding collection of provincial income taxes on January 26, 1962 and which is still in force (the “Collection Agreement”). Under the Collection Agreement, CRA will administer the BCITA on behalf of the province. Sections 10 (1) to (4) of the Collection Agreement provide the following:

#### **ADMINISTRATION**

10. (1) The Minister of National Revenue, the Deputy Minister of National Revenue for Taxation and other officials of the Taxation Division of the

Department of National Revenue of Canada will administer the provincial act for and on behalf of the Province.

- (2) The Province will, during the term of this agreement, ensure that the Minister of National Revenue and the Deputy Minister of National Revenue for Taxation have and may exercise all the powers of the Provincial Minister under the provincial act and that officials of the Taxation Division of the Department of National Revenue have and may exercise like powers under the provincial act as they are given under the federal act.
- (3) Where it is requested by the Minister of National Revenue to assist in the administration of the provincial act, the Province will provide to the Minister of National Revenue information that it may have
  - (a) relating to any person liable to tax under the provincial act, and
  - (b) relating to real property valuations and transactions.
- (4) The Province will accept as final and binding all assessments, decisions and other steps made or taken by the Minister of National Revenue and officials of the Taxation Division of his Department under the provincial act in pursuance of this agreement. (Underlining added)

[11] In addition, sections 69(3) and 69(4) of the BCITA provide:

69(3) If a collection agreement is entered into, the federal minister, on behalf of or as agent for the Provincial minister, is authorized to use all the powers, to perform all the duties and to exercise any discretion that the Provincial minister or the deputy Provincial minister has under this Act, including the discretion to refuse to permit the production in judicial or other proceedings in British Columbia of any document that it is not, in the opinion of the federal minister, in the interests of public policy to produce.

69(4) If a collection agreement is entered into, the Commissioner of Customs and Revenue may

- (a) use all the powers, perform the duties and exercise any discretion that the federal minister has under subsection (3) or otherwise under this Act, and
- (b) designate officers of his or her agency to carry out functions, duties and powers similar to those that are exercised by them on his or her behalf under the federal Act. (Underlining added)

[12] Section 220(2.1) of the ITA gives the federal Minister, i.e. CRA, the power to waive any requirement to file a prescribed form, receipt or other document, or prescribed information.

Section 47(1) of the BCITA specifically provides that sections 220(2) to 220(7) of the ITA apply for the purposes of the BCITA. Thus, CRA, for the purposes of administering the BCITA, has the power to waive requirements for a prescribed form, receipt or other document or prescribed information.

[13] The issue therefore is whether there are some statutory limitations in the BCITA regarding the METC which restrict the ability of CRA to exercise the powers to waive requirements as described in the previous paragraph.

[14] The Respondent points to s. 69(5)(c) of the BCITA which provides:

Despite subsection (3), the federal Minister is not authorized to use, perform or exercise any of the following powers, duties or discretions of the provincial Minister:...c) respecting the collection and sharing of information under sections ... 25.1(9)....

[15] The Respondent then points to s. 25.1(9) of the BCITA which provides :

25.1(9) Without limiting any provision of this or any other enactment, the Provincial minister, the federal minister, if a collection agreement is in effect, and the minister responsible for the administration of the Ministry of Energy and Mines Act may

- (a) collect any information that is relevant to an application for a tax credit being claimed or already claimed under this section, and
- (b) share with each other, in accordance with an information-sharing agreement under section 65, any information that is relevant to an

application for a tax credit being claimed or already claimed under this section.

[16] The combination of these two sections, in the contention of the Respondent, means that each Minister has to carry out its collection of information duties and may share any information thus obtained. The Respondent bases his contention on the fact that the introductory words of s. 25.1(9) of the BCITA use the word “and” when referring to the three ministers rather than the word “or”. Given the use of the word “and”, the federal Minister may not exercise the duties of the provincial Minister regarding collection or sharing of information. The section thus prevents the federal Minister from exercising any collection of information duties, in this case a waiver regarding METC, in his capacity as the provincial Minister’s surrogate.

[17] While admittedly sections 69(5)(c) and 25.1(9) of the BCITA are not easy to reconcile, I cannot accede to this interpretation. I see nothing in s. 25.1(9) of the BCITA that requires each Minister to carry out his/her duties and only then be able to share the information. Rather, I read s. 25.1(9) of the BCITA as an empowering section that allows, but does not force, the collection and sharing of information by each Minister. It is included as an exception under s. 69(5)(c) as it would be illogical to allow the federal Minister (acting on behalf of the provincial Minister) to agree to share information in the provincial minister’s name. It would then no longer be sharing, but rather it would mean the federal Minister unilaterally could have access to any information collected by his counterparts. The use of the word “and” merely indicates that all three ministers are authorized, it does not imply the limitations the Respondent alleges.

[18] An examination of the other sections referenced in s. 69(5)(c) of the BCITA further supports this point. These provisions are set out for convenience in Annex 3. They are nearly identical to s. 25.1(9) of the BCITA and all achieve the same result, i.e. that the federal Minister cannot, on behalf of his provincial colleague, agree to share information with himself.

[19] The Respondent argues, in the alternative, that even if the federal Minister can (on behalf of his provincial colleague) waive the requirement under s. 25.1(6) of the BCITA to file an application for the METC contemporaneously with the taxpayer's return for a given taxation year, he cannot waive the 36 month limitation period under s. 25.1(7) of the BCITA. Any such waiver, in the Respondent's view, is patently unreasonable. The officer simply confused the 36 month period for reassessment under s. 150 of the ITA with the 36 month filing requirement under s. 25.1(7) of the BCITA.

[20] Quite apart from the fact that the Respondent appears to be impugning his own decision or at least seeking judicial review of his own position, I do not believe that this contention has any merit. Section 25.1(7) of the BCITA is not a limitation period regarding entitlement but rather stipulates a requirement as to when information and records regarding a METC application have to be filed. It is thus a filing requirement regarding documents and information. This is precisely the type of requirement that can be waived under s. 220(2.1) of the ITA and which was specifically incorporated into the BCITA under s. 47(1). Thus it is a requirement that could be waived.



[21] There is nothing patently unreasonable in the justification that the CRA officer dated in his letter; namely that the waiver should be granted since it falls within the three year period that a reassessment by the minister may be made. In effect he is saying as long as the CRA can reassess the taxpayer can claim additional credits. Thus, this contention of the Respondent also does not succeed.

[22] The Respondent did not advance any other reasons for opposing the *mandamus* application. It is well established that where a minister has failed to act in accordance with a prior exercise of his discretion, this alone should be sufficient for an order of *mandamus* compelling the Minister to comply with his exercise of discretion. (See *Mount Sinai Hospital Center v. Quebec (Minister of Health and Social Services)*, [2001] 2 S.C.R. 281, per Bastarache J. at para. 117.). Consequently there is no reason why the *mandamus* should not be granted and accordingly, this application will succeed.

**ORDER**

**THIS COURT ORDERS** that:

1. An order of *mandamus* is hereby given requiring CRA to comply with the decision of February 16<sup>th</sup>, 2005 to grant the waiver, including conducting, in a reasonable and timely manner, an audit of the Applicants as contemplated in the said decision;
  - (1) 2. The decision of May 27, 2005 purporting to revoke the waiver dated February 16<sup>th</sup>, 2005 is hereby set aside; and
  - (2)
  - (3) 3. The Respondent shall pay the Applicants' costs in this application.

\_\_\_\_\_  
"K. von Finckenstein"

JUDGE

## Annex 1

### ***Income Tax Act, R.S.B.C. 1996, c.215, as amended.***

#### **(4)**

1(1) In this Act:

“collection agreement” means an agreement entered into under section 69(1);

“Federal Act” means the Income Tax Act (Canada);

“federal minister” means,

- (a) in relation to the remittance of any amount as or on account of tax payable under this Act, the Receiver General for Canada, and
- (b) in relation to any other matter, the Minister of National Revenue;

“minister” means,

- (a) if a collection agreement is not in effect, the Provincial minister, or
- (b) if a collection agreement is in effect, the federal minister;

1(7) If a provision, in this subsection referred to as “that section”, of the federal Act or the federal regulations is made applicable for the purposes of this Act, that section, as amended from time to time before or after this subsection came into force, applies with such modifications as the circumstances require for the purposes of this Act as though it had been enacted as a provision of this Act, and in applying that section for the purposes of this Act, in addition to any other modifications required by the circumstances,

- (a) a reference in that section to tax under Part I of the federal Act must be read as a reference to tax under this Act,
- (b) if that section contains a reference to tax under any of Parts I.1 to XIV of the federal Act, that section must be read without reference to tax under any of those Parts and without reference to any portion of that section that applies only to or in respect of tax under any of those Parts,

- (c) a reference in that section to a particular provision of the federal Act that is the same as or similar to a provision of this Act must be read as a reference to the provision of this Act,
- (d) any reference in that section to a particular provision of the federal Act that applies for the purposes of this Act must be read as a reference to the particular provision as it applies for the purposes of this Act,
- (e) if that section contains a reference to any of Parts I.1 to XIV of the federal Act or to a provision in any of those Parts, that section must be read without reference to that Part or without reference to that provision, as the case may be, and without reference to any portion of that section that applies only because of the application of any of those Parts or the application of a provision in any of those Parts,
- (f) subject to subsection (7.1), if that section contains a reference to the Bankruptcy and Insolvency Act (Canada), that section must be read without reference to the Bankruptcy and Insolvency Act (Canada),
- (g) subject to paragraph (h), a reference in that section to the federal Act or the federal regulations must be read as including a reference to this Act or a regulation made under this Act,
- (h) a reference in that section to the words “under this Act or under an Act of a province with which the Minister of Finance has entered into an agreement for the collection of taxes payable to the province under that Act” must be read as a reference to this Act, and
- (i) subject to subsections (8) and (8.1), a reference in that section to a word or expression set out in Column 1 of the following table must be read as a reference to the word or expression set out opposite it in Column 2:

TABLE

Column 1	Column 2
Her Majesty Canada Receiver General Commissioner of Customs and Revenue	Her Majesty in Right of the Province of British Columbia British Columbia finance minister deputy head
Deputy Attorney General of Canada Tax Court of Canada	Deputy Attorney General of British Columbia Supreme Court of British Columbia
Tax Court of Canada Act Federal Court of Canada	Supreme Court Act Supreme Court of British Columbia
Federal Court Act Registrar of the Tax Court of Canada Registry of the Federal Court	Supreme Court Act Registrar of the Supreme Court of British Columbia Registry of the Supreme Court of British Columbia
Criminal Code Canada Customs and Revenue Agency Minister	Offence Act ministry  Provincial minister

1(8.1) If a collection agreement is in effect, in applying the federal Act for the purposes of this Act,

- (a) a reference to the Commissioner of Customs and Revenue in the federal Act must continue to be read as a reference to the Commissioner of Customs and Revenue,
- (b) a reference to the Minister in the federal Act must continue to be read as a reference to the Minister, and
- (c) a reference to the Receiver General in the federal Act must continue to be read as a reference to the Receiver General.

...

25.1(1) In this section:

“assistance” in relation to a taxpayer means an amount, other than an amount deemed to have been paid under this section, that would be included under section 12(1)(x) of the federal Act in computing the income of the taxpayer for any taxation year if that section were read without reference to subparagraphs (v) to (vii) of that section 12(1)(x);

“eligible taxpayer” means,

- (a) an individual subject to tax under section 2(1)(a), or
- (b) a corporation that is subject to tax under section 2(2), other than a corporation all or part of whose taxable income is at any time in the taxation year exempt from tax under Part 1 of the federal Act or a corporation that, at any time in the taxation year;
  - (i) is exempt from tax under section 27,
  - (ii) is controlled directly or indirectly in any manner whatever by one or more persons all or part of whose taxable income is exempt from tax under section 27 of this Act or under Part 1 of the federal Act,
  - (iii) is prescribed, under the federal Act, to be a labour-sponsored venture capital corporation for the purpose of section 127.4 of that Act,
  - (iv) has registered an employee share ownership plan under section 2 of the Employee Investment Act,
  - (v) is an employee venture capital corporation registered under section 8 of the Employee Investment Act, or
  - (vi) is a small business venture capital corporation registered under section 3 of the Small Business Venture Capital Act;

“excluded expense” of a taxpayer for a taxation year means,

- (a) a Canadian development expense within the meaning of section 66.2(5) of the federal Act,
- (b) an expense that may reasonably be considered to be related to a mine that has come into production in reasonable commercial quantities or to a potential or actual extension of such a mine,
- (c) a Canadian exploration and development overhead expense within the meaning of the federal regulations,
- (d) an outlay or expense described in paragraph (j) or (l) of the definition of “Canadian exploration expense” in section 66.1(6) of the federal Act,
- (e) a cost of, or for the use of, seismic data referred to in section 66(12.6)(b.1) of the federal Act,
- (e.1) an outlay or expense incurred by the taxpayer in the course of earning income in the taxation year if any of the income is exempt income, as defined in section 248(1) of the federal Act, or is exempt from tax under Part 1 of the federal Act,
- (f) an expense incurred in drilling or completing an oil or gas well, in building a temporary access road to an oil or gas well or in preparing a site in respect of an oil or gas well,
  - (f.1) personal or living expenses of the taxpayer, other than travel expenses incurred by the taxpayer while away from home in the course of carrying on the activity described in paragraph (c) of the definition of “qualified mining exploration expense”,
  - (f.2) an amount that, under an agreement described in section 66(12.6) of the federal Act and made after July 30, 2001, is renounced in accordance with that section, in respect of an expense,

- (i) incurred after July 30, 2001 and before January 1, 2006, or
- (ii) incurred after December 31, 2005 and before January 1, 2007 and to which section 66(12.66) of the federal Act applies.

(g) [Repealed 2003-6-1.]

(h) any other outlay or expense prescribed under subsection (8);

“mineral resource” means a mineral resource within the meaning of section 248(1) of the federal Act;

“personal or living expenses” means personal or living expenses within the meaning of section 248(1) of the federal Act;

“qualified mining exploration expense” of a taxpayer means any expense, other than an excluded expense, that is incurred,

- (a) by the taxpayer,
- (b) after July 31, 1998 and before January 1, 2017,
- (c) for the purpose of determining the existence, location, extent or quality of a mineral resource in British Columbia, including any expense incurred in the course of
  - (i) prospecting,
  - (ii) carrying out geological, geophysical or geochemical surveys,
  - (iii) drilling by rotary, diamond, percussion or other methods, or
  - (iv) trenching, digging test pits and preliminary sampling, and
- (d) in respect of goods or services acquired by the taxpayer that are all or substantially all provided in British Columbia,

to the extent that the expense is reasonable in the circumstances and is not an expense in relation to



which a tax credit under this section has been claimed by another person.

...

25.1(2) Subject to subsection (3), an eligible taxpayer may claim a mining exploration tax credit for a taxation year equal to the total of,

- (a) the amount determined under subsection (4), and
- (b) the amount equal to the total of all amounts each of which is an appropriate portion determined under subsection (4.1) in respect of a partnership of which the taxpayer was a member in the taxation year as provided for in that subsection.

25.1(3) An eligible taxpayer who has made a deduction in accordance with section 17 for a taxation year must not claim a tax credit under this section for the same taxation year.

25.1(4) An eligible taxpayer may claim for a taxation year 20% of the amount by which

- (a) the total of the qualified mining exploration expenses incurred by the taxpayer in the taxation year exceeds,
- (b) all amounts of assistance that can reasonably be considered to be in respect of amounts included in the total referred to in paragraph (a) and that, at the time of filing of the taxpayer's return of income for the taxation year,
  - (i) the taxpayer has received or is entitled to receive or can reasonably be expected to receive,
  - (ii) have not been repaid under a legal obligation to do so, and
  - (iii) have not otherwise reduced the total referred to in paragraph (a);

25.1(4.1) If in a taxation year an eligible taxpayer is a member of a partnership, other than a specified member as defined in section 248(1) of the federal Act, the eligible taxpayer may claim for the taxation year the appropriate portion of 20% of the amount by which:

- (a) the total of the qualified mining exploration expenses incurred by the partnership for its taxation year ending in the taxation year of the taxpayer exceeds,
- (b) all amounts of assistance that can reasonably be considered to be in respect of amounts included in the total referred to in paragraph (a) and that, on or before the filing-due date for the taxation year of the partnership,
  - (i) the partnership has received or is entitled to receive or can reasonably be expected to receive,
  - (ii) have not been repaid under a legal obligation to do so, and
  - (iii) have not otherwise reduced the total referred to in paragraph (a).

25.1(4.2) For the purpose of determining the amount under subsection (4.1) in respect of a partnership,

- (a) in subsection (1), in the definitions of “assistance”, “excluded expense” and “qualified mining exploration expense”, the references to “taxpayer” must be read as “partnership”,
- (b) in subsection (1), in the definition of “qualified mining exploration expense”,
  - (i) the reference to “July 31, 1998” in paragraph (b) must be read as “March 31, 2003”, and
  - (ii) the phrase “another person” must be read as “another person other than an eligible taxpayer that is a member of the partnership”, and
- (c) the amount is determined as if
  - (i) the partnership were a person,
  - (ii) its fiscal period were its taxation year, and
  - (iii) its filing-due date were its filing-due date for the year if it were a corporation.

25.1(4.3) For the purposes of this section, the appropriate portion is that portion that may reasonably be considered to be the eligible taxpayer's share of 20% of the amount determined under subsection (4.1).

25.1(5) A taxpayer that has claimed and is eligible for a mining exploration tax credit under this section for a taxation year is deemed to have paid, at the time referred to in section 156.1(4) or 157(1)(b) of the federal Act, as the applicable section relates to the taxation year for the taxpayer, the amount of the tax credit on account of the taxpayer's tax payable under this Act.

25.1(6) A taxpayer who wishes to claim a mining exploration tax credit under this section for a taxation year must file, with the taxpayer's return of income under section 29 for the taxation year, an application for the tax credit in the form, and containing the information and records, required by the Commissioner of Income Tax.

25.1(7) A taxpayer is not entitled to a mining exploration tax credit in respect of a taxation year unless, within 36 months after the end of the taxation year, the taxpayer files the information and records required under subsection (6) with respect to the tax credit.

25.1(8) The Lieutenant Governor in Council may make regulations prescribing outlays or expenses as excluded expenses for the purposes of this section.

25.1(9) Without limiting any provision of this or any other enactment, the Provincial minister, the federal minister, if a collection agreement is in effect, and the minister responsible for the administration of the Ministry of Energy and Mines Act may

(a) collect any information that is relevant to an application for a tax credit being claimed or already claimed under this section, and

(b) share with each other, in accordance with an information-sharing agreement under section 65, any information that is relevant to an application for a tax credit being claimed or already claimed under this section.

...

47(1) Sections 220(2) to (7), 221.1, 224, 225.1 and 225.2 of the federal Act apply for the purposes of this Act.

47(2) Subject to section 69, the Provincial minister must administer and enforce this Act.

...

69(1) The finance minister, with the approval of the Lieutenant Governor in Council, may, on behalf of the government of British Columbia, enter into a collection agreement with the government of Canada under which the government of Canada will collect taxes payable under this Act on behalf of British Columbia and will make payments to British Columbia for the taxes collected, under the terms and conditions of the collection agreement.

69(2) The finance minister, with the approval of the Lieutenant Governor in Council, may, on behalf of the government of British Columbia, enter into an agreement amending the terms and conditions of a collection agreement.

69(3) If a collection agreement is entered into, the federal minister, on behalf of or as agent for the Provincial minister, is authorized to use all the powers, to perform all the duties and to exercise any discretion that the Provincial minister or the deputy Provincial minister has under this Act, including the discretion to refuse to permit the production in judicial or other proceedings in British Columbia of any document that it is not, in the opinion of the federal minister, in the interests of public policy to produce.

69(4) If a collection agreement is entered into, the Commissioner of Customs and Revenue may

- (a) use all the powers, perform the duties and exercise any discretion that the federal minister has under subsection (3) or otherwise under this Act, and
- (b) designate officers of his or her agency to carry out functions, duties and powers similar to those that are exercised by them on his or her behalf under the federal Act.

69(5) Despite subsection (3), the federal minister is not authorized to use, perform or exercise any of the following powers, duties or discretions of the Provincial minister:

- (a) determining that a form is acceptable under section 11(2)(b), (3)(b) or (4)(b);

- (b) specifying forms under section 13(3);
- (c) respecting the collection and sharing of information under sections 13.1(5), 21(15), 25.1(9), 77.1(2) and 95(2);
- (d) respecting an appeal under section 18;
- (e) respecting an information-sharing agreement under section 65;(f) any power, duty or discretion under sections 68(4) and 95(1).

## Annex 2

### *Income Tax Act, R.S.C. 1985 c.1 (5<sup>th</sup> supplement), as amended.*

220(2.01) The Minister may authorize an officer or a class of officers to exercise powers or perform duties of the Minister under this Act.

220(2.01) Délégation — Le ministre peut autoriser un fonctionnaire ou une catégorie de fonctionnaires à exercer les pouvoirs et fonctions qui lui sont conférés en vertu de la présente loi.

220(2.1) Waiver of filing of documents — Where any provision of this Act or a regulation requires a person to file a prescribed form, receipt or other document, or to provide prescribed information, the Minister may waive the requirement, but the person shall provide the document or information at the Minister's request.

220(2.1) Renonciation — Le ministre peut renoncer à exiger qu'une personne produise un formulaire prescrit, un reçu ou autre document ou fournisse des renseignements prescrits, aux termes d'une disposition de la présente loi ou de son règlement d'application. La personne est néanmoins tenue de fournir le document ou les renseignements à la demande du ministre.

248(1) Definitions — In this Act, “Minister” means the Minister of National Revenue;

248. (1) Définitions — Les définitions qui suivent s'appliquent à la présente loi.  
« ministre » Le ministre du Revenu national.

### Annex 3

#### *Sections Referenced in s. 69(5)(c) of the BC Act*

S. 13.1(5) Without limiting any provision of this or any other enactment, the Provincial minister, the federal minister, if a collection agreement is in effect, and the minister responsible for the administration of the *Employee Investment Act* may,

- (a) collect information that is relevant to a tax credit being claimed or already claimed under this section, and
- (b) share with each other, in accordance with an information-sharing agreement entered into under section 65, information relevant to a tax credit being claimed or already claimed under this section.

...

S. 21(15) Without limiting any provision of this or any other enactment, the Provincial minister, the federal minister, if a collection agreement is in effect, and the minister responsible for the administration of the *Small Business Venture Capital Act* may,

- (a) collect information that is relevant to a tax credit being claimed or already claimed under this section, and
- (b) share with each other, in accordance with an information-sharing agreement entered into under section 65, information relevant to a tax credit being claimed or already claimed under this section.

...

S. 77.1(2) Without limiting any provision of this or any other enactment, the Provincial minister, the federal minister, if a collection agreement is in effect, and the minister responsible for the administration of the *Forest Act* may,

- (a) collect timber harvest information that is relevant to the administration and enforcement of this Act, and

- (b) share with each other, in accordance with an information-sharing agreement entered into under section 65 of this Act, timber harvest information that is relevant to the administration and enforcement of this Act.

...

S. 95(2) Without limiting any provision of this or any other enactment, the certifying authority, the Provincial minister, the federal minister, if a collection agreement is in effect, and any advisory body designated under subsection (1) may,

- (a) collect any information that is relevant to an applicant's eligibility for a tax credit being claimed or already claimed under this Part, and
- (b) share with each other, in accordance with an information-sharing agreement entered into in accordance with section 65, any information respecting an application, an applicant or any other person if the information is relevant to a tax credit being claimed or already claimed under this Part.



**FEDERAL COURT**

**NAMES OF COUNSEL AND SOLICITORS OF RECORD**

**DOCKET:** T-1062-05

**STYLE OF CAUSE:** BUL RIVER MINERAL CORPORATION ET AL v.  
MINISTER OF NATIONAL REVENUE

**PLACE OF HEARING:** CALGARY, ALBERTA

**DATE OF HEARING:** JANUARY 10, 2006

**REASONS FOR ORDER  
AND ORDER:** THE HONOURABLE JUSTICE VON FINCKENSTEIN

**DATED:** JANUARY 17, 2006

**APPEARANCES:**

Mr. H. G. McKenzie Q.C. FOR THE APPLICANT  
Mr. Anthony V. Strawson

Ms. Kim D. Gowin FOR THE RESPONDENT

**SOLICITORS OF RECORD:**

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