Prospectors and Developers Association of Canada
l'Association canadienne des prospecteurs et entrepreneurs

October 10, 2008

The Hon. Michael Gravelle
Minister of Northern Development and Mines
Government of Ontario
99 Wellesley Street West
Room 5630
Toronto, Ontario
M7A 1W3

Dear Minister Gravelle:

Re : EBR Registry No. 010-4327 – Modernizing Ontario's Mining Act

On behalf of the Prospectors and Developers Association of Canada (PDAC), I am pleased to forward the enclosed submission in response to the August 2008 Discussion Paper entitled "Modernizing Ontario's Mining Act."

The PDAC is a national organization with 7,000 members representing the range of companies and individuals in mineral exploration and development. Our corporate members include senior producing companies and junior companies (small and medium enterprises). Our individual members include prospectors, geoscientists, geological consultants, company executives, and junior exploration and senior mining company representatives. Our members also include people in the financial, legal, and academic communities, students, and those who supply services and equipment to the mineral industry.

The PDAC commends the government for undertaking this important initiative. We believe that it has the potential to promote better relationships between the exploration and mining industry and other key stakeholders, notably Aboriginal communities and organizations, while maintaining Ontario's enviable position as a leading producer of minerals and an attractive jurisdiction for the investment of exploration funds.

As the submission explains in more detail, the PDAC believes that the appropriate amendments to the *Mining Act* do not encompass fundamental alterations to the existing regime for acquiring mineral tenure in Ontario (commonly, but in our view inaccurately, called "free entry"). Nonetheless, the submission proposes a number of procedural and administrative changes that we believe will respond to the principal issues and concerns that other stakeholders have raised, and must therefore be properly addressed. In addition, we believe that our recommendations are consistent with, and will promote, the continued exploration and development of the province's mineral endowment in an environmentally and socially responsible manner. 2/…

The Importance of Mining for First Nations

You are well aware of the PDAC's strongly held view that responsible development of Ontario's mineral wealth must ensure, through sound public policy, full and fair opportunities for the province's First Nations to participate in all phases of the exploration and mining cycle. Our approach is the same for all provinces and territories of Canada, as exemplified by the historic Memorandum of Understanding that the PDAC signed with the Assembly of First Nations in March of this year.

While we would emphasize the urgent need for the provincial government to carefully assess the impact of amendments to the *Mining Act* on future economic opportunities for all Ontarians, we urge you to give special consideration to the potential consequences for the province's First Nations. Like other regions of the country, mineral resource development in Ontario is critical to the economic well being of Aboriginal communities, especially in the Far North. Northern communities themselves have recognized this, as shown by the ever-increasing numbers of Aboriginal persons who are directly employed in the exploration and mining industry or in mining-related businesses.

In many areas of Canada, mineral resource development is the only economic activity that is capable of creating significant wealth and delivering the employment, training and business development opportunities that First Nations communities so urgently need in order to narrow the gap between their standard of living and that of Canadians generally. We therefore stress the importance of these factors as you consider any potential legislative amendments that, even though well meaning, could adversely impact the future of Ontario's exploration and mining sector, and therefore that of First Nations, without providing any proportionate benefit in return.

Land Use Planning

For similar reasons, we urge the provincial government to carefully consider the consequences of prohibiting mineral exploration and mine development in large tracts of land in the northern regions of the province in order to establish an extensive network of protected areas in Ontario's boreal forest region, as announced by Premier Dalton McGuinty on July 14 of this year.

The government is to be commended for its willingness to take definitive action to respond to the potential consequences of climate change. The industry shares this concern, as witnessed by the commitments that companies in the mining sector have made toward reducing the total quantity of greenhouse gases emitted as a result of mineral extraction and processing activities.

However, we respectfully submit that prohibiting mineral exploration and mine development in 50 per cent of Ontario's boreal forest, as the government apparently intends, is unlikely to make a meaningful difference in our collective efforts to respond to

climate change. As pointed out in our submission, properly managed exploration programs, should have little, if any, long-term impact on the environment

The PDAC recognizes the importance of protecting the long-term viability and integrity of Ontario's boreal forest. While this unique region of Canada may be threatened by other adverse developments, for example, the continuing eastward spread of the mountain pine beetle, we submit that mineral exploration and mine development should not be counted among the activities that should be forbidden in a large fraction of the boreal region.

While recognizing that Ontarians, like Canadians generally, place a high value on conservation and environmental protection, the exploration and mining industry has long urged governments to carefully assess the long term implications of withdrawing extensive areas of land from mineral exploration. We therefore urge the government to develop a more refined approach to land use planning that recognizes the distinctive nature of the impacts that potentially result from different forms of resource development, the most obvious examples being mineral exploration and mining, forestry and power generation. This approach should focus on the valued components of the landscape that could be affected, the potential benefits that could be gained, and the practical measures required to counteract adverse impacts.

In our view, such an approach would achieve a superior level of public governance and better serve the overall needs of the province. In addition, for the reasons pointed out above, policy decisions that deny Ontarians the opportunity to responsibly avail themselves of their mineral heritage could have particularly negative implications for First Nations communities, given that mineral exploration and mining represent the best opportunity for the economic diversification and long term sustainability of Aboriginal communities.

Provision of Adequate Time for Consultation and Discussion

The PDAC agrees with the need to resolve the key issues identified in the Discussion Paper quickly and conclusively in order to bring greater certainty to all those affected. However, we concur in the concerns that Grand Chief Stan Beardy of the Nishnawbe Aski Nation (NAN), the Oski-Machiitawin Chiefs Steering Committee and other parties have voiced, namely that the provincial government has allocated insufficient time for interested parties to respond to this review. As a result, the process has not provided adequate time to inform communities of the issues and to gather comments and proposals.

Similarly, the PDAC's own members have expressed their disappointment with the manner in which the consultation was launched and has been conducted. Instead, a more interactive, consensus-oriented approach should have been implemented in order to

inform the public of the issues and bring people together with a view to striving for consensus-based solutions before the drafting of legislation.

Despite these limitations, we have applied our best efforts to preparing as comprehensive a response as possible. However, we hope that the government will give due consideration to any further points that we may wish to address at a later date and throughout the legislative and regulatory process. We also recommend that you give the same latitude to other stakeholders, notably First Nations. Doing so will help ensure that the proposed amendments to the *Mining Act* contribute to the process of reconciliation that the courts have identified as the ultimate goal of establishing better relationships between Aboriginal people and Canadians generally, through consultation, accommodation and other initiatives.

Likewise, we urge you to allot sufficient time for representatives of industry and other interested parties to liaise directly with members of the provincial legislature, whether through Committee hearings or otherwise, once a draft bill is introduced. Finally, given that legislative changes at the working level are likely to be implemented by revising the related regulations, it is essential that sufficient time be allowed for consultation at that stage of the process as well.

Concluding Remarks

We trust that you, Premier McGuinty and your cabinet colleagues will find the PDAC's submission helpful as you develop, over the coming weeks, the draft legislation intended to achieve the balance contemplated by the Discussion Paper. Needless to say, we would be pleased to answer any questions or provide further information that might assist.

Thank you for the opportunity to contribute to this important work.

Yours truly,

PROSPECTORS AND DEVELOPERS ASSOCIATION OF CANADA

Tony Andrews
Executive Director

encl. (1)

c.c. Ontario Mining Association
Attn: Mr. Chris Hodgson, President

Ontario Prospectors Association
Attn: Mr. Garry Clark, Executive Director

PROSPECTORS AND DEVELOPERS ASSOCIATION OF CANADA
L'ASSOCIATION CANADIENNE DES PROSPECTEURS ET ENTREPENEURS

SUBMISSION IN RESPONSE TO THE DISCUSSION PAPER ISSUED BY THE GOVERNMENT OF ONTARIO ON AUGUST 11, 2008 ENTITLED "MODERNIZING ONTARIO`S MINING ACT"

Toronto, Ontario

October 10, 2008

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1. INTRODUCTION AND OVERVIEW

1.1 Prospectors and Developers Association of Canada

The Prospectors and Developers Association of Canada (PDAC) is a national association that represents the interests of the mineral exploration and development industry. The PDAC, which celebrated its 75th anniversary in 2007, has as its mission statement to protect and promote the interests of the Canadian mineral exploration sector and to ensue a robust mining industry in Canada. The PDAC works in close collaboration with the provincial and territorial organizations in each of the provinces and territories whose goals and objectives are similar to those of the PDAC.

