

Brief: Bill 63



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The Coalition Québec meilleure mine presents its brief on the

Act to Amend the Mining Act and other provisions (Bill 63)

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On May 28, Québec's Minister of Natural Resources and Forests, Maité Blanchette Vézina, tabled Bill 63, an *Act to amend the Mining Act and other provisions*. The Coalition Québec meilleure mine (QMM) carried out an exhaustive analysis of the bill. In this brief, we present our general comments and proposed amendments. A detailed article-by-article analysis of the bill is available in the French version of this brief, originally published in September 2024 and available online.

PRESENTATION

Founded in 2008, the Coalition Québec meilleure mine (QMM) today brings together some forty organizations that collectively represent over 250,000 people from every region of Québec. The coalition includes citizens' groups, environmental organizations, unions, academics, and medical practitioners and associations. Over the past 16 years, QMM has played a key role in the public debates regarding mining sector practices and policies, raising awareness with decision-makers and a broad cross-section of Québec society on a number of issues affecting this sector. The coalition has helped redefine public policy when it comes to the mining sector, including work to reform the *Mining Act*, and highlight other important issues such as mining royalties, financial guarantees for reclamation, the environmental framework, social acceptability, territories incompatible with mining activity, as well as Québec's positions on uranium and asbestos, and more recently on critical and strategic minerals. Since 2008, coalition members have taken part in some 15 environmental assessments of mining projects in Québec, including 11 inquiries by the Bureau d'audiences publiques sur l'environnement (BAPE) and three before the Impact Assessment Agency of Canada. Since 2014, QMM has been an active member of the Québec Minister of Mines' Advisory Committee.



EXECUTIVE SUMMARY

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The purpose of this brief is to provide an analysis by the Coalition Québec meilleure mine (QMM) of the *Act to amend the Mining Act and other provisions* (Bill 63). This analysis, led by QMM's Legal Committee, is divided into two sections: a background on recent events leading up to the tabling of Bill 63, followed by QMM's detailed analysis.

In the background section, we focus on three central elements that preceded the tabling of Bill 63. The first is the explosion in the number of mining claims in the province of Québec, made possible by legislation that has undergone too little reform since the first version of today's *Mining Act* was passed 160 years ago. Next, we describe the reasons for the public outcry that emerged in response to this boom in mining claims, and provide some reflections on the consultations on the mining framework conducted by Québec's Ministry of Natural Resources and Forests (MRNF) in the spring of 2023.

While Bill 63 does contain some interesting elements, we conclude that the bill – as proposed – is overall disappointing. Here are our key findings:

- Prior to the introduction of the bill, QMM had identified **six priorities for mining reform**, including an end to the precedence of mining claims over other land uses and an end to the mining sector's self-regulation. **None of these priorities are present in Bill 63**.
- During the public consultations on the laws and practices governing mining activities in Québec, QMM made 60 recommendations for changes to the mining framework. 50 of these recommendations propose legislative and regulatory change. Of these, only 5 are included (partially) in Bill 63.
- While the bill contains a handful of potentially interesting elements, several of these measures simultaneously present an immense risk of causing a boomerang effect. For instance, in an effort to curb mining speculation, the proposed bill deprives residents of one of their only means of protecting their territory – namely, by staking a mining claim as a preventative measure to ensure no one else can do so. In return, the bill offers no alternative measures for protecting territory.

- Finally, the bill represents numerous setbacks – net losses – in terms of adequate supervision of mining activity or environmental protections. The bill puts a cap on the years a mining company is held accountable for the duty to monitor its closed sites, and transfers responsibilities for mining road management from the Ministry of Transport to the Ministry of Natural Resources and Forests.

For years, civil society has demanded fundamental reforms to the extremely problematic issues that run rampant in the mining sector. As currently proposed, Bill 63 fails to address these demands for reforms and should undergo a significant overhaul.

Given this rare opportunity to improve mining laws and practices in Québec, however, and the fact that there are some interesting elements in Bill 63, the Coalition Québec meilleure mine recommends adopting Bill 63, an *Act to amend the Mining Act and other provisions on the condition that the bill is modified to include crucial amendments addressing our six priority areas.*

QMM presents its extended analysis of the bill and numerous proposals for amendments in an effort to contribute positively towards the improvement of the bill which was tabled by the National Assembly Member for Rimouski, and to better equip legislators in their understanding of it. QMM encourages the National Assembly to incorporate measures into this bill that are commensurate with the scale of challenge posed by the climate and biodiversity crises – crises for which the mining industry bears significant responsibility.

Legal Committee

This brief captures the essence of the Analysis of Bill 63, produced by the Legal Committee of the Coalition Québec meilleure mine and published on July 18, 2024. On September 16, 2024, QMM held a webinar to present its Analysis of Bill 63 to the public.¹

The Coalition QMM's Legal Committee is made up of Émile Cloutier-Brassard, responsible for mining issues for Eau Secours, Marc Nantel, spokesperson for the Regroupement Vigilance Mines Abitibi-Témiscamingue, Frédérique Bordeleau, law student at the Université de Montréal, Louis Saint-Hilaire, spokesperson for the Coalition QLAIM, Jamie Latvaitis, Québec resident and Rodrigue Turgeon, National Program Co-Lead for MiningWatch Canada and co-spokesperson for the Coalition Québec meilleure mine.

