

From: Minister, EMH EMH:EX
Sent: Wednesday, November 14, 2012 11:24 AM
To: Minister, JTST JTST:EX
Subject: FW: I Oppose the Temporary Foreign Worker Program in Tumbler Ridge

For your response.

From: Coleman.MLA, Rich [<mailto:Rich.Coleman.MLA@leg.bc.ca>]
Sent: Tuesday, November 13, 2012 8:40 AM
To: Minister, EMH EMH:EX
Subject: FW: I Oppose the Temporary Foreign Worker Program in Tumbler Ridge

From: s.22
Sent: November-13-12 8:30 AM
To: Bond.MLA, Shirley; Bell.MLA, Pat; Coleman.MLA, Rich; Lekstrom.MLA, Blair; bob.zimmer@parl.gc.ca
Subject: Re: I Oppose the Temporary Foreign Worker Program in Tumbler Ridge

OPPOSITION to TEMPORARY FOREIGN WORKS in TUMBLER RIDGE, B.C.

Dear Members of Parliament and Members of Legislative Assembly of British Columbia,

s.22
I think former Premier Bill Bennett had great vision (*like his father before him to construct the WAC Bennet Dam*), to open the coal fields in Tumbler Ridge. This has provided great wealth for the province for many years, both in employment and a continual supply of tax revenue for the province.

Unfortunately as I reach retirement, I was shocked to see that the province is considering allowing temporary workers from China to do underground mining in Tumbler Ridge. I wanted to express my deep objection and dissatisfaction of these permits and hope this has been stopped at this time? Can you please advise me of the current position of the province of BC in this permitting process?

s.22

Here are 5 good reasons to oppose the temporary foreign worker program

Reason 1: The TFW program is seriously flawed and is open to wide-spread abuse.

Reason 2: The TFW program drives down wages and severely limits the rights of workers entering Canada.

Reason 3: With expected retirements and slowing birthrates, our workforce

needs immigration, not temporary workers.

Reason 4: These workers have almost no rights because they are temporary and can be sent home on a moment's notice.

Reason 5: This program has not been about solving labour shortages; it's been more about entrenching low wages.

The B.C. Federation of Labour welcomed the decision by the federal government to expand the review of the Temporary Foreign Workers program from the specific case of mining workers in northeast British Columbia to include a review of the entire national program, but called for the review to be open and transparent for all Canadians to be involved.

"This program is seriously flawed and is open to wide-spread abuse," said Federation President Jim Sinclair. "The government was forced to lift the curtain on one case involving temporary foreign workers and found that our concerns about the entire program were obviously justified."

The Federation of Labour called for a review after it was uncovered that miners from China were being charged upwards of \$12,000 to come to Canada for work. It was also revealed that the company, HD Mining advertised jobs with a requirement that Mandarin be spoken. Despite getting more than 300 Canadian applicants, the company claimed that there were no suitable applicants from Canada.

The Federation has long opposed the Temporary Foreign Program, because the program drives down wages and severely limits the rights of workers entering Canada.

"This program is not about immigration and nation building, but rather about exploiting workers who have almost no rights because they are temporary and can be sent home on a moment's notice," said Sinclair. "Workers come here, they are filling full time permanent jobs, they can stay up to four years, yet they do not have the right to raise families, complain about safety concerns or simply change jobs if it is unsafe or abusive."

"This program has not been about solving labour shortages; it's been more about entrenching low wages. Sinclair noted the review comes at an important time as some employers are claiming that it is ok to hire workers and pay them the same wages as they might have received in their country of origin. As well, the federal government recently introduced policy deeming it possible for employers to pay some foreign workers 15 percent less than their Canadian counterparts.

"We know that over the long run with expected retirements and slowing birthrates, our workforce requires continued reliance on immigration," said Sinclair. "But let's invest in real immigration programs that allow prospective citizens the same rights as all Canadian workers. It's how we built Canada and how we should continue to build Canada."

Details of the review are not known but the Federation is calling for a fully transparent review by a third party that is not under government control. Canadians deserve a full explanation. Today more than 70,000 temporary foreign workers are residing in BC.

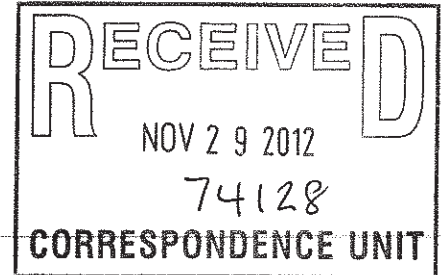
Ferguson, Susan M EMNG:EX

From: Jacobs, Jake GCPE:EX
Sent: Thursday, November 29, 2012 9:16 AM
To: Ferguson, Susan M EMNG:EX
Subject: FW: Mining in BC - Foreign workers & safety practices

Susan,

Public inquiry (student doing class project) for correspondence.

Thanks, Jake



From: [REDACTED]
Sent: Wednesday, November 28, 2012 7:30 PM
To: Jacobs, Jake GCPE:EX
Cc: s.22
Subject: Mining in BC - Foreign workers & safety practices

Hi Jake,

I am a [REDACTED] s.22 student doing research on the current hot news topic on Foreign workers and the mining companies in BC in particular HD Mining.

They are using a practice called Long Wall mining to extract coal in BC. Do you have any reports indicating this practice is safer or better vs practices currently used or in the past?

Does this practice (long wall mining) require a specific skill set? And, are they (specific skill set employees) required for the initial stage of surveying etc as well?

Also, does the BC Gov't have a statement in regards to the current review for foreign workers in particular with HD mining in BC?

What about the safety of the foreign workers? Is that an ongoing concern? Any new legislation that should be put into practice to take care of these workers?

I would appreciate your help with this newstory. Or any guidance you can provide. This story will only stay with us in the classroom.

[REDACTED]
s.22

Look forward to hearing from you.

Firth, Janet EMNG:EX

From: Brody, Margo X EMNG:EX
Sent: Monday, December 10, 2012 10:22 AM
To: EMNG Correspondence EMNG:EX; Musgrove, Kate MEM:EX
Subject: CLIFF 74128 Direct email Reply s.22

Importance: High

A direct email response for CLIFF 74128
I will send the word document in another email.
Kate confirmed that the ADM did not need to approve.
Thanks.
Margo Brody

From: Hoffman, Al EMNG:EX
Sent: Monday, December 10, 2012 10:16 AM
To: s.22
Subject: FW: Reply to s.22
Importance: High

s.22

Email: s.22

pc: Jake.Jacobs@gov.bc.ca

Dear s.22

Thank you for your email dated November 28, 2012 to Jake Jacobs regarding Mining in BC-Foreign workers and safety practices. As Chief Inspector of Mines, I am pleased to respond on his behalf.

Long Wall mining is not safer or less safe than other underground coal mining methods. It is all about mitigating the risks related to ground control, noise and dust exposure to workers and the prevention of the initiation of a methane and/or coal dust explosion.

Underground coal mining (UCG) in general requires a specific skill set because of the ever present risk of a methane and/or coal dust explosion. The equipment used, its electrical and mechanical design are significantly different than that required for underground hard rock mines or open pit mines.

The decision to allow the use of Temporary Foreign Workers is a federal government decision. This decision is under review and before the courts so it would be inappropriate for me to comment at this time.

The safety of foreign workers and all mine workers is a concern and the responsibility of the Ministry of Energy, Mines and Natural Gas.

Sincerely yours,

Al Hoffman, P.Eng.
Chief Inspector of Mines



David Blair
Margaria Brown
Stefanie Quelch

John Rogers, Q.C.
Steven Rogers
Amorinda Merritt

John Hodgins
Stephanie Drake
Laura Swann

Craig Boyls
Colin Guskoski
of the Saskatchewan Bar

Sebastien Anderson
Allison Tremblay
of the Alberta Bar

Reply to: COLIN GUSIKOSKI

telephone direct: 604.602.7984
e-mail: cguskoski@vslo.ca

BY FACSIMILE

December 11, 2012

Ministry of Energy and Mines
PO Box 9060 Stn Provincial Government
Victoria BC
V8W 9E3

Ministry of Energy and Mines

DEC 12 2012

Attention: Honourable Rich Coleman

Dear Sirs/Mesdames

**Re: Temporary Foreign Workers Recruited to Work for HD Mining in
Underground Coal Mine
Complaint Pursuant to the *Mines Act***

1. We continue to represent the United Steelworkers in this matter and write further to our letter of November 20, 2012, in which we raised serious concerns about the safety of Chinese mine workers employed at HD Mining's Murray River project near Tumbler Ridge BC.
2. Notwithstanding the grave concerns we raised in that complaint, and the potential for catastrophic loss of life or injury, to date we have neither heard from your department nor the chief inspector of mines.
3. Given the Steelworkers' concern for the health and safety of mine workers at HD Mining's operations, our last correspondence strongly urged you to invoke your powers under the *Mines Act* and immediately suspend regular work until an investigation was conducted and remedial action was taken. We have heard no reports that this course of action was taken. Please inform us as to whether your Ministry has intervened to ensure the safety of the temporary foreign workers.
4. We have also asked that you provide us with particulars of the efforts your ministry has made to ensure compliance with the *Mines Act*, *Code* and *Regulations*. If you recall, we requested information on the English language standards that your ministry developed for the temporary foreign workers who are and will be employed at HD Mining's operations. Additionally, we sought particulars of the efforts your ministry has put in place to ensure that the foreign workers are or were able to meet those basic requirements.

VICTORY SQUARE LAW OFFICE LLP
Minister of Energy and Mines
December 11, 2012

Page 2

5. We note that media reports covering the Federal Court challenge of the labour market opinions issued to HD Mining have stated that those opinions were issued with Mandarin language requirements. This confirms our earlier assertion that HD Mining was not hiring workers with English language competency.

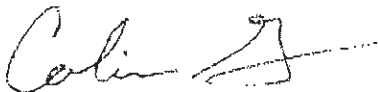
6. Lastly, we requested information pertaining to the efforts, if any, your ministry has undertaken to objectively verify that the skills and qualifications of the foreign workers are at a satisfactory level to safely work in a continuous production coal mine.

7. Our initial complaint was brought to your attention on November 20, 2012, and we still have not received a response. Please provide us with this information immediately.

8. Given the serious risk to the lives and safety of all workers in HD Mining's operations, we trust that your ministry has treated our complaint with the appropriate urgency, care and attention.

Yours truly,

VICTORY SQUARE LAW OFFICE LLP
per:



Colin Gusikoski

c.c. Al Hoffman, Chief Inspector of Mines (fax: 250-952-0491)
United Steelworkers



David Blair John Rogers, Q.C. John Hodgins Craig Bavis* Sebastian Anderson**
 Marjorie Brown Steven Rogers* Stephanie Drake Colin Gusikoski Allison Tremblay
 Stefanie Quetch Amanda Merritt Laura Sworn
 *Professional Law Corporation **also of the Saskatchewan Bar **also of the Alberta Bar

TRANSMISSION RECORD

December 11, 2012

To:	Attention:	Fax No.
Minister of Energy and Mines	Honourable Rich Coleman	250-356-2965
cc to: Chief Inspector of Mines	Al Hoffman	250-952-0491

From: Colin Gusikoski

Direct Line: (604) 602-7984

File: USINTC00055

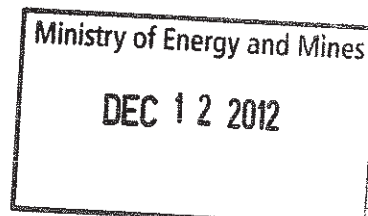
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Comments: Please find attached our letter of today's date.

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Colin Gusikowski
also of the Saskatchewan Bar

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TRANSMISSION RECORD

November 20, 2012

To:	Attention:	Fax No.
Minister of Energy and Mines	Honourable Rich Coleman	250-356-2965
cc to: Chief Inspector of Mines	Al Hoffman	250-952-0491

From: Colin Gusikowski

Direct Line: (604) 602-7984

File: USINTC00055

Date of Document: November 20, 2012

No. of Pages: 6

Document Desc'n: Letter

Comments: Please find attached our letter of today's date.

The original of this document NOT be sent.

MINISTER OF ENERGY AND MINES	
REFERRAL NUMBER	74387
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 Marjorie Brown† Steven Rogers † Stephanie Drake Colin Gusikowski Allison Trambly
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Reply to: COLIN GUSIKOSKI

telephone direct: 604.602.7984
 e-mail: cgusikowski@vslo.ca

BY FACSIMILE

November 20, 2012

Ministry of Energy and Mines
 PO Box 9060 Stn Provincial Government
 Victoria BC
 V8W 9E3

Attention: Honourable Rich Coleman

Dear Sirs/Mesdames

**Re: Temporary Foreign Workers Recruited to Work for HD Mining in
 Underground Coal Mine
 Complaint Pursuant to the *Mines Act***

1. We represent the United Steelworkers Union and are authorized on its behalf to submit this letter of concern pertaining to the use of Chinese foreign nationals by HD Mining for its coal mining operations in northern British Columbia. In particular, the United Steelworkers is troubled by the apparent lack of adequate protections for the safety of the Chinese miners. The United Steelworkers has been a fierce advocate for the safe working conditions of all working people in North America and submits this letter in an attempt to prevent the unnecessary death or injury of workers in HD Mining's operations.

2. The United Steelworkers represents approximately 5,000 mine workers in British Columbia and has advocated extensively for increased workplace safety protections for all workers. Given the Steelworkers central role in the mining industry, it has developed substantial internal expertise in mine safety. For instance the United Steelworkers played a pivotal role in the development and implementation of the Mines Act, RSBC, 1996 c. 293 ("*Act*") and the *Health Safety and Reclamation Code for Mines in British Columbia*, ("*Code*"). The United Steelworkers are particularly concerned that these important pieces of legislation have not been adequately enforced in the case of HD Mining.

3. Underground mining is one of the most dangerous occupations in Canada. According to statistics compiled by the Association of Workers' Compensation Boards of Canada, there were 82 fatalities and 2,395 time-loss injuries in mines, quarries and oil

fields across Canada in 2010.¹ Coal mining presents additional dangers due to the volatility of gas and coal dust which is a normal byproduct of an operating coal mine. Given the dangers present in the process of underground coal mining, and the interdependency of workers in the continuous mining operation, one unsafe act can have deadly consequences throughout the mine. As such, adequate safe working conditions require more than government enforcement of workplace rules and standards. Importantly, management and employees must fully participate in a coordinated and continuous effort to maintain a safe workplace. This system of internal responsibility has been codified at section 24 of the *Act*:

Compliance

24 (1) The owner, agent or manager must take all reasonable measures to ensure compliance with this Act, orders issued under it, the regulations and the code.

(2) Every supervisor and employee must take all reasonable measures to ensure that the requirements of this Act, the regulations, the code and orders applicable to the work they perform or over which they have supervision are followed.

4. As mandated by this section, both management and employees are required to fully contribute to the safe operation of the mine. In order to understand and comply with the occupational health and safety rules and standards, workers must have appropriate facility in the English language. Aside from the explicit requirement for workers to be conversant with the English language in the cases of certified blasters (8.2.1(2) of the *Code*) and shift/firebosses (1.12.2(1) of the *Code*), and in addition to the 265 pages of the *Code* itself, individual workers are required to understand and fully comply with the following additional documents and procedures mandated by the *Code*:

- (a) the operation of the joint occupational health and safety committee (1.6.2 of the *Code*);
- (b) material safety data sheets required by sections 2.13.11 and 2.13.12 of the *Code*;
- (c) extensive confined space procedures provided for at 3.4.2 of the *Code*;
- (d) special requirements and training of a mine rescue team member under section 3.7.7 of the *Code*;
- (e) the written lockout procedure and training outlined at section 4.11.1 of the *Code*;
- (f) log books for suspended work platforms as set out at section 4.14.8 of the *Code*;
- (g) emergency and rescue plans required by section 6.3.1(2) of the *Code*;
- (h) all provisions of the *Mines Act*, *Regulations* and *Code*, in relation to the operation of mobile equipment (6.19.1 of the *Code*);
- (i) log books for mobile equipment (6.19.2 of the *Code*);

¹ Association of Workers' Compensation Boards of Canada, online at: <www.awcbc.org>. Worksafe BC reports injury rates in BC for the same sector in 2011 as 1,466 time-loss claims and 4 fatalities. *The Annual Report of the Chief Inspector of Mines* (2010) reported 128 disability and fatality claims for 2010, with working days lost estimated at 8,108 for open pit and underground mines.

- (i) operating procedures for the introduction of water into rock passes (6.26.1 of the *Code*);

5. This survey of documents and procedures, illustrates how essential it is to the safety of each employee that everyone on a mine site have an adequate grasp of the English language. Given the dangers posed by a continuous production underground coal mine, workers must have a clear understanding of workplace safety at all times. Inserting a foreign national without English language fluency into such a maze of overlapping and precise safety requirements is a recipe for disaster. Furthermore, the interdependent nature of the workplace requires extensive coordination and communication with others. Placing workers together who can not easily communicate with each other, in the official language of the jurisdiction, will put both domestic and foreign workers' lives at risk.

6. We are aware that the Ministry of Energy and Mines of BC was involved in discussions with Citizenship and Immigration Canada to develop general benchmark standards for English language requirements, as stated in the LMOs issued to HD Mining. However, it appears that either the standards were not imposed or they have been set irresponsibly low. In a recent article in the online version of the *Vancouver Sun*, a representative of HD Mining indicated that it was only required to teach the temporary foreign workers approximately 100 English words:

Cavanagh said the training will involve teaching Chinese workers roughly 100 English words, all related to safety. There will also be translators on site with technical expertise, he added.²

7. Given the importance of English language competency to the safe operation of a mine, reports such as these are disturbing to say the least. Such a rudimentary understanding of English is clearly contrary to the purposes of the *Code*, which is meant to "protect employees and all other persons from undue risks to their health and safety arising out of or in connection with activities at mines." As we noted, the *Code* and the various other written instruments affecting safety in a mine run to hundreds of pages of complex, sophisticated English vocabulary. Please inform us as to what English language standards your Ministry has viewed as acceptable and what steps it is undertaking to verify the English language competency of the temporary foreign workers.

8. We have also read similarly troubling stories from investigative reporters at *The Tyee* who were told by a recruitment agency, purporting to be recruiting for an underground coal mine in northern BC, that if applicants did not have the requisite training, the agency could provide them with letters of reference in addition to training for \$160:

² "Chinese nationals brought in to fill B.C. coal miner shortage", *The Vancouver Sun*, October 10, 2012, by Peter O'Neil, online at:
<<http://www.vancouversun.com/business/bc2035/Chinese+nationals+brought+work+coal+mines/7365764/story.html>>.

