



**SPECIAL USE PERMIT NO. S24493**



**THIS PERMIT**, dated August 16, 2005 is issued to:

*Fortune Minerals Limited  
148 Fullarton Street  
Suite 1508  
London, Ontario  
N6A 5P3*

*and*

*Fortune Coal Limited  
c/o Miller Thomson LLP  
1000-840 Howe Street  
Vancouver, British Columbia  
V6Z 2M1*

(the "Permittee")

**BACKGROUND:**

- A. The Permittee wishes to use or manage a portion of Crown land for the purposes detailed in paragraph 1.01 of this Permit, and has not been authorized under any other enactment to use the land.
- B. The Permittee has made application on **June 21, 2005** in accordance with Section 8 of the Provincial Forest Use Regulation, and has submitted a plan that sets out how the land will be used.
- C. This District Manager is of the opinion that the issuance of this Special Use Permit (the "Permit") would not impair the proper management and conservation of forest resources on Crown land in the provincial forest and that any activity under this Permit will not impair the ability of any affected holder of an agreement under the *Forest Act* or *Range Act* to exercise its rights or fulfil its obligations under the Agreement.

## **1.00 GRANT OF RIGHTS AND TERM**

- 1.01 Subject to this Permit and the Acts, regulations, and standards referred to in paragraph 5.01, the Permittee may use the Crown land designated on the map attached as Exhibit A to this Permit (the "permit area") for the purpose of
- (a) construction and maintenance of a road, including construction and maintenance of bridges and other drainage structures
- 1.02 The term of this permit begins on *August 15, 2005* and will terminate on the date when the District Manager notifies the Permittee in writing that:
- (a) the road has been permanently deactivated to his satisfaction, or,
  - (b) future use of the road by others will preclude the need for permanent deactivation.

## **2.00 SPECIAL CONDITIONS AND REQUIREMENTS**

- 2.01 The Permittee must comply with the specifications and requirements set out in the Schedules A and B attached to this permit.
- 2.02 The Permittee may only carry out activities in accordance with the plan attached as Schedule B of this permit.

## **3.00 ANNUAL RENT**

- 3.01 In addition to money payable by the Permittee under the *Forest Act* and the *Forest Practices Code of British Columbia Act* and regulations made under them, the Permittee will pay to the Crown, immediately upon receipt of a statement issued on behalf of the Crown, annual rent in the amount of :
- (a) \$ *100.00* for the first year, and
  - (b) for ensuing years, an amount determined by the District Manager.

## **4.00 DEPOSIT**

- 4.01 There is no deposit required for this permit.

## **5.00 LEGISLATIVE FRAMEWORK**

- 5.01 This Permit is subject to
- (a) the *Forest Act*,
  - (b) the *Forest Practices Code of British Columbia Act*,
  - (c) the *Forest and Range Practices Act*, and
  - (d) the regulations and standards made under those Acts.
- 5.02 The Permittee must
- (a) comply with the Forestry Legislation and

- (b) ensure that its employees, agents and contractors comply with these Acts, regulations and standards when engaging in or carrying out activities or operations under or associated with this Licence.
- 5.03 Nothing in this Licence is to be construed as authorizing the Licensee to engage in any activities or carry out any operations otherwise than in accordance with the requirements of the Forestry Legislation.

