

LAW AMENDMENTS COMMITTEE

Red Chamber, Province House

Monday, March 26, 2018

Bill #76 - Mineral Resources Act (amended)

- 12:00 noon
1. Margaretta Sanders
 2. Paul Jenkinson
 3. Lydia Jenkinson
 4. Carol Ferguson
 5. Kathryn Anderson
 6. Gregor Wilson

Bill #85 - Municipal Government Act (amended)

- 1:00 p.m.
1. Warden Vernon Pitts
Municipality of the District of Guysborough
 2. Warden Owen McCarron
Municipality of the County of Antigonish
- 1:30 p.m.
3. John Beaton, CEO
Eastern Strait Regional Enterprise Network (ESREN)
 4. Mayor Cecil Clarke
Marie Walsh, CEO
Cape Breton Regional Municipality
- 2:00 p.m.
5. Amanda Mombourquette, Executive Director
Strait Area Chamber of Commerce
 6. Geoff Stewart, President
Union of Nova Scotia Municipalities (UNSM)

Bill #85 - Municipal Government Act (amended)

2:30 p.m.

7. Chief Terrance Paul
Assembly of Nova Scotia Mi'kmaq Chiefs
8. Laurie Boucher, Mayor
Town of Antigonish
9. John Khattar, Q.C.
Port of Sydney Development Corporation
and
Michelle Wilson
Sydney and Area Chamber of Commerce

Bill #79 - Property Valuation Services Corporation Act (amended)

No representation

Bill #82 - Halifax Regional Municipality Charter (amended)

No representation

Bill #84 - Halifax Regional Municipality Charter (amended)

No representation

Comments on Bill 76 from Margaretta Sander, Earltown NS [REDACTED]

Gold mining has never made any jurisdiction wealthy – some of the poorest countries in the world have become major gold producers and remain some of the poorest in the world (Mali, Niger, Burkina Faso), Canadian Mines have a terrible environmental and social record internationally & view Nova Scotia as a rural backwater to be manipulated

there are many environmentally, socially, healthy types of work that build communities while mineral resource development destroys them. Why spend \$\$ on possibly fruitless mining and ignore the growing rural prosperity that keeps jobs & money locally such as:

carbon credits. The estimated carbon credit value of the forest in the Warwick Mountain/Cobequid closure area (approx 30K hectares) is \$28 million up front and the annual revenue from those woodlands is estimated to be \$5.2 million per year for 100 years plus at least 27 permanent jobs in sustainable forestry to maintain it & many more jobs & income in related businesses throughout the Province. This approach to forestry does not require a huge up-front investment and the substantial fiscal returns are quickly available.

Maple products and maple water: another global growth industry reliant on mature forests of the kind prevalent in Nova Scotia. Maple product exports in Quebec and the USA have exploded and the potential is incredible for a local industry that does not destroy, but enhances, quality of life for residents, wild life and future generations. These two clean, locally-sourced industries could provide many clean, safe and secure permanent jobs for local residents and we would like to see the Province pursue this type of economic development instead of the 19th c. view of using natural resources until they are exhausted such as trees, coal, fish, wildlife.

Haskap fruit production in NS -growing with lots of potential for long term investment & growth There are roughly 80 commercial Haskap Orchards in NS, with a projected market value for 2018 crop of \$350,000, 2019 of \$750,000, 2020 of \$1,700,000, 2021 of \$3,000,000 and 2022 of \$5,000,000. Using a similar multiplier as the grape industry...the total economic impact back to the Nova Scotian economy based upon added value impacts from the Haskap industry alone is estimated to be roughly \$10,000,000 in 2020 and \$25,000,000 in 2022.

The Christmas tree industry is worth over **\$30 million per year**, 3,500 producers, 500 permanent jobs & 2,500 seasonal employees in 2017. It's a growth industry having a "sell-out" in 2017

Tourism - 9% growth in \$2017, 2.7 billion, people want to see natural beauty, not open pit mines and polluted water, industrial waste lands, tourism works in rural areas

Organic Farming: growth industry - 359 farms now, many more wanting to enter the market

Blueberries \$70 million in exports

Invest in growing these already successful ventures, keep the jobs local, keep the taxes and revenues local, don't fracture communities and the natural beauty of Nova Scotia

Currently, companies involved in resource development "**self insure**" their activities, and then fight tooth and nail to downplay the damage to reduce remediation costs..which the province (us taxpayers) pay for in the end) If mining continues we request the government to **require third party insurance...** for **resource development, transportation**, and other companies whose activities threaten the environment.

