

Submission to Law Amendments Committee re: Bill 149 Mineral Resources Act

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Premise: Private lands protected by land trusts for their extraordinary ecological value should be afforded the same protections from mineral exploration and development as public lands protected for the same purpose.

Proposed approach: Introduce an explicit and balanced legislative framework that recognizes both the value of private land conservation and the value of mineral development. This can be accomplished most simply by extending an existing mechanism in the Act that permits the Minister to withdraw lands from exploration licenses, to explicitly enable the Minister to withdraw ecologically significant Land Trust Protected Areas from mineral exploration and development.

Context:

- Nova Scotia is rich in biodiversity and landforms, with a long history of close relationships with our landscapes and seascapes.
- More than 70% of province is privately owned - this presents both obligation and opportunity for private landowners to act as stewards, and to actively protect aesthetically and ecologically significant places.
- If we as a province are to meet our obligations to conserve biodiversity and protect spaces and species-at-risk, we must engage private citizens on private lands. We can't do it on public lands alone.
- Presently less than 0.1 percent of our private lands are formally protected.
- As citizens we all share the obligation to celebrate and steward our heritage.
- That heritage not only forms the basis of our identity - it also provides an authentic approach to close the divide between environment and economy, and move forward into the "New Economy".

Concerns:

- Explicit acknowledgement of ecologically significant Land Trust Protected Areas is presently lacking in the proposed Act, and existing mechanisms for removal of such areas from mineral development (*e.g.*, applying for Wilderness Area or Special Place status) are unwieldy or potentially counterproductive, making these areas vulnerable.
- Proposed ministerial discretion for withdrawal of an area from mineral development (contained in the proposed Act) is neither sufficiently certain or long-lived to promote engagement of private landowners in conserving their lands.
- Despite little overlap at present between Land Trust Protected Areas and mineral claims, we face the prospect of encountering a circumstance of low probability but high negative consequence.

Where the rubber hits the road: If we extend this protection for ecologically significant areas from those in the public domain (protected under the Wilderness Areas Protection Act or Special Places Protection Act) to include those formally designated on private lands, will it unduly constrain or curtail mineral development in the province? I argue not. Why?

- A very small percentage of privately owned land is presently designated, and that percentage is never likely to be large.
- Very little overlap presently exists between Land Trust Protected Areas and mineral claims.
- Any concern over proliferation of land trusts and associated efforts to curtail development could be addressed by creating a register of government-approved conservation organizations in regulations accompanying the Act.
- Clear criteria for identifying eligible lands for withdrawal from exploration and development could be established in accompanying regulations, along with processes for review and approval, and for reversing withdrawals.

What do we all stand to gain?

- Shifting the level of authority for withdrawal from development from the Minister alone (as presently proposed) to Cabinet (for both withdrawal and removal from withdrawal) would encourage private landowners considering participation as well as satisfy requirements of national monitoring bodies assessing provincial conservation performance.
- Incorporating explicit involvement of both NSE and NSDNR in the assessment process would ensure a balanced and transparent consideration of both environmental and mineral development perspectives.
- Parallel processes for protection of ecologically important private and public lands would provide greater certainty, clarity and consistency for citizens and government alike.
- The 'New Economy' requires new rules, including greater collaboration, inclusion and transparency – this is already apparent in the more collaborative and inclusive interactions being promoted within provincial departments and agencies, and legislation needs to mirror that approach.
- We have already gained an enviable reputation across Canada for enlightened and progressive policy and legislation around environment and resources (*e.g.*, NS Endangered Species Act, Environmental Goals and Sustainable Prosperity Act).
- That same enlightened approach should be apparent in our policies, legislation and management of our mineral resources.

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