

News views and opinions on the mineral exploration scene in Ontario

September 2009 Issue

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THE EXPLORATIONIST
The Newsletter of the Ontario Prospectors Association

The Explorationist Newsletter is brought to you as a 'member service' of the Ontario Prospectors Association. The purpose is to share news and information amongst its members and also to act as the association's 'Political Voice'.

The views and opinions expressed in this newsletter are not necessarily those of the Ontario Prospectors Association, including all of the members and Directors. The writers accept full ownership of their contributions.

BUSY TIMES

Exploration may have slowed compared to the last few years but the bureaucratic—political activity has made up for that. The OPA, Regional Associations and other stakeholders groups have been going full out trying to make sense of and influence the proposed Mining Act changes (Bill 173) and the Far North Act (Bill 191).

Between the consultation and lobbying pre – Acts and the post introduction lobbying and responses large volumes of non-exploring time have been consumed. The OPA and Regional Groups have been communicating with members to get opinions and ideas to go forward and provide certainty of investment in Mining Lands in Ontario.

Analysis of the Acts has resulted in various members pointing out pitfalls they have encountered in other Provinces where similar changes had been implemented. The OPA hopes the Government is listening and will review other Provinces success and failures. We don't need to reinvent the wheel in Ontario or produce a Made in Ontario solution just learn from other jurisdictions on what works and what doesn't.

The proposed Mining Act Amendments received second reading and the Far North Act received first reading at Queens Park in June. Both were sent to the Standing Committee on General Government for review. Having a Bill go to Committee after first reading is rare and could allow it to go back to Committee after second reading.

Once the two Bill's made it to Committee a hearing schedule was established with hearings in Toronto (Aug 6th), Sioux Lookout (Aug 10th), Thunder Bay (Au 11th), Chapleau (Aug 12th) and Timmins (Aug 13th).

The Nishnawbe Aski Nation (NAN) have come out strongly against the timing of the hearings and the locations also. NAN believes hearings and consultation of Bill 191 should be in the communities effected which are all further north. NAN generally believes that Bill 191 does not empower the communities to create their own Land Use Plans but make it a top down process driven by MNR.

The hearings were well attended by a large cross section of the stakeholder groups that have interest in the Bills.

OPA presented in Toronto with Regional Groups presenting in the northern hearings. To see all the transcripts of the hearings visit:

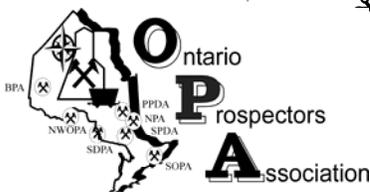
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OPA's TRANSCRIPT FROM HEARINGS

August 6th Toronto, OPA

The Chair (Mr. David Oraziatti): Good afternoon, and welcome to the Standing Committee on General Government. You have 15 minutes for your presentation. State your



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name for the purposes of Hansard and you can begin your presentation right away.

Mr. Garry Clark: My name is Garry Clark. I'm the executive director of the Ontario Prospectors Association.

The Ontario Prospectors Association is a provincial organization representing seven regional associations. The regional associations are located anywhere from southern Ontario, Sudbury, North Bay, Timmins, Sault Ste. Marie, Sioux Lookout and Thunder Bay.

We'd like to thank the Chair and the members for allowing us to respond to Bills 173 and 191.

Just a background on myself: I'm the executive director; I'm also a professional geologist in the province. I was a member of the industry input group in 1990 when the Mining Act was last majorly amended. I've been a member of the minister's Mining Act advisory committee since 1990 and I'm presently chair. I was also a member of the minister's far north advisory council and I was chief negotiator for the exploration industry to disentangle claims that were caught up in the Ontario Living Legacy sites. I'm also an active exploration consultant based in Thunder Bay and a prospector who has optioned numerous properties to junior companies and senior companies within Ontario.

