Application for Review
Section 61, *Environmental Bill of Rights, 1993*

Need for Comprehensive Environmental Assessment of Mining Projects

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Submitted on behalf of CPAWS – Wildlands League and MiningWatch Canada

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Request for Review of Existing and the Need for New Act, Regulation and Policy

We request that the Ministers of the Environment, Natural Resources and Northern Development and Mines undertake a review of the need for regulatory and policy reform related to the assessment of the environmental impacts of proposed mining projects under the *Mining Act* and the *Environmental Assessment Act*. The Ministries of the Environment (MOE), Natural Resources (MNR) and Northern Development and Mines (MNDM) are all subject to Applications for Review under the *Environmental Bill of Rights*.

The current situation with respect to the assessment of the potential environmental impacts of proposed mining projects is uncoordinated and incomprehensive. Approvals of proposed mining projects occur under the *Mining Act*, with exemptions and piecemeal assessment of potential environmental harm under the *Environmental Assessment Act*. The Ministers should review this regulatory and policy regime, with a view to ensuring that comprehensive land use planning legislation for the north is enacted and implemented, and that environmental assessment of the ecological footprint for the entire mining project (from staking to reclamation/remediation) is completed *prior* to any approvals. The harm to the environment that will result from mining projects under the current regime is evident in the case studies presented below.

Current Regulatory Regime Provides Inadequate Protection for the Environment

Introduction

The Ministry of Northern Development and Mines (MNDM) issues approvals for mining projects (beginning with exploration, right through to remediation) under the *Mining Act* and currently has two exemptions related to mining projects under the *Environmental Assessment Act* (EAA). The Ministry of the Environment (MOE) and the Ministry of Natural Resources (MNR) have oversight of related projects that are necessary for mining projects, some of which are subject to public participation rights under the *Environmental Bill of Rights, 1993* (EBR) or under the EAA. For example, the MOE issues permits for water taking and sewage treatment, notice of which will be posted to the Environmental Registry pursuant to the EBR. The MNR may have oversight of an access road that

needs to be built, notice of which will be given pursuant to the Class Environmental Assessment MNR Resource Stewardship and Facility Development Projects. In addition, federal ministries may have to issues permits associated with mining projects (eg, to permit harmful alteration, disruption or. destruction of fish habitat). With federal ministry involvement, assessment under the *Canadian Environmental Assessment Act* (CEAA) may be triggered. To the extent that both federal and provincial environmental assessment is required, the Canada-Ontario Agreement (COA) on Environmental Assessment Cooperation permits exemptions from one jurisdiction's environmental assessment if a "substantially equivalent" process is underway under another jurisdiction. Thus, if a project requires both an environmental assessment under EAA and CEAA, an exemption can be given under the EAA and then the province can rely on the environmental assessment under CEAA. However, treatment of mining projects federally versus provincially cannot be considered "substantially equivalent". As will be discussed further, crucial aspects of mining projects are exempt from EAA. Federally, only the "physical works" and related infrastructure on the mine site are considered within the scope of the project. As such, no one jurisdiction or ministry comprehensively assesses the entire ecological footprint of a proposed mining project with a view to making a decision as to whether it should go forward. Rather, there is an uncoordinated regime that provides for limited and piecemeal environmental assessment, which may result in vast ecological harm.

Exemptions from Environmental Assessment

MNDM currently has two exemptions related to mining under EAA (one existing and one proposed). The first exemption, MNDM-3/3 Declaration Order ("Dispositions DO") deals with activities such as issuing mining licences and other activities with respect to administration and enforcement of the *Mining Act*, as pertains to the decision to "dispose" of Crown resources to private interests. The Dispositions DO specifically does not deal with Part VII (site rehabilitation) of the *Mining Act*. The second exemption, the *proposed* MNDM-4 Declaration Order ("Site Rehabilitation DO") deals with activities relating to mine hazard rehabilitation and reclamation activities.

Dispositions of Crown resources were previously dealt with under MNR's exemption under EAA (MNR-26/7). This exemption was to be revoked and replaced by the MNR's Class Environmental Assessment for Resource Stewardship and Facility Development Projects. The MNR's Class EA would not then cover dispositions for Crown resources for mining projects. As such, a new exemption was proposed. Here is the relevant history of the current Dispositions DO:

May 9, 2003	Notice of the proposed Dispositions DO posted on the Environmental Registry (EBR Registry Number RA03E0015).