## **6.00 NOTICE**

- 6.01 A notice given under this Permit must be in writing.
- 6.02 A notice given under this Permit may be
  - (a) delivered by hand,
  - (b) sent by mail, or
  - (c) subject to paragraph 6.05, sent by facsimile transmission,to the address or facsimile number, as applicable, specified on the first page of this Permit, or to such other address or facsimile number as is specified in a notice given in accordance with this Part.
- 6.03 If a notice is given under this Permit, it is deemed to have been given
  - (a) if it is given in accordance with subparagraph 6.02(a), on the date it is delivered by hand,
  - (b) if it is given in accordance with subparagraph 6.02(b), subject to paragraph 6.04, on the eighth day after its deposit in a Canada Post Office at any place in Canada, and,
  - (c) if it is given in accordance with subparagraph 6.02(c), subject to paragraph 6.05, on the date it is sent by facsimile transmission.
- 6.04 If, between the time a notice is mailed in accordance with subparagraph 6.02(b) and the time it is actually received, there occurs a postal strike, lockout or slowdown that might reasonably affect delivery of the notice, the notice is not deemed to be given until the party actually receives it.
- 6.05 If a notice is sent by facsimile transmission, the party sending the notice must take reasonable steps to ensure that the transmission has been successfully completed.

## **7.00 MISCELLANEOUS**

- 7.01 Where the area under this Permit is used by more than one group of workers, the Permittee is designated as the prime contractor as described in section 118 of the Workers Compensation Act and shall carry out the duties of the prime contractor as described therein.

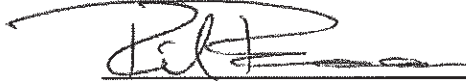
- 7.02 Other than for roads constructed and used under the authority of the *Mining Right of Way Act* or for issues of public safety, there must be no interference with free public access through or on the permit area, excepting on portions which are occupied by buildings or structures.
- 7.03 Upon termination or cancellation of this permit
- (a) title to all improvements that are fixed to the Crown land under this Special Use Permit, shall vest in the Crown without compensation to the Permittee, and
  - (b) the Permittee must not remove any improvements unless authorized to do so by the District Manager.
- 7.04 This Permit will enure to the benefit of, and be binding on, the parties and their respective heirs, executors, successors and permitted assigns.
- 7.05 Any power conferred or duty imposed on the District Manager under this Permit may be exercised or fulfilled by any person authorized to do so by the District Manager.

## 8.00 INTERPRETATION

- 8.01 In this Permit, unless the context otherwise requires
- (a) "*Forest Act*" means the *Forest Act*, R.S.B.C. 1996, c. 157, as amended from time to time, or the successor to this Act, if it is repealed,
  - (b) "*Forest and Range Practices Act*" means the *Forest and Range Practices Act*, S.B.C. 2002, c. 69 as amended from time to time, or the successor to this Act, if it is repealed,
  - (c) "*Forest Practices Code of British Columbia Act*" means the *Forest Practices Code of British Columbia Act*, R.S.B.C. 1996, c. 159, as amended from time to time, or the successor to this Act, if it is repealed,
  - (d) "person" includes a corporation and a partnership.
- 8.02 Unless otherwise provided in paragraph 8.01, if a word or phrase used in this Permit is defined in the *Forest Act*, *Forest Practices Code of British Columbia Act* or the *Forest and Range Practices Act*, the definition in the Act applies to this Permit, and where the word or phrase in the Act is replaced by a new word or phrase, this Permit is deemed to have been amended accordingly.
- 8.03 In this Permit, unless the context otherwise requires,
- (a) the singular includes the plural and the plural includes the singular, and
  - (b) the masculine, the feminine and the neuter are interchangeable.
- 8.04 This Permit is divided into parts, paragraphs, subparagraphs, clauses and subclauses, illustrated as follows:
- 1.00 part
    - 1.01 paragraph,

- (a) subparagraph,
  - (i) clause,
    - (A) subclause;

and a reference to a subparagraph, clause or subclause is to be construed as a reference to a subparagraph, clause or subclause of the paragraph, subparagraph or clause, as the case may be, in which the reference occurs.