The agent said applicants need a mining certificate or a reference from a company to be accepted, but the training and letter from the company could be provided for an extra 1,000 yuan (\$160 CAD).³

9. Given the potential for serious harm to untrained individuals and their co-workers, it is our view that this allegation should be thoroughly investigated. Further, the Steelworkers would like to know what efforts have been undertaken by your Ministry to objectively verify that the temporary foreign workers do indeed have sufficient training and skills to work in such a dangerous industry.

10. In addition to our misgivings about the language competency of the foreign nationals, we also have serious concerns that the structure of the *Act, Code, Regulations* and occupational health and safety legislation will be undermined by the precarious work situation of temporary foreign workers. Workers brought into Canada under the federal temporary worker program are only issued a visa for a specific employer. In this context workers have few rights and are entirely beholden to their employer if they want to stay in Canada.

11. The nature of the working relationship and the apparent lack of English language competency have a potential to effectively suppress the three fundamental rights all workers in Canada have enjoyed for decades: the right to know the potential hazards in the workplace, the right to participate in joint occupational health and safety committees and the right to refuse unsafe work. These rights are recognized in both the *Mines Act* and the *Workers Compensation Act*, RSBC 1996, c. 492.

12. The most basic right of workers in BC, and across the country, is that they know and understand the hazards which have the potential to endanger them in their workplace. Also, before a worker can comply with the regulations he or she must understand them. Hiring workers who cannot read or understand material safety data sheets, confined space entry and lockout procedures, or other relevant information that will have a direct impact on workers' health and safety, is clearly contrary to the *Act, Code* and *Regulations*.

13. A precondition to any substantive right to participate in a joint health and safety committee of a properly functioning occupational health and safety system requires the full and effective participation of employees. Participants must have an excellent grasp of the legislation and other complicated concepts such as threshold limit values. It is doubtful that the standards set for language competency would facilitate this understanding and thus the participation of the employees. Additionally, a joint employer-management committee is only effective if employees feel safe to assert the concerns of workers. Where workers are in a vulnerable situation, such as temporary foreign workers,

³ "Recruiters Charging BC-Bound Chinese Temp Miners \$12,500", *The Tyee*, October 18, 2012, by Jeremy Nuttall, online at: <<http://thetyee.ca/News/2012/10/18/Chinese-Temp-Miners/>>

VICTORY SQUARE LAW OFFICE LLP
Minister of Mines
November 20, 2012

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especially in the absence union representation, there is a real likelihood that the joint committee would be rendered useless.

14. Lastly, the right to refuse unsafe work requires that all parties be on an equal footing in terms of matters related to safety. The anti-discrimination provision, set out at section 14 of the *Act*, was meant to ensure that workers could freely assert their objection to workplace hazards that posed a threat to the health or well being of themselves or their co-workers. The vulnerable nature of workers brought in under the federal temporary worker program will seriously undermine this essential feature of the *Act*. Moreover, this right is also based upon the right to know dangers in a workplace, because a worker can only refuse unsafe work when he or she is aware of the potential for danger. Alternatively, where a worker does understand a potential or serious risk but cannot properly articulate such a concern, there is no effective means to address the threat.

15. In consideration of the complaints and allegations raised above and the potential for serious injury or loss of life, we submit that there is reasonable grounds to believe that the *Code* is not being complied with and as such we request that the Minister or chief inspector to immediately invoke its powers under section 15(4.1) and suspend regular work and/or close the mine at HD Mining's operations until remedial action is taken. We further request that the chief inspector, or Minister acting in the public interest pursuant to section 11 of the *Act*, conduct an immediate investigation in accordance with section 1 of the *Mines Regulations*, B.C. Reg. 126/94, and/or section 15 of the *Act*.

Yours truly,

VICTORY SQUARE LAW OFFICE LLP
per:



Colin Gusikoski

c.c. Al Hoffman, Chief Inspector of Mines (fax: 250-952-0491)
United Steelworkers

Firth, Janet EMNG:EX

From: Coleman.MLA, Rich LASS:EX
Sent: Monday, January 21, 2013 4:10 PM
To: Minister, EMH EMH:EX
Subject: FW: Chinese Mine Workers
Attachments: chinese mine onership.rtf

From: s.22
Sent: December-20-12 6:40 PM
To: Coleman.MLA, Rich
Subject: Chinese Mine Workers

Just some thoughts on the Chinese mine workers.

December 20, 2012

Dear Public Servant:

I was reading about the importation of Chinese workers into Canada because there are not enough qualified Canadian workers. It would seem that Canada has given up sovereignty of our jobs along with our resources. I don't think in our country, with our unemployment rate as high as it is that we can be giving jobs away to foreign nationals. Maybe China should fund the education of our people to do those jobs, or they could advertise in the USA and European countries which have many qualified coal miners who could move here for a good paying Canadian job.

When you let a Foreign Company set the qualifications that favour their own nationality in our 'home and native land' you kick Canadians in the teeth.

'The company said of the 300 applications it received, 218 applicants didn't respond to an interview request while the remainder weren't hired because they lacked underground long-wall mining experience. And, no doubt many if not all the applicants didn't speak Mandarin, something the company listed in its posting. For this reason, we suspect many Canadians were dissuaded from applying. '

<http://iuoe115.com/tag/hd-mining/>

It would seem the lack of underground longwall mining experience is a non-issue as miners can be trained in short order according to this web site. <http://iuoe115.com/tag/hd-mining/>

'In the mean time HD Mining could be training Canadian miners in long-wall mining techniques. It would take about six weeks for a miner to complete a course.'

How can you in good conscience require Canadians to speak Mandarin in Canada. It should be against the law to hire people to jobs where there is a safety issue due to the use of heavy equipment who don't speak English or French. Of course if all the workers speak Mandarin then it is easy for the Chinese management to keep them in the dark about their rights as workers in Canada. I think that is the reason the Canadian government, ie. YOU, have allowed this. Bring in foreign workers who can't speak or read English and you can turn them into slaves, they don't know there are rights for workers, or perhaps even if they do find out they won't qualify to be treated fairly because they are foreign nationals who don't have access to worker rights in our country.

It's easy to spout platitudes that have no teeth when you are trying to deceive people.

"We have always maintained that British Columbians will be first in line for jobs at any new mine openings in our province," said Bell's statement

<http://ca.finance.yahoo.com/news/steelworkers-suggest-b-c-coal-mines-controlled-chinese-013708645.html> This spoken with true meaning but with the understanding that it won't happen in this situation.

I AGREE WITH THE UNIONS

'The unions say qualified Canadians should be hired to do the work at the Murray River mine or the

Chinese miners should be granted landed immigrant status to Canada rather than temporary work status.'

To put it bluntly, I think there is some behind the scenes skulduggery going on. The Chinese want the coal, we want 'JOBS, JOBS, JOBS' but there is a point where the jobs created have to benefit Canadians as well as the Chinese. The Chinese are top notch negotiators and will play on your weaknesses, like your desire for JOBS, they will tell you that there are lots of other places that they can get coal, but in the end if you hold the line they will buy from us even if we don't sell out to all their demands.

THE GOVERNMENT SHOULD NOT BE ABLE TO HIDE INFORMATION ABOUT THE CHINESE DEAL.

'Hunt said the B.C. government has refused to make public the details of the Chinese mining deals, which came after Asian economic missions by Jobs Minister Pat Bell and Premier Christy Clark.'

'The union has been embroiled in a court battle to overturn 201 temporary foreign work permits allowing Chinese miners to come to Canada on the grounds there aren't Canadians qualified to do the work at the proposed Tumbler Ridge-area facility.'

Whose fault is it that there are not enough qualified Canadian workers?? Who has control over the curriculum offered at Canadian Educational Institutions? Who can streamline the training of Canadians so they can work in the mine? IT'S YOUR JOB. Are you doing a good job??

You are servants of the taxpayers who employ you. If you can't negotiate then hire someone who can. If you need advice then find out who is the best qualified and hire them. It would seem that the 'ASIAN ECONOMIC MISSION' was not a success for Canadian taxpayers, but perhaps you benefitted enough for all of the rest of us.

You better come up with a good story to placate Canadian workers before the next election or you won't be making anymore decisions for us.



David Blair John Rogers, Q.C. John Hodgins Craig Davis[†] Sebastian Anderson[†]
Marjorie Brown Steven Rogers Stephanie Drake Colin Gusikowski Allison Tremblay
Stephanie Quetch Amanda Merritt Laura Sworn
[†]Professional Law Corporation [†]also of the Saskatchewan Bar [†]also of the Alberta Bar

TRANSMISSION RECORD

November 20, 2012

To:	Attention:	Fax No.
Minister of Energy and Mines	Honourable Rich Coleman	250-356-2965
cc to: Chief Inspector of Mines	Al Hoffman	250-952-0491

From: Colin Gusikoski

Direct Line: (604) 602-7984

File: USINTC00055

Date of Document: November 20, 2012

No. of Pages: 6

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Colin Gusikowski
Sebastian Andenon
Alison Trambloy
Professional Law Corporation
also of the Saskatchewan Bar
also of the Alberta Bar

Reply to: COLIN GUSIKOSKI

BY FACSIMILE

telephone direct: 604.602.7984
e-mail: cgusikowski@vslo.ca

November 20, 2012

Ministry of Energy and Mines
PO Box 9060 Stn Provincial Government
Victoria BC
V8W 9E3

Attention: Honourable Rich Coleman

Dear Sirs/Mesdames

**Re: Temporary Foreign Workers Recruited to Work for HD Mining in
Underground Coal Mine
Complaint Pursuant to the *Mines Act***

1. We represent the United Steelworkers Union and are authorized on its behalf to submit this letter of concern pertaining to the use of Chinese foreign nationals by HD Mining for its coal mining operations in northern British Columbia. In particular, the United Steelworkers is troubled by the apparent lack of adequate protections for the safety of the Chinese miners. The United Steelworkers has been a fierce advocate for the safe working conditions of all working people in North America and submits this letter in an attempt to prevent the unnecessary death or injury of workers in HD Mining's operations.

2. The United Steelworkers represents approximately 5,000 mine workers in British Columbia and has advocated extensively for increased workplace safety protections for all workers. Given the Steelworkers central role in the mining industry, it has developed substantial internal expertise in mine safety. For instance the United Steelworkers played a pivotal role in the development and implementation of the Mines Act, RSBC, 1996 c. 293 ("Act") and the *Health Safety and Reclamation Code for Mines in British Columbia*, ("Code"). The United Steelworkers are particularly concerned that these important pieces of legislation have not been adequately enforced in the case of HD Mining.

3. Underground mining is one of the most dangerous occupations in Canada. According to statistics compiled by the Association of Workers' Compensation Boards of Canada, there were 82 fatalities and 2,395 time-loss injuries in mines, quarries and oil

fields across Canada in 2010.¹ Coal mining presents additional dangers due to the volatility of gas and coal dust which is a normal byproduct of an operating coal mine. Given the dangers present in the process of underground coal mining, and the interdependency of workers in the continuous mining operation, one unsafe act can have deadly consequences throughout the mine. As such, adequate safe working conditions require more than government enforcement of workplace rules and standards. Importantly, management and employees must fully participate in a coordinated and continuous effort to maintain a safe workplace. This system of internal responsibility has been codified at section 24 of the *Act*:

Compliance

- 24 (1) The owner, agent or manager must take all reasonable measures to ensure compliance with this Act, orders issued under it, the regulations and the code.
(2) Every supervisor and employee must take all reasonable measures to ensure that the requirements of this Act, the regulations, the code and orders applicable to the work they perform or over which they have supervision are followed.

4. As mandated by this section, both management and employees are required to fully contribute to the safe operation of the mine. In order to understand and comply with the occupational health and safety rules and standards, workers must have appropriate facility in the English language. Aside from the explicit requirement for workers to be conversant with the English language in the cases of certified blasters (8.2.1(2) of the *Code*) and shift/firebosses (1.12.2(1) of the *Code*), and in addition to the 265 pages of the *Code* itself, individual workers are required to understand and fully comply with the following additional documents and procedures mandated by the *Code*:

- (a) the operation of the joint occupational health and safety committee (1.6.2 of the *Code*);
- (b) material safety data sheets required by sections 2.13.11 and 2.13.12 of the *Code*;
- (c) extensive confined space procedures provided for at 3.4.2 of the *Code*;
- (d) special requirements and training of a mine rescue team member under section 3.7.7 of the *Code*;
- (e) the written lockout procedure and training outlined at section 4.11.1 of the *Code*;
- (f) log books for suspended work platforms as set out at section 4.14.8 of the *Code*;
- (g) emergency and rescue plans required by section 6.3.1(2) of the *Code*;
- (h) all provisions of the *Mines Act, Regulations and Code*, in relation to the operation of mobile equipment (6.19.1 of the *Code*);
- (i) log books for mobile equipment (6.19.2 of the *Code*);

¹ Association of Workers' Compensation Boards of Canada, online at: <www.awcbc.org>. Worksafe BC reports injury rates in BC for the same sector in 2011 as 1,466 time-loss claims and 4 fatalities. *The Annual Report of the Chief Inspector of Mines* (2010) reported 128 disability and fatality claims for 2010, with working days lost estimated at 8,108 for open pit and underground mines.

