



Department of Industry, Tourism and Investment,
Mining Recorder's Office
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The following comments are submitted by the Northwest Territories Chapter of the Canadian Parks and Wilderness Society (CPAWS-NWT) in regard to this first opportunity to input the development of the new NWT Mineral Resources Act (MRA).

CPAWS-NWT's mission is to promote the conservation of land, water, and wildlife in the Northwest Territories (NWT). We work to ensure that all management authorities for NWT land, water and wildlife protect the health of the territory's natural ecosystems and cultural values.

We submit that an approach to the Mineral Resources Act that integrates ecological and cultural values into mining regulation is necessary if the MRA is to be considered a modern legislation. The "Unlocking our Potential Together" document lacks any significant reference to these values, our comments address this concern and include other suggestions that we believe will contribute to the development of a modern MRA.

Other points regarding the development of the MRA:

- It is inappropriate that ITI could be the governments mining advocate and regulator, Ministerial authority for the MRA is more appropriately housed within the Department of Lands.
- The importance of land use planning cannot be over emphasized. Ideally LUP'S would be completed before regions are open to staking.
- A review and overhaul of the free entry system and process for issuance of land access is also necessary as they have set up most of the long-term social and environmental conflicts that are now occurring

Comments specific to the "Unlocking our Potential Together Discussion Paper":

LAND ACCESS IN PROSPECTING AND EXPLORATION

Q1: How should land access for mineral exploration be dealt with in the proposed MRA?

Based on the context in the discussion document one would assume that land access will be planned for independently of considering values other than mineral potential. Zero consideration is given to how opening access into an area will impact ecosystems and biodiversity. There is no alternative but to assume that the MRA would maintain a status quo where roads for development would take precedence over other values on the land.

This is unfortunate, especially in consideration of the Tibbit to Contwoyto road which has indisputably contributed to the significant decline of Bathurst caribou and now is proposed for extension through Bathurst calving grounds.

To alleviate the possibility of future similar scenarios we suggest that the MRA should give direction to how land access is planned for proactively including:

- A preamble which frames the potential impacts of land access
- Consideration of ecological and cultural values
- Avoidance of identified critical wildlife habitat including calving grounds
- Coordination of access management, wildlife management and harvest regulation with proposals to open land access
- Alternative routes or means of transport
- Consideration of resources to fund anticipated monitoring programs, access management responsibilities and mitigation of impacts

Q2: Should incentives be offered to encourage exploration? If so, what kinds of incentives could encourage exploration?

It is the obligation of companies and individuals to follow the law however we should be proud of and promote those who are proactive to meet and exceed requirements.

First we need to create the conditions for this to occur. For example this legislation could give guidance to a framework that describes what standards or targets might be met. GNWT should publicly encourage companies to exceed standards.

Incentive wouldn't come in the form of a handout that circulates money from the public purse back to industry rather it would come from a promotional effort that showcases the company. This could attract investment into a project based on certainty earned through achieving sound environmental protection and verified relationships with local peoples. This might also gain the interest of the best and brightest potential employees who may then move to the NWT and pay tax.

Q4: Should lands with high potential for mineral presence or transportation be regulated differently than other areas? For example to designate special mining zones or transportation corridors?

Q5: Should the MRA allow for high-potential land to be regulated differently than other under-explored lands in the NWT?

Answer to both 4 and 5:

Areas of high mineral potential and proposed transportation should not be regulated differently.

They are not exclusive of high biodiversity, endemic species, headwaters, community drinking water, caribou calving grounds, species migration corridors and critical habitat. Transportation corridors usually follow the path of geographical least resistance. Wildlife have an affinity for using these same corridors.

Assuming that high mineral potential will equate to higher land use and increased demand for transportation and access we suggest that these areas would be good candidates for proactive cumulative effects planning that accounts for all ecological and cultural values as well as mineral potential.

- The MRA should require that cumulative effects planning is triggered when areas of high mineral potential are intended for development

ONLINE MAP STAKING

Q4: What are the considerations for a made-in-the-North custom online map staking system?

- Settled land claims and approved land-use plans should be in place first.
- Legislation should require limitations on the number and size of claims staked within a given time period.
- A review period should be legislated before the exploration permit is granted.
- A dispute resolution process should be required to resolve issues which arise during the review period

MINERAL TENURE

Q1: Should geological data and results be required submissions in order to obtain mining leases?