The due diligence and financial self interest of third party insurance providers (eg Lloyds... etc.) would identify and require operation practices that reduce the risk just as every home or business owner must carry.

**PLEASE REPLACE BILL #76 WITH THE AMENDMENT SUBMITTED TODAY BY SuNNS –
SUSTAINABLE NORTHERN NOVA SCOTIA - SUPPORT THE RURAL ECONOMY WITH THE
OBVIOUS GROWTH POTENTIAL IT HAS - AS DESCRIBED ABOVE - KEEP WATER AND ALL
NATURAL RESOURCES SAFE AND HEALTHY**

Preamble

My name is Lydia Jenkinson. I live within the DNR Warwick Mountain Gold Project Closure Area. As I have listened to the DNR representative talk about what a gold project would look like in that watershed area he initially portrayed any future mine as likely to be a shaft mine. Now I am hearing that all or most gold mines approved in Nova Scotia recently have been open pit mines. I am very concerned about having a tailings pond full of heavy metals like cyanide and cadmium in a watershed area. Most of you will know of the massive tailings pond failure at Mt. Polley British Columbia and the devastating pollution to local watersheds in that area.

Question

Do the current Amendments to the Act presently or will Amendments be introduced such that this protection of the watersheds of Nova Scotia be included prior to the Third reading of the Bill?

Request: Amendment to the Mineral
Resource Act

- No mining in the French River Water-
Shield

**PRESENTATION TO LAW AMENDMENTS COMMITTEE
NOVA SCOTIA LEGISLATURE**

Bill 76 – Amendments to the *Mineral Resources Act*

By Carol Ferguson
March 26, 2018

Good morning.

My name is Carol Ferguson and I live in Bayhead, just outside of Tatamagouche.

I'm here today because last November our local monthly paper, the *Tatamagouche Light*, had a story about mineral exploration work being conducted by the Department of Natural Resources (DNR) and an announcement that DNR was holding an open house to provide information. I went to the open house on Saturday, November 25th, 2017 at the Warwick Mountain Snowmobile Club and was alarmed about what I learned.

DNR had by then already closed off more than 30,000 hectares of land to mining claims, planning to issue a Request for Proposals (RFP) in spring 2018 hoping to entice a large company or a consortium of companies to do further exploration with the goal of a gold mine. There were plans for promotion of the exploration opportunity at the Prospectors and Developers Conference in Toronto in 2018 – which I understand has already occurred.

I wandered around the open house and looked at the promotional zaps and the map. I've attached a copy of a picture of the map that I took that day – I apologize that the colour is not the best – but you can see what I saw – the 30,000 hectares of land blocked off stretching from Wentworth Station to Earltown and laying right across more than half of the Tatamagouche watershed – it's the yellow area on the map.

The staff from DNR explained that there would be a new Act and Regulations proclaimed in the spring of 2018 that would modernize the way in which mining was handled.

What I'm seeing and hearing is that the new *Mineral Resources Act* – I realize that we are only dealing with the amendments to it here – is not bringing Nova Scotia into the 21st century. The Act sets up the same old failed regime of giving mining companies whatever they want.

The Minister said so herself on March 9th at second reading and I quote:

"This signals to the global mining community that Nova Scotia is open for business..."

"The new Mineral Resources Bill ... cuts red tape ... It requires less frequent industry reporting ... It allows for more time to complete work on exploration licences ... It streamlines the process for resolving private land and access disputes."

Gold mining is not compatible with the watershed of a community. No mine is ever, ever worth more than clean water.

A gold mine and a mill with a tailings pond is not compatible with the successful economy that has been developed on the north shore. I am not "anti-development". I see my neighbours and my community developing new economic opportunities all the time. Yes, we want more jobs but we don't want to jeopardize the businesses that are already thriving and the investments already made.