¹ To view the webinar recording and download the slides in French: MiningWatch Canada. *Webinar | Analysis of Bill 63*. Available online. <https://miningwatch.ca/fr/blog/2024/9/17/webinaire-analyse-du-projet-de-loi-63>. Accessed September 19, 2024.



BACKGROUND

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An outdated law with too little reform

In the territory known as the province of Québec, all mining activity is essentially governed by the *Mining Act*. This Act is a piece of legislation dating back to the 1860s based on two colonial principles: *state ownership* of mineral rights and *free mining*.

Put simply, *state ownership* asserts that the state owns the underground resources. Ignoring the fact that this territory has been occupied for generations – and these resources were acquired by the state at the expense of populations who were dispossessed of the land – the state proclaims itself owner of the subsoil by virtue of this principle, which it enshrines into law.

Free mining, on the other hand, is a principle that guarantees free access to these state-owned mineral resources. Based on these two founding colonial principles, the law governing mining activities in Québec has remained largely unchanged since it was first adopted in 1864. The last reform to the *Mining Act* took place in 2013, but still today, these two founding principles continue to take precedence in the development of the extractive sector and in land use planning more broadly. This reality continues to foster discontent among those who live here, as witnessed by growing protests across the province.

Growing concern amid an explosion in mining claims

Since 2020, there has been an exponential increase in the presence of mining claims (titles) in Québec. Today, a mining claim can be acquired online in 30 minutes for less than \$100, without obtaining the free, prior, and informed consent of the individuals who live on the land that has been claimed. This increase in the presence of mining claims has been so fast and widespread that it has been widely characterized in the media as a mining claim boom. Here are some important figures:

- According to data from the Ministry of Natural Resources and Forests, there were **176,491 active mining claims** in **January 2021** across the province of Québec. Only **3 years later**, on January 8, 2024, this figure **doubled to 352,852 active claims**.
- Regions which have historically been unaffected by mining, such as **Outaouais, Laurentides, Lanaudière, Mauricie, Estrie, Bas-Saint-Laurent** and **Gaspésie**, are now seeing a massive increase in the number of mining claims, with the number doubling and even quadrupling over the span of 18 months in some of these regions.
- Regions which have historically been saturated by extractive activity, such as Abitibi and Nord-du-Québec – often referred to as “resource regions” or “sacrificed zones,” depending on one’s point of view – have also been impacted by this massive increase in the number of claims. In **January 2023**, QMM observed a **46% increase in the area** covered by mining claims in Abitibi-Témiscamingue, bringing the total to **2.12 million hectares**. These claims cover **almost half of Abitibi’s 4.55 million hectares**, where they are concentrated. Meanwhile, **Nord-du-Québec** has also been inundated with mining claims. As of **May 2023**, it had over **289,000 claims**, making it the region with the highest number of mining claims.

There are many reasons for this boom in mining claims, but one of the primary reasons is the significant rise in the price of gold before and during the COVID-19 pandemic. [Ninety-two percent of gold is used in jewelry, banking, and finance](#) in the form of ingots. And while the metal is essentially devoid of any practical use in the face of the existential threats posed by the climate and biodiversity crises, gold remains an eternal speculative refuge in the eyes of the stock market. This explains why almost 40% of the province’s mining claims are still aimed at the discovery of gold deposits.

For the rest, efforts to electrify the transportation sector – particularly the electrification of private vehicles among other so-called “transition”² measures – are tied to the extraction of minerals such as lithium and graphite. As the prices of these metals and minerals soar, prospectors and mining companies are increasingly staking claims in the hopes of making

² While this will not be the subject of the current text, it should be noted that the very notion of “transition” is strongly contested by civil society and many environmental groups, including QMM, hence the insertion of quotation marks around the term.

a discovery of these minerals. In fact, as of [April 2024](#), 60% of mining claims in the province of Québec were for metals and minerals defined as “critical and strategic” by the Québec government. Furthermore, certain foreign interests such as the United States’ Department of Defense are now investing directly in the development of mines in Canada – including at least one in Québec – in an effort to control the supply chains for military technology. These realities, including speculation that there may be investors with big pockets down the road for these minerals, are helping to motivate and sustain this boom in mining claims.

In light of this situation, people across the province are calling out the government’s laissez-faire approach when it comes to the mining industry. Here are just a few examples:

On July 27, 2022, a [Léger poll](#) commissioned by QMM shone the spotlight on civil society demands to reform the ways our society exploits the land. For example, 78% of respondents felt that the consent of local populations should be obtained before any mining activity (including exploration) is carried out on their territory. Similarly, 89% of respondents said the Québec government should prohibit the discharge of mining waste into any ecologically sensitive environment, including lakes and rivers. The survey revealed many other ambitious demands for mining reform.

On January 25, 2023, the [Coalition québécoise des lacs incompatibles avec l’activité minière](#) (QLAIM) was created. The Coalition is calling for the industry to keep its hands off numerous lakes. Today, this coalition brings together more than 120 lake-side associations.