Jun 8, 2003	Comment period for the Dispositions DO ends.
Jun 11, 2003	Dispositions DO approved – MNDM given a one-year interim exemption from the requirements of EAA.
Jun 16, 2003	Decision notice posted to Environmental Registry, stating that there were 5 comments received, all of which opposed the proposal. According to the decision notice, commenters suggested an interim order for one year, allowing MNDM to prepare a "long term strategy".
Jun 8, 2004	Two-year extension to the Dispositions DO approved, without any public consultation or notification. The 2003 Dispositions DO gave the conditions for an extension: as "determined by the Minister" and "published in the Ontario Gazette" (which it was). Notice on the EBR Registry is not required by the conditions of the exemption.
Aug 8, 2004	Deadline for MNDM to submit a Final Strategy for Environmental Assessment Coverage (Strategy) for all activities subject to EAA and a timetable for implementation (as a condition of the Dispositions DO extension). Thereafter, the MNDM is required to report every six-months on progress until fully implemented.
Dec 11, 2004	Deadline by which MNDM must develop an implementation procedure for assisting staff in the review of applications for dispositions (as a condition to the Dispositions DO). The implementation procedure is to include a screening checklist for potential environmental effects and is to be reviewed by MOE before implementation. While this is being prepared, MNR's procedures regarding dispositions will be used.
Jun 30, 2006	Three-year further extension to Dispositions DO approved, without any public consultation or notification beyond publication in the Ontario Gazette (the EA Registry was updated July 18, 2006). There is a condition requiring reporting every six months on implementation of the Strategy regarding the Environmental Assessment Coverage (a Class EA). Other conditions for the exemption remain unchanged.

Notice of the proposed Site Rehabilitation DO was recently posted to the Environmental Registry (EBR Registry Number RA06E0002) for 30 days, ending June 30, 2006. The notice states that "Ministry of Northern Development and Mines (MNDM) is currently in the process of preparing a Class Environmental Assessment (Class EA) for the disposition of Crown resources and activities related to the administration, enforcement and carrying out of the Mining Act," and that "MNDM has requested a Declaration Order to exempt mine hazard rehabilitation activities from the requirements of the EAA while it prepares the Class EA." Further, the notice states, "This Declaration Order would expire in three years or once MNDM's Class EA is approved which ever comes first." The draft declaration order was *not* linked to the Environmental Registry notice. This

is very disconcerting. According to the Environmental Assessment Registry, the decision regarding this declaration order is still under review.

Current Requirements for Assessing Environmental Impacts

The Dispositions DO requires an initial assessment as to the potential impact of the project on the environment and whether another process that is "substantially equivalent" is already being done. The initial assessment is completed by the Senior Manager (Mining Lands Section, MNDM). If there are potential impacts and no substantially equivalent process is being conducted, it is the Senior Manager that will then give public notice and respond to concerns, before making a determination as to the potential environmental effects. If there are none, then the approval is given. If potential environmental effects are determined, then notice is given to the MOE and another process is initiated. It is troubling that a decision maker in MNDM is assessing potential environmental impacts and determining whether MOE should be involved in the assessment. Mining projects are always going to alter the ecosystem in dramatic ways and should be fully assessed for the environmental impact by MOE.

Potential Harm to the Environment will Result if Review is Not Undertaken

Victor Diamond Mine – Case Study

The harm to the environment that will result from mining projects under the current regime is evident in the case study of the approved Victor Diamond Project. Identified potential environmental impacts of the proposed mine include effects on water, land and wildlife. Details regarding this project are provided below.

In April and June of 2005, Sierra Legal, on behalf of the Wildlands League, submitted two Freedom of Information (FOI) requests regarding the then proposed DeBeers Victor Diamond mine near Attawapiskat. The FOI requests were made to the Ontario Ministry of Natural Resources (MNR) and the Ontario Ministry of Northern Development and Mines (MNDM). The request was made due to concern for the possible environmental impacts of the DeBeers Victor mine project. What was discovered adds weight to concerns regarding the present regimes lack of adequate oversight with respect to potential harm caused by mining projects in Ontario's Northlands.