Yes, this data could be important for informing future land management decisions and could reduce future land disturbance and work done by subsequent prospectors or leaseholders.

Q4: Does the process of transferring mineral tenure (including prospecting permits, claims, and leases) to other qualified parties require review? If so, what should the review process entail?

Yes, all scenarios where a public or environmental liability could be left by a departing or bankrupt tenure holder must be dealt with.

- The review should assess if the acquiring party will need to resolve unmet or outstanding conditions and regulations required of the former tenure holder.
- The MRA should require that outstanding commitments are resolved prior to lease transfer or require that the potential new holder brings the existing tenure into compliance before they are granted the transfer

Q5: Should prospectors be required to report on all their planned work yearly?

First an exploration plan should be required and then an annual report should demonstrate compliance with the plan.

Q6: Should mineral tenures be revocable if the holder is not investing or advancing them? What would be an acceptable requirement for maintaining a tenure?

Mineral tenures should also be revoked if the holder fails to live up to exploration plans, fails to meet environmental standards or is non-compliant with environmental legislation

TRANSPARENCY, PUBLIC ACCOUNTABILITY AND MINISTERIAL AUTHORITY

Q1: What information needs to be made public to enhance transparency?

We have heard that only 10-15% of properties are inspected annually and it is time consuming to find inspection reports, if they are in fact posted on a timely basis. Creating a public registry for regular reporting and publishing an annual report that provides statistics and outcomes of compliance and non-compliance would go a long way to engaging public trust and could catalyse a broader commitment to best practise.

Q3: Should the Minister be allowed to grant relief from active exploration requirements? If so, under what conditions or circumstances? What should the process include?

This should only include unforeseen circumstances related to natural events such as forest fires or due to legislated interventions such as emergency protection order for wildlife which could postpone exploration activities.

Q4: Should the Minister have the power to withdraw lands from staking and re-open lands to staking, and under what circumstances?

Ministerial decision should be vetted by government consensus and be open to public input. Then ultimately it makes sense that this type of decision would rest with the Department of Lands.

Withdrawing lands due to a wildlife population concern would be an example of when land could be withdrawn from staking. We would assume that this would be triggered following a request of the ENR Minister and would be supported by government before the responsible Minister of Lands would withdraw the area. In this example the Wildlife Act or SAR-Act would be applied for management of the area. A similar scenario would apply if this was reversed and lands were proposed for re-opening.

INSPECTIONS, MONITORING AND AUDITING

Q1: What could the MRA do to enhance the collection of data to promote accuracy in the geosciences database?

This section needs to be expanded beyond only a geosciences data base to include other baseline information which includes all topics that can be considered for representation work.

The legislation should endorse data collected through selected standardized protocols which are based on parameters that allow for comparability and compatibility of similar field data. This would lay the foundation for baseline data development and an understanding of cumulative effects. There is significant room for creating regulatory certainty in this space. Currently proponents, governments and other practitioners are collecting data in different formats which can cause uncertainty within decision making process and this can cause confusion as to what is actually happening on the land.

Q5: What improvements could be made to the ways the GNWT inspects, monitors and audits resource activities and regulatory compliance?

See Q1 – previous section

REHABILITATION AND CLOSURE

Q2: Are there other gaps in closure and rehabilitation legislation that could be addressed by the MRA?

Yes, the ACT should give the Minister of Lands the authority to collect fees for default and closure beyond what is determined by the land and water boards when the amounts are insufficient to cover the GNWT's liability.

Q4: How should the MRA address abandoned mines?

Create a fund to address this.

SOCIO-ECONOMIC BENEFITS

Q1: Should the MRA address benefit agreements (such as SEAs, IBAs) in some way? If so, how?

The MRA could also give direction to establishing a fund, through the collection of a modest tax from non-renewable resource development that would invest in regional land and resource management departments. This fund could also increase the capacity of regional Indigenous governments and other organizations who currently can't participate in numerous regulatory reviews. It should be considered that resourcing the engagement of all parties to participate during the regulatory phase of the mining cycle and having local boots on the ground to collaborate in environmental monitoring at all stages would in fact boost confidence in the industry. Diversified opportunities for employment in communities that have few opportunities could also be a positive result of this investment.