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Natives win a major decision

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Junior mining company Platinex Inc.'s \$10-billion lawsuit against a native band backfired after an Ontario Superior Court justice found in favour of the band - and stopped the company from working on the property in question.

The judge's decision may have a major effect on how mining companies explore properties that are potentially covered by land claims: they'll have to talk with native bands earlier in the process and more often.

And the province will have to see to it that it happens.

Platinex sued Kitchenuhmaykoosib Inninuwug - known as KI - for the obnoxious sum of \$10 billion over band protests that brought exploration to a halt. And Platinex wanted band members prohibited from protesting at its drilling site.

KI responded to Platinex's lawsuit with a counter-injunction application.

KI is located 600 kilometres northwest of Thunder Bay. It is reachable only by aircraft. Platinex is drilling its 3,580-hectare Big Trout Lake property in search of highly prized platinum group elements. The company issued a release in February saying work had stopped on the site due to protests "by people in the region" but that its working relationship with the KI band was good.

Why then, the legal actions? In his ruling, Justice Patrick Smith said Platinex created its own problems - the company says its possibly facing bankruptcy - by taking unilateral actions that were "disrespectful" of KI.

His decision is being hailed as significant by natives, as one that won't have a major impact by the province, and as damaging to the industry by Platinex.

Smith ordered Platinex to stop work on the site for five months to allow the company and the province to hold talks with KI.

But the judge also severely criticized the province for leaving consultations up to the company. Wrote Smith: "Despite repeated judicial messages delivered over the course of 16 years, the evidentiary record available in this case sadly reveals that the provincial Crown has not heard or comprehended this message and has failed in fulfilling this obligation."

The Ontario Secretariat for Aboriginal Affairs notes that most lands in Ontario affected by treaties are administered by the province and that such claims affect Crown land, natural resources, private property, the environment, energy development, municipalities, public transportation, economic development and recreation.

While native claims are most often federal affairs, the province is obviously a key player in what happens on these properties. Smith, in his ruling, is saying the province must get involved when native bands' concerns are at stake.

Platinex's lawyer, Neal Smitheman, says the decision will impact other mining claims in Ontario. Said Smitheman: "There are numerous mining companies and exploration companies that could be in a similar situation if there's a failure to have proper consultation on the lands that could be subject to a claim by First Nations people."

Platinex apparently gets the point of Smith's decision. Mining companies and prospectors who want to operate on lands that are subject to native claims will have to talk with native bands much earlier in the process and they'll have to respect native bands' concerns.

We can see nothing unreasonable about that.

What do you think? Send us your opinion in a Letter to the Editor at 33 MacKenzie St., Sudbury, P3C 4Y1, or fax it to 674-6834 or e-mail it to letters@thesudburystar.com