Impacts of Mine Dewatering

The FOI documents indicate that scientists within MNR were extremely concerned about the potential impact of the dewatering and the extent to which

the dewatering would impact the muskeg-dominated ecosystem of the area. However, the proponent has consistently denied that the extensive dewatering will impact the muskeg, claiming it is a hydrogeologically isolated from the underlying strata. However it would appear that hydrogeologist from within MNR had their doubts.

One senior hydrogeology at MNR in an email wrote:

> "According to the model, the majority of the water will come from the muskeg. The water will either migrate through the marine clay layer into the bedrock and to the wells or it will be "short circuited" through the bioherms which poke through the clay layer. In either case it is estimated that about 38% (38,800 cubic meters per day) of water pumped will come from the muskeg."
>
> …
>
> "The effect of dewatering on this large scale has several implications for the muskeg. There will be increased vertical seepage across the clay deposit which will induce vertical migration of muskeg water thus a drying out of the muskeg."
>
> …
>
> "Should the muskeg start to degenerate, there does not appear to be much in the way of mitigation. In the event that the muskeg does degenerate, it will likely be well documented but not rectified." (page 1637)

Furthermore, the dewatering will impact ecosystem in many ways, including:

- At least 100,000 m^3 of salty water will be pumped out of the pit each day into the Attawapiskat River. This is equivalent to 40 Olympic-sized swimming pools per day or 14,600 pools per year. This figure may be vastly underestimated (see expert Karst presentation attached).
- The flow of the Nayshkatooyaow River will be decreased by at least 15%. A 2.6 kilometre stretch of South Granny Creek will be "moved."
- 1.2 million m^3 of muskeg, including trees and other plants, will be removed.
- River crossings may lead to siltation of rivers and creeks and impact water quality.
- Fish populations such as lake sturgeon, brook trout, walleye and whitefish may be harmed by the changes in water flow and water quality.
- Dewatering of the muskeg will also release methyl mercury into the surrounding ecosystem. This aspect was not even studied in the EA (see discussion below).

Concerns regarding the Attawapiskat Karst

FOI documents received reveal that the Attawapiskat karst was actually a candidate park. The area is described in an MNR report as of "National" significant and the "best developed and most extensive karst topography in all of Ontario." The report rates the Attawapiskat Karst as "1st priority candidate; critical."

Before the discovery of diamonds in the area, in a report on the karst, MNR writes:

> "To ensure the protection of the Attawapiskat Karst for all time, the Ministry of Natural Resources recommends that this area be established as a Provincial Park. A review of this area's geology with the Ministry of Northern Development and Mines suggests there is little or no economic potential for minerals, and therefore no concern with establishment of a provincial park."

This document reveals that in fact the process of selecting areas to protect as provincial parks is not purely based on the conservation value. MNR first checks with MNDM to ensure that there is no mineral potential in the area.

Any mention of Attawapiskat Karst as a candidate provincial park of 1st priority ceases once diamonds are discovered in the area; the Attawapiskat Karst is only ever referred to as an ANSI after that. A copy of an MNR email received described the then proposed mine as "dead centre" in the Attawapiskat Karst Area of Natural and Scientific Interest (ANSI).

A report commission by MNR, dated Nov 2004, by a karst expert describes the expected impacts from the mine on the karst as "intensive, extensive and long term".

Karst expert Dr. Worthington (see attached presentation from August 2006) has identified three problems with the mining in karst that were not addressed during the EA process.

- Sinkholes will probably form and present a real danger;
- Springs were not investigated as part of the EA process; and,
- Pumping to dewater the pit underestimated.

DeBeers hired a karst expert in the summer of 2006 (after EA approval was given). We were informed that they have taken necessary precautions regarding the formation of sinkholes at the mine site itself. We are not aware of any precautions taken beyond the mine site. With respect to springs, the EA took note of seeps but not of springs and seeps have flows much less than 1 L per second. More pumping would result in lower natural flows in river and impaired water quality in the Nayshkootayaow River.

Additional Land Impacts

In addition to the impact on the karst, further land impacts are:

- 2.5 million tonnes of rock would be processed (piled, crushed and dumped) each year.
- 28.7 million tonnes of rock would have been dug from the ground over the life of the mine and dumped in the surrounding area.
- The waste rock may leach chemicals, such as acids, into the surrounding water.
- The open pit itself was never assessed in the EA processes. This pit will be 220m deep and 1-2km wide.