The PDAC fulfills its mandate through a broad and varied range of initiatives in the areas of advocacy, information and networking. It is especially recognized for its success in promoting high standards of technical, environmental, safety and social practices for mineral exploration in Canada and internationally. The PDAC originated and continues to administer Environmental Excellence in Exploration ("e3"), a comprehensive, multi-lingual internet-based toolkit that offers leading examples of environmental and social responsibility in the minerals industry. More than 2600 users in over 40 countries have registered for this service, which is available worldwide without charge.

Notwithstanding the widespread acceptance of e3, the PDAC is continuing to encourage high standards of practice and procedure through the development of a comprehensive *Framework for responsible exploration*, a comprehensive code of practice that will encompass high level principles, performance guidelines, performance criteria and indicators, reporting guidelines and a consideration of a mechanism to verify compliance.

The PDAC believes that the review of the Ontario *Mining Act* (the **"Review"**) announced in the Discussion Paper released on August 11, 2008 (the **"Discussion Paper"**) constitutes a significant opportunity to contribute to the resolution of a number of critical issues that have had an increasing impact on mineral exploration and mine development in Ontario. The PDAC also welcomes the opportunity to propose recommendations that are intended to ensure continued economic benefits from the mining industry for all Ontarians, consistent with the development of the province's mineral resources in an environmentally and socially responsible manner.

The PDAC has therefore set out its detailed comments and recommendations in Section 2 of this submission below, in response to the five key critical policy issues affecting the Ontario *Mining Act* that the Discussion Paper highlights.

1.2 Mineral Exploration – Essential to Mining and Important to the Province

Mineral exploration is the first phase of the lengthy and challenging process that, in a few fortunate cases, ultimately leads to confirmation of an economic deposit

and, if the necessary conditions are present, a decision to proceed to production. One need only list the producing mines that are currently active in Ontario in relation to the total number of exploration programs conducted over the past decade to realize that the success rate for exploration is extremely low. Economic mineral deposits are very rare and difficult to find.

Operators frequently carry out continuing exploration at producing properties or in the immediate vicinity concurrently with active mining. However, all mines eventually come to an end and proceed to the reclamation and abandonment phase. Without exploration, new reserves to replace those that have been exhausted will simply not be found.

The positive economic impact of mineral exploration is particularly important for more remote areas of the province where opportunities for employment, contracting and other economic activities may be limited. Recognizing the mutual benefits that can be gained, the mineral exploration sector gives high priority to establishing good relations with, and offering employment to, local residents including Aboriginal persons, and to purchasing goods and services from local businesses, including Aboriginal owned businesses.

2. THE PDAC'S RESPONSE TO THE FIVE CRITICAL POLICY ISSUES

2.1 Mineral Tenure System and Security of Investment

2.1.1 A number of issues and concerns have motivated the provincial government to undertake the Review and to contemplate amending the Ontario *Mining Act.* While these issues and concerns touch on many aspects of the mineral exploration and development cycle, to a large extent they pertain to three principal areas: the relationship between resource development and Aboriginal people; the preservation of tracts of land sufficiently large to sustain the integrity of important ecosystems in wilderness regions of the province; and the need to strike a balance between the rights of owners of private property and the entitlement of prospectors to explore Crown-owned mineral resources that potentially underlie them.

2.1.2 A number of stakeholders who have identified these issues and concerns have proposed that the government address them by modifying or even abandoning the existing regime for the acquisition of mineral tenure in the province.

2.1.3 As outlined in the Discussion Paper, the current system for acquiring mineral tenure in Ontario incorporates four key elements:

(a) the right of prospectors to enter lands that contain minerals owned by the Crown to undertake mineral exploration, except where such lands have been withdrawn from staking or otherwise designated as off-limits;

(b) the right of a prospector to secure mineral tenure by staking a claim and registering it with the provincial mining recorder;

(c) the exclusive right of the claim holder to conduct exploration on the lands that are covered by the claim; and

(d) subject to the compliance with the applicable laws and regulations, the right of the mineral tenure holder to secure a mining lease from the Crown in order to put the minerals discovered by exploring the claim into production.