- (j) operating procedures for the introduction of water into rock passes (6.26.1 of the *Code*);

5. This survey of documents and procedures, illustrates how essential it is to the safety of each employee that everyone on a mine site have an adequate grasp of the English language. Given the dangers posed by a continuous production underground coal mine, workers must have a clear understanding of workplace safety at all times. Inserting a foreign national without English language fluency into such a maze of overlapping and precise safety requirements is a recipe for disaster. Furthermore, the interdependent nature of the workplace requires extensive coordination and communication with others. Placing workers together who can not easily communicate with each other, in the official language of the jurisdiction, will put both domestic and foreign workers' lives at risk.

6. We are aware that the Ministry of Energy and Mines of BC was involved in discussions with Citizenship and Immigration Canada to develop general benchmark standards for English language requirements, as stated in the LMOs issued to HD Mining. However, it appears that either the standards were not imposed or they have been set irresponsibly low. In a recent article in the online version of the *Vancouver Sun*, a representative of HD Mining indicated that it was only required to teach the temporary foreign workers approximately 100 English words:

Cavanagh said the training will involve teaching Chinese workers roughly 100 English words, all related to safety. There will also be translators on site with technical expertise, he added.²

7. Given the importance of English language competency to the safe operation of a mine, reports such as these are disturbing to say the least. Such a rudimentary understanding of English is clearly contrary to the purposes of the *Code*, which is meant to "protect employees and all other persons from undue risks to their health and safety arising out of or in connection with activities at mines." As we noted, the *Code* and the various other written instruments affecting safety in a mine run to hundreds of pages of complex, sophisticated English vocabulary. Please inform us as to what English language standards your Ministry has viewed as acceptable and what steps it is undertaking to verify the English language competency of the temporary foreign workers.

8. We have also read similarly troubling stories from investigative reporters at *The Tyee* who were told by a recruitment agency, purporting to be recruiting for an underground coal mine in northern BC, that if applicants did not have the requisite training, the agency could provide them with letters of reference in addition to training for \$160:

² "Chinese nationals brought in to fill B.C. coal miner shortage", *The Vancouver Sun*, October 10, 2012, by Peter O'Neil, online at: <http://www.vancouversun.com/business/bc2035/Chinese-nationals+brought+work+coal+mines/7365764/story.html>.

The agent said applicants need a mining certificate or a reference from a company to be accepted, but the training and letter from the company could be provided for an extra 1,000 yuan (\$160 CAD).³

9. Given the potential for serious harm to untrained individuals and their co-workers, it is our view that this allegation should be thoroughly investigated. Further, the Steelworkers would like to know what efforts have been undertaken by your Ministry to objectively verify that the temporary foreign workers do indeed have sufficient training and skills to work in such a dangerous industry.

10. In addition to our misgivings about the language competency of the foreign nationals, we also have serious concerns that the structure of the *Act, Code, Regulations* and occupational health and safety legislation will be undermined by the precarious work situation of temporary foreign workers. Workers brought into Canada under the federal temporary worker program are only issued a visa for a specific employer. In this context workers have few rights and are entirely beholden to their employer if they want to stay in Canada.

11. The nature of the working relationship and the apparent lack of English language competency have a potential to effectively suppress the three fundamental rights all workers in Canada have enjoyed for decades: the right to know the potential hazards in the workplace, the right to participate in joint occupational health and safety committees and the right to refuse unsafe work. These rights are recognized in both the *Mines Act* and the *Workers Compensation Act*, RSBC 1996, c. 492.

12. The most basic right of workers in BC, and across the country, is that they know and understand the hazards which have the potential to endanger them in their workplace. Also, before a worker can comply with the regulations he or she must understand them. Hiring workers who cannot read or understand material safety data sheets, confined space entry and lockout procedures, or other relevant information that will have a direct impact on workers' health and safety, is clearly contrary to the *Act, Code and Regulations*.

13. A precondition to any substantive right to participate in a joint health and safety committee of a properly functioning occupational health and safety system requires the full and effective participation of employees. Participants must have an excellent grasp of the legislation and other complicated concepts such as threshold limit values. It is doubtful that the standards set for language competency would facilitate this understanding and thus the participation of the employees. Additionally, a joint employer-management committee is only effective if employees feel safe to assert the concerns of workers. Where workers are in a vulnerable situation, such as temporary foreign workers,

³ "Recruiters Charging BC-Bound Chinese Temp Miners \$12,500", *The Tyee*, October 18, 2012, by Jeremy Nuttall, online at: <<http://thetyee.ca/News/2012/10/18/Chinese-Temp-Miners/>>

VICTORY SQUARE LAW OFFICE LLP
Minister of Mines
November 20, 2012

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especially in the absence union representation, there is a real likelihood that the joint committee would be rendered useless.

14. Lastly, the right to refuse unsafe work requires that all parties be on an equal footing in terms of matters related to safety. The anti-discrimination provision, set out at section 14 of the *Act*, was meant to ensure that workers could freely assert their objection to workplace hazards that posed a threat to the health or well being of themselves or their co-workers. The vulnerable nature of workers brought in under the federal temporary worker program will seriously undermine this essential feature of the *Act*. Moreover, this right is also based upon the right to know dangers in a workplace, because a worker can only refuse unsafe work when he or she is aware of the potential for danger. Alternatively, where a worker does understand a potential or serious risk but cannot properly articulate such a concern, there is no effective means to address the threat.