Fish and Wildlife Impacts

The project may also have dramatic impacts on fish and wildlife. These impacts were not adequately studied or not studied at all. Moreover, the region in question, remote from most roads and development, has received little or no wildlife survey attention over the years, leading to a complete lack of information regarding baseline conditions against which to gauge future impacts. Possible wildlife impacts include:

- The area of the proposed mine and its associated infrastructure provides critical habitat for woodland caribou, a threatened species. Caribou are extremely sensitive to industrial activity and usually disappear from areas where it occurs. After the mine closes and the site is re-vegetated, studies say that "excellent habitat for moose" (shrubs and young forest) will be created, which also means that the habitat that previously supported caribou (older forest and bogs) will be diminished. This could result in the local extirpation of caribou, preceded by a sustained periods of population decline.
- The water table could be affected for up to 260,000 hectares surrounding the mine. This would change the vegetation of the area and reduce the abundance of lichens, a key food for caribou.
- Because of the lack of survey information prior to the commencement of activities associated with the Victor Mine, as noted above, there is no baseline data against which to monitor impacts to caribou and other sensitive wildlife from myriad activities associated with the mine, from exploration, to road building, to increased access to hunting opportunities. Moreover, a monitoring program that adequately addresses the possible threats to caribou has not been designed.

- The federal and provincial EA processes did not consider possible impacts to wolverine, a species at risk in Ontario and Canada even though they are found in the area of the mine project. The Ontario government denied the presence of wolverine in its EA processes (see attached letter from Minister of Environment dated August 31, 2005). There has been documented evidence of the presence of wolverine in the area by MNR and Wildlife Conservation Society Canada biologists, who were consulted, but Environment Canada staff input ignored in CRA documents. Also, in twisted logic, the Minister of Environment cited these same naturally occurring low densities of wolverine in their response to Wildlands League on why effects on wolverine were determined to not be significant.

- The noise of the explosives used to construct the mine and from pit operations combined with trucks bringing supplies and materials to and from the mine site (60 trucks per day) could negatively impact wildlife behaviour.

- Habitat for migratory birds would also be impacted.

Impacts on fish are not well understood – much of the testing related to metal mine effluent is done at lethal levels, with little study as to the impact of sublethal doses. As such, metal mine effluent standards may be set at levels that, although not lethal, may cause significant harm to fish. A study in Newfoundland and Labrador identifies a syndrome in lake trout, the risk of which may be inadequately addressed by current metal mine effluent standards (Payne, et al, 2001). A more recent study investigated the potential effects of selenium on northern pike larvae and found significant increases in the frequencies of individual deformities (Muscatello, et al, 2006). As mining moves north, an increased concern with respect to arctic and subarctic fishes has been noted, since these species are highly sensitive to contaminants in mine wastes and have a low capacity for recovery, making them particularly vulnerable (Lemly, 1994). Monitoring design for determining the impact of metal mine effluent on fish stocks is currently under development (Ribey et al. 2002).

Regional Impacts and the Need for Land Use Planning

The documents also show that MNR scientists had concerns regarding the regional impacts and expressed the need for land use planning. For example the following are excerpts from two of many emails emails written by MNR scientists and other professional regarding the then proposed mine and concerns regarding regional impacts and the need for land use planning:

> "We need a land use planning approach to this project - especially in an area of Ontario that is remote, sensitive to development, globally significant but has no LUP direction and is one of the last remaining wilderness areas in Ontario."

> "[The] proposal has huge implications for the Hudson Bay Lowland, including the waters of Hudson Bay and James Bay in addition to the formerly roadless and non-industrial landscape of this region."

However, many of these concerns were never dealt with through a provincial EA because the province did not conduct an individual environmental assessment of the project instead they focused on only peripheral aspects of the project such as the energy generation, permit to take water, and other activities related to the mine project, each assessed individually by the relevant authority.

In the absence of an individual provincial EA, the federal EA under CEAA became the only means to assess concerns that may have been raised or potential impacts of the project.

One document received discusses a meeting of ADMs in 2003, which included MNDM, MNR and MOE representatives, regarding the EA for the mine proposal. The document makes it clear that before an EA direction had even been determined by the government that the government ministries involved had agreed that they wanted to see the project go ahead.

> "All Ministries are favourable toward seeing the Victor project go forward as an economic development opportunity for the region."

This exchange would indicate that the EA was seen as a perfunctory exercise with no real impact on the final approval; a decision had more or less been made before the scope of the environmental assessment had been decided.

