June 6, 1997

MINERALS TENURE INFORMATION BULLETIN 97-5

SUBJECT: AMMONITE SHELL TENURE REVIEW

In Minerals Tenure Information Bulletin 97-3 the Department announced that a review of the Ammonite Shell Regulation and policies would start later this year. An initial industry/public meeting is being considered for late July or early August in Calgary. A letter inviting participation in the meeting will be sent later this month.

The initial meeting will be to identify issues related to ammonite tenure, to identify people willing to participate on an advisory committee for the project and to develop a schedule to complete the tasks. Discussion of specific items will occur at subsequent meetings with the advisory committee and proposals will be circulated to all interested parties.

The departments of Community Development and Energy will work together to lead the review process and have prepared the attached document, entitled “The Ammonite Shell Regulatory Process”. It was tabled in the Legislature by the Minister of Energy on May 29, 1997. This is a working document only, and is subject to change based on input received during the review.

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Attachment
THE AMMONITE SHELL REGULATORY PROCESS

ENABLING REGULATIONS

The framework for the ammonite shell regulatory process is set by two regulations: one passed under the *Historical Resources Act* and one passed under the *Mines and Mineral Act*. The first of the enabling regulations, the *Historical Resources Act* Dispositions Regulation, was passed on September 8, 1987. On March 2, 1989, the Ammonite Shell Regulation was passed under the *Mines and Mineral Act*. These regulations enable holders of Surface Collection Permits and Ammonite Shell Agreements to commercially exploit and acquire a palaeontological resource - ammonite shell. Whereas the regulatory process for Surface Collection Permits is administered entirely by Alberta Energy, the regulatory process for Ammonite Shell Agreements is presently administered jointly by Alberta Energy and Alberta Community Development.

THE STAGES OF THE AMMONITE SHELL REGULATORY PROCESS

The ammonite shell regulatory process has three (3) separate stages:

1. *Historical Resources Act* Exemption/Ammonite Shell Agreement stage. Alberta Energy and Alberta Community Development jointly administer this stage;

2. Historical Resources Impact Assessment and *Historical Resources Act* clearance stage. This stage does not involve Alberta Energy. It does involve three branches of Alberta Community Development: the Historic Sites Service; the Provincial Museum of Alberta (Archaeological Survey); and, the Royal Tyrrell Museum of Palaeontology; and,

3. Certificate of Disposition stage. This stage is administered by the Royal Tyrrell Museum of Palaeontology of Alberta Community Development. Alberta Energy is not involved.
I. HISTORICAL RESOURCES ACT EXEMPTIONS & AMMONITE SHELL AGREEMENTS

THE EXISTING REGULATORY APPROACH

The existing regulatory approach for obtaining an Historical Resources Act (HRA) Exemption and an Ammonite Shell Agreement is illustrated in Figure 1.0.

In accordance with the Ammonite Shell Regulation, Alberta Energy cannot issue an Agreement until after the applicant has obtained an HRA Exemption. HRA Exemptions are issued under Section 26 of the Historical Resources Act. In accordance with Section 26(1) "no person shall make an excavation on any land in Alberta for the purpose of seeking or collecting historical resources unless he is the holder of a valid permit...." The Palaeontological Resources Regulation specifies that a person must have a bachelor degree or higher in palaeontology, or be considered an experienced collector of palaeontological resources. The HRA Exemption exempts the applicants for Agreements from having specified levels of education and experience.

PROPOSED REGULATORY APPROACHES

Changes to the Exemption-Agreement processes have been discussed by staff of Alberta Community Development and Alberta Energy. Recently, representatives of Alberta Environmental Protection have also taken part in discussions regarding the governmental reform of the ammonite regulatory processes. The discussions have included the delegation of the authority to administer the Ammonite Shell Regulation from Alberta Energy to Alberta Community Development, the delegation of the authority to issue Exemptions from Alberta Community Development to Alberta Energy, and a variety of changes to regulations and legislation.

During a meeting of December 13, 1996, representatives from Alberta Energy, Alberta Community Development and Alberta Environmental Protection discussed the above options. The consensus was that two options should be considered for implementation. The first option does not require changes to existing regulations and legislation - the Short Term Option. The second option, the Long Term Option, does require changes to existing regulations, and, possibly, legislation. Neither of these options requires the delegation of authority from one agency to the other. Whereas the Short Term Option can be implemented immediately, the implementation of the Long Term Option would have to wait for changes to the appropriate regulations/legislation.

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(1) **SHORT TERM OPTION**

The proposed regulatory approach for the Short Term Option is illustrated in Figure 2.0.

