

## **Reforming the Resource Development Regulatory Regime in the NWT**

In support of efforts to remove interprovincial/territorial trade barriers and as part of a comprehensive strategy to speed the nation's economic recovery from the recession, changes are required to the resource development regulatory regime in the NWT, which presently remains under federal control.

In the Northwest Territories (NWT) the economy is largely levered to resource exploration and development. In 1999, mineral exploration spending in the NWT accounted for 18 per cent of the national total. Since then that percentage has been in steady decline and in 2009 such investment in the NWT is expected to total just \$28.4 million or less than two per cent of the national total. This decline in activity is not simply a byproduct of the economic slowdown, but instead largely attributable to the current regulatory regime governing mineral exploration and development in the NWT. Mineral exploration companies are often small in nature with limited financial resources and can't afford to risk their capital in jurisdictions where regulations are unclear or inconsistent. At the same time they are global in scope, so when they choose not to invest in one part of the country it is all too often in favour of a location outside Canada.

Last year the NWT's three diamond mines produced more than \$2 billion worth of rough gems while employing more than 2,200 workers and approximately the same number of contractors. By 2018 these mines are expected to begin nearing the end of their producing lifecycles. Under the current system, it's estimated to take a minimum of 10 years to develop a new mine in the NWT due to regulatory delays caused by uncertainty resulting from the existence of no fewer than five review boards: the Mackenzie Valley Land and Water Board; the Mackenzie Valley Environmental Impact Review Board; the Sahtu Land and Water Board; the [Gwich'in Land and Water Board](#); and the [Wek'èezhìi Land and Water Board](#). Without exploration activity now, new mines may never develop in the NWT as companies are instead choosing to explore in jurisdictions where there is clarity in the regulatory process.

In May 2008, Indian and Northern Affairs Canada Minister's Special Representative Neil McCrank released his report Road to Improvement – the Review of the Regulatory Systems Across the North. The report highlighted 18 recommended changes in the NWT and also suggested two options for restructuring the system which would involve re-opening settled land claims.

In conjunction with the NWT Construction Association and the NWT & Nunavut Chamber of Mines, the NWT Chamber of Commerce reviewed these Mr. McCrank's recommendations and identified 13 priorities for change that are achievable without the unwanted requirement of reopening settled claims.

These 13 priorities, which are also supported by the Government of the NWT, include:

- Complete land use plans
- Clarify consultation requirements
- Ensure board capacity on the Mackenzie Valley Land and Water Board; the Mackenzie Valley Environmental Impact Review Board; the Sahtu Land and

Water Board; the [Gwich'in Land and Water Board](#); and the [Wek'èezhii Land and Water Board](#)

- Ensure timely board appointments
- Clarify problem policy areas for boards
- Set performance measures related to timelines
- Introduce water quality and effluent standards
- Define triggers for environmental assessment
- Clarify of enforcement responsibilities
- Commission a second NWT environmental audit
- Introduce surface rights legislation related to land access
- Develop a defined protocol for ministerial reviews
- Coordinate federal responsibilities through a made-in-the-North equivalent of the Major Projects Office.

The federal government has done little in recent years to address the problems inherent to the current system. As this process advances, it should do so with the understanding of several important concepts:

- All First Nations land claims and self government rights must be respected.
- Industry needs certainty if it is going to invest in future development.
- Changes should help facilitate the eventual transfer of province-like powers and responsibilities to the governments of the northern territories.
- Protecting the environment and encouraging exploration are not mutually exclusive activities.
- All requirements should be intelligent and risk based so that smaller, grassroots projects are subject to less stringent reviews than large-scale developments

### **Recommendations**

That the federal government reform the resource development regulatory regime in the NWT to level the playing field across the country. It must address 13 key priorities identified previously by its own Minister's Special Representative:

1. Complete land use plans
2. Clarify consultation requirements
3. Ensure board capacity on the Mackenzie Valley Land and Water Board; the Mackenzie Valley Environmental Impact Review Board; the Sahtu Land and Water Board; the [Gwich'in Land and Water Board](#); and the [Wek'èezhii Land and Water Board](#)
4. Ensure timely board appointments

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10. Commission a second NWT environmental audit
11. Introduce surface rights legislation related to land access
12. Develop a defined protocol for ministerial reviews
13. Coordinate federal responsibilities through a made-in-the-North equivalent of the Major Projects Office.