Also in that same email the writer states that, "[c]oncern was expressed for potential for creating impacts by piece meal permitting of the project components vs. the project as a whole."

The author of the email closes by saying he will be "relaying this information to DeBeers."

The documents also include a series of draft briefing notes which show that the EA options considered by the province moved from a recommendation to the Minister that an individual EA was necessary based on: the complex nature of the project, the need to address cumulative impacts, and the need to ensure that no environmental impacts are missed. In subsequent drafts of the memo this changes to a recommendation for the piecemeal approach, which is exactly the EA approach ultimately adopted.

Based on the emails that circulated throughout this period that were obtained through FOI, this decision was taken due to internal government pressure and concerns regarding limited resources (piecemeal approach is less burdensome

because it relied on the federal comprehensive study for information), concerns regarding the government being blamed for further project delays, as well as pressure from the proponent to take a more piecemeal approach.

Methylmercury – the issue the EA missed

As it turns out those that raised concerns regarding the complexity of the project and the potential that something might be missed should a piecemeal approach be adopted were right. It would appear that the EA did miss an issue - methylmercury formation and mobilization resulting in increased levels of methylmercury in local fish. It is well known that methylmercury levels increase in local fish due to projects that flood land, such as occurred as a result of the hydroelectric developments in the James Bay area of Quebec. However, recent research conducted by Dr. David Lean, an ecotoxicologist at University of Ottawa, indicates that methylmercury could also form, mobilize and thus bioaccumulate in fish in situations in which muskeg or peat is dewatered.

The potential that the muskeg will be dewatered to some extent if not largely dewatered due to the mine operations and the extensive pumping to dewater the mine pit is great. Some predictions have put the area that will be impacted by the dewatering at 260,000 ha. This is a conservative estimate. However, the potential that the muskeg dewatering may result in increases in methylmercury levels in local fish and thus in those that consume local fish was never assessed as part of any EA.

Based on his findings studying bogs around Ottawa, Dr. Lean predicts the mine will have a great impact on methylmercury levels in the fish in the region and that that the effect may even extend out into fish and whales in the waters of James Bay.

Methylmercury is highly toxic to mammals, including people, and causes a number of adverse health effects. Mercury is a global pollutant present in the peat/muskeg from worldwide natural and anthropogenic sources. Mercury presents a health risk when it is transformed into methyl mercury and transferred up the food chain through bioaccumulation. Methylmercury is easily absorbed into the living tissue of aquatic organisms and is not easily eliminated.

In documents obtained from NRCAN, the federal authority that oversaw the EA, show that the consulting company acting on behalf of the community of Attawapiskat requested "a risk assessment of the potential for changes in mercury availability and uptake by biota related to changes in the hydrology of the study area and potential changes in methylation and uptake into biota." The response from the proponent's consultant was that a risk assessment is "unwarranted"….and…"that such discussion could be unnecessarily alarmist and would be out of balance with other project aspects…". The proponent's

consultant then continued by writing that "mercury concentrations in fish and waters are low and well within the guidelines", but no data is given to back up this claim. This would be unusual if true given that about 13% of the fish tested by MOE in 2004 as part of their sportfish testing program are at or above the 0.5 ppm Health Canada limit and an even greater portion are in excess of the 0.2 ppm limit set by Health Canada for vulnerable populations like women of child bearing age, children and subsistence fisherman/women.

Testing results on fish from the Attawapiskat River taken back in the 1970s and 1980s obtained from MOE show levels of mercury in the fish often in excess of the 0.2 ppm limit and there is no reason to believe that the methylmercury levels would have improved since then.

Of course no authority required DeBeers to conduct an assessment of methylmercury risks as suggested to them and thus none was done as part of the federal EA, and the provincial EA was scoped such that it did not cover that aspect of the project. Only time will tell if Dr. David Lean's prediction holds true and unfortunately by then it will be too late to reverse the damage.

Need for regional impact benefit agreements and an environment agreement before construction

Nation IBAs be reached before In its submission to the federal EA process, the Mushkegowuk Council urged that a term of the Environment Agreement be the requirement that Regional First
construction begins. It states:

> We are very concerned that this commitment to Regional First Nation IBAs not becomes a broken promise. Corporate commitments, like political commitments, can be forgotten or be watered down so far as to become meaningless. That is why it is so essential that these agreements be reached, soon, before it is essentially too late for benefits to be attained and the baseline data improved upon so that the more difficult to measure impacts of this project – the socioeconomic ones, including impacts on traditional lifestyles, culture and language – can be effectively monitored.