2.1.4 The PDAC believes that legislation and regulations can address the relevant issues and concerns through administrative and procedural changes while maintaining the existing regulatory framework. In our respectful view, this is true both for the issues and concerns that Aboriginal stakeholders have expressed, as well as those brought forward by private landowners. We have therefore outlined the steps that we believe are required in the responses set out below to the other four critical policy issues that the Discussion Paper raises.

2.1.5 Mineral exploration is subject to numerous risks and uncertainties, many of which are simply unavoidable. If changes to legislation also raise the spectre of denial or loss of mineral tenure or make it more difficult to secure, exploration dollars will almost certainly be diverted to other jurisdictions that promise greater investment security. If this occurs, the resulting flight of capital will put Ontario at a serious competitive disadvantage.

2.1.6 It is therefore essential that, notwithstanding its promising geological potential, Ontario maintains a transparent, reliable and predictable system for the acquisition and maintenance of mineral tenure. We submit that the province can best do so by maintaining a regulatory regime that preserves the four key elements of the existing system that are outlined above.

2.1.7 While the PDAC advocates the retention of the existing mineral tenure system, we submit that “free entry” is an ambiguous and misleading term. We also note that it does not appear anywhere in the legislation. Moreover, the continued use of this term promotes confusion, misunderstanding and conflict as to how mineral tenure is acquired in Ontario as well as other jurisdictions where similar systems prevail. We therefore urge the government to make a particular effort, as it proceeds further with the Review, to use clear and concise language to describe the mineral tenure regime. In our view, this will help all stakeholders to better understand the true nature of the tenure granting process and the role that it plays in conjunction with the many other legal requirements that apply to mineral exploration and mining in Ontario.

2.2 Aboriginal Rights and Interests Related to Mining Development

2.2.1 The exploration and mining industry fully respects constitutionally protected Aboriginal and treaty rights and advocates the prompt and just settlement of Aboriginal land claims. In addition to supporting these principles, member companies and the PDAC have demonstrated their commitment to improving the lives of Aboriginal people by:

(a) providing employment, training and contracting opportunities to Aboriginal communities at all phases of the exploration and mining cycle;

(b) striving to engage and consult effectively with Aboriginal people in relation to resource development initiatives, despite the absence of government policies or a regulatory framework for doing so;

(c) sharing the rewards of mineral production with Aboriginal people through Impact and Benefit Agreements and Participation Agreements; and

(d) advocating that governments share with Aboriginal people some of the revenues that governments receive through the exploitation of non-renewable resources on the Crown lands that also constitute the traditional lands of the Aboriginal communities affected by such developments.

2.2.2 The PDAC has embraced and promoted these goals on numerous occasions. Recent examples included our submission to the annual meeting of the Council of Energy Ministers and Mines Ministers Conference September 2008 and our submission to the House of Commons Standing Committee on Aboriginal Affairs and Northern Development Bill C-30, *An Act to establish the Specific Claims Tribunal.*

2.2.3 Despite a growing series of court cases, particularly those decided by the Supreme Court of Canada, extensive written commentaries and the emergence of a burgeoning "consultation industry", we believe that widespread misunderstanding and confusion still persist in relation to

(a) the legal basis for the duty to consult and to accommodate;

(b) how that duty should be discharged; and

(c) the respective roles of government, proponents and Aboriginal communities and organizations in completing that process.

2.2.4 In its 2004 decision in *Haida,* the Supreme Court of Canada explicitly determined that the duty to consult, and if appropriate, to accommodate, is

exclusively a duty of the Crown. Acknowledging the need to ensure an orderly process and guard against unstructured discretion, the court also said that governments could establish policies or set up regulatory schemes to guide the civil service in fulfilling this duty. The court went on to say that while the ultimate legal responsibility for consultation and accommodation rests with the Crown, governments are entitled to delegate procedural aspects of consultation to industrial proponents in relation to a particular development.

