



MiningWatch Canada

Mines Alerte

Suite 508, 250 City Centre Avenue, Ottawa, Ontario, Canada K1R 6K7
tel. (613) 569-3439 — fax: (613) 569-5138 — info@miningwatch.ca — www.miningwatch.ca

An Insult to Aboriginal People

A Critique of the *Mining Information Kit for Aboriginal Communities* published by NRCan, PDAC, MAC and CAMA

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Industry Associations (the Prospectors and Developers Association of Canada, the Mining Association of Canada, and the Canadian Aboriginal Minerals Association) and Natural Resources Canada have developed and published an “Aboriginal Mining Toolkit” which they have been heavily promoting since its release in September 2006.

We have been asked by a number of Aboriginal organizations and environmental groups to provide a critique of the Toolkit.

Although it provides a primer on activities at the stages of mine exploration, development, operation and closure, it:

- glosses over the serious environmental, social and cultural impacts of mining on Aboriginal governments and communities;
- omits any discussion of the relationship of mineral staking and exploration to questions of Aboriginal Rights and Title.
- provides no resources, links or bibliography for Aboriginal people and organizations

It is an insult to Aboriginal people who are struggling to deal with mining impacts and issues in their territories.

Some examples:

1. *Claim Staking and Aboriginal Rights and Title.* The point at which a third party interest is created on Aboriginal traditional territory is the moment when the mineral claim is staked. In British Columbia, this can be done by anyone on the Internet. In

most jurisdictions, prospectors still have to go out and plant claim stakes and register the claim. Section 35 of the Constitution as interpreted in the Delgamuukw, Haida-Taku, Mikisew, and Musqueam cases, requires consultation and accommodation of Aboriginal landholders by the Crown before such an interest is created. In Ontario, Kitchenuhmaykoosib Inninuwug has taken the Crown to court, arguing that the Ontario Mining Act is unconstitutional. For any First Nation faced with a mining claim on its territory, knowing about this dispute is crucial to an assertion of rights and title. Staking is not even mentioned in the toolkit.

2. *Exploration – Environmental Impacts.* This section reads like a promotion for the Prospectors and Developers Association, making assertions like “[prospectors] understand that they have to respect the rights of others, to operate safely, and to take care not to harm the wildlife, land or water.” Many First Nations have been faced with fuel spills, damage to fish spawning areas, cut-lines and roads through the forest, unreclaimed trenches and drill sites, and garbage left behind that attracts wolverines and bears. The Toolkit says that these impacts can be mitigated, but says nothing about what communities can do if they are not. Surely, communities dealing with mining exploration need to advice on how to handle “bad actors”, not just reassurance that there are none.
3. *Exploration – Social Impacts.* This section indicates that there may be problems with “strangers in the community” who may “worsen existing social problems” and advises the community to “offer cultural awareness training”. If the strangers are racist or drug dealers or violent – a situation faced by many communities facing an exploration rush – this is no solution at all.
4. *Exploration – the Talisman Consulting Experience.* The example given is a model of an Aboriginal-owned consulting firm; it is not typical of the junior companies that most First Nations have to deal with. The Talisman example belongs in a PDAC publication directed at exploration companies, not in a Toolkit that is supposed to help Aboriginal communities deal with mining in a realistic way.
5. *Mine Development – Feasibility Studies.* The Toolkit fails to mention that almost all mine feasibility studies are considered to be proprietary by the companies and are not available to the Aboriginal communities that will have to live with the impacts.
6. *Mine Development – Environmental Assessment and Permitting.* Almost nothing is said about how Aboriginal governments can use environmental assessment and permitting processes to challenge and/or improve a mine plan, nor are there links or resources provided to places where this had been done. The impression is given that all impacts can and will be mitigated. There is no reference to the Provincial role in environmental assessment. If any community is seriously engaged in a mine development, they need to hear all sides; only one is given in the toolkit.
7. *Mine Development – Economic Opportunities.* There is nothing in the Toolkit about the difficulties in negotiating Impact Benefit Agreements, nor is there reference to

resources such as “[Dealing Full Force](#)” (a study by the North South Institute) that would help communities do this more effectively. The Musselwhite example says nothing about problems the community has been facing in regard to the revenue they agreed to accept, adequate resources for environmental monitoring, and failure of the job strategy. The only links are to the company sites.

8. *Mine Operation – Environmental Impacts*. Once again, the Toolkit assumes that all impacts can be mitigated and addressed, but offers no help when this does not work. It also says nothing about all the places where it has dismally failed.
9. *Mine Operation – Employment Opportunities*. The Toolkit says nothing about the challenges to Aboriginal employment in the industry and presents a very rosy picture. There is no reference or help offered for situations where companies set Grade 12 as an employment minimum, or where racism in the mining camp undermines Aboriginal interest in the jobs, or where the social costs of fly-in/fly-out operations start to rip the home community apart. It also oversimplifies the difficulties in trying to establish businesses that can contract with the mine.
10. *Mine Operation – Diavik Example*. The process of negotiation between the five First Nations involved and the company was extremely difficult, time-consuming and complicated, and continues to be. There is nothing in the Toolkit that would help other communities find resources to undertake this effectively. The First Nations were also in a much better position financially and politically to negotiate than some of the older treaty areas of Canada, though still at a disadvantage. However, there is no reference to any of this in the example. The only contact for more information is the company.
11. *Mine Closure*. This section repeats comments like “Mining is a temporary use of the land” and “Areas affected by mining activity should become viable and self-sustaining ecosystems that are compatible with a healthy environment and with human activities.” It does nothing to tell communities how to deal with closure plans that don’t work, reclamation bonds that are inadequate, or remediation activities that do not address long-term problems. For any community or Aboriginal government faced with the reality of the closure of a large, acid-generating mine, or with a tailings spill, there is no recognition, no advice and no resources.
12. *Mine Closure – Polaris Example*. To use an example from Nunavut, where the Inuit control the government and have power to enforce their needs, is not appropriate for most Aboriginal governments and communities in Canada, who have to fight for every inch of power they get.