

BC MINES ACT PERMITTING: UPDATE ON GOVERNMENT STRUCTURE, ROLES, RESPONSIBILITIES AND REQUIREMENTS

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ABSTRACT

The provincial government has introduced a new policy for natural resource management in the mineral exploration and mining sectors of British Columbia (BC) that follows a coordinated and integrated approach. The objective of this coordination and integration is to establish an authorizations process that improves the efficiency and reduces overlap of information requirements and consultation related to permitting and authorizations for major mines in the province.

Typically, applications for major mining projects requiring technical reviews from multiple agencies are reviewed by a Mine Development Review Committee (MDRC), which is comprised of appropriate representatives from provincial agencies, federal agencies, and First Nations. The Ministry of Energy and Mines (MEM) remains the key contact for BC's mining and mineral exploration industries and is the agency responsible for reviewing and permitting all mining and mineral exploration permit applications. The Ministry of Forests, Lands and Natural Resource Operations (FLNRO) is the lead for coordinating the MDRC process, as required, and is also responsible for coordinating First Nations consultation.

An update on government structure and new staff at MEM; a review of the role and responsibilities of MEM; a review of key requirements of permitting under the *Mines Act*; and, an update regarding the changes in government structure that may affect *Mines Act* permit applicants is provided.

KEYWORDS: Chief Inspector of Mines, MEM, FLNRO, permitting requirements, MDRC

INTRODUCTION

Mining is one of British Columbia's (BC) largest industries and a major contributor to the provincial economy. The BC mining industry provides direct full-time employment to approximately 11,400 people and an estimated additional 17,000 indirect and discretionary jobs within the province. Currently, there are 11 operating metal mines, 10 operating coal mines and numerous smaller metal, coal, gravel, quarry, and placer operations throughout the province. A number of projects are also currently in the permitting or construction phase, or moving through the environmental assessment process.

In 2009, the provincial government introduced a policy for a coordinated and integrated approach to natural resource management in the mineral exploration and mining sectors of BC. This has resulted in changes in the structure of some of the natural resource sector ministries. Although there have been

procedural changes, the Mines and Mineral Resources Division of the Ministry of Energy and Mines (MEM) remains the main point of contact for the mining and mineral exploration industry in BC.

The key change resulting from this new approach is that the Ministry of Forests, Lands and Natural Resource Operations (FLNRO) has become the lead agency responsible for management of the Mine Development Review Committee (MDRC) process and coordination of First Nations consultation for proposed mining projects.

This paper provides a summary of the legislative context around mine permitting, the roles and responsibilities of MEM in mine permitting, the current permitting review process, and a review of key requirements for permitting under the *Mines Act*.

REGULATORY CONTEXT

Health and safety of workers, public and environment protection are major components of all mineral exploration and mine development activities in BC. There are two main pieces of legislation that govern mining and mineral exploration activities in the province, including: the *Mines Act*, which governs all activities that occur on mines sites; and, the Health, Safety and Reclamation Code for Mines in British Columbia (Code), which regulates all activities on mines sites. The *Mines Act* and Code apply to all metal mines, including precious and base metal mines, coal mines, industrial mineral mines, quarries, sand and gravel operations, and placer mines. The legislation applies at all phases of mining including exploration, development, construction, production, reclamation and closure.

The purpose of the *Mines Act* and the Code is to:

- Protect the health and safety of workers and public from mining activities;
- Protect and reclaim the land and watercourses affected by mining;
- Support and monitor the efficient development of the Crown's mineral and coal resources, while managing environmental impacts;
- Facilitate successful reclamation and closure of mine operations; and,
- Manage environmental and reclamation liabilities at mines through permitting and bonding to ensure that public funds will not be required to pay the costs of mine clean up.