2.2.5 In response, several provinces, as well as the federal government, have now developed written policies and detailed guidelines to assist government departments and agencies in making regulatory and administrative decisions that may impact Aboriginal rights or title. However, despite the invitation of the Supreme Court to do so, neither the provinces, including Ontario, nor the federal government, have thus far produced policies, guidelines or regulations that describe the role that proponents are expected to play in the consultation process. In addition, the Ontario government has not yet given final approval to its proposed guidelines on consultation that government ministries undertake with Aboriginal peoples.

2.2.6 The need to bring clarity to the issues of consultation and accommodation grows stronger every year. The failure of the provincial government to provide the necessary leadership can lead to distrust between Aboriginal communities and mineral explorers in certain regions of the province, promote unnecessary and divisive litigation, and compromise the image of Ontario as a stable jurisdiction where exploration initiatives are not exposed to unexpected and unwarranted degrees of risk.

2.2.7 It is therefore essential that the provincial government accord the highest priority to developing and implementing an official policy or regulatory scheme that clearly defines the role of government departments and agencies as well as the procedural aspects of consultation that proponents are expected to address. Doing so will help to ensure the overall fulfillment of the Crown's duty to consult with and, if appropriate, to accommodate Aboriginal people in relation to the potential infringement of Aboriginal rights, including Aboriginal title, and treaty rights.

2.2.8 This policy or regulatory scheme should be accompanied by detailed protocols for each party to follow in fulfilling its respective responsibilities. Consistent with the leading court decisions, the extent of consultation should be proportionate to the potential for exploration activities to infringe Aboriginal or treaty rights and the significance of those rights to the Aboriginal community in question.

2.2.9 In developing its consultation policy and guidelines, the government must have due regard for the four key elements of the existing regime for acquisition of mineral tenure that are described in Section 2.1.3 of this

submission. These elements reflect the competitive aspects, high-risk nature and financial realities of the exploration process. It is therefore imperative that provincial consultation policy and practice take into account those aspects of the global exploration scene over which the domestic industry has little or no control, if Ontario wishes to preserve its ability to attract exploration interest and secure investment.

2.2.10 A case in point would be the imposition of a requirement for explorers to consult with potentially affected Aboriginal communities *before* securing mineral tenure. The adverse consequences of doing so could include losing the value of any exploration research undertaken in order to identify prospective ground, divulging confidential or proprietary information to potential competitors, and selectively disclosing, unwittingly or otherwise, material information in contravention of securities laws. On the other hand, where the grant of tenure also authorizes the holder to conduct exploration activities on the land that could infringe Aboriginal or treaty rights, the Crown's duty to consult and, if appropriate, accommodate, would be engaged.

2.2.11 Care must therefore be taken to define the role of industry in fulfilling the duty to consult and to accommodate in a way that:

(a) respects the legitimate need of explorers to protect confidential or proprietary information; and

(b) avoids any requirement for the disclosure of material information other than that already in the public realm.

2.3 Regulatory Processes for Exploration Activities on Crown Land

2.3.1 Many exploration initiatives conducted on mineral claims never proceed beyond the preliminary or "grass roots" stage. Provided that the operator has complied with the applicable permit and statutory requirements and has followed sound field practices such as those described in the PDAC's e3program, the land and the living systems it supports should remain essentially unaltered once exploration has been completed. Likewise, given their short-lived nature and ephemeral impacts if any, many exploration activities entail minimal risk of infringing Aboriginal or treaty rights and would therefore fall at the very low end of the threshold for consultation and accommodation.

2.3.2 Where exploration activities take place in areas that have greater ecological significance or are subject to asserted or proven Aboriginal or treaty rights, the risk of infringement will likely be greater, and may therefore engage the duty to consult and to accommodate more fully.

2.3.3 As the courts have repeatedly stated, the ultimate goal of consultation and accommodation is the reconciliation of Aboriginal and treaty rights with the rights of other members of Canadian society. However, for competing interests to be fairly reconciled, the true nature and significance of those interests must be properly understood. Generally, the scope, nature and potential consequences of a mineral exploration program are reasonably easy to describe. However, the same cannot always be said about Aboriginal and treaty rights which, by their nature, are sometimes more difficult to document conclusively.