**The Proposed Role of Alberta Community Development**

Alberta Community Development will continue to issue HRA Exemptions. However, the HRA Exemption will be issued as part of the department’s response to the referral from the Crown Mineral Disposition Review Committee (CMDRC). Furthermore, the format of the HRA Exemption will be greatly modified. Under this approach the extent of Alberta Community Development’s input into the HRA Exemption would be restricted to exempting the applicants from having specific educational qualifications and/or experience, with minimal conditions attached to ensure that the applicants comply with Alberta Community Department’s resource management concerns. For example:

Prior to the conduct of any exploration programs for ammonite shell, the holder of the Agreement must obtain clearance pursuant to the *Historical Resources Act* from Alberta Community Development. Alberta Community Development will not issue Certificates of Disposition for ammonite shell which has been collected from parcels which have not received *Historical Resources Act* clearance.

**The Proposed Role of Alberta Energy**

At the end of the CMDRC’s review of each Application for an Ammonite Shell Agreement, Alberta Energy will:

1. continue to issue the letter to the applicant that discusses the results of the CMDRC review. These letters outline the concerns and requirements of several government agencies, including Alberta Community Development; and,

2. issue the Agreement with the HRA Exemption attached to the Agreement. The holder of the Agreement would be bound to comply with the conditions stated within the HRA Exemption.
(2) **LONG TERM OPTION**

The proposed regulatory approach of the Long Term Option is illustrated in Figure 3.0.

**The Proposed Role of Alberta Community Development**

The simplest manner in which to administer the Ammonite Shell Agreement approval process is not to require the issuance of an HRA Exemption prior to the granting of the Agreement. Through changes to the Ammonite Shell Regulation and the *Historical Resources Act*, persons who apply for an Agreement could be exempt automatically from Section 26 of the *Historical Resources Act*. Alberta Community Development would not be required to issue an HRA Exemption. Alberta Community Development’s input into the Ammonite Shell Agreement stage of the regulatory process would be restricted to responding to each Application for an Ammonite Shell Agreement as a member of the CMDRC.

**The Proposed Role of Alberta Energy**

At the end of the CMDRC’s review of each Application for an Ammonite Shell Agreement, Alberta Energy will:

1. issue both the letter to the applicant that discusses the results of the CMDRC review, and the Agreement.

**II. HISTORICAL RESOURCES IMPACT ASSESSMENT & HISTORICAL RESOURCES ACT CLEARANCE**

The rationale for diminishing the role of Alberta Community Development in the present HRA Exemption-Agreement stage of the ammonite shell regulatory process is based upon the fact that Alberta Community Development’s concerns with exploration programs for ammonite shell do not involve the educational qualifications of the persons conducting the programs. Rather, the Department’s major concerns with ammonite shell activities pertain to the potential of these activities to impact historical resources - palaeontological resources, archaeological resources and historic sites. With few exceptions, exploration activities possess high potential to impact palaeontological and archaeological resources. Most applications for Ammonite Shell Agreements involve the local environs of the river systems of southern Alberta. These locations possess some of the highest densities of archaeological resources and exposures of fossil bearing bedrock recorded in the province.
Alberta Community Development's involvement in the ammonite shell regulatory process will be redirected to reviewing and monitoring the potential of ammonite shell exploration activities to impact historical resources. Through these changes, Alberta Community Development's input into the ammonite shell regulatory process will be similar to its input into other types of land surface disturbance activities (eg. gravel pits, well sites, etc.).

III. CERTIFICATE OF DISPOSITIONS

The last stage of the ammonite shell regulatory process involves the issuance of a Certificate of Disposition by Alberta Community Development. Under the Historical Resources Act Dispositions Regulation persons can acquire ammonite shell by sale or gift from the province if the Minister of Alberta Community Development is satisfied that the resource does not have scientific value, or the resource is of a type found in such quantity that it is not required for scientific or display purposes.

Staff of Alberta Community Development and Alberta Energy have discussed the transfer of the administration of the Certificate of Disposition to Alberta Energy. Staff of Alberta Energy do not possess the expertise to make decisions regarding the scientific value, abundance, or display quality of ammonite shell. Therefore, any proposals to transfer the administration of the Certificate of Disposition to Alberta Energy would likely result in a referral-response-approval process which is similar to the process that has been established for the HRA Exemption-Agreement stage. It is recommended that the Certificate of Disposition process remain under the administration of Alberta Community Development.

The procedures for the administration of applications for disposition of ammonite shell are outlined in Figure 4.0.

CONCLUSIONS

The proposed regulatory approaches regarding HRA Exemptions-Agreements will significantly benefit the three parties which are most directly affected - the applicants, Alberta Energy, and Alberta Community Development. These benefits include:

1. A significant reduction in the amount of time required by an applicant to receive Ammonite Shell Agreement approval;
(2) The elimination of an entire referral-response period between Alberta Energy and Alberta Community Development;

(3) Alberta Energy will be able to issue the letter to the applicant that discusses the results of the CMDRC review and the Agreement at the same time; and,

(4) Alberta Community Development's regulatory requirements relating to the ammonite shell industry will become similar to those for other land development related industries.