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**Rick Braam, RPF, Acting District Manager**  
**Skeena Stikine Forest District**

## Schedule A

### 1.00 General

#### 1.01 *Other Occupiers of Land*

- (a) The rights granted under this Permit are subject to other rights of use and occupation granted by the Crown, described in subparagraph (b), and the Permittee must not interfere with exercise of those rights.
- (b) The rights of use and occupation referred to in subparagraph (a) are as follows:
  - (i) *The general public*
  - (ii) *Trapline holder*
  - (iii) *Guide outfitter*

#### 1.02 *Amendments*

The Crown reserves the right to revise the conditions of this Permit at the end of each five (5) year period during the life of the Permit in accordance with existing conditions and development.

#### 1.03 *Chattels and fixtures*

With reference to Section 9(2) of the Provincial Forest Use Regulation, the following terms and conditions apply to the building of and disposal of any chattel or fixture:

- (a) *n/a*

#### 1.04 *Clean up and restoration*

With reference to Section 9(2) of the Provincial Forest Use Regulation, the following terms and conditions apply to the clean up and restoration of the land under the Permit:

- (a) *equipment*
- (b) *fuel containers*
- (c) *oil containers*
- (d) *all other items identified by a forest official*

#### 1.05 *Equipment Removal*

The Permittee shall remove the following equipment from the Permit area upon completion of operations, or when this Permit expires or is canceled:

- (a) *all items, etc used for mining purposes*

### 2.00 Rock/Gravel Pits

#### 2.01 *Restricted Use of the Gravel*

The removal of gravel for commercial purposes is strictly prohibited.

2.02 *Stabilizing the Site*

Upon final cessation of operations or at any other time as instructed by the District Manager, the Permittee shall take such measures as directed by the District Manager or by the Ministry of Energy and Mines (Inspector of Mines).

**3.00 Roads**

3.01 *Obtaining other required permits*

In building, modifying, maintaining and using the road under this Special Use Permit, the Permittee shall:

- (a) obtain the necessary permits or authorization for the crossing of alienated lands including but not limited to powerlines, pipelines, railroads, public roads, mineral claims, A.L.R.'s;
- (b) obtain the necessary permits or authorization from other resource agencies.

3.02 *Obstructing/Damaging other Roads/Trails*

The Permittee shall not obstruct or damage this or any other road or recreation trail as a result of operations carried on under this Permit.

3.03 *Gates*

The Permittee shall ensure that any gate shall not be, or become, a hazard to the users of the road. Subject to the approval of the District Manager, the gate shall be placed in a conspicuous location, adequately marked with permanent reflective material to be clearly visible to the operator of a motor vehicle from a safe stopping distance. Warning signs shall be located to give vehicle operators adequate warning of the obstruction.

3.04 *Bridges*

For the purposes of this Special Use Permit, all bridges located on the permit area shall vest in the Crown upon termination or cancellation of this permit, unless identified in a Schedule of this Permit to be removed.

3.05 *Radio Frequency*

Where the Permittee desires industrial users of the road to announce their position and direction of travel by means of radio, the Permittee shall post the radio frequency at the start of the road, together with kilometre markers along the road to enable all industrial users of the road to use the posted radio frequency in the appropriate manner.

3.06 *Permit Area*

For road building, the "Permit Area" means that area of land on which the permit holder is entitled to operate and which is highlighted on the attached Exhibit A map.

3.07 *Connecting to FS Road*

n/a



### 3.08 *Mining Roads*

Where the road is subject to the *Mining Right of Way Act*, it may be operated as a restricted access road by the Permittee. The following method of restricting access is authorized:

- (a) The placement of a locked gate which is not staffed. The Permittee shall provide a gate key to the District Manager and to others with a legal right to use the road.
- (b) The placement of a sign(s) in a conspicuous location detailing traffic restrictions.

### 3.09 *Maintenance Plan*

- (a) A maintenance plan must be submitted before July 1 each year that this permit is in place
- (b) A list of all maintenance works carried out in the previous year must be provided before the start of the following year's work program.



## **Schedule B**

### **Roads**

Road Layout & Designs not required as the road is already in place.

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## Exhibit A

*Substitute actual Exhibit A map for this page.*

See Attached