2.3.4 Despite these challenges, it is mandatory that all of the information required to achieve reconciliation be readily available. Government should therefore undertake a comprehensive program to remedy the apparent gaps in our knowledge by developing a comprehensive database that describes known Aboriginal and treaty rights in areas that are open to the exploration of Crown owned minerals. Information of this kind is essential in order to ensure a balanced and objective process for identifying, assessing and mitigating any infringement of Aboriginal or treaty rights that may result from exploration activities.

2.3.5 In recent years, governments have increasingly acknowledged that providing a meaningful level of funding for geoscience work is in the public interest. The same logic supports the concept of government action to develop the information resources that will enable companies and individuals to more fully understand and account for Aboriginal interests in planning and executing their mineral exploration and development programs and, in collaboration with government authorities, mitigating any infringements that may result.

2.4 Land Use Planning in Ontario's Far North

2.4.1 As set out in the covering letter to this submission, we urge the government to develop a more refined approach to land use planning that recognizes the distinctive nature of the impacts that potentially result from different forms of resource development, the most obvious examples being mineral exploration and mining, forestry and power generation. This approach should focus on the valued components of the landscape that could be affected, the potential benefits that could be gained, and the practical measures required to counteract adverse impacts. We reiterate that this approach would achieve a superior level of public governance and better serve the overall needs of the province.

2.4.2 There is an urgent need for the government to explicitly confirm the status of mineral tenure that has been lawfully acquired both before and after the government's July 14 announcement indicating that at least 50 percent of Ontario's boreal forest will be fully protected from mining, forestry and other forms of resource development.

2.4.3 In addition, the government should clarify its intentions in relation to mineral tenure that is acquired between now and the time when the lands that will be dedicated to conservation purposes have been clearly defined, and comprehensive land use plans have been developed, especially given that the government has indicated that this process may take as much as 15 years to complete. It is critically important for the industry to ensure that important decisions about exploration can be made in light of as much knowledge as possible about the government's ultimate intentions.

2.4.4 Similarly, clarification is needed immediately in relation to the statement set out in the Discussion Paper that government approval of new mines in the Far North "…would require community land use plans supported by local Aboriginal communities." In light of these pronouncements, a number of questions arise, including the following:

(a) Can explorers undertake continuing work with a reasonable degree of confidence that, until such land use plans have been developed, authorization to proceed with production of an economic deposit, should one be found, will still be granted?

(b) How can proponents and investors better understand the role that Aboriginal communities will play in the approval of the land use plans that will determine whether or not a proposed mining project can proceed?

(c) Is the government advancing the role of Aboriginal communities in the implementation of the land use plans that will be required for new mine approvals on the basis of the common law duty to consult and accommodate? If so, a fuller explanation would be very helpful. If not, what is the basis for the approach that the government has proposed?

2.5 Private Surface Rights and Interests Relating to Mining Development

2.5.1 As outlined in the Act Proposal Notice set out in EBR Registry No. 010-1018, dated July 17, 2007, the Ministry of Northern Development and Mines (MNDM) proposes to give effect to the recommendations of the Minister's Mining Act Advisory Committee (MMAAC) in relation to modernizing resource stewardship in accordance with the Mineral Development Strategy that the provincial government released in March 2006.

2.5.2 The MMAAC's recommendations are intended to respond to the concerns of private property owners in relation to the acquisition of the underlying mineral tenure by third parties. The MNDM proposes to address these concerns by developing a policy framework designed to:

(a) reduce the impact of staking on the environment;

(b) broaden the categories of lands that are not open for staking;

(c) enhance the rules for notifying the surface owner; and

(d) reviewing the categories of private lands where the owner's consent would be mandatory before exploration work commences.

2.5.3 In developing the proposed policy framework, the Ontario government may find it useful to consider the amendments to the British Columbia *Mineral Tenure Act* that came into effect on June 2, 2008. These amendments establish new requirements for the way in which prospectors must give notice before they access land where the surface rights are privately owned for mineral exploration purposes.

2.5.4 The amendments establish more detailed obligations that prospectors must fulfill before entering private land or leased land for any exploration or mining activity, including non-intrusive procedures such as surface mapping or the collection of water, soil or rock samples. The new requirements also establish how the prospector must deliver the required notice.