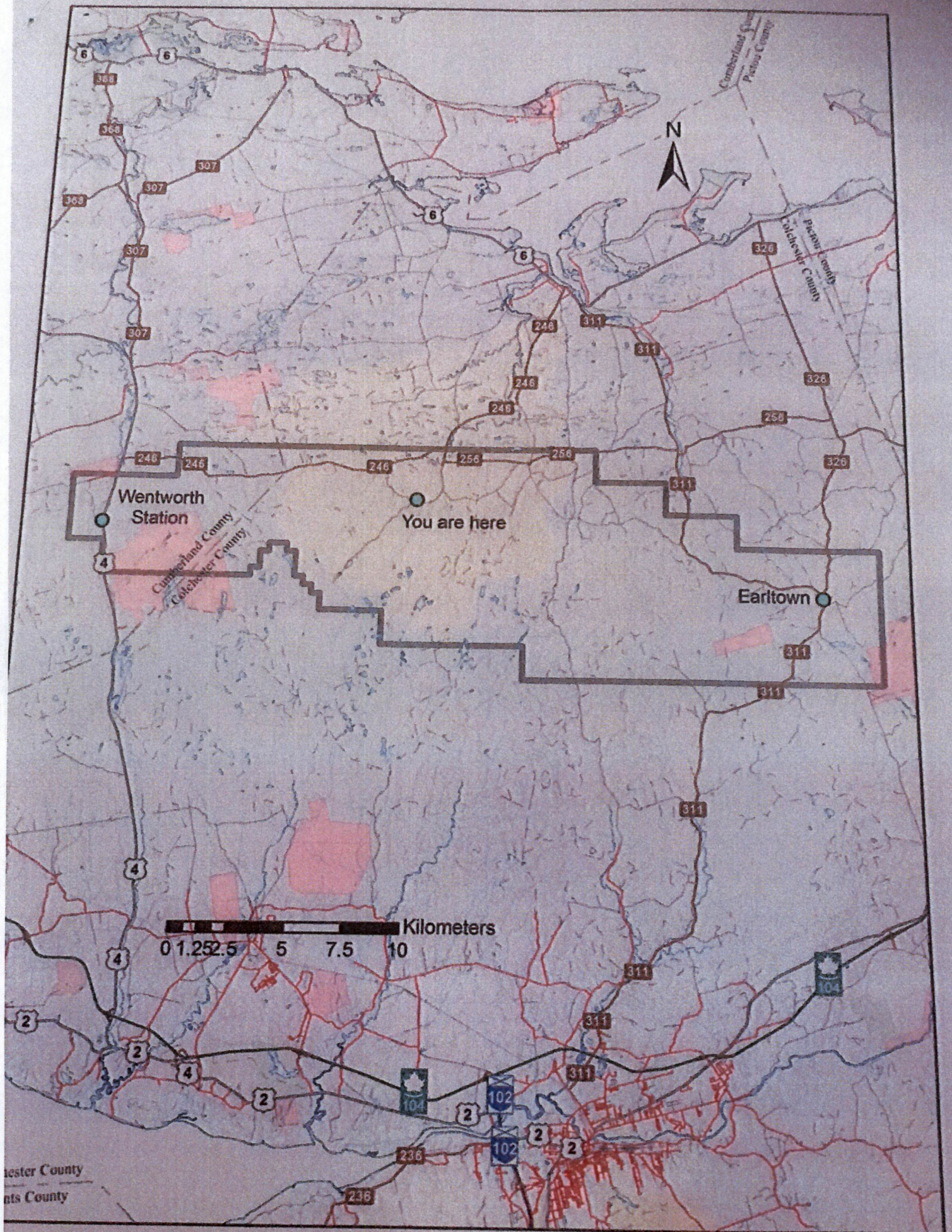
Gold mines are notoriously damaging to the natural environment. They leave a long lasting environmental scar and a large financial clean-up cost. I've attached

an article from the *Globe and Mail* from July 2017 pointing out some of the environmental and financial costs of the Giant Mine in Yellowknife, a mine filled with 237,000 tonnes of arsenic trioxide, a deadly by product of gold mining, that threatened to contaminate Yellowknife's drinking water.

MiningWatch Canada estimates the liability for contaminated mining sites in British Columbia, the Northwest Territories, Ontario and Quebec alone to be at least \$9.1 billion. Mining companies aren't on the hook for those costs – we, the public are.

In conclusion, the *Mineral Resources Act* needs to provide more protection to watersheds and communities.

Thank you for your time.



THE GLOBE AND MAIL

Who cleans up when oil companies go bankrupt?

The Globe and Mail
Sat Jul 15 2017
Page: S3
Section: News
Byline: **TIM GRAY**

Last week, the Alberta Energy Regulator (AER) announced it would appeal a judge's ruling that gave creditors priority access to a bankrupt oil company's assets over its financial obligations to clean up abandoned wells. The AER is right to appeal because cleaning up environmental damage should take precedent over financial obligations.

This appeal highlights a broader problem in Canada and the need for legislