

Write Your Exam Code Here: \_\_\_\_\_

Return this exam question paper to your invigilator at the end of the exam before you leave the classroom.

**THIS EXAMINATION CONSISTS OF 6 PAGES, INCLUDING THIS PAGE  
PLEASE ENSURE THAT YOU HAVE A COMPLETE PAPER**

**THE UNIVERSITY OF BRITISH COLUMBIA  
FACULTY OF LAW**

**FINAL EXAMINATION – DECEMBER 2018**

LAW 394  
Mining Law

Section 1  
Instructors: Alan Monk and Don Collie

TOTAL MARKS: 100

TIME ALLOWED: 2 HOURS  
And 15 minutes reading time

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- NOTE:
1. This is an open book examination. All printed course materials and materials distributed to the class during the course (e.g., Powerpoint slides, cases, diagrams) are permitted to be accessed.
  2. Refer to legislation, regulations (including section numbers) and case law, where applicable.
  3. ANSWER ALL QUESTIONS.

**THIS EXAMINATION CONSISTS OF 22 QUESTIONS**

MARKS

- 4 1. Please describe the differences between a placer claim and a mineral claim? Is it possible to have both claims on the same piece of land? Which claim, if any, would a person who wants to pan for gold require?
- 4 2. After a mine has been closed, the land must be reclaimed. Please describe what reclamation is, the purposes for it, how a mining company plans for it, and when during the "life cycle of a mine" it is performed. What legislation governs reclamation of a particular mine?
- 6 3. In respect of a mining joint venture:
- (a) What is an "Operator" and which party to the joint venture usually assumes that role?
  - (b) What is "distribution in kind"?
  - (c) What role does the management committee usually perform? Which of the two parties forms the Management Committee?
- 4 4. Your client, Gobi Mining, is a company incorporated in California, United States and it wishes to acquire three mineral claims in British Columbia. Gobi Mining has not held mineral claims in British Columbia before. Please advise Gobi Mining on what steps must be taken to acquire the mineral claims?
- 4 5. Your client, Polly Prospector, is the CEO of a B.C. company named Hard Rock Mining Ltd., which is listed on the TSX Venture Exchange. Polly wants to raise money to pay for exploration on Hard Rock's B.C. mineral property and on its mineral property in Idaho, USA. She also wants to raise money for general overhead, such as rent and for executive salaries. Polly asks you if Hard Rock can sell "flow-through shares", since she understands that the market is currently hot for tax write offs. How do you advise her?

- 4 6. Your client, Joe Prospector, just acquired a mineral claim in British Columbia. Joe intends to explore the property by taking grab samples. Does he need a permit to do so? What if Joe wants to explore using a drilling rig (i.e., exploration drilling); does he need a permit? Why?
- 3 7. Which of the following royalties - Unit Royalty, Net Smelter Return, Net Profits Interest, Gross Overriding Royalty - are important when a mining company is preparing a feasibility study for a potential mine on land covered by the royalties?
- 3 8. What is an "area of interest" in a commercial mining agreement and how does it typically work? Please name two commercial mining agreements where it may make sense to contain provision for an "area of interest" and explain why.
- 3 9. Please explain the concept of "commingling". Why can the right to commingle result in greater efficiencies in processing ore as compared to when that right does not exist? Please name two agreements in which it may make sense to include provisions for commingling.
- 4 10. Please describe the concept of "Participating Interest" (also known as "Interest", the term that was used in our example Joint Venture Agreement provided in the course materials) as it relates to the parties to a joint venture agreement and the funding of the joint venture and describe the circumstances under which it could change over the life of the joint venture. Is there any way a party can lose its participating interest? Please explain.
- 3 11. Your client wishes to purchase both a mineral claim and a crown granted mineral claim located in British Columbia. You are asked to confirm that the seller is the current owner of the mineral claim and the crown granted mineral claim. What do you do?

- 5 12. Your client holds a mineral claim on land, part of which is owned by the Government of British Columbia. The remainder of the land covered by your client's mineral claim is owned by Mr. Grumpy. Your client wishes to begin prospecting her claim on both parts of the land. Please advise your client of her rights to enter the properties in order to prospect, and what legal obligations (if any) she may have to the government or Mr. Grumpy under the *Mineral Tenure Act* (British Columbia).
- 4 13. In what circumstances would the holder of a mineral claim convert the claim into a lease?
- 6 14. Your client has just staked a mineral claim that is 100 hectares in size on BC's Mineral Titles Online system. Please advise your client what they must do to keep the claim in "good standing" from year to year and the cost of doing so.
- 5 15. Your client, a BC incorporated company, acquired the mineral rights to an area on which your client proposes to build a copper/gold mine in northern B.C. The mine (a "mineral mine") will produce 180,000 tonnes per year. Your client's mine plan proposes to build a tailings pond, which will require the removal of a lake that contains fish. Will your client's mine trigger a BC environmental review and/or a federal environmental review? Will your client need a BC Mines Act permit?
- 4 16. What is a "standstill" clause in the context of a typical mining industry Confidentiality Agreement? Is such a clause seen as more favorable to the party to the agreement that is disclosing the confidential information (i.e., the disclosing party), or more favorable to the party which is to receive the confidential information (i.e., the receiving party)?
- 5 17. What are four common forms of consideration given or paid by an optionee to an optionor under a typical mining property option agreement to enable the optionee to earn its option? For an optionee, in light of the above, what is the advantage in such a situation of the optionee being a public company rather than a private company?

- 4 18. Holly Martins is the President of your client Third Man Minerals Inc. (“Third Man”). She is originally a geologist by training and a qualified person for the purposes of National Instrument 43-101. She calls you on the phone and tells you that Third Man must urgently issue a press release disclosing drill results for its Prater gold property located in Austria, as these drill results constitute material undisclosed information which must be disseminated promptly under securities law. The Prater property is Third Man’s flagship property, and thus constitutes a “material property” under NI 43-101. The problem, as Ms. Martins explains, is that Harry Lime, the qualified person and project geologist who is responsible for conducting and overseeing the Prater project and the drilling program, has mysteriously disappeared somewhere amidst the backstreets of Vienna and cannot be located. Ms. Martins is concerned that Third Man may not be able to issue the required press release without Mr. Lime’s review and consent (including consent to his being named in the press release), which she seems to think is required under NI 43-101. How do you respond to Ms. Martins?
- 4 19. What are two features about a Preliminary Economic Assessment which distinguish it from a Preliminary Feasibility Study or a Feasibility Study?
- 6 20. Rick Blaine is the Vice-President, Exploration of your client Casablanca Resources Limited (“Casablanca”). Casablanca is negotiating a mineral property option agreement with Greenstreet Mining Corporation (“Greenstreet”), which would see Casablanca earn a 50% interest in Greenstreet’s Ugarte property, located in Morocco. You prepared the first draft of the Option Agreement, which reflects the basic business deal between Casablanca and Greenstreet: Casablanca can earn its option by making a total of CAD\$3,000,000 in cash payments to Greenstreet over three years (with a minimum CAD\$1,000,000 due each anniversary date of the agreement), and spending a total of CAD\$10,000,000 in Exploration Expenditures on the Property over three years. Greenstreet’s legal counsel, Vic Laszlo, has reviewed your draft agreement and come back with a comment. Laszlo wants a clause inserted immediately after the reference to the Exploration Expenditure requirement, stating that “For greater certainty, the \$3,000,000 in cash option payments referred to at section X shall not be counted towards Exploration Expenditures.” Why do you think Laszlo has made this comment? Do you think it is reasonable and that you should accept it?
- 7 21. List five different events, the occurrence of which would require a mining company to file a technical report under National Instrument 43-101, and for each example, provide the correct statutory citation from NI 43-101.

- 7 22. Your client Rosebud Resources Inc. (“Rosebud”) has a portfolio of mineral projects, 10 in total. These projects range, in size and state of development, from three large producing mines, to three reasonably advanced development-stage projects (with defined mineral resources and in one case a preliminary economic assessment), to four pure “grassroots” exploration projects. For two of the “grassroots” exploration projects, Rosebud did not spend any money on exploration or development in 2017 and does not propose spending any money in 2018, other than to maintain the properties in good standing (e.g., pay taxes, basic maintenance and mineral tenure payments). The time is approaching for Rosebud to file its Annual Information Form relating to the now-completed 2017 financial year, pursuant to Rosebud’s disclosure obligations under Canadian securities laws. Charlene F. Kane, Rosebud’s in-house legal counsel, has looked at National Instrument 43-101 and has concluded that in connection with the AIF filing, Rosebud will have to prepare and file ten new mining technical reports, one for each of Rosebud’s projects. However, she has asked you for your views on this. On hearing this from Ms. Kane, what do you tell her?

**END OF EXAMINATION**