15. In consideration of the complaints and allegations raised above and the potential for serious injury or loss of life, we submit that there is reasonable grounds to believe that the *Code* is not being complied with and as such we request that the Minister or chief inspector to immediately invoke its powers under section 15(4.1) and suspend regular work and/or close the mine at HD Mining's operations until remedial action is taken. We further request that the chief inspector, or Minister acting in the public interest pursuant to section 11 of the *Act*, conduct an immediate investigation in accordance with section 1 of the *Mines Regulations*, B.C. Reg. 126/94, and/or section 15 of the *Act*.

Yours truly,

VICTORY SQUARE LAW OFFICE LLP

per:



Colin Gusikoski

c.c. Al Hoffman, Chief Inspector of Mines (fax: 250-952-0491)
United Steelworkers

FW Cliff 73993 - I oppose the temporary foreign worker program in Tumbler Ridge.txt
From: Junck, Carrera EMNG:EX
Sent: Tuesday, November 27, 2012 8:49 AM
To: Brody, Margo X EMNG:EX
Subject: FW: Cliff 73993 - "I oppose the temporary foreign worker program in Tumbler Ridge"

FYI, this CLIFF is being reassigned, per below correspondence. Al did a draft (also below) but I did not edit it because it looks like the response will be coming from somewhere else.

From: Musgrove, Kate MEM:EX
Sent: Tuesday, November 27, 2012 8:36 AM
To: Junck, Carrera EMNG:EX
Subject: RE: Cliff 73993 - "I oppose the temporary foreign worker program in Tumbler Ridge"

I can do that for you. No worries.

Kate Musgrove
Executive Assistant to
David Morel, Assistant Deputy Minister
Ministry of Energy, Mines and Natural Gas
Mines and Mineral Resources Division
250.952.0470

From: Junck, Carrera EMNG:EX
Sent: Tuesday, November 27, 2012 8:31 AM
To: Musgrove, Kate MEM:EX
Subject: RE: Cliff 73993 - "I oppose the temporary foreign worker program in Tumbler Ridge"

Hi Kate,

I'm not sure what the next step is. (I haven't done many CLIFFs.) Should I advise the Correspondence Unit?

Thanks,

Carrera

From: Hynes, Michelle GCPE:EX
Sent: Tuesday, November 27, 2012 8:22 AM
To: Musgrove, Kate MEM:EX; Junck, Carrera EMNG:EX
Subject: RE: Cliff 73993 - "I oppose the temporary foreign worker program in Tumbler Ridge"

Hey there - this should actually be handed off to JTST or the Federal Govt given how the lead has been throughout this story.

Cheers!
Michelle

Michelle Hynes
Public Affairs Officer I Government Communications and Public Engagement
Ministry of Energy and Mines
Mailto: Michelle.Hynes@gov.bc.ca

From: Musgrove, Kate MEM:EX
Sent: Monday, November 26, 2012 4:50 PM

FW Cliff 73993 - I oppose the temporary foreign worker program in Tumbler Ridge.txt
To: Junck, Carrera EMNG:EX
Cc: Hynes, Michelle GCPE:EX
Subject: FW: Cliff 73993 - "I oppose the temporary foreign worker program in Tumbler Ridge"

Hi Carrera, can you hold off forwarding this information thru to the CU until we have had Michelle glance at it. Thanks.

Michelle, should labour not be replying to this?

Kate Musgrove
Executive Assistant to
David Morel, Assistant Deputy Minister
Ministry of Energy, Mines and Natural Gas
Mines and Mineral Resources Division
250.952.0470

From: Hoffman, Al EMNG:EX
Sent: Monday, November 26, 2012 4:45 PM
To: Junck, Carrera EMNG:EX
Cc: Musgrove, Kate MEM:EX
Subject: RE: Cliff 73993 - "I oppose the temporary foreign worker program in Tumbler Ridge"

Carrera
Draft

I'm not sure what format this has to be in but you can find out from Susan Ferguson or Kate.

Dear [REDACTED] s.22

Thank you for your email dated November 13, 2012 which was addressed to the Members of the British Columbia Legislative Assembly. As the Minister of Energy, Mines and Natural Gas, I am pleased to respond.

The decision with respect to a favourable Labour Market Opinion that permits the entrance of temporary foreign workers into BC is a federal government decision. I am therefore unable to provide an opinion with respect to many of your assertions.

The health and safety of mine workers and the protection of the environment is however the responsibility of my Ministry. I can assure you that the mine proponents who will employ temporary foreign workers will face the same rigorous environmental and health and safety requirements that all mine operations in British Columbia are required to comply with.

Ministry staff will be closely scrutinizing work processes and environmental programs through the application of permit conditions, onsite inspections and audits. The BC Mining Industry has experienced an enviable health, safety and environmental record. This is a record that I am committed to maintain.

Thank you for bringing your concerns to my attention.

FW Cliff 73993 - I oppose the temporary foreign worker program in Tumbler Ridge.txt
Rich Coleman
Minister

Brody, Margo X EMNG:EX

From: Hoffman, Al EMNG:EX
Sent: Monday, December 10, 2012 9:59 AM
To: Brody, Margo X EMNG:EX
Subject: FW: Approval for Mandarin-Speakers Only for BC Mines

Margo

Please file in the public complaints file and in the day book.

Al

-----Original Message-----

From: Hoffman, Al EMNG:EX
Sent: Monday, December 10, 2012 9:59 AM
To: s.22
Cc: Brody, Margo X EMNG:EX
Subject: RE: Approval for Mandarin-Speakers Only for BC Mines

s.22

I have not read the article in the Toronto Star but your email below contains several inaccuracies.

The determination of a favourable Labour Market Opinion (LMO) by Human Resources and Skills Development Canada and to allow temporary foreign workers (TFW) to come to Canada is a federal government decision and outside my jurisdiction. It is my understanding that this decision is under review by the federal government and some issues are before the courts. Therefore, it would be inappropriate for me to provide further comment.

I can assure you however that the mine proponents who employ TFW will have to pass the same vigorous environmental and health and safety requirements as every other mine operation in the province of British Columbia.

Sincerely,

Al Hoffman, P.Eng.
Chief Inspector of Mines

-----Original Message-----

From: s.22
Sent: Saturday, December 8, 2012 9:14 AM
To: Hoffman, Al EMNG:EX
Subject: Approval for Mandarin-Speakers Only for BC Mines

Dear Mr Hoffman,

According to an article in the December 7, 2012 edition of the Toronto Star newspaper, you granted approval for the importation of Chinese workers to the Murray River coal mine. According to the article, the application included the requirement that miners speak Mandarin.