Ontario Auditor-General 2005 Annual Report

In his 2005 annual report, Ontario's Auditor General audited the Ministry of Northern Development and Mines' Mines and Minerals Program. The report found that:

- The Ministry does not have information on chemical contamination from mine operations and therefore does not know the extent of chemical contamination at more than 4000 abandoned mine sites. The Ministry has estimated that 4000 abandoned mine sites were 'potentially hazardous to public health and safety and that approximately 250 of these sites might pose an environmental risk due to the potential for leaching of minerals and other comtaminants from mine tailings". It also does not know what the costs of clean-up will be.
- The Ministry has no long-term strategy for managing, monitoring and rehabilitating abandoned mines.
- Of the 144 mines for which a plan to remediate the mine after closure should be in place, 18 have no plan at all. These plans have been outstanding since 1991 and without them the Ministry and ultimately the public may be held responsible for mine closure and cleanup.
- Since mining activities can have a significant impact on the environment, companies are required to provide the Ministry with financial insurance, so there will be sufficient funds for clean-up if they don't or can't do it. However, the Ministry relies on mining companies to assess and certify the amount of security they must post. "Consequently, the Ministry has little evidence to substantiate the sufficiency of the financial insurances posted".
- There are only two mine rehabilitation inspectors and almost one-half the sites had not been inspected in the last five years.
- The Ministry has no performance measures for minimizing the impacts of mining activities on public health and safety and the environment.

Outdated free-entry system trumps ecological integrity and Aboriginal rights

Under the current legislation in Ontario, there is no mechanism by which the province assesses, evaluates and then determines which ecosystems and land-based cultural values should be off limits prior to permitting staking or mineral exploration. In fact, the legislation treats public land as freely open to exploration. In practice, this has meant that ecosystem integrity is not considered at the staking and exploration stage of mining activities. As such, habitat for species at risk, critical habitat to support aboriginal harvesting rights, and areas deemed critical for protecting sources of water, to name a few examples, are not assessed prior to staking and exploration.

Many Far North First Nations, including Kitchenuhmaykoosib Inninuwug, Muskrat Dam, Wapekeka, Wawakapewin, Wunnumin, Kingfisher Lake, Sachigo, Deer Lake and Bearskin Lake First Nations, have declared various forms of moratoria on mineral exploration, mining and forestry on their lands. At the same time the Constitutionality of the Mining Act is being challenged in Court by Kitchenuhmaykoosib Inninuwug for a lack of consideration of aboriginal and treaty rights at the beginning stages of the mining cycle. Further still, in the fall of 2006 at a Special Chiefs assembly the NAN Chiefs passed a motion calling on the Province to cease issuing all permits and licenses in NAN territories for mining activities.

CPAWS Wildlands League, MiningWatch Canada and Sierra Legal, endorsed by seven other conservation groups, also called for a moratorium in May 2005, on development in Ontario's northern boreal region until comprehensive, conservation focused land-use planning is completed.

The free-entry system and Ontario's Mineral Strategy place the burden of consultation with Aboriginal communities on the mining companies, ignoring the Ontario government's obligations to Aboriginal peoples. The free-entry system does not meet the constitutionally protected rights of Aboriginal peoples. Recent caselaw has emphasized that the duty to consult and accommodate aboriginal interests is triggered at a very early stage – when the government in contemplating conduct that will potentially have an impact on asserted or proven Aboriginal and treaty rights. Caselaw also suggests that there may be an obligation to consult on the assessment process before it is executed. The Ministries need to review the environmental processes (and lack thereof) for consistency with these obligations. A solution is for the government to request and listen carefully to the affected Aboriginal community's concerns with respect to mineral staking and exploration, with a view to minimizing the adverse impacts on Aboriginal and treaty rights, through a land use planning process.

Current Regulatory Regime Inconsistent with Ministries' Statements of Environmental Values

If the Ministries had seriously considered their respective Statements of Environmental Values (SEV), the regulatory and policy regime governing approvals of mining projects would comprehensively assesses the entire ecological footprint of a proposed mining project prior to permitting any activities related to mining.