Prior to starting any work constructing or operating a mine, a proponent is required to obtain a *Mines Act* permit approving the mine plan, reclamation plan and an environmental protection plan. Typically, *Mines Act* permits are issued by the Chief Inspector of Mines; however, permits related to some sand and gravel quarries, placer mining and exploration programs may be issued by regional permitting inspectors. Following permitting, mining companies must work with the appropriate inspectors to ensure that they are in compliance with the *Mines Act* and Code.

Mining companies are required to reclaim all lands disturbed by mining. The *Mines Act* and Code require that mine or mineral exploration operators place an adequate financial security in trust with the province prior to receiving their permit to operate. This security is returned only once reclamation is completed to a

level deemed satisfactory by the Chief Inspector and ensures that the costs of the reclamation and environmental protection are not borne by taxpayers in the event that mining companies default on their obligations.

HEALTH, SAFETY AND PERMITTING BRANCH (CHIEF INSPECTOR OF MINES)

The Chief Inspector of Mines is the executive director of the Health, Safety and Permitting Branch, which is one of four branches in the Mines and Mineral Resources Division of MEM (Figure 1a and 1b). The Chief Inspector is the senior statutory decision maker for all mining activities in BC and is responsible for issuing and administering *Mines Act* permits and enforcing the Code. These responsibilities entail a broad scope of work activities. Staff within this branch have specialized knowledge related to health, safety and environmental aspects of the mining industry and provide expert advice to the Chief Inspector to assist in making any *Mines Act* permitting decisions.

The Health, Safety and Permitting Branch includes the Chief Inspector's Office in Victoria, and the five regional offices (Cranbrook, Kamloops, Prince George, Smithers, Victoria; Figure 2) that house regional mines inspectors for health and safety, and permitting (Figure 2). The Chief Inspector has power to appoint mines inspectors and may also delegate to these inspectors any powers conferred on the Chief Inspector under the *Mines Act*.

The Chief Inspector's Office in Victoria has provincial specialists for health and safety and permitting. These staff focus mainly on major mines throughout the province. Within this office, the two main groups are Health and Safety, and Reclamation and Permitting.

The Health and Safety group, led by the Deputy Chief Inspector – Health and Safety, is responsible for ensuring that mining and exploration operations around the province are implementing and following the Code, specifically related to Health and Safety issues. This group includes specialized inspectors with expertise in occupational health, ergonomics, and mechanical and electrical engineering.

The Reclamation and Permitting group, led by the Deputy Chief Inspector – Reclamation and Permitting, is responsible for the permitting of all major mines. This includes reviewing *Mines Act* permit applications for new and existing mines, environmental assessment application reviews, and inspections at operating and closed sites. This group includes geotechnical engineers, reclamation scientists, and environmental geoscientists specializing in geochemistry and water quality and has doubled in size over the past year and a half.

Regional Operations, led by Regional Directors, remains responsible for issuing regional permits including exploration permits for mineral and coal, placer, industrial quarry and sand and gravel operations. Regional inspectors have been delegated by the Chief Inspector to act as the statutory decision maker for these permits. Provincial specialists may be called upon time to time to aid in the review of more complex regional permits. The senior permitting inspector for each region should be contacted directly for further information regarding the submission and handling of a regional mine permit application, called a notice of work.

(a)