Why did you do this? The two official languages in Canada are English and French. You gave well-paying jobs away to a Chinese corporation instead of hiring Canadians? The Chinese miners did nothing wrong but I feel you did.

Bringing in people from other countries because they speak Mandarin means less taxes go into the provincial coffers because salaries are lower, there is high unemployment for Canadians who must rely more on social assistance programs. There is also a relaxation of health and safety regulations because imported workers may not feel they might be punished or sent home if they complain. It also means that BC has lost all credibility with citizens and taxpayers in the rest of Canada. If that was your aim, well done.

s.22



VICTORY SQUARE
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TRANSMISSION RECORD

December 11, 2012

To:	Attention:	Fax No.
Minister of Energy and Mines	Honourable Rich Coleman	250-356-2965
cc to: Chief Inspector of Mines	Al Hoffman	250-952-0491

From: Colin Gusikoski

Direct Line: (604) 602-7984

File: USINTC00055

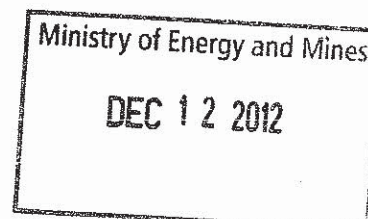
Date of Document: December 11, 2012

No. of Pages: 3 (including fax cover page)

Document Desc'n: Letter

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VICTORY SQUARE LAW OFFICE LLP

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Reply to: COLIN GUSIKOSKI

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BY FACSIMILE

December 11, 2012

Ministry of Energy and Mines
PO Box 9060 Stn Provincial Government
Victoria BC
V8W 9E3

Ministry of Energy and Mines

DEC 12 2012

Attention: Honourable Rich Coleman

Dear Sirs/Mesdames

**Re: Temporary Foreign Workers Recruited to Work for HD Mining in
Underground Coal Mine
Complaint Pursuant to the *Mines Act***

1. We continue to represent the United Steelworkers in this matter and write further to our letter of November 20, 2012, in which we raised serious concerns about the safety of Chinese mine workers employed at HD Mining's Murray River project near Tumbler Ridge BC.
2. Notwithstanding the grave concerns we raised in that complaint, and the potential for catastrophic loss of life or injury, to date we have neither heard from your department nor the chief inspector of mines.
3. Given the Steelworkers' concern for the health and safety of mine workers at HD Mining's operations, our last correspondence strongly urged you to invoke your powers under the *Mines Act* and immediately suspend regular work until an investigation was conducted and remedial action was taken. We have heard no reports that this course of action was taken. Please inform us as to whether your Ministry has intervened to ensure the safety of the temporary foreign workers.
4. We have also asked that you provide us with particulars of the efforts your ministry has made to ensure compliance with the *Mines Act*, *Code* and *Regulations*. If you recall, we requested information on the English language standards that your ministry developed for the temporary foreign workers who are and will be employed at HD Mining's operations. Additionally, we sought particulars of the efforts your ministry has put in place to ensure that the foreign workers are or were able to meet those basic requirements.

VICTORY SQUARE LAW OFFICE LLP
Minister of Energy and Mines
December 11, 2012

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5. We note that media reports covering the Federal Court challenge of the labour market opinions issued to HD Mining have stated that those opinions were issued with Mandarin language requirements. This confirms our earlier assertion that HD Mining was not hiring workers with English language competency.

6. Lastly, we requested information pertaining to the efforts, if any, your ministry has undertaken to objectively verify that the skills and qualifications of the foreign workers are at a satisfactory level to safely work in a continuous production coal mine.

7. Our initial complaint was brought to your attention on November 20, 2012, and we still have not received a response. Please provide us with this information immediately.

8. Given the serious risk to the lives and safety of all workers in HD Mining's operations, we trust that your ministry has treated our complaint with the appropriate urgency, care and attention.

Yours truly,

VICTORY SQUARE LAW OFFICE LLP
per:



Colin Gusikoski

c.c. Al Hoffman, Chief Inspector of Mines (fax: 250-952-0491)
United Steelworkers

Pages 31 through 32 redacted for the following reasons:

Non-Responsive

Brody, Margo X EMNG:EX

From: Hoffman, Al EMNG:EX
Sent: Wednesday, February 13, 2013 4:20 PM
To: Brody, Margo X EMNG:EX
Subject: Public complaint letter

Al Hoffman, P.Eng.
Chief Inspector of Mines
Ministry of Energy, Mines and Natural Gas
PO Box 9320 Stn Prov Gov't
Victoria, BC V8W 9N3
tel (250) 952-0494
fax (250) 952-0491
Email: Al.Hoffman@gov.bc.ca

From: [REDACTED] s.22
Sent: Thursday, September 6, 2012 1:50 PM
To: Hoffman, Al MEM:EX
Subject: RE: Chinese Mining Proponents in British Columbia

That's simply not good enough of an answer . They are not Canadians and should not simply have the same right's that Canadians or Canadian companies have . Further my questions have not been answered A simple form letter response is not what I asked for. What secret deals did she enter into that require her to keep her mouth shut ? As a citizen of this country I demand to know. She has no right to make secret concessions.

[REDACTED] s.22

From: Al.Hoffman@gov.bc.ca
To: [REDACTED] s.22
Date: Thu, 6 Sep 2012 11:39:22 -0700
Subject: Chinese Mining Proponents in British Columbia

Dear [REDACTED] s.22

This response is in answer to your email to Premier Clark in which you express concerns related to Chinese mining proponents in British Columbia. As the Chief Inspector of Mines, I am pleased to respond.

You can be assured that Chinese investors that are proposing mine projects in British Columbia are required to follow exactly the same approval process that is undertaken for all mining projects in the province.

If applicable, this includes an Environmental Assessment Office review, Mines Act permit approval as well as any other authorizations that are required from the Ministry of Environment, Ministry of Forestry, Lands and Natural Resource Operations and all other provincial and federal authorization requirements.

Sincerely,

Al Hoffman, P.Eng.
Chief Inspector of Mines
Ministry of Energy, Mines and Natural Gas
Mines and Mineral Resources Division
PO Box 9320 Stn Prov Gov't
Victoria, BC V8W 9N3

tel (250) 952-0494
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