

October 15, 2008

Mining Act Modernization Consultations
Ministry of Northern Development and Mines
Deputy Minister's Office
Corporate Policy Secretariat
99 Wellesley Street West
Suite 5630
Whitney Block
Toronto Ontario
M7A 1W3

Dear Sir/Madame,

**RE: Comments regarding Modernizing Ontario's Mining Act
(EBR Registry Number: 010-4327)**

Wildlands League welcomes the opportunity to provide comments on Ontario's *Mining Act* so that proposed changes reflect modern day values associated with our public lands, alleviates land-use conflicts, and protects the public interest.

Ontario's free entry regime (for acquiring title to Crown owned minerals) has been in place since 1906 and was created as a means to increase settlement in 'frontier lands'. This regime has been highly criticized (by First Nations, the Environmental Commissioner of Ontario, conservation groups, private land owners, newspaper editorial boards and others) for its complete lack of consideration of Aboriginal interests, important ecological values, private surface interests and other values associated with lands prior to the commencement of mining activities.

Comprehensive Land use planning prior to any mining activities – including prospecting and exploration – is the solution to avoiding most conflicts arising from differing land use needs in Ontario. Certainty of land use provides all land users with the security they need for maintaining culture and community, ensuring protection of environmentally sensitive lands, increasing economic opportunities, and improving the investment climate.

Therefore, Wildlands League supports the alternative regulatory framework (to the free entry system) devised by CIELAP and Ecojustice titled, **Balancing Needs and Minimizing Conflict: A Proposal for a *Mining Modernization Act, 2008***. We urge the province to use this model legislation when drafting new mining legislation for the province.

Below we summarize the principles needed in an amended *Mining Act*. They form the basis for the alternative regulatory framework to the free entry system:

1. Land use planning mechanisms that include a pause on mining activities until a comprehensive land use plan is in place;
2. Environmental assessment at each stage of the mining cycle;

3. Protection for Aboriginal rights, including rights to consultation, accommodation, and free prior and informed consent;
4. Increased regulatory oversight of mining activities and operations;
5. Increased rights for surface rights only landowners;
6. Increased transparency of mining operations, including public notice, consultation and reporting;
7. Financial securities for 100% of clean-up and reclamation costs; and
8. A self-funded regulatory scheme.

For a full description of the required accompanying legislative changes, please see **Balancing Needs and Minimizing Conflict: A Proposal for a *Mining Modernization Act*, 2008.**

Further comments:

In the review of the *Mining Act*, MNDM has made it clear that the review process supports Premier Dalton McGuinty's July 14, 2008 Far North Planning announcement. We also support Premier McGuinty's Far North Planning Announcement and strongly urge the province to make sure that the upcoming Far North or Boreal legislation supersedes the *Mining Act*. Any subsequent changes to the *Mining Act* must not undermine the Premier's Far North Commitment. There is a serious risk to the integrity of the Premier's Far North Announcement, if the provincial government maintains its 'free entry regime' in Ontario.

The Premier said land use plans, developed in agreement with the local First Nations, would precede the opening of mines in the Northern Boreal Forest. This is an important policy change. For the first time in Ontario, First Nation consent through land use plans would be needed before mine development could proceed in the area known as the 'far north' of Ontario. In addition, in order to protect the integrity of the Premier's announcement, it is vital that *prospecting, exploration or mining* not occur on the traditional territory of an Aboriginal People absent the Free, Prior and Informed Consent of such Aboriginal People (this needs to happen in the far north and throughout the province). Further, consent must be obtained in writing by the Minister of Northern Development and Mines and must be provided by those authorized by the Aboriginal People to enter into an agreement with the Minister.

Regional land use planning must be implemented prior to allowing exploration or mining operations to proceed to ensure environmental, social and development needs are balanced. Finally, all exploration and mining projects must face the scrutiny of environmental assessment to ensure that environmental and socio-economic impacts are minimized.

Sincerely,



Anna Baggio

Director, Conservation Land Use Planning
CPAWS Wildlands League