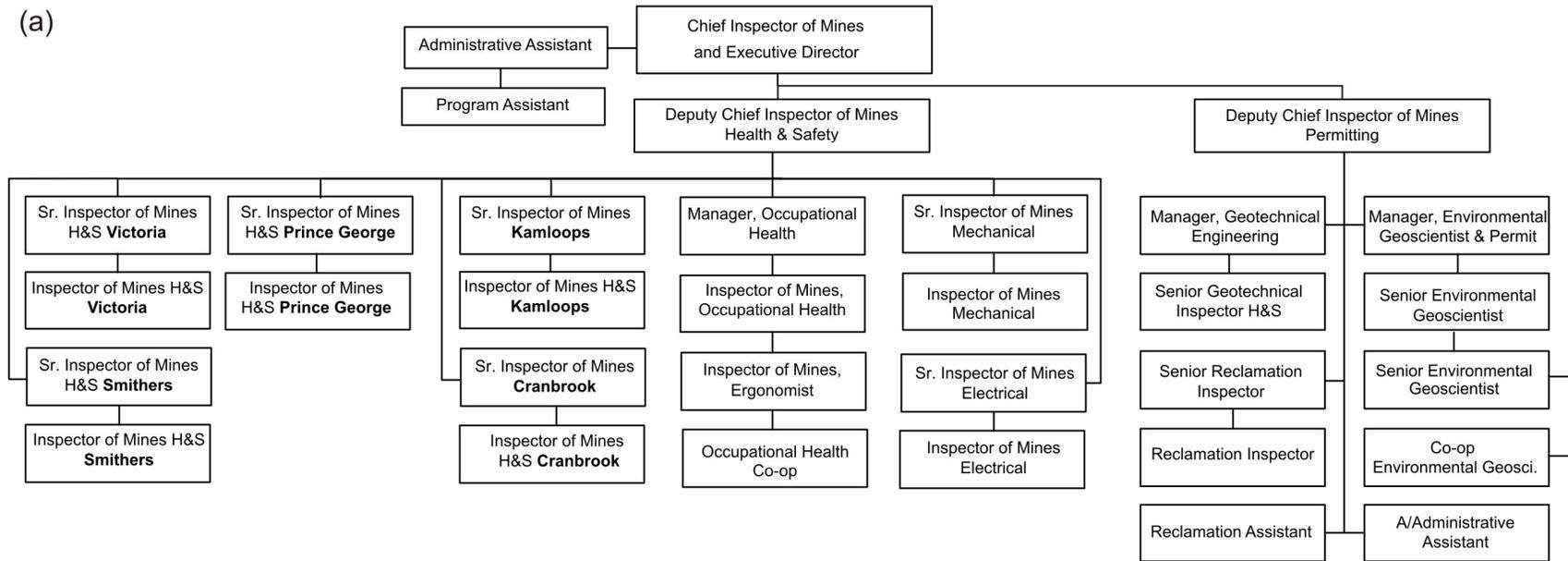


Figure 1(a). MEM Mines and Mineral Resources Division - Health, Safety and Permitting Branch organization chart showing staff under the Deputy Chief Inspector of Mines (Health & Safety) and Deputy Chief Inspector of Mines (Permitting). Note that some of these positions are currently vacant.

(b)

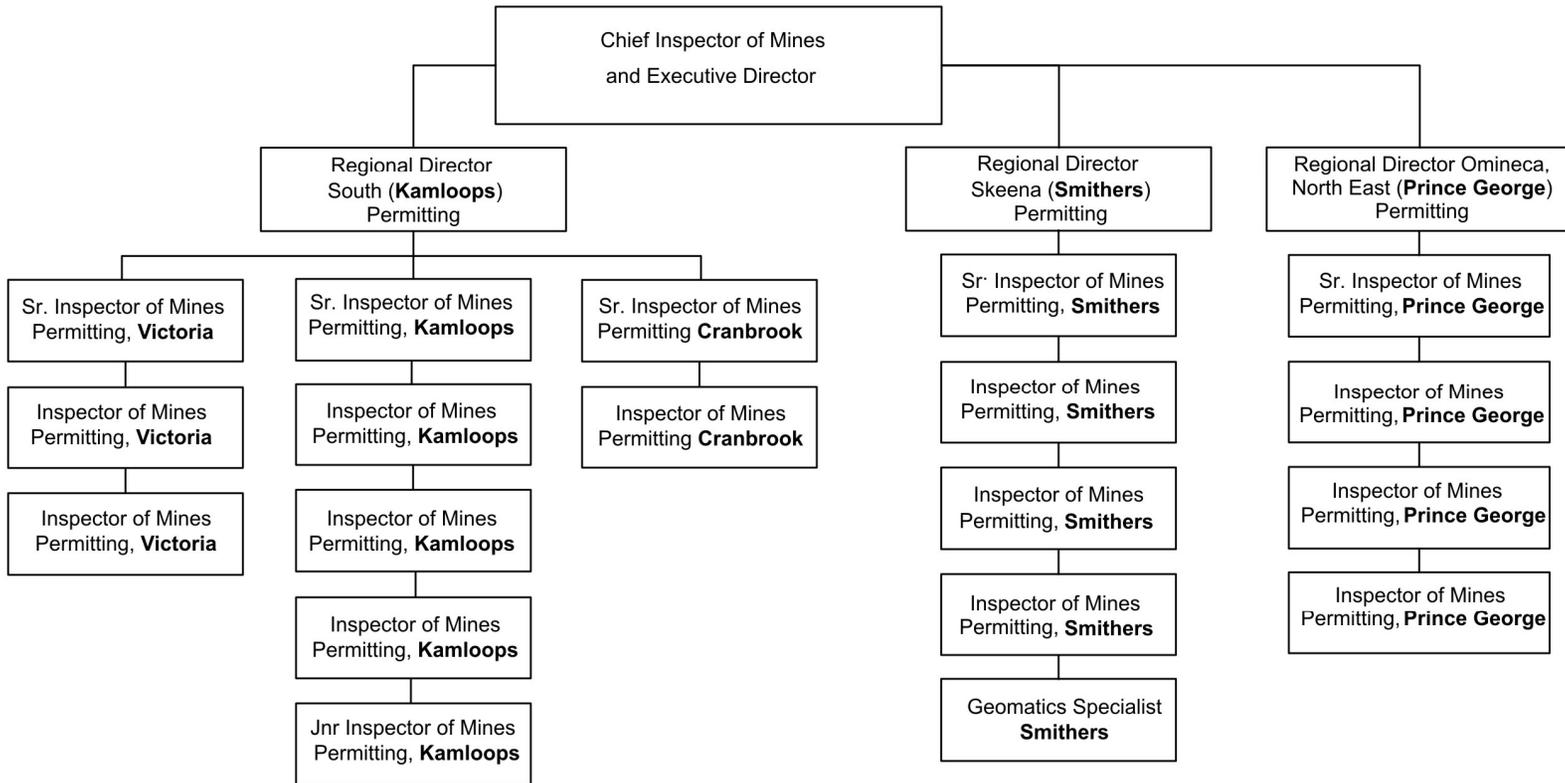


Figure 1(b). MEM Mines and Mineral Resources Division - Health, Safety and Permitting Branch organization chart showing regional permitting staff. Note that some of these positions are currently vacant.

