

October 15, 2008

The Honourable Michael Gravelle  
Minister of Northern Development and Mines  
99 Wellesley Street West  
Room 5630  
Toronto, ON M7A 1W3  
[miningact@ontario.ca](mailto:miningact@ontario.ca)

Dear Minister Gravelle,

**Re: Modernizing Ontario's Mining Act, EBR Registry Number: 010-4327**

On behalf of Ontario Nature, I am pleased to provide comments with regard to the review of Ontario's *Mining Act*. Overhauling this archaic piece of legislation is long overdue.

Ontario Nature works to protect and restore natural habitats through research, education and conservation. We represent over 30,000 members and supporters and over 140 member groups across the province, including 14 member groups in northern Ontario.

Ontario's *Mining Act* has been widely criticized for its lack of consideration of environmental protection and Aboriginal and private landowner interests. For example, the Environmental Commissioner of Ontario has stated that Ontario's "century-old system continues to rely on principles that are no longer reflective of modern planning or resource management." While Ontario's mining industry is a world leader in terms of production and exports, it has a long way to go in terms of promoting and engaging in sustainable and socially just mining practices. The current legislative review offers an opportunity to update the rules and bring them up to the standard of modern mining regimes elsewhere in Canada and around the world.

Below we outline five recommendations for modernizing the *Mining Act* to address the serious environmental and social issues arising from this outdated piece of legislation.

- 1. Reform the free entry system to ensure that comprehensive land use planning occurs before mining activities are allowed to proceed.** Such planning prior to development is necessary to ensure that ecological, social and economic values are considered and weighed before land-use decisions are made. As explained by the Environmental Commissioner, the government's current approach to mineral development "all but ignores that mining is but one of many possible land uses in northern Ontario." Land-use planning prior to development has advantages for industry as well. According a recent report on reforming the *Mining Act* by EcoJustice and the Canadian Institute for Environmental Law and

Policy, “land use planning in advance of staking, exploration and mining activity will reduce the potential for conflict between those with competing interests as to how lands should be used, and will thereby decrease uncertainty over proposed mining projects and provide stability to the mining industry” (*Balancing Needs, Minimizing Conflict*, p. 7). Ensuring that land use planning precedes staking or development is particularly important in Ontario’s far north, where the Premier has committed to protecting over half of the landscape through land use planning. It is critical that revisions to the *Mining Act* mesh with and support this important commitment.

- 2. Require environmental assessments to cover each stage of the mining process.** Currently, mining operations in Ontario are exempt from environmental assessment, a disturbing and unacceptable situation given the significant environmental impacts of mining. Each stage of the mining process can be environmentally devastating. Exploration requires drilling, blasting and tree clearing; infrastructure such as roads and transmission lines fragment sensitive habitat; mining operations generate waste rock and tailings; waste water is laced with toxic chemicals. At a single mining operation near Red lake in northwestern Ontario, 20,000 tonnes of underground arsenic trioxide is seeping into the surrounding groundwater. The revised act must prevent and mitigate such impacts by requiring a comprehensive environmental assessment of all stages of mining operations.
- 3. Enshrine requirements for First Nations consent.** The year 2008 saw a number of regrettable incidents where First Nations leaders were thrown into jail for opposing mining operations that were proceeding in their traditional territories without their consent. Such problems must be avoided in the future by requiring prospectors and mining companies to obtain the free, prior and informed consent of First Nations communities prior to staking and exploration.
- 4. Require financial security for clean-up and reclamation.** While mining generates considerable economic activity, the massive clean-up and reclamation costs usually fall on taxpayers. Nearly 6,000 abandoned mine sites are scattered across Ontario, of which approximately 4,000 are potentially hazardous to human health and the environment. The estimated cost to clean up these sites is \$500 million. The problem of abandoned mines highlights the need to require companies to provide financial security for clean up and reclamation costs prior to being allowed to proceed with development.
- 5. Increase the rights of private landowners to address issues with the free entry system.** There is currently no requirement for prospectors to inform or obtain consent from private landowners prior to staking on their property. Any prospector may stake a claim on private property where the crown owns the subsurface rights. The revised Act should grant landowners the right to veto prospecting and exploration on their property.

Thank you for this opportunity to comment on this important legislative initiative. We look forward to seeing progressive environmental and social reform in a modernized *Mining Act*, demonstrating that both the Ontario government and mining industry are world leaders in balancing environmental, social and development values on the landscape.

Yours truly,

Dr. Anne Bell  
Senior Director of Conservation and Education