

Mining and Natural Resources Law

December 9, 2015

Government of Ontario Continues *Mining Act* Modernization Process

The government of Ontario introduced amending legislation on December 2, 2015 (the “**Proposed Mining Amendment**”) in furtherance of the modernization of the *Mining Act* (Ontario) (the “**Mining Act**”). The modernization process began in earnest in 2009 with the passing of the *Mining Amendment Act* (“**Bill 173**”) and represented the first major overhaul of the *Mining Act* in over a century.

The Proposed Mining Amendment would build upon the changes introduced by Bill 173 (described below) and significantly modernize how claims are registered and managed in Ontario by (i) implementing an online registration system for mining claims, moving the province away from the existing ground and paper map staking system, and (ii) introducing a modernized electronic mining lands administration system.

The Proposed Mining Amendment is intended to enhance Ontario’s global competitiveness in the mining sector, encourage prospecting, simplify claim registration and recognize modern exploration techniques and technology, all of which are key to the development of new mines.

Background

The Ministry of Northern Development and Mines (MNDM) is undertaking a phased approach to its ongoing modernization of the *Mining Act*. Bill 173, passed as the initial stage of the modernization process, was intended to promote mineral exploration and development in a manner that

recognizes Aboriginal treaty rights, introduces processes that are more respectful of private landowners, and minimizes the impact of mineral exploration and development on the environment.

The MNDM’s initial modernization efforts in Bill 173 introduced changes involving notice of staking, mining land tax exemptions, exploration plans and permits, clarifications of Aboriginal consultation requirements, criteria for protection of sites of Aboriginal cultural significance and the implementation of the Mining Act Awareness Program as a requirement for prospector’s licenses and for those supervising early exploration projects. The Proposed Mining Amendment would further the MNDM’s modernization goals by implementing a less intrusive claim staking process, moving from current methods of acquiring Crown Lands for mineral exploration (ground staking in Northern Ontario and paper map staking in Southern Ontario) to an online staking system for the entire province, comparable to the systems used in British Columbia, Nova Scotia, New Brunswick, Newfoundland, Labrador and Quebec. It would also modernize mining lands administration from the current paper-based process to a digital-age electronic process.

Key Elements of the Proposed Mining Amendment

Implementation of online staking and mining lands administration are intended to encourage, promote and facilitate sustainable and responsible development of Ontario’s mineral resources. The proposed implementation of online staking would make boundaries of mining claims more accurate. It would also change the description of a mining claim from “what is on the ground” to an accurate, precise and permanent co-ordinate definition.

Goodmans^{LLP} Update

Highlights of the Proposed Mining Amendment include:

- Providing more current, consistent and accurate data;
- Introducing pre-defined cells that may be selected, thus reducing claim boundary disputes;
- Maintaining and enhancing the fair, equitable and competitive access to mining lands in Ontario;
- Reducing staking disputes, due to more certainty of claim boundaries;
- Reducing compliance costs and administrative burden by enabling around-the-clock online self-administration of mining lands; and
- Eliminating the minimal impact of ground staking.

If the Proposed Mining Amendment is approved by the government of Ontario, it will be implemented over the course of the next two years.

After 100 years, there is no doubt that the *Mining Act* was overdue for a “modernization”. While there has been skepticism in the industry that the initial phase of the overhaul has resulted in any streamlining, aspects of the latest proposed amendments, including electronic staking, provide an opportunity to bring the *Mining Act* in to this century.

The government of Ontario has sent signals that the mining industry is a priority. The province’s recently proposed “**Cap and Trade**” system for air emissions targets electricity production and base metal processing - two industries which are critical to the mining sector in Ontario. It remains to be seen whether the province’s aspirations on climate change will have unintended consequences detrimental to the mining sector. The government announcement on the Cap and Trade proposal came with a commitment to spend funds raised in the process on infrastructure - another issue critical to the mining sector. The latest phase of the modernization of the *Mining Act*, Cap and Trade and infrastructure development all impact the industry. Ideally, there will be coordination of these provincial initiatives which will result in benefits for miners.

Please contact any member of our Mining and Natural Resources Group to discuss the implications of the Proposed Mining Amendment.