

181/89/M.

30th September, 1920.

Sir:-

I beg to acknowledge the receipt of your letter of the 25th instant, with reference to the application of Joe Armstrong, of Similkameen, regarding his mineral claim on No. 8 Reserve, and in reply beg to say that an obstacle has arisen in connection with the mining for precious metals on Indian Reserves where base metals are found in combination with the same. Under Section 48 of the Indian Act it is stated very clearly that no portion of a reserve shall be sold, alienated or leased until it has been re-leased or surrendered to the Crown, and consequently until that section of the Act is amended it will be necessary in all such cases to have a surrender given by the Indians for any of the base metals which may underlie an Indian reserve, found in combination with the precious metals.

I may here inform you that the only reason that Section 48 of the Act was amended at last session of Parliament by the inclusion of a provision that leases for surface rights on Indian reserves could be issued by the Governor-in-Council without the taking of a surrender was for the purpose of making more accessible the mining of precious metals underlying Indian Reserves than it had been in the past as it has been conceded that the precious metals belong to the Crown in right of the Province while the base metals belong to the Crown in right of the Dominion. Some time ago I wrote to Ottawa on this subject and pointed out that our present regulation was practically useless were we to adhere strictly to Section 48 of the Indian Act, as there were very few instances in the Province of British Columbia where the precious metals were to be found not in combination with the base metals.

While Mr. Scott was in Victoria we had considerable discussion on the above matter and the result was that he is going to make some special regulation at Ottawa when he returns but informed me that in the meantime when leases for surface rights are applied for Indian Agents will be forwarded surrender forms and requested to obtain the assent of the Indians for the base metals that may be found in combination with the precious.

Therefore, in connection with the case to which you have referred, I may say that if Joe Armstrong has staked out his mineral claim and recorded it in the office of the Mining Recorder of the district his next step will be for him to apply through yourself to the Department for a lease of the surface rights. Accompanying his application must be a certified copy of his Provincial Miner's Lease and a description of the lands, as provided for under Section "C" of the Regulations.

With regard to the term "Mining Lease" referred to

F. J. Ball, Esq.,
Indian Agent,
Vernon, B. C.

in the

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