For example, MOE's SEV indicates that decisions will be made using an ecosystem approach, ensuring that the cumulative impacts and "interrelations among the environment, the economy and society" are considered. Continued exemptions from environmental assessment are completely inconsistent with these statements.

Similarly, MNR's SEV indicates that decisions will be made through the application of the principles of sustainable development. Assessing activities which form part of a larger mining project without considering the full environmental consequences of the cumulative impact of all the activities associated with the project is not in keeping with these principles.

Finally, MNDM's SEV indicates that environmental principles of sustainable development will be adopted for mineral development activities. These principles include: an understanding of *cumulative* ecological, physical, social and economic impacts of development on a project by project basis; and that environmentally sustainable development should be preceded by sound environmental planning and public input, giving *high priority to environmental protection* during all phases of mining and minimizing environmental disturbances during all phases of mining with an emphasis on *prevention*. The current regulatory and policy regime for mining projects is not in keeping with these principles.

Need for Comprehensive Environmental Assessment for Proposed Mining Projects

All approvals of mining projects (including staking and exploration) in northern Ontario should be halted until such time as comprehensive land use planning legislation is enacted and implemented. A *Northern Planning Act* should be established that provides landscape level land use goals *and* enables community-led land use planning for the north, consistent with the landscape goals. Landscape level land use goals are required to ensure the northern boreal forest and wide-ranging species at risk (such as the woodland caribou, wolverine, and lake sturgeon) are adequately protected. Within this comprehensive land use planning regime, all mining projects will have to be comprehensively assessed with respect to the ecological footprint for the entire mining project *prior* to any approvals.

Summary of evidence in support of the Application for Review

The following evidence supports the need for comprehensive environmental assessment of proposed mining projects.

Proof of Residency ..... Tab 1

MNDM-3/3 Declaration Order ("Dispositions DO")
and Gazetted extensions ..... Tab 2

MNR-26/7 Exemption Order ..... Tab 3

Decision Notice (EBR Registry Number RA03E0015) ..... Tab 4

Proposal Notice (EBR Registry Number RA06E0002) ..... Tab 5

Regional Hydrogeologist Report, January 21, 2005 (see p.1637) ..... Tab 6

Letter to Ms. Janet L. Sumner from Minister Laurel C. Broten
August 31, 2005 ..... Tab 7

Victor Diamond Project – Concerns due to dewatering of karst bedrock
Dr. Steve Worthington ..... Tab 8

Payne, et al., Are metal mining effluent regulations adequate: identification of a novel bleach fish syndrome in association with iron-ore mining effluents in Labrador, Newfoundland, *Aquatic Toxicology*, 52 (2001) 311-317 ..... Tab 9

Muscatello, et al, Larval Deformities Associated with Selenium Accumulation in Norther Pike (Esox lucius) Exposed to Metal Mining Effluent,
Environ. Sci. Technol., 40 (2006) 6506-6512..... Tab 10

Lemly, Mining in Northern Canada: Expanding the Industry While Protecting Arctic Fishes—A Review ..... Tab 11

Ribey, et al, Development of a Monitoring Design for Examining Effects in Wild Fish Associated with Discharges from Metal Mines ..... Tab 12

MNR, Attawapiskat Karst (re. Candidate Park, see pp. 44, 47) ..... Tab 13

MNR e-mail dated October 9. 2003 ..... Tab 14

Attawapiskat Karst and Peatland Candidate ANSI report (2004)
(see p. 1703) ..... Tab 15

MNR e-mail dated January 23, 2004 (see p. 387) ..... Tab 16

Comments on Draft Guidelines federal EA Victor Diamond Project
January 23, 2004 (see p. 410) ..... Tab 17

MNR e-mail dated September 10, 2003 ..... Tab 18

NRCAN documents send August 16, 2006 (see Recommendation #89, p.45)..... Tab 19

Nishnawbe Aski Nation comments on Ontario's Mineral Strategy ..... Tab 20

Chapter 3, 2005 Ontario Auditor-General's Annual Report on the Mines and Minerals Program ..... Tab 21

Mushkegowuk Council Comments on Victor Diamond Project

Comprehensive Study Report Final Document – June 2005…… Tab 22

Nishnawbe Aski Nation Resolution 06/65 – Conditions on Proceeding with the NAN/Ontario Northern Table dated October 5, 2006…….. Tab 23

Nishnawbe Aski Nation Chiefs Northern Table Statement for Minister Ramsay ……. Tab 24