(5) A significant reduction in the amount of time Alberta Community Development staff will be required to put into the ammonite shell regulatory process.
FIGURE 1.0
THE EXISTING HISTORICAL RESOURCES ACT EXEMPTION AMMONITE SHELL AGREEMENT APPROVAL PROCESS

APPLICANT
- submits an "Application for an Ammonite Shell Agreement"

ALBERTA ENERGY
- refers application to the Crown Mineral Disposition Review Committee (CMDRC)

CROWN MINERAL DISPOSITION REVIEW COMMITTEE (incl. Alberta Community Development)
- members of CMDRC review the application and respond to Alberta Environmental Protection

ALBERTA ENVIRONMENTAL PROTECTION
- prepares the report of the recommendations of the CMDRC and submits the report to Alberta Energy

ALBERTA ENERGY
- Alberta Energy writes letter to the applicant that discusses the results of the CMDRC review; advises the applicant that Alberta Community Development will issue an Historical Resources Act exemption

ALBERTA COMMUNITY DEVELOPMENT
- Alberta Community Development receives a cc. of Alberta Energy's letter; prepares and sends the Exemption to the applicant with a cc. sent to Alberta Energy

ALBERTA ENERGY
- receives a copy of Alberta Community Development's Exemption and issues the Ammonite Shell Agreement to the applicant

APPLICANT
- the applicant receives the Ammonite Shell Agreement; the Historical Resource Act Exemption/Ammonite Shell Agreement process is complete
FIGURE 2.0
THE PROPOSED SHORT TERM HISTORICAL RESOURCES ACT EXEMPTION AMMONITE SHELL AGREEMENT APPROVAL PROCESS

APPLICANT
- submits an "Application for an Ammonite Shell Agreement"

ALBERTA ENERGY
- refers application to the Crown Mineral Disposition Review Committee (CMDRC)

CROWN MINERAL DISPOSITION REVIEW COMMITTEE
(incl. Alberta Community Development)
- members of CMDRC review the application and respond to Alberta Environmental Protection
- Alberta Community Development also prepares Historical Resources Act Exemption and sends the exemption to Alberta Energy

ALBERTA ENVIRONMENTAL PROTECTION
- prepares the report of the recommendations of the CMDRC and submits the report to Alberta Energy

ALBERTA ENERGY
- Alberta Energy writes letter to the applicant that discusses the results of the CMDRC review; Alberta Energy also issues the Ammonite Shell Agreement to the Applicant with the Historical Resources Act Exemption attached

APPLICANT
- the applicant receives the Ammonite Shell Agreement; the Historical Resource Act exemption/Ammonite Shell Agreement process is complete
FIGURE 3.0
THE PROPOSED LONG TERM *HISTORICAL RESOURCES ACT* EXEMPTION AMMONITE SHELL AGREEMENT APPROVAL PROCESS

APPLICANT
- submits an "Application for an Ammonite Shell Agreement"

ALBERTA ENERGY
- refers application to the Crown Mineral Disposition Review Committee (CMDRC)

CROWN MINERAL DISPOSITION REVIEW COMMITTEE (incl. Alberta Community Development)
- members of CMDRC review the application and respond to Alberta Environmental Protection

ALBERTA ENVIRONMENTAL PROTECTION
- prepares the report of the recommendations of the CMDRC and submits the report to Alberta Energy

ALBERTA ENERGY
- Alberta Energy writes letter to the applicant that discusses the results of the CMDRC review; issues the Ammonite Shell Agreement to the applicant

APPLICANT
- the applicant receives the Ammonite Shell Agreement; the Ammonite Shell Agreement process is complete

This process is similar to the CMDRC review of mineral applications.
THE EXISTING PROCEDURES FOR THE ADMINISTRATION OF APPLICATIONS FOR DISPOSITION OF AMMONITES UNDER THE "HISTORICAL RESOURCES ACT DISPOSITIONS REGULATION"

APPLICANT
- submits an "Application for Disposition" with photographs of the ammonite shell to the Royal Tyrrell Museum of Palaeontology

ALBERTA COMMUNITY DEVELOPMENT
- the Royal Tyrrell Museum of Palaeontology reviews the applications to determine scientific and/or display value. Any specimens to be retained are also identified. A copy of the application is sent to Alberta Palaeontological Advisory Committee (APAC).

ALBERTA PALAEONTOLOGICAL ADVISORY COMMITTEE
- APAC has five days to respond. An absence of response constitutes a no-concerns response.

ALBERTA COMMUNITY DEVELOPMENT
- approves application along with Gift and Disposition Certificates. Also requests the retention of scientific specimens.

APPLICANT
- the applicant receives the Gift and Disposition Certificates