On January 26, 2023, during a Forum on the Integration of Mining Activities in Territories, the Union des municipalités du Québec (UMQ) adopted the [Gatineau Declaration](#), formally calling for a revision of Québec’s mining regulations.

In **February 2024**, the Mitchikanibikok Inik First Nation of Barriere Lake went before the Québec Superior Court to challenge the principle of *free mining*, which underpins most mining activity and directly contravenes their ancestral rights and the obligations of mining companies to obtain their free, prior and informed consent before obtaining a claim and *before* carrying out any mining activity whatsoever.

Consultations on mining regulations in Québec

On February 17, 2023, in response to significant grassroots organizing and clear demands from civil society, the Minister of Natural Resources and Forests announced that public consultations would be held on the laws and regulations governing mining activity in Québec. The consultations took place between April 24 and May 26, 2023, even as the number of mining claims continued to boom. The consultations saw a very high level of participation from Québec residents; in particular, the Ministry received 1995 responses to the online questionnaire and 118 briefs.

The findings of this consultation, presented in the [Consultation Report](#) published on October 5, 2023 by the Ministry of Natural Resources and Forests, were unequivocal: the public is calling for an ambitious overhaul of the laws and regulations governing mining in the province. Key points emerging from the consultations were concerns about the precedence given to the mining industry over other sectors, the difficulties of administering and protecting swaths of territory burdened by mining claims, the lack of consideration for local populations, the lack of tools for revoking mining claims, the need for tighter protections for health and the environment (particularly water), and the lack of economic benefits like royalties for communities impacted by mining projects.

The Coalition QMM participated in the consultation, submitting [a detailed brief listing 60 demands](#) based on the Coalition's four main areas of intervention:

Reduce the mineral and material footprint at the source;
Protect the environment;
Respect local populations and ensure balanced land-use planning;
Apply the polluter-pays principle and obtain tax justice.

In terms of demanding real changes to the laws and regulations governing mining activities, QMM has proposed 50 concrete legislative or regulatory amendments, such as the repeal of section 246 of the *Act respecting land use planning and development*, which currently gives the *Mining Act* precedence over all other land uses. QMM is also calling for transitional measures such as a moratorium on the granting of new claims until the promised review of Québec's mining regime is completed.

A "robust" bill is announced and tabled

Following the public consultations and the clear concerns that emerged regarding the existing mining regime, the Ministry of Natural Resources and Forests announced in the fall of 2023 that a "robust" bill would be tabled in the winter of 2024 to respond to public demands. In the meantime, QMM reiterated its request that transitional measures be adopted – including a moratorium on the granting of new mining claims – to curb the mining boom that preceded the introduction of this bill. None of these measures, however, were accepted by the Ministry.

ANALYSIS OF THE BILL BY THE COALITION QUÉBEC MEILLEURE MINE

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QMM's priorities

On May 28, 2024, the long-awaited [Mining Bill \(Bill 63\)](#) was tabled.³ The bill contains 176 provisions, including 138 concerning the *Mining Act*.

QMM published a list of six priorities before the bill was tabled. We will use this list to guide our analysis of the proposed amendments:

6 PRIORITIES

of the Coalition Québec meilleure mine on reforms to the Mining Act (Bill 63)

- 1 OBTAIN THE CONSENT**
of local populations before granting a mining claim
- 2 PUT AN END TO THE PRECEDENCE OF MINING RIGHTS**
over the protection of water, the environment, protected areas, and populations
- 3 ESTABLISH AN EFFECTIVE MECHANISM TO REVOKE EXISTING CLAIMS**
found incompatible with other land uses
- 4 IMPOSE A LEGAL OBLIGATION TO RESTORE**
abandoned mining sites within 10 years
- 5 PUT AN END TO THE SELF-REGULATION OF THE MINING SECTOR**
- 6 REQUIRE THAT MINING COMPANIES RETURN THE MINING WASTE**
generated by their operations to open pits and other holes that have been excavated

Regrettably, **NONE** of these priorities are included in the 176 provisions outlined by Bill 63.

³ To read the first reaction by the Coalition QMM following the announcement of Bill 63 : <https://quebecmeilleuremine.org/2024/05/28/communique-depot-projet-de-loi-sur-les-mines-coalition-qmm-demande-fin-free-mining/>

Some recommendations partially addressed by Bill 63

Of the 60 recommendations made by the Coalition QMM during the 2023 public consultations, 50 recommendations addressed specific changes to legislation. Disappointingly, none of these recommendations have been adopted by Bill 63 in their entirety. Only aspects of the following five recommendations are found in the bill:

- Subject all mining projects or any expansion in mining activities to public consultations by the *Bureau d'audiences publiques sur l'environnement* (BAPE in French).
- Subject all mining projects and mining expansion to the Environmental Impact Assessment and Review Process (PÉEIE in French).
- Prevent activities that encourage mining speculation, which at the same time undermine both efforts to protect the land and genuine efforts to explore for minerals.
- Reinforce and *dramatically* tighten the conditions for acquiring and renewing claims, to ensure that the granting of a mining claim does not contravene national and local land-use planning and protection objectives.
- Increase the frequency of government inspections of mining sites and the severity of penalties when companies violate standards and regulations.

Indeed, Bill 63 does stipulate that all *new* mining projects will be subject to BAPE assessments, and therefore to the PÉEIE. No change is planned, however, to address expansion projects at existing sites. It is a common practice for the mining industry to submit a first draft of the proposed mine that is smaller in scope compared to the final state of the mined site. Once mining operations begin, mining companies tend to carry out work aimed at enlarging the site. At this time, if the expansion is less than 50% of the initially authorized production capacity,⁴ it may avoid triggering an environmental assessment and BAPE public consultation. Subjecting all new mining projects to environmental assessment and BAPE public consultation is certainly an important step forward. But given the reality for most mining projects in Québec, this proposal falls short of what is needed.

Similarly, the bill includes several measures aimed at curbing mining speculation and providing a better framework for the acquisition of mining claims. The bill states that the objec-

4 For example, Eldorado Gold's Lamaque mine began operations in Val-d'Or on March 31, 2019, with a daily extraction rate of 1,800 tonnes – 200 tonnes below the threshold that would have triggered a BAPE assessment. Barely six months later, the company announced the start of a preliminary economic assessment with the aim of increasing its processing capacity to 2,650 tonnes per day, representing a 47.2% increase to the initially authorized extraction rate (or 2.8% below the 50% threshold that would have triggered a BAPE review of the proposed expansion). See more in Rodrigue Turgeon, Nanikana, Éditions L'Esprit libre, 2024, p. 291. With regard to the Bloom Lake mine on the outskirts of Fermont, a [report produced by Eau Secours and the Fondation Rivières](#) shows the extent to which the various owners of this mine have divided and compartmentalized the assessment with the aim of enlarging the project to levels well above those initially authorized. With regard to the Horne 5 project in Rouyn-Noranda, the probability of expanding the project once the first environmental authorizations have been obtained is confirmed outright by the company's president - listen to the information session organized by the BAPE on May 21, 2024, between 1:32:40 and 1:34:50, available online at https://www.youtube.com/watch?v=yh_31xoPRvk&ab_channel=Bureaud%27audiences-publiquesurl%27environnement.

tives behind these measures are to respond to the “anxiety” and “uncertainty” created by the presence of claims when “no work is being done.”⁵ From the outset, it’s worth highlighting that the founding principle of *free mining* is not being questioned here. The aim behind this measure is to provide “greater predictability” and “reassurance” in the interest of social acceptability or, in other words, to mitigate the widespread opposition to the development of large-scale industrial projects in certain locations. These anti-speculation measures will have a limited impact on the total volume of mining claims issued. According to the Ministry of Natural Resources and Forests, this measure would ultimately reduce the number of mining claims by only 20%. Assuming it were applied in its full scope starting today, this reduction still fails to bring the total surface area of the province currently under mining claim back to the pre-boom levels of 2020. In essence, it is not a question of correcting the fundamental and systemic injustices and violation of certain human rights, such as the right to a healthy environment, the ancestral rights of Indigenous peoples, etc., nor of halting the infringement on those rights. Nor does this measure address the ongoing environmental harm carried out without prior consultation or consent – a reality which has prompted social movements to organize in recent years to confront the mining boom.

In defense of the bill, however, it does provide for additional conditions that need to be met prior to staking a mining claim. What these conditions are, however, are not specified. Instead, the conditions are set to be defined at an unspecified later date, during the months when the draft regulation is studied following the adoption of the bill. Although this measure remains imperfect, it would be better to debate it now and enshrine these conditions directly into law.

Furthermore, a claim holder who has not carried out any actual exploration work in the claimed area will lose the rights to the claim after two or three years, depending on whether or not the claim has already been renewed. While interesting in certain respects, it should be noted that these measures will deprive Québec residents of one of their only tools for protecting land – the ability to stake a mining claim to keep it out of the hands of mining companies. This measure is a double-edged sword in the absence of other concrete measures for land protection. It could serve to reign in the runaway boom in mining claims, while simultaneously depriving civil society of a valuable strategy for protecting deeply cherished environments.

Similarly, an interesting measure in Bill 63 stipulates that private land that is not already included in the perimeter of an active mining claim or land that is undergoing exploration work before its expiry date will automatically be withdrawn from the registry of lands available for mining and no further mining claims will be allowed. That said, this measure is only applicable as described for regions that are not traditionally impacted by mining activity. Primarily Abitibi-Témiscamingue, and to a lesser extent Côte-Nord and Nord-du-Québec, don’t stand to benefit from this measure. Citing historical mining activities from 1988 to the present will suffice to justify the approval of a mining claim on private land, or the renewal of a claim set to expire for failure to carry out exploration activities. In the province of Québec,

⁵ Verbatim from the press conference given by Maité Blanchette Vézina, Minister of Natural Resources and Forests, National Assembly of Québec, May 28, 2024, in response to question 6. Available online at <https://www.assnat.qc.ca/fr/actualites-salle-presse/conferences-points-presse/ConferencePointPresse-94589.html>

private lands cover a mere 8% of the territory. Take away from that 8% the mining claims where sufficient exploration work has been conducted to justify their renewal, and the many private lands located within so-called “resource” regions where the measures do not apply, it becomes clear the gains from adopting this measure will be marginal. Put simply, this measure fails to address the systemic issues caused by prioritizing *free mining* – a principle that goes unquestioned by this bill.

