

Standing Committee on General Government  
Legislative Assembly of Ontario  
Toronto, August 6, 2009

Presentation by:

Mr. Jon Baird, President  
Prospectors and Developers Association of Canada (PDAC)

on

Bill 173 (Mining Amendment Act) and Bill 191 (Far North Act)

Good afternoon, Mr. Chair and committee members.

My name is Jon Baird and I am the President of the Prospectors and Developers Association of Canada.

I am here with my colleagues: Philip Bousquet, the PDAC's Senior Program Director; Jason Wilson, PDAC Program Director for Aboriginal Affairs and Resource Development; and Michael Hardin, an external legal consultant who has worked with us in preparing the PDAC's submissions that respond to the Ontario government's *Mining Act* and *Far North Act* proposals.

Thank you for providing us with an opportunity to meet with you today.

### **The PDAC**

The PDAC is a national association formed in 1932 whose members are involved in the mineral exploration and development industry, both in Canada and around the world.

Our membership includes over 1,000 corporate and 6,000 individual members, comprising mining companies, junior exploration

companies, service and consulting firms, geoscientists, prospectors, students and the financial and investment sectors.

The PDAC organizes an annual convention in Toronto, which is the world's premier mineral industry trade show. In 2009, our convention attracted over 18,000 delegates from 120 countries.

### **PDAC position on Bill 173 and Bill 191**

This committee has been asked to review two significant legislative proposals that would fundamentally change the way that mineral exploration and mining are carried on in Ontario.

Following a careful review of these proposals, the PDAC has concluded that neither bill should be enacted in its present form. It is our recommendation that Bill 173, regarding the Ontario Mining Act, be amended in a number of areas prior to further consideration by the legislature, and that Bill 191, the Far North Act, be withdrawn.

Our rationale is detailed in our submissions that have been posted on Ontario's Environmental Registry. Copies have been distributed to the committee. I will briefly outline our key points. Prior to doing so, however, I would like to provide the committee members with some background on the context within which this legislation is being considered.

### **Mineral exploration, mining and the economy**

We are now at a time when the prices for the commodities produced by the mining industry are at historic low levels, operations are being closed, miners are being laid off, their suppliers' revenues are shrinking, and investment in mineral exploration and mine development is drying up.

In recent years, Ontario has attracted about 5% of the world's expenditure for mineral exploration. This is as much as \$500 million a year which has provided valuable employment for people in urban, rural and remote areas of the province. Because of the current

downturn, however, this year's exploration spending is expected to be about 50% of last year's total.

On top of this, we now have the uncertainty of new legislation which will have unknown effects on future investment, discovery, mine development and job creation in the province. Prior to advancing such legislation, you need to know that you have it right. Your work on these bills will affect communities throughout Ontario in the short term and for many years to come. If the government of Ontario, after consultation with environmentalists, industry, Aboriginals and other citizens, does not achieve wise, fair, clear and balanced approaches through these new laws, a great deal of wealth creation, benefiting all of the citizens of the province, will be wiped out.

How important *is* a mine? In a recent study by the *Ontario Mining Association*, a model mine in Northern Ontario with modest annual revenue of \$270 million, created 480 jobs in production, 1,103 jobs in the upstream supply chain, plus another 697 positions in the economic activity generated when the employees and suppliers spent what remained of their wages after taxes and savings. Thus, the mine "employs" 2,280 people. Of course, the mine and everyone connected with it, pay taxes, further benefiting all the citizens of the province.

The millions that industry and investors direct to Northern Ontario for mineral exploration and mining are the single best generator of economic activity that can be envisioned, particularly for those living north of the 52<sup>nd</sup> parallel. Industry, therefore, has an important place in the discussion surrounding the mineral exploration and land use planning regimes that the government has proposed.

The exploration, mining and financial industries, as well as the private citizens who are investors, have a lot at stake here. To some degree these elements of society are represented by associations like the PDAC, Ontario Prospectors Association, Ontario Mining Association, and others from whom you will be receiving advice.

But make no mistake about it. The "industry" that really counts will make its own analysis and vote with its feet. Ontario risks losing

investment and wealth creation very rapidly if the new legislation is not wise, fair, clear and balanced.

## **Concerns with Bill 191**

I will now turn to the legislation and offer a few comments, beginning with Bill 191, the Far North Act.

As committee members are aware, Nishnawbe Aski Nation (or “NAN”) First Nations have expressed grave concerns regarding Bill 191 and NAN has formally resolved to prevent its passage. I will not detail their reasons for opposition as First Nations communities, organizations and individuals are raising these with you directly, however, as a representative of the PDAC, I can express my agreement with NAN’s concerns and state the following reasons for the PDAC’s recommendation that Bill 191 be withdrawn.

The PDAC contends that Bill 191, in its present form, would deprive all the citizens of Ontario, particularly the First Nations communities that make up most of the population of the Far North, of the economic benefits that responsible mineral resource development can provide.

Bill 191 fails to provide First Nations with an appropriate and clearly defined role in the land use planning process.

Bill 191 seriously compromises the ability of the minerals sector to operate in the Far North by reducing the land base available for exploration by 50 per cent or more, relegating the minerals sector to a peripheral role in land use planning, and damaging investor confidence in mineral exploration activities in the region.

Finally, Bill 191 fails to achieve an appropriate balance between responsible economic development and protection of the unique cultural, social and environmental values that the Far North embodies.

Land use planning is a complex process. The end result needs to encourage investment that best uses the land in the interests of the people. Land use planning takes time, partly because modern science needs to be applied. In Ontario’s Far North, there is a need

for much more geological knowledge before land use can be determined.

Over this large tract of land we have the opportunity of exercising modern land use planning, based on scientific principles and traditional Aboriginal knowledge. We should not start with prescribed limits that are not based on science, and are not based on the needs of the people. Indeed, land use planning in the Far North should begin with widespread geologic mapping and mineral exploration.

Bill 191 would ensure that there will be no exploration or mine development in the Far North for the foreseeable future, since it will take a great deal of time to develop land use plans. The development of these plans will be greatly hindered by lack of funding, lack of capacity and lack of geo-scientific knowledge across this large territory.

We believe that the *Far North Act* is unbalanced in that it does not properly consider the need for the economic development that is so important to the people who live in the region and in the rest of the province. By taking more than 50% of the land out of the mineral inventory forever, and particularly by choosing that land before serious geological mapping or mineral prospecting has taken place, Bill 191 would dramatically reduce opportunities for locating economic deposits and for the potential benefits in terms of jobs and community sustainability.

I would like to offer a few points about the nature of prospecting and mining.

Mineral prospecting, if done properly, has little lasting effect on the environment. It is a temporary use of the land. Aboriginal ancestors were knowledgeable prospectors and mineral exploration continues to thrive among Aboriginal people throughout Canada.

Prospecting is difficult. It is like looking for a needle in a haystack and the Far North is a big haystack. We do not know, and we will never completely know, what lies below our feet. In order to improve the chances of finding economic deposits, prospecting should be classed alongside hunting, fishing, trapping, ecotourism and other such

activities and allowed over all but the most sensitive environmental or cultural sites.

One never knows where a mine will be found. There are currently only two mines in the region contemplated by the Far North Act. Even if there were twenty mines, the geographic footprint of these mines would occupy less than one half of one percent of the total land mass of the area. This would leave over 99 percent of the land protected and the people relatively well off.

### **Concerns with Bill 173**

Bill 173, the Mining Amendment Act, is quite different from the Far North Act; however, the two bills are closely related to one another. In our view, it would have been prudent to complete the legislation on Bill 173 and put its regulations in place, before introducing the Far North Act, with its immense implications on land use.

Following are some of the specific shortcomings with respect to Bill 173:

The constitution obliges the Crown, whether federal or provincial, to consult and to accommodate with First Nations when contemplating conduct that has the potential to infringe Aboriginal or treaty rights. In its comments on Bill 191, the Nishnawbe Aski Nation clearly feels that the provincial government has not fulfilled its obligations. As detailed in the PDAC's response to Bill 173, we believe that the approach taken in this legislation is inconsistent with the guidance that the courts, notably the Supreme Court of Canada, have provided.

Bill 173 extinguishes mineral rights in Southern Ontario. With some exceptions, we do not see the necessity of this infringement on the rights of all Ontarians.

Both bills contain provisions that do not allow reasonable rights of appeal and Bill 173 would impose harsh and unreasonable penalties for one class of offences.

Bill 173 provides two separate dispute resolution mechanisms. We do not understand why, under a clear and unequivocal law, the Mining and Lands Commissioner, whose functions are already well defined and proven, can not adjudicate all disputes. Two systems will cause undue confusion, delays, expense and, perhaps, unfairness.

Bill 173 would impose significant new requirements throughout all stages of the mining cycle. Until these are spelled out in detail in the law and in regulations, investors and the industry will worry about the implications for security of tenure and investment. We have received very little information regarding many aspects of the future regulatory environment.

## **Conclusion**

You will hear many reasoned criticisms of Bills 173 and 191 in your hearing today and in your travels through Northern Ontario next week. I hope that, among these, you will take into consideration the detailed submissions on each of the bills made by the *Prospectors and Developers Association of Canada*. We see some very serious obstacles and important unknowns in the proposed legislation.

Thank you. We would be pleased to answer your questions.