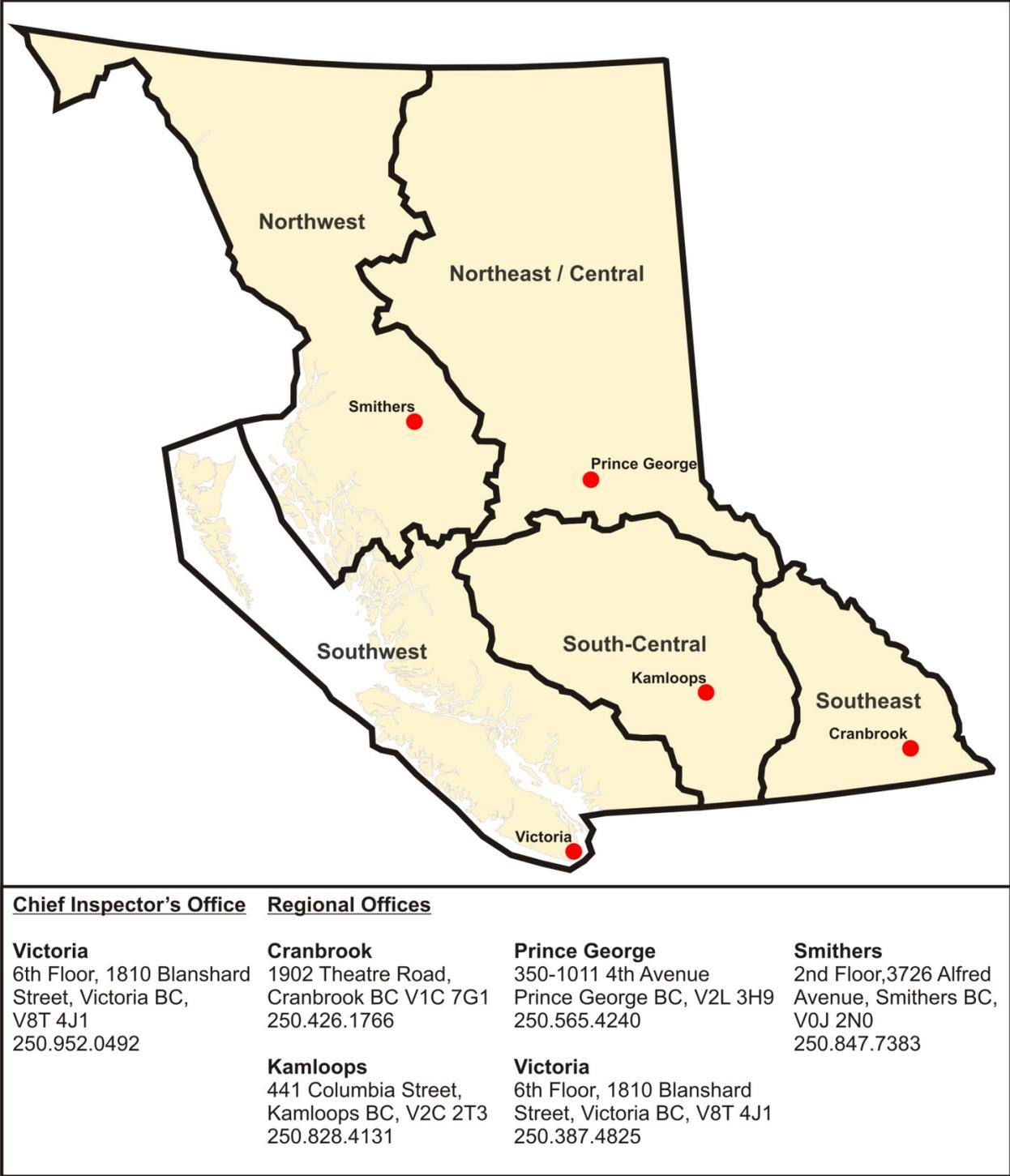


Figure 2. MEM regional office locations and contact information.

***MINES ACT* PERMIT APPLICATION REVIEW PROCESS FOR MAJOR MINES**

With the creation of FLNRO and the introduction of a new policy for coordinated and integrated natural resource management, there has been an effort to reduce overlapping information requirements between permitting agencies (typically Ministry of Environment (MOE) and MEM) and to coordinate consultation related to the various permits and authorizations required for mining projects. While the application review process has generally remained the same as it was prior to the organizational change, FLNRO is now the agency responsible for coordinating and chairing project specific mine review committees and conducting First Nations consultation. While the project specific review process is now designed to review and provide feedback on all mining related permit and authorization applications, this paper will focus only on the *Mines Act* authorizations issued by MEM.

The Chief Inspector of Mines remains the key contact for *Mines Act* permit application submission and MEM is the agency responsible for initiating the permit application review process, including requesting the formation of a project specific mine review committee. *Mines Act* permit applications are submitted to the Chief Inspector of Mines. When a permit application is received by the Chief Inspector's Office, MEM contacts FLNRO Major Projects Office. Making contact with the Major Projects Office brings the proposed project to the attention of the office in the relevant region and ensures that a Project Manager is put in place. The Project Manager works with the proponent to develop a list of all associated permits or authorizations that are required for the project and makes sure that the review committee includes representatives from the relevant review agencies and First Nations. The FLNRO project manager coordinates the application review and First Nations consultation for the project as a whole through the review.