We understand that Bills 173 and 191 are enabling legislation. Some of our fears are that there's too much reliance on regulation development. We think there needs to be more confirmation of direction of where the bills are going. We recognize Bill 173 is funded to the point of \$40 million to amend the Mining Act but we're not sure this is enough, and Bill 191 has no funding put with it, though estimates are \$300 million just to do the land use planning development itself. There is no funding presently in place to fund the required geoscience and other science components that need to be done to do wise land use planning. We believe that Bill 191 missed the mark when it was written and it should be squashed.

Just briefly, some insight that we see from Bill 173: Map staking is endorsed within Bill 173. There's the possibility of the loss of prospectors' sweat equity when they're staking if we go to a map-staking basis. There's loss of entry posi-

tions. That's the position that you start at making some money when you're staking. There's fear of deep pockets taking all the lands, depending on how a map-staking system is set up. The First Nations economic impact and economic stimulation in the far north comes from when the stakers show up in the community and need to buy various goods and services. Prospectors are using staking as income in the winter when they can't prospect for minerals. There's a possibility that there's a socio-economic impact study needed. The other consideration, if we go in the map-staking direction, is that we do not have consistent high-speed Internet access across the north. That's something that is very important to have. It's great to say you can stake a claim from China in Ontario when some people in Ontario can't get on to stake a claim because they don't have high-speed.

One worry is certainty and security of investment. The proposed amendments are very vague on detail and rely greatly, as I've mentioned, on regulation. We're seeing right now that our explorers see similarities to what happened in BC, and some of them are shying away from Ontario, worrying about what is going to be the outcome of Bill 173.

We do see work plans as described in Bill 173 and work permits as a viable method of informing First Nations communities that exploration is about to occur within their traditional lands. Potential delays at the First Nation level, though, may set exploration back, and exploration permits going into the community will always be behind social issues for evaluation purposes.

An arbitrator is mentioned within Bill 173. It is welcome, but the strength of the legislation and the definition of this arbitrator are not presented, and we think that the procedures and definition need to be strengthened within the bill. Explorers need flexibility when they're working within their projects to react. As you find something, you may change the direction. If you have to go back to the work plan to amend it, you may lose part of a season.

There's a director of exploration mentioned. These roles and responsibilities are not well defined in the proposed legislation and the

potential, the way it's defined, is another level of bureaucracy to slow down exploration and slow down accessing the land. There's also an inspector of exploration that's mentioned and described. This is actually welcomed by a lot of our members. The only problem is that there are some very unchecked powers that are defined in the legislation as it sits now, and that position needs to be refined or redefined.

The other worry we have with work plans and work permits is that in 1996 we got rid of work permits, and at that point it was up to our own recognizance to be able to operate under other laws within Ontario. We do not see the reason to send these documents as work permits out to MNR, MOE or MOL. If that happened, I think what would occur is we'd be under a microscope all the time. Right now, we work under our own recognizance and we follow the legislation, and there have been very few problems with that.

On withdrawal of mining rights: We're worried about the exploration economics being compromised. If there is a piece of land that's withdrawn and you're working on land that's staked beside it, if you start moving toward finding an ore body and moving toward that land, there's no method of reopening the withdrawn lands mentioned within the proposed bill and there's no method for assessing the land in northern Ontario that possibly could be withdrawn. We think there's potential for socio-economic implications to Ontario with lands being withdrawn.

The prospectors' awareness course, we believe, is a very good idea to educate prospectors on ethics, other stakeholders' rights and best practices. The only problem with that is that 90% of the people doing the exploration on the land are not licensed prospectors and these are the ones who need some awareness also. There is a thing called a 25-year or permanent license, and some of these licence holders should be exempt from having to take this awareness course.

Certainty, security of investment under Bill 191: It presently states that there are no new mines until land use plans are completed, and therefore no new economic stimulation. If a claim is there now and it's found to be protected lands, what occurs? We all remember what happened with Ontario Living Legacy. It took me three or

four years to disentangle some of these lands even though we were guaranteed that everything was fine. The length of time to do a land use plan means that those explorers probably will sit on the sidelines and wait until the land use plans are completed in some cases. There is no trigger within Bill 191 to say when there would be a land use plan started, and explorers would get to a certain point without a land use plan, would then stop their projects and sit on their hands.