First Nations have finally been granted the power to designate certain areas of their territories as off limits to mining activity. However, once again, this power is limited to those parts of their territories that have not already been claimed and is made conditional upon signing an agreement to this effect with the Crown – a lengthy and complex approach that could dissuade many Indigenous communities.

On the other hand, inspectors for the Ministry of Natural Resources and Forests are to be granted a handful of additional powers, enabling them to demand additional analyses and, in particular, obtain easier and faster access to certain data deemed essential to their inspection work. It is difficult to say whether the frequency of inspections will be increased. This remains unlikely without greater investment and prioritization by the province, but we remain hopeful the effectiveness of these inspections – which still remain few and far between – will be improved. The months following the adoption of the bill will tell.

Finally, with regards to the Coalition QMM’s recommendations that have been partially taken into account by Bill 63, is the issue of fines. The bill proposes a slight increase to the fines levied against a company for environmental and other infractions, but fines remain so minimal they have yet to act as a deterrent to the multinational mining companies operating in Québec. We therefore consider this recommendation to have not been fully met by Bill 63.



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Measures that present potential, but need improvement

The Coalition QMM sees two interesting measures proposed by this bill: wetland areas of interest can now be made wholly or partially exempt from certain mining activities, and a number of discretionary powers will be granted to the Minister of Natural Resources and Forests.

As for the added discretionary powers, it remains to be seen whether these measures will actually be utilized given that, historically, the exercise of this type of discretionary power by the Minister of Natural Resources to protect the environment or respect local populations has been extremely rare. It is our view that this restraint in utilizing these powers speaks to the fundamental conflict of interest held by the Minister of Natural Resources, who is responsible for promoting the mining industry. This is why, in our May 2023 brief, we proposed transferring all discretionary powers relating to mining matters of environmental interest to the Minister of the Environment – a proposal not included in Bill 63.

Section 120 of Bill 63 provides the Ministry of Natural Resources and Forests access to a great deal of information regarding mining activities in the province, including information about “the activities carried out and the quantity and value of the ore extracted,” as well as “a characterization of the mineral substances found in the mine tailings resulting from its operation.” While interesting, this provision has certain limitations. This information must be made publicly available, or at the very least, information that has the potential to impact the environment and water should be made public (in other words, everything that affects *the commons*). In particular, the characterization of mine tailings, which are a highly probable source of contamination, should be included in the information readily available to the public. In the same vein, the Coalition QMM insists it is essential to make public the data regarding the processing of metals and minerals within Québec and the shipping of these materials outside the province. This would enable better traceability of the raw material extracted here.

Interestingly, certain sections of the bill are structured around an added notion of “harm or injury” to the environment. The Coalition QMM sees this recognition of potential environmental damage as an interesting addition to the legislative text. However, it will be important to further clarify the concept of “reparation” for such harm or injury, detailing what restoration of mining sites to a “satisfactory state” truly means. Subject to multiple interpretations, these imprecise terms do not guide the restoration of impacted sites to a “restoration equivalent to the initial state,” as we have advocated.

With regards to redevelopment plans for existing mining sites, Bill 63 borrows from the current *Mining Act* which requires the Ministry of Natural Resources and Forests to obtain the sign-off and “a favourable opinion from the Minister of Sustainable Development, Environment, and Parks.” QMM believes, however, that it would be important to involve more directly the Ministry of the Environment in certain stages of mine development, such as site closure. In addition to this required sign-off, we propose that the Ministry of the Environment also be authorized to issue conditions and impose obligations on the mine developer before any redevelopment plan is authorized.

Setbacks

We are deeply concerned about a number of provisions in Bill 63. First, the bill proposes to amend Section 140 of the current *Mining Act* to exempt forestry companies wishing to build logging roads from needing to obtain a lease to mine surface mineral substances. In our view, this is an extremely dangerous provision that risks diminishing control over an industry that already enjoys a great deal of power and discretion in carrying out its activities. The lack of adequate monitoring and control of surface mining activities that underlies this exemption should therefore under no circumstances be retained when Bill 63 is adopted.

Likewise, responsibility for mining roads – currently administered by the Ministry of Transport in Québec – would henceforth be transferred to the Ministry of Natural Resources and Forests (MRNF). However, the MRNF has neither the competency nor the relevant resources to ensure adequate supervision. Considering that the MRNF is already struggling to monitor, inspect, and manage abandoned sites, we find it hard to imagine that it will find the resources needed to oversee activities related to the construction of these mining roads. It is our view that this transfer of responsibilities risks giving the mining industry an additional *carte blanche*, even as it already enjoys near total self-regulation. The most likely consequence will be an acceleration of mining exploration activities and an increase in impact on the environment and local populations due to this widespread and pervasive activity across the province.

What's more, Bill 63 now adds a 15-year cap on the environmental follow-up for redeveloped sites that have been destroyed by mining activity, after the Minister declares themselves "satisfied" with the work. This measure would allow owners of mining sites that pollute the environment for decades to shift responsibility relatively quickly to taxpayers for managing these extremely problematic sites – like the James Bay Lithium mine, for example, whose contact waters will be laden with arsenic for over 100 years after operations cease, according to the developer's own modeling.

It's worth remembering that Quebec has over 400 abandoned mine sites and the cost of rehabilitating these sites amounts to several billion dollars. The Ministry of Natural Resources and Forests, which is currently responsible for managing these abandoned sites, has neither the technical resources, the financial means, nor the human resources to restore these sites within a reasonable timeframe. Far from forcing those truly responsible for this environmental devastation to manage their messes, the addition of this 15-year cap – which is extremely short relative to what is needed to clean up hundreds of these sites – will simply increase the burden of restoration borne by the state and ultimately, taxpayers. This measure runs directly counter to the polluter-pays and tax justice principles demanded by civil society⁶ and the Coalition QMM.

⁶ According to a recent Léger poll cited above, 83% of those surveyed agreed with "applying the polluter-pays principle so that the *mining industry pays in full* (emphasis added) for its impacts on the environment and public health." See: Rapport : Industrie minière au Québec; Sondage Omniweb pour la Coalition Pour que le Québec ait meilleure mine!, Firme Léger, July 27, 2022, pp. 10-11. On line: <https://eausecours.org/sites/eausecours.org/wp-content/uploads/2022/10/2022-08-02-Sondage-Leger-industrie-mini%C3%A8re.pdf>

Measures that risk causing a boomerang effect

We have additional concerns about Bill 63, even as the full range of potential consequences are not yet fully defined. And while some measures appear interesting at first glance, they must be strengthened to avoid giving the illusion of real improvement while achieving little – or causing outright harm.

Many of these worrying provisions concern the reclamation of mine tailings. When Bill 63 was tabled, the Minister of Natural Resources and Forests dedicated a large part of her speech to the importance of a circular economy and the reclamation of mine waste to limit what's being dumped into the environment. These are interesting ideas in principle, but as currently practiced, raise red flags. Promoting a circular economy requires both deep consideration for the end use of the metals and minerals that have been extracted and tangible action to ensure they can be recovered in a way that does not sacrifice the health of Québec residents or the environment.⁷ Simply encouraging additional exploitation of a new form of deposit – tailings – only increases the pressure on ecosystems by adding a secondary round of exploitation to an area that has already been mined.

What's more, recent studies reveal that this type of operation is no more “green” or “sustainable” than traditional mining. Reclamation activities involve adding new chemicals, secondary crushing, the consumption of a staggering amount of water and electricity, and the use of fossil fuels – all adding to the environmental impact of mining while failing to adequately address the short-term or superficial use for many of the minerals extracted. Whether the metals and minerals are mined from a greenfield site or mined through tailings reclamation, what will make a difference are strict environmental safeguards that are regularly monitored and enforced.

Added to this are numerous concerns about the nature of the operations that may now be permitted under the guise of “circularity.” These concerns have already been publicly expressed regarding projects like the reclamation of asbestos tailings in the Val-des-Sources (formerly Asbestos) and Thetford Mines regions. Indeed, while the concept of extracting minerals such as magnesium from these tailings is interesting in theory, the repeated grinding of the asbestos present in this mine waste into ever finer particles of dust is cause for great concern. It would increase the health risks for workers and populations living near these sites. Similarly, the so-called energy “transition” relies heavily on the extraction of minerals such as rare earths. However, uranium and thorium – two well-known radionuclides – are often present in rare earths-containing ores. The Strange Lake rare earths project is slated for development northeast of Schefferville, with the ore to be milled both at the project site and on the banks of the St. Lawrence River on the outskirts of Sept-Îles. The tailings for this project will be heavily loaded with uranium and thorium. Considering that exploration and

⁷ We make this point of clarification to avoid reproducing the infamous example of the Horne smelter in Rouyn-Noranda, which claims to be a “recycling” site for metal-containing waste. The example speaks for itself: reproducing this type of activity without strict environmental guarantees, poisoning the air and water which surround the facility, and sacrificing thousands of hectares of land by contaminating the soil with additional waste is clearly not a viable solution to the claims of recycling extracted materials.

mining for uranium have been prohibited in Québec since 2014 when a moratorium came into effect, we have serious concerns that uranium mining will be indirectly permitted under the pretext of “reclaiming” mine tailings.

Many questions go unanswered and need clarification. One such clarification is regarding the additional powers granted to mine inspectors. It is not yet clear who will be authorized to conduct or accompany these inspections. As it stands, the bill loosely states they may be accompanied by “any person whose presence is deemed necessary for the purposes of the inspection.” This poses a risk that inspectors will be accompanied by employees of engineering firms hired by the mining companies, since these employees are qualified to carry out such work. This type of scenario, however, has the obvious potential to give rise to conflicts of interest or open the door to a form of privatization of inspection activities overseen by the Ministry of Natural Resources and Forests. We advise clarifying these elements and adjusting the provisions, should these fears prove well-founded.

Conclusions of QMM's analysis

In summary, the Coalition QMM notes with disappointment that Bill 63 fails to address any of the Coalition's six priority areas – priorities which reflect the demands of the majority of Québec residents. Likewise, only 10% of the legislative and regulatory recommendations made by the Coalition QMM during the recent public consultations on the mining framework have been partially taken into account in the current version of the bill. This current revision of the *Mining Act* presents a golden opportunity to rectify a situation that is neither socially or environmentally sustainable. So long as a strict framework to regulate the mining industry's ecocidal activities is absent, we will continue to be led head-first into a wall of climate and biodiversity crises. The meagre advances for the environment and the rights of local populations currently on the table appear overshadowed – if not outright threatened – by the multiple setbacks we have identified in the current version of this bill, as it stands.

That said, **Bill 63 does contain some interesting legislative measures and is a rare opportunity to advance the laws and regulations governing mining activities in Québec. If legislators adopt the necessary amendments to cover our six priorities, the Coalition Québec meilleure mine will be in favour of adopting Bill 63, an Act to amend the Mining Act and other provisions.**



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MiningWatch Canada



APPENDIX 1

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Recommendations for changes to the laws and regulations governing mining activities, as proposed by the Coalition Québec meilleure mine as part of the consultations on the Québec mining framework held during the spring of 2023¹⁰

OUR RECOMMENDATIONS

1. [Legislative amendment] Bring all laws governing mining activities in Québec in line with the constitutional, international, and inherent rights of the eleven Indigenous nations present in Québec.
2. [Legislative amendment] Repeal section 246 of the *Act respecting land use planning and development*.
3. Introduce a moratorium on the issuance of all new mining claims until the mining framework is overhauled.
4. [Legislative amendment] Broaden the scope and application criteria of the mechanism to designate “Territories Incompatible with Mining Activities” (“*Territoires incompatibles à l’activité minière*” - TIAM in French) so that both municipalities and Indigenous nations can protect sensitive environments in their territories, such as tourist and vacation areas, regional parks, cultural sites, agricultural lands, as well as lakes, waterways, wetlands, eskers, and sources of drinking water.
5. [Legislative amendment] Broaden the application of section 82 of the *Mining Act* so that in the case of a land-use conflict, Québec can suspend and revoke any mining claim for the purpose of “public interest” – not just “public utility” as currently defined – notably for environmental protection and for the respect of Indigenous rights.
6. [Legislative amendment] Integrate international land protection targets into the *Mining Act*, thus making it mandatory to achieve land biodiversity conservation objectives throughout the province of Québec.
7. [Legislative amendment] Strengthen the mechanism to designate “Territories Incompatible with Mining Activities - TIAM” to allow any area to be designated as such, including sites already subject to mining claims.

¹⁰ Taken from *Mémoire - Consultation sur l’encadrement minier*, Coalition Québec meilleure mine. May 18, 2023. Available online: <https://quebecmeilleuremine.org/wp-content/uploads/2023/05/2023-05-18-QMM-Memoire-Consultation-sur-lencadrement-minier.pdf>

8. [Legislative amendment] Reinforce the protection of local populations and individuals against the risk of abusive lawsuits brought by mining companies in response to actions taken to protect the environment, human rights or the public interest.
9. [Legislative amendment] Amend sections 65 and 235 of the *Mining Act* to require holders of mining claims to inform owners and leaseholders of their right to refuse mineral exploration work.
10. Base social acceptability of mining on respect for the self-determination of Indigenous peoples and the will of local populations regarding the development and protection of the places they live and the environment.
11. [Legislative change] Reform the mining system in such a way as to give precedence to the decisions made by local populations rather than to the mining industry, while respecting provincial targets for land protection applicable to each region.
12. Make planned reduction of the global mineral footprint a priority for government intervention in the mining sector.
13. [Legislative change] Significantly increase royalties and taxes for mining companies.
14. [Legislative change] Ensure that mining royalties are used to finance projects and programs that diversify local economies in the best interests of future generations affected by the extraction of mineral resources.
15. Intervene to abolish the socio-economic inequalities experienced by local populations resulting from the presence of the mining industry (such as large wage gaps, access to housing, reduced supply of public and private services, etc.).
16. Require mining companies to contribute financial resources to a regional fund, administered by members of the nearby First Nation and civil society, according to the real priorities of the community, not those of the company.
17. [Legislative change] Transfer the powers of the Minister of Natural Resources linked to matters of the environment and land-use planning to other government entities independent of their economic mandate, depending on the real nature of the decisions to be made.
18. [Legislative amendment] Establish a fast-track mechanism for suspending and revoking mining claims, open to all interested parties with principles and provisions enshrined in legislation.
19. [Legislative change] Remove the discretionary power to revoke or suspend mining claims from the hands of the Minister of Natural Resources, and transfer it broadly to the Minister of the Environment, who must give priority to social considerations in terms of respect for Indigenous rights, land use planning, and municipal administration.
20. [Legislative change] Reform the mining system to give local decision-making bodies the full capacity to carry out integrated planning and development of their territory, including the right to refuse mining activities in whole or in part on all of their territories.
21. Prevent activities that encourage mining speculation, which at the same time undermine efforts to protect the land and genuine efforts to explore for minerals.
22. [Legislative amendment] Reinforce and dramatically tighten the conditions for acquiring and renewing claims, to ensure that the granting of a mining claim does not contravene national and local land-use planning and protection objectives.
23. [Legislative change] Inform the public upstream of any mining project before mineral exploration rights are granted, using a simple, clear and free process for accessing information.

