

## **Kathryn Anderson presentation to Law Amendments Committee re: Bill 76**

Good afternoon. My name is Kathryn Anderson. I chair the Mining Justice Working Group of the Church in Action Committee of the Maritime Conference of the United Church of Canada, on whose behalf I am speaking today. I also happen to live in Tatamagouche and am deeply concerned by the possibility that gold mining exploration may take place in the Tatamagouche Watershed.

The Mining Justice Working Group, known as Mining the Connections, was formed in 2005 because United Church of Canada global partners reached out for Canadian support regarding devastating environmental and social impacts of mining, including gold mining, by Canadian companies, in countries including Guatemala and the Philippines. This experience has moved us from innocence and naivete to a highly critical stance regarding mining.

In her comments Minister Miller referred to the introduction of this bill as a way forward for economic development, an open-for-business approach. What we have seen from our experience in Guatemala, for example, is that mining development ruins the possibility for other forms of economic development, including tourism, agriculture and local community economic development. Thus to discover that this model of development is being proposed in the Cobequid Hills of Nova Scotia was, needless to say, shocking. And then to find out the Amendments to the Mineral Act do not address at all protection of the environment is of the greatest concern as we think of the future.

We want economic development in our communities. We need economic development in our communities. Passing these Amendments as is without including provisions that ensure protection of the environment ensures that we will not have in our province the kind of economic development that we need both short and long-term.

I therefore on behalf of the Mining Justice Working Group of Maritime Conference of the United Church of Canada, support the two suggestions for Amendments to the Mineral Resources Act that will help ensure the protection of our environment.

March 26, 2018

## Amendments to the ~~Mining~~ Act

### Preamble

In Nova Scotia, mining is either prohibited or prioritized; it is difficult to assess on which lands mining is prohibited as this is not described in the Act or regulations. This lack of clarity provides uncertainty for mining companies, businesses which are investing in projects which may be incompatible with mining and for communities and citizens. It also creates conflict over what is the highest and best use of the land and the resources. There are clearly some land-uses and activities which are incompatible with mining; a new subsection 58 provides clarity on these areas.

In addition, the Minerals Resources Act does not protect resources which are important to the citizens of Nova Scotia. Examples of potential mining leases that are legally possible or are occurring today in the province include locations such as:

- Ski Wentworth
- Victoria Park (Truro)
- Halifax Citadel;
- the head of stream in which a community has invested hundreds of thousands of dollars for restoration of fish habitat;
- And so on.

Under the current Act, the Minister can decide not to issue a lease for whatever reason but there is no guidance to inform this decision or to provide accountability or transparency. Subsection 58 seeks to provide common sense restrictions on where exploration and mining leases are allowed.

There are also land-uses that are incompatible which cannot to be anticipated. Some of these land-uses may also be compatible with mining that occurs under certain conditions. Subsection 59 provides a mechanism for citizens to propose a mineral reserve to the Minister or for the Minister to create a mineral reserve.<sup>1</sup> The mineral reserve can either prohibit mining or apply context-specific conditions to mining, and is based on an approach used in British Columbia.

### Amendments

Subsection 58 clarifies which lands are available for exploration in the province. Subsection 59 provides a mechanism for creating additional long-term removals from the land available for mining using reserves or for creating more precise requirements under which mining is permitted according to a particular circumstance.

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<sup>1</sup> This is an approach used in British Columbia: *Mineral Tenure Act*, RSBC 1996, ss 22.

**Amendment #1: Clarifying where mining is permitted**

*Add a new subsection 58*

58 Land which is restricted from any or all prospecting, mining-related exploration or development or mining

- (i) Indian Reserve, except as provided by The Indian Lands Act, 1924;
- (ii) prime agricultural lands (Land classification CLI2)<sup>2</sup>
- (iii) municipal parks
- (iv) existing or proposed parks and wilderness areas
- (v) national parks under the federal Canada National Parks Act
- (vi) private nature conservancies
- (vii) properties listed under the Heritage Property Act<sup>3</sup>
- (viii) sites protected by the Special Places Protection Act (archaeology)
- (ix) important watercourses and wetlands
- (x) national historic sites or monuments
- (xi) lands designated in a municipal land use plan for a use inconsistent with mineral exploration and development, such as for energy, transportation or recreation<sup>4</sup>
- (xii) community watersheds

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<sup>2</sup> In the US, mining is only permitted on prime farmland if the land can be reconstructed. Government of the United States, Surface Mining Control and Reclamation Act, USC tit 30 §1257(b)(16) (1977)

<sup>3</sup> This is a requirement in BC: *Mineral Tenure Act*, RSBC 1996, c 292, ss 17(1),(2).

<sup>4</sup> This approach is applied in the modernisation of Ontario's Mining Action for Northern Ontario: *Mining Act*, RSO 1990, c M.14, s 30.

**Amendment #2: Ensuring mining does not undermine other societal priorities.**

*Add a new subsection 59*

59 (1) The Minister will, by regulation, establish a mineral reserve on land specified in the regulation.

(2) A regulation made under subsection (1) may do any of the following:

- (a) prohibit the registration of a mineral lease on land covered by the mineral reserve;
- (b) permit the registering of a mineral lease under circumstances and subject to the limitations contained in it, despite any provision of this Act;
- (c) prohibit a mining activity located within and included in the mineral reserve, either absolutely or under circumstances specified in the mineral reserve, and may prescribe
  - (i) specific maintenance requirements and
  - (ii) the term of a lease and the conditions of forfeiture of a lease;
- d) provide that a refund of all or part of a sum of money paid under this Act or the regulations may be made to a recorded holder of a mineral lease in the mineral reserve respecting a period either before or after the making of it.

(3) If a regulation is made under subsection (1), no persons are entitled to mineral reserves.

(4) Citizens may submit a formal request, as defined by regulation, for the establishment of a reserve to the Minister.

(5) The Minister will respond to the request with a decision and rationale for the decision within sixty (60) days.

(6) No compensation is payable by the government to any person and no proceedings shall be commenced or maintained to claim compensation from the government as the result of a regulation made under subsection (1).

**Amendment #3: Update the numbering**