Who's driving the plans: Communities need to drive the plans with some form of panel/board approving and overseeing the process. This panel/board would look at the total landscape of the north and make sure everything is balanced so that there is a flow of land use plans across the various areas.

Protection versus conservation: The land is already protected by its geography in the far north. Explorers need large volumes of land to explore. The area of protected areas and connectivity scares explorers. They're worried that there will be connections of all the protected areas, which will create isolation and prevent access/service corridors to the communities and the economic sites.

Adequate funding: We don't know the geology very well in the far north. The government needs to assess the mineral potential in the far north. Protection of high mineral potential is as valid as protecting flora and fauna for our grandchildren.

The Chair (Mr. David Oraziotti): Thank you very much for your presentation. We'll go to the government caucus first. Mr. Mauro has questions for you.

Mr. Bill Mauro: Mr. Clark, thank you for being here and for your presentation.

Mr. Brown and I are going to share this, so I'll get this out as quick as I can.

You talked about the planning board or some planning process going forward under Bill 191. Section 16 states-I'm not sure if you're aware-"The minister shall establish one or more bodies to advise the minister on the development, implementation and coordination of land use planning in the far north in accordance with this act."

The subsection goes on to state: "When establishing a body ... the minister shall consider what role First Nations should play in the establishment of the body...." So it is contemplated and it is going to occur.

The second part I wanted to ask you about, however, was you made a comment about security of investment or return on investment-I'm not sure what it was. My question is, how does that exist today? What's the current climate, compared to where we think we're going to land? Should this pass and this legislation go forward, how are the two going to compare? It would seem to me today, given the uncertainties that exist-and we hear that all the time as industry moves into these areas to try to do their work-there is so much uncertainty in the process now, so I'm wondering how you contemplate this can't be better or how it could make it worse.

Mr. Garry Clark: I think it can be better. The worry is how long it will take to get to the point of a plan. The other point is that you can go into an area and work and there won't be a plan and you don't know when the plan will be developed, so you have no certainty that you will mine because it says no new mines will go forward without a plan. I know there is the provision that says that the crown can overrule that and make things go forward, but frankly, the industry-and it's not just Ontario-based, but worldwide-doesn't trust that type of clause.

Mr. Bill Mauro: But there is an accommodation for some interim work to go forward. For example, on mining work, feasibility studies could still go forward and economic-a lot of things could still occur in regard to that. If a mine was-

Mr. Garry Clark: But still, without the point of knowing when the plan is going to be complete, you could have a full pre-feasibility or a feasibility study saying it's economic and you could be hung up waiting for that plan.

The Chair (Mr. David Oraziotti): Mr. Brown, if you have something briefly, you can add.

Mr. Michael A. Brown: Thank you, Mr. Chair. Good to see you, Mr. Clark.

I was surprised by the number, that 90% of the prospecting is done by non-licensed prospec-

tors. Could you explain that to me? It's a new number for me.

Mr. Garry Clark: In the exploration business, the very bottom end of exploration is usually the prospecting end. Under the act, prospecting is actually anything that's done as exploration, but the prospector himself is only required to have a prospector's licence if he's going to stake claims. He doesn't have to have a prospector's licence to do the assessment work to keep the claims in good standing. So when you go on a project, you'll see that there is no one there who actually needs to have a prospector's licence to complete the work to keep the claims in good standing.

The Chair (Mr. David Oraziotti): Mr. Hillier.

Mr. Randy Hillier: I have a couple of questions, but a couple of statements first. I found it quite interesting that you share a lot of the same concerns with the previous presenter with regard to the regulatory burdens and how much reliance there is in the act on the regulations, and also the concept of community-based land use plans.

I'll ask two questions. First off, were you also involved in the consultation before the Premier made that announcement on 50% protection in the north?

Mr. Garry Clark: No.

Mr. Randy Hillier: You weren't.

My question is just on the withdrawal of mining rights. This has come up a few times today. Under the present proposal, once those lands are deemed to be withdrawn, there is no avenue for them to come back in in southern Ontario. However, if those properties and those rights were unified-the mineral and the surface rights-then of course the prospector could continue to enter into negotiations with the private owner.

Mr. Garry Clark: It would be similar to what we do now, yes.

Mr. Randy Hillier: Right. A little bit more streamlined-and have potential access.

Mr. Garry Clark: It would be nice to be able to stake them and not have to-

Mr. Randy Hillier: Anyway, thank you very much for your presentation.

The Chair (Mr. David Oraziotti): Mr. Bisson.

Mr. Gilles Bisson: The act, in short, says that in the end we're going to protect a minimum of 50% of what is in the far north. You made the point that we know little of the geology of the far north, which I well understand. The only two producing mines up north are Musselwhite and De Beers. My question is simply this: Twenty-five years ago, let's say, would they have declared that as an area that's interesting when it comes to minerals? Would there have been any way?

Mr. Garry Clark: The discovery was made by De Beers in 1983. But yes, previous to, say, 25 or 30 years ago, you'd be hard-pressed on the De Beers deposit, in my opinion. Actually, the Musselwhite brothers started exploration on the Musselwhite deposit in the 1950s, looking for gold at that point.

Mr. Gilles Bisson: My point is, the difficulty we have with this is that we don't know a lot about the geology of the far north, and what is not geologically interesting today for mining may very well be, given new technologies as they move forward and the more work we do in aerial surveys, sediment work etc. I think we all agree with the premise that we need to preserve as much as we can in the far north and not expose it to development that will be harmful to the environment. How do you get there without doing what they're doing?

Mr. Garry Clark: Without parking it or protecting it that way?

Mr. Gilles Bisson: Yes. How do you get there?

Mr. Garry Clark: I think you actually leave on a status quo situation. At the present time, the geography protects it. The First Nations do a good job, and I know they would say the same thing, that they protect 100% of it. We impact on a very small piece of it as we go through. I think the science can be done, but it's very expensive.

The Chair (Mr. David Oraziotti): Thank you very much for your presentation and for coming in today.

OPA's WRITTEN RESPONSE TO STANDING COMMITTEE BILL 173 and BILL 191

Standing Committee on General Government
Bill 173, the Mining Amendment Act

The Ontario Prospectors Association's response to the Ontario Government in regard to the introduction of the Mining Amendment Act:

The explorers of the Province have some concerns related to Bill 173: An Act to Amend the Mining Act.

There is a fear that there is a large amount of weight on what is going to be needed as Regulation.

The proposed changes to the land acquisition method to map staking require evaluation of how it would affect the income streams of present "stakers". It is possible the loss of this entry point of prospectors to the industry may deplete the grassroots explorers. Computer access and high speed internet is not as prevalent in the north to prospectors as the Ministry thinks.

The withdrawal of Crown lands beneath private surface rights is an adequate way to protect the surface rights owners from prospectors but access to potential mineral potential that would benefit the province is extinguished! The method of opening these lands for exploration needs to be determined and more strength for this is required in Legislation! The withdrawal of Northern Crown Lands needs to have specific Legislation that will prevent high mineral potential lands being alienated.

The "Right to Mine" is clouded by the "No new mines until land use planning is completed in the Far North". Clarity must be enhanced to allow projects to continue or progress if they are significant to Provincial economics.

The idea of an Arbitration mechanism where conflicts between First Nations and explorers

is a very welcome idea but the Legislation needs to define this more clearly. Arbitrators or boards need strong Legislation definition.

Prospector Awareness courses or programs including ethics, other stakeholders rights and best practice are welcome. But the Government must understand that 90% of exploration is completed by non licensed prospectors. These include geologists, geotechs, drillers etc.. These also need to be included in the Awareness training. The idea of the lifetime prospector license holders (>25 years holding a license) needing Awareness training is harsh. Some lifetime would take the course but forcing the issue will see most just operate without a license. If map staking is implemented the people on the land will not have the Awareness training.

The proposed Act amendments are largely driven by the requirements to enhance the knowledge exploration on First Nations traditional lands. Moving to Work Plans and Permits will help with this but:

There fear that the capacity of First Nations capacity to process and react to additional paperwork is not sufficient to prevent long delays in issuing approvals to explore.

