



PRESS RELEASE

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NGOs encourage GNWT to produce modern mining legislation

Northwest Territories and national public interest groups have filed detailed comments in response to the territorial government discussion paper for consultation on a new *Mineral Resources Act*.

Alternatives North, Ecology North, the NWT Chapter of the Council of Canadians, Canadian Parks and Wilderness Society NWT, Northern Territories Federation of Labour, Canadian Arctic Resources Committee and MiningWatch Canada collaborated to analyze the information available to produce submissions expressing the particular concerns of each organization. These submissions, along with much of the information analyzed, are posted to the website Responsible Mining Northwest Territories.

All the organizations have agreed that more research and analysis on best practices and lessons learned from other jurisdictions is required. Further public engagement is also necessary for informed discussion and input.

Attached is a shared statement of Engagement Findings and Principles the organizations produced to guide the overall development of the new law.

William Gagnon with Ecology North notes: "The Government of the Northwest Territories has a chance to author a new chapter in the storied mining history of our land. Ecology North sees this new era being informed by lessons learned from mistakes made here by other governments, and solutions from other jurisdictions."

"The Mineral Resources Act like all post-devolution legislation, creates a tremendous opportunity for public and Indigenous governments to work together to take an integrated approach to land and resource use and management. We look forward to Northern governments working together for the benefit of residents and our environment" says Lois Little, Co-Chair of the NWT Chapter of Council of Canadians.

Karen Hamre from Alternatives North says "Much work is needed to modernize this Act; it cannot be a minor update to the pre-devolution system inherited from the federal government."

Engagement findings and principles can be found on the next pages.





GNWT MINERAL RESOURCES ACT: NGO ENGAGEMENT FINDINGS AND PRINCIPLES

Public Interest Approach Rather than Mining Promotion--The focus of the Discussion Paper and other public engagement materials has been to promote mining, but should first address how to mitigate, manage and make informed decisions that includes maximizing revenues and benefit retention for all NWT residents. Mining is being over-emphasized by the GNWT as an economic development tool. The GNWT's Land Use and Sustainability Framework should be a guide for decision-making in regards to the future Minerals Resources Act (the Act).

Research and Analysis Required for Informed Public Debate with Further Public Engagement--There is a lack of research by GNWT on best practices and lessons learned as no options, alternatives or analysis have been presented by GNWT. While the one study on benchmarking the NWT against international standards for mineral management was released after requests for more information, studies and research of this nature should routinely be provided to the public as soon as it has been finalized in order to enable and encourage effective public input. Further information and engagement opportunities are needed to ensure informed input into the development of the Act.

Paramountcy of Integrated Resource Management System over Mineral Resources Act—The NWT has a made-in-the north, different-by-design, integrated resource management regime that is the result of constitutionally entrenched Indigenous land rights agreements. The *Mackenzie Valley Resource Management Act (MVRMA)* integrates land use planning, environmental assessment, land and water management, state of the environment reporting and an audit function. There are similar functions in the Inuvialuit Final Agreement. While Devolution of authorities in 2014 modified roles and responsibilities, the integrity of this integrated system must be protected and strengthened, and the Act should explicitly support the system. There should be no attempt to undermine or weaken the *MVRMA* or the Inuvialuit Final Agreement in the new Act.

No Special Treatment for Mining—Mineral exploration is considered a risky venture and its environmental impacts have often been underestimated, overlooked or minimized but can contribute towards significant negative cumulative effects on residents, their communities and the land. Mineral exploration should not be treated any differently than other forms of environmental disturbance and needs to be carefully managed.

Mineral Rights System Must Incorporate Free, Prior and Informed Consent—The current free entry system for mineral rights is incompatible with the constitutional duty to consult and accommodate Indigenous peoples and best practices regarding sustainability. The new Mineral Resources Act must also recognize and implement the right to free, prior and informed consent as set out in the UN Declaration on the Rights of Indigenous Peoples and reinforced by the Truth and Reconciliation Commission's Calls to Action, both of which have been endorsed by GNWT. Furthermore, GNWT needs to place a higher priority on the completion of outstanding land and resources agreements with Indigenous governments to assist with free, prior and informed consent and create greater certainty.