24. [Regulatory amendment] Make mineral exploration work subject to prior public consultation, independent of the project developers.
25. [Legislative amendment] Subject all mining projects or any expansion in mining activities to public consultations by the Bureau d'audiences publiques sur l'environnement.
26. [Legislative change] Abolish self-regulation by mining companies
27. [Legislative change] Establish a registry listing mining company ownership to clearly inform the public about the connections to subsidiaries, parent companies, investors, and shareholders.
28. [Legislative change] Prohibit greenwashing advertising by mining companies.
29. [Regulatory amendment] Require private firms specializing in public relations to publicly declare, in writing and at the beginning of any information session on a mining project, their contractual relationship with mining companies.
30. [Legislative amendment] Guarantee the protection of the public's right to freedom of expression on mining issues by strengthening measures to prevent mining companies from intimidating and launching SLAPP suits against decision-making bodies or individuals, in particular by protecting professionals who are particularly exposed to the risk of abusive ethical complaints.
31. [Legislative and regulatory change] Adopt a new environmental regulation under the *Environment Quality Act* specific to the mining sector, like what already exists for other industrial sectors in Québec.
32. [Regulatory change] Prohibit the dumping of mining waste in any lake, source of drinking water or environment of high ecological value.
33. [Legislative and regulatory amendment] Apply the best existing standards, based on science and Indigenous traditional knowledge, for the protection of water, air, biodiversity, climate and human health.
34. [Legislative and regulatory change] Increase the frequency of government inspections of mining sites and the severity of penalties when companies violate standards.
35. [Legislative and regulatory change] Subject all mining projects and mining expansions to the *Environmental Impact Assessment and Review Procedure* (PEEIE in French)
36. [Regulatory amendment] Subject mining exploration work to environmental assessment.
37. [Legislative change] Prohibit any mining project that, for economic reasons, excludes backfilling mine waste in pits.
38. [Legislative amendment] Compel the government to respect and apply the opinions issued by the Bureau d'audiences publiques sur l'environnement du Québec (BAPE).
39. [Regulatory amendment] Support financially the participation of Indigenous nations and civil society in environmental assessment processes.
40. [Legislative and regulatory amendment] Apply the polluter-pays principle throughout the mining sector in earnest.
41. [Legislative and regulatory amendment] Transfer all government powers and responsibilities for overseeing, monitoring, and sanctioning mining activities to the Ministry of the Environment.
42. [Regulatory amendment] Create a fund to provide financial support for community-based environmental monitoring studies.
43. [Regulatory amendment] Make the final reclamation and site closure plan subject to a specific mandate from the Bureau d'audiences publiques sur l'environnement (BAPE).

44. Drastically increase the funding allocated annually to mine site reclamation for sites under the care of provincial governments.
45. Prioritize public investment in mine site restoration over exploration and new mining.
46. [Regulatory change] Provide a regulatory framework for the use of biotechnologies in mine restoration.
47. Evaluate the real benefits of the mining industry by accounting for the full costs associated with the harmful impacts of mining activities.
48. [Legislative and regulatory change] Make information on taxes paid by mining companies available to the public.
49. Stop presenting the exploitation of critical and strategic raw minerals as the solution to the climate crisis.
50. Prioritize immediate actions to reduce greenhouse gas emissions at the source, such as urban sprawl, individual transportation (electrified or not), and the over-consumption of energy.
51. Adopt a plan to progressively reduce the exploration and exploitation of minerals that are not on the list of critical and strategic minerals.
52. Increase the circularity of the economy to halve Québec's material footprint to 16.6 tonnes per person, and increase the circularity of the Québec economy from 3.5% to 15%.
53. Adopt a target to reduce Quebec's material footprint by 50% by 2050, with a plan and interim targets to be reached every 5 years.
54. Prioritize investment in recycling, reuse and circularity of minerals, including urban mines.
55. Stop public subsidies for raw mineral extraction.
56. Significantly increase costs per tonne of mining waste produced and volume of water used.
57. Surcharge luxury minerals such as gold, silver, diamonds, etc.
58. Require mineral recovery/recycling rates of 95% by 2030, including all forms of batteries (European model).
59. Adopt targets for reducing the number of private cars, and prioritize massive investment in accessible, efficient, affordable or even free public transport.
60. [Legislative and regulatory change] Require metal and mineral recycling plants to abide by a regulatory framework that complies with the strictest international standards for the protection of public health and the environment.