There is concern who will get copies of the Plans/Permits creating unneeded inspections and slow downs of projects (i.e. Ministry of Natural Resources, Ministry of Labour etc.). Exploration is a very fluid business and the exploration programs change. There are worries that Plan/Permits amendments may cause undue delays and create extra costs for explorers. Addition of a Director of Exploration seems to indicate another level of bureaucracy that will slow the exploration process. This position needs better definition and responsibilities set within Legislation.

Inspectors of exploration is a good idea especially to help review assessment work or help in claim disputes. The Legislation seems to give these inspectors too much unchecked power and does not define any level of experience or education that would be required.

Standing Committee on General Government
Bill 191, the Far North Act

The Ontario Prospectors Association's response to the Ontario Government in regard to the introduction of The Far North Act:

The explorers of the province are one of the users of the Far North and have been exploring the area since the fur trade. The area has numerous challenges for explorers including access, lack of geoscience data and glacial and younger rock cover. Far North exploration success includes the first Ontario diamond mine, a robust gold mine and potential world class discoveries around the community of Webequie. The exploration and eventual mining in the Far North provides significant economic stimulus to the area and the Province.

Ontario's explorers are reliant on having access to large land masses to assess the mineral potential and locate mineral occurrences and deposits. It is extremely common for explorers to be looking for one commodity and locate something else that is valuable. Examples of this happening include the Voisey's Bay Nickel deposit located while looking for diamonds! The footprint of a deposit and mine operation is small compared to the area explored.

The Ontario Prospectors Association concerns with Bill 191 are:

BILL 191: In its present form the Bill has many problems and should be extensively rewritten or squashed.

LOSS OF EXPLORATION LANDS: The development of permanent protected areas removes land from exploration. The geological knowledge of the Far North is poorly understood due to lack of modern geology or geophysical maps. If there is lands to be permanently protected there needs to be significant investment by the Province to assess the geological potential of the areas. This could be completed by providing expanded funding to the Ontario Geological Survey. At present due to the remote nature of the Far North it is effectively well protected. The need for permanent protection is not real.

LACK OF INVESTMENT CERTAINTY AND ATTRACTION: The creation of Land Use Plans in the north is noted to take significant time! Explorers and investors in mineral exploration need to be certain that they can develop a mine once a Land Use Plan is developed. The track record of Ontario and other province reflects that "protected areas" dis-

place mining claims. Stronger wording is needed to guarantee that mining will occur if a deposit is developed following all existing legislation! This stronger wording would provide better certainty and attract explorers and investors to the Far North.

PROTECTED AREAS AND CONNECTIVITY: Protected areas with a series of connective corridors cause the landscape to be fragmented, prevent linear travel routes and will isolate communities from economic development potential. Connective corridors, such as river parks in the near north, cause extra expenses for economic developers. An example of this was the added expense and time it took to get the Montcalm Mine in Timmins into production. The Montcalm Mine had to create a pipeline to discharge mine water to the Groundhog River rather than the shortest route through a river park. Access corridors are going to be required eventually in the Far North, if economic development occurs. Planning of these corridors is a large planning exercise broader than Community based plans.

COMMUNITY DRIVEN: The Act does not strongly endorse the need for Far North Land Use Plans to be Community Driven. The need for capacity of the communities isn't funded. A significant budget is required to get these projects complete and monies need to be immediately allocated. The government announced significant funds for the Mining Act changes but nothing for the Far North. Estimations for the Far North Land Use Planning have been as high as \$300 million but no funds seem to be committed? This \$300 million does not include the required science to identify areas as high mineral potential or flora and fauna needing protection. This also results in uncertainty for explorers!

FAR NORTH PLANNING BOARD/PANEL: A body needs to be developed that would develop, approve, manage, review and implement the land use plans. This entity can not be "Southern Ontario" centric.

Some of the above concerns have been voiced previously. MNR officials usually point to the Regulations holding the answers. It is the Ontario Prospectors Associations opinion that the wording with Bill 191 needs to be strengthened and enhanced to provide better clarity of the Far North Planning Process.

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