NWT Needs to Retain a Fairer Share of the Revenues and Benefits from Mining—Given that the NWT has some of the world's lowest returns to the public purse from mining (royalties and taxes) in exchange for the extraction and export of our one-time, natural capital, we need to overhaul the royalty system to retain a greater proportion of the financial returns from mining for today and future generations in the NWT. Full disclosure of mineral company payments to governments in the form of taxes, royalties and other fees is needed in accordance with federal legislation and international best practices. Adequate audit, activity and production monitoring and inspection need to be in place to ensure accurate revenue accounting. Significant improvements are required of GNWT. GNWT is missing out on tens of millions of dollars on an annual basis that could be used to diversify our economy, bolster basic service and improve sustainability for future generations.

Retention of All Geological and Environmental Data Gathered During the Mining Cycle—Protocols for geological and environmental information collected during the mining cycle should be standardized to ensure comparability and compatibility. This will help build our knowledge base, facilitate assessment of cumulative effects and land use planning, make for more focused and effective mineral exploration, and reduce environmental impacts from mineral development.

Consideration and Allowance for Small-Scale Mining--Consideration of smaller scale mining options is needed for increased local returns and reduced impacts. Large-scale mining too often focuses on corporate and out-of-territory shareholder benefits, rather than community needs. Furthermore, large-scale mining requires highly specialized techniques, which can exclude community participation. The small-scale mining of certain minerals can be a slower but steady process, with more long-term benefits, using simple techniques and easily repaired machinery. It can also extract wealth from small deposits or certain minerals that might not be worthwhile in large-scale mining.

Move Mineral Rights Disposition to Department of Lands—the Department of Industry, Tourism and Investment currently has a dual and incompatible role as both a regulator and promoter of mining. To ensure that there is reduced bias and perception of conflict of interest, the subsurface mineral disposition system should be moved to a more neutral, third-party that already has expertise with land dispositions—the Department of Lands.

More Effective Environmental Management of Mining—Several areas require more resources and support to ensure the effective management of mineral exploration and development, although most are outside the scope of the Mineral Resources Act. These include the following:

Incorporation of the Precautionary Principle—Environmental legislation should be part of the overall mineral development cycle. The historical and on-going costly environmental record of mining, combined with the burgeoning impacts of a changing climate, have led to an accumulation of environmental stresses that must be considered in responsible management of mineral development.



Completion of Land Use Plans and the Protected Areas Network—Ecologically and culturally representative protected areas that meet International Union for Conservation of Nature (IUCN) standards need to be in place as a priority. This puts an appropriate priority on the health of our environment and cultures, while providing greater clarity to industry on what areas are not suitable for exploration and development. Land Use Plans need to be legally-binding and will create greater certainty.

Thorough Consideration of Fish and Wildlife Populations and Habitat—Mineral exploration and development need to fully account for both direct and indirect impacts on fish and wildlife, particularly on important caribou habitat. This should be the case throughout the entire lifecycle of any operation; from exploration and road building, through the life of the mine itself, to decommissioning and cleanup of tailings and other waste by-products.

Mandatory, Polluter Pays, Financial Security for Closure and Reclamation of All Mineral Exploration and Development—Much work remains to ensure that the Polluter Pays principle is fully incorporated into existing environmental legislation. Financial security for mineral exploration and development must be mandatory for full closure and reclamation to ensure no further public liabilities are created. Financial security must be in forms that allow immediate use upon an emergency or default.

Increased Inspection, Monitoring and Enforcement—These functions are usually a government responsibility and require greater transparency and accountability. Industry self-reporting has not proven to be effective.

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