Once review of the applications is complete and issues have been resolved, a recommendations report is drafted by the committee chair (FLNRO Project Manager), reviewed by the committee members, and then submitted to the Chief Inspector of Mines for consideration prior to making a *Mines Act* permitting decision. The recommendations report summarizes the project, key issues, how the issues have or have not been resolved, and makes recommendations for items to be covered by *Mines Act* permit conditions. A consultation report that summarizes how consultation has been completed and any requests for First Nations accommodations is also provided by FLNRO to the Chief Inspector. After reviewing the recommendations report and the consultation report, the Chief Inspector is in a position to issue a decision on the *Mines Act* permit. Decisions for other authorizations and permits will be made by the respective Statutory Decision Maker responsible for issuance of each permit.

The MEM aims to complete technical review of permit applications within 60 days, wherever possible. However, applicants should be aware that the ability to meet this timeline depends, in part, on the quality and completeness of information provided in the application and whether there are outstanding issues that need to be addressed as a result of committee review of the application once it is submitted. Projects involving new mines or major expansions can also be challenging for timelines due to the large amount of information required. Competing regulatory timelines and workload within the Chief Inspectors Office can sometimes pose timeline challenges as well. Additionally, First Nations consultation may require

more than 60 days to resolve issues. Proponents are encouraged to engage with MEM early to discuss potential issues or challenges related to a specific permitting activity. This may assist with keeping permitting timelines as short as possible.

KEY MINES ACT PERMITTING REQUIREMENTS

The general requirements for a *Mines Act* permit application are outlined in Part 10 of the Code. Permit applications require detailed designs and plans for all mine components through all phases of development including construction, operations, decommissioning, and into closure. The application should include: maps showing the location of the mine property and the area of proposed disturbance; baseline information for all affected environmental components; a mine plan; a plan for environmental protection; a reclamation plan; and an estimate of the total expected costs of outstanding reclamation and long term monitoring and maintenance. For specific details on *Mines Act* permit application requirements, please refer to Part 10.1.4 of the Code. Additional information may be found on the MEM website at www.empr.gov.bc.ca/Mining/Permitting-Reclamation.

As part of the coordinated approach to permitting, MEM and MOE will accept one single document that meets the permit application requirements of both agencies. Applications compiled in this way help to reduce duplication of information and assist during the review process by providing further context for technical experts. The *Mines Act* (MEM) and *Environmental Management Act* (MOE) permit requirements for mining projects often overlap to a certain extent and are often the most detailed of the authorizations required to construct a new mine.

Staff from the Chief Inspector's Office are available to discuss permitting requirements by phone or in a pre-application meeting to ensure that adequate information is contained in the application prior to submission. This approach ensures that applicants are aware of the major permitting related issues and may address them appropriately as part of the permit application thus helping to reduce requests for additional information or clarification during the review period.

CONCLUSION

The *Mines Act* permitting process is now being completed through a coordinated review process that is led by FLNRO with direction from MEM. The main steps of application review have not changed significantly, although review committees may now handle the coordinated review of multiple applications related to the same project. These committees are led by Project Managers from FLNRO and one of key advantages of this is a coordinated First Nations consultation approach. Mine project proponents should contact the Chief Inspector's Office as they are preparing to submit an application for mine permitting.

In recognition of the level of activity within the mining industry in BC, the Permitting and Reclamation group of the Chief Inspector's Office has doubled in size over the past year and a half. Personnel from this group are available to meet with project proponents to provide guidance and feedback regarding

information requirements and expectations regarding mine permitting. This type of meeting may help avoid delays or unexpected information requirements during the permit application review process.