2.5.5 Adopting new requirements in Ontario that, to the extent appropriate, give effect to the MMAAC recommendations and consider the British Columbia model may help to reconcile the competing interests of surface rights owners with those of other citizens who are authorized to undertake mineral exploration in accordance with Ontario *Mining Act.*

2.5.6 The PDAC also recommends that the provincial government review the corresponding obligations established by other provinces that have proven to be effective in reconciling the rights of private landowners with the right to enter and conduct exploration on lands that contain Crown owned minerals.

3. ADDITIONAL COMMENTS AND RECOMMENDATIONS

3.1 Map Staking

3.1.1 If Ontario implements, in place of the existing process of staking in the field, an internet-based electronic system for the location of mineral claims (commonly referred to as "map staking"), it will join a number of other provinces that have elected to do so, namely Newfoundland and Labrador, Nova Scotia, Québec and British Columbia.

3.1.2 The PDAC incorporates by reference the position it has adopted on map staking as set out in detail on the association's web site at:

http://www.pdac.ca/pdac/advocacy/land-use/index.html#Map_staking/ground_staking.

3.1.3 The steps that were followed in developing this position are summarized below along with the principal results:

(a) In 2003, the Board of Directors agreed that the association should advocate map staking as a strategy for acquiring mineral rights in Canada but that this position should not be interpreted as opposition to ground staking.

(b) In 2004, the Board of Directors received the report of an ad hoc committee of the PDAC that was established to examine the current status of claim staking across Canada and to consider the implications of this method for acquiring mineral tenure for the exploration community.

(c) The Board approved the following recommendations that were made by the ad hoc committee:

(i) map staking should be adopted in surveyed areas of the country, where staked areas should follow the cadastral survey boundaries;

(ii) map staking should be adopted in areas remote from infrastructure and communities where staked areas should be based on the NAD 83 UTM grid;

(iii) amendments to legislation required to implement map staking should respect existing rights of access to explore for and develop mineral resources; and

(iv) the governmental fees to register a map-staked claim should be equal to the present cost to record a ground-staked claim.

(d) In July 2007, the Board agreed that the association should develop and advocate for a Canadian map staking policy on a “first come basis” which protects the confidentiality, mineral title and tenure of the claimant. The Board also agreed that this policy would acknowledge that access to land acquired through map staking would be subject to appropriate consultation-communication protocols with landowners, government authorities and other potentially affected stakeholders, particularly First Nations.

3.1.4 In the PDAC’s experience, those who advocate map staking typically point to a number of anticipated benefits and advantages, including the following:

(a) map staking eliminates the need to physically enter upon the site in question and therefore avoids any potential disturbance to the land, any inconvenience or disruption to surface interest holders, or any potential infringement of Aboriginal or treaty rights that might otherwise result;

(b) for comparable reasons, map staking avoids the safety risks often associated with on the ground operations, notably those that are related to harsh climatic conditions, unexpected encounters with wildlife and the use of light aircraft and helicopters;

(c) by making it simpler and less onerous for prospectors to acquire tenure, map staking may stimulate the development of Crown owned mineral resources;

(d) the funds that are expended for ground staking are put to better use in grassroots exploration programs; and

(e) being a process that is conducted entirely over the internet, map staking does not entail any consumption of fossil fuels and consequential release of "greenhouse gases" to the atmosphere.

3.1.5 Those who are opposed to map staking refer to a number of adverse impacts and disadvantages that include the following:

(a) map staking promotes poorer decision making because it eliminates the need for site inspections before mineral tenure is secured;

(b) map staking could provoke the risk of hasty and excessive acquisition of mineral title that may result in the infringement of Aboriginal or treaty rights and remove significant tracts of land from the inventory available for other purposes; and

(c) ground staking may be a significant source of job opportunities for residents of remote areas, including Aboriginal residents, where other possibilities for employment are often limited.

3.1.6 The PDAC therefore urges the provincial government to carefully consider the potential consequences of map staking, both beneficial and detrimental, and to engage in sufficient consultation with all potentially affected parties, before proceeding with a final decision to adopt or to reject map staking.

3.1.7 The PDAC assumes that the government will also give due consideration to all of the comments that were submitted in response to the Act Proposal Notice dated July 17, 2007 under EBR Registry Number 010-1018, along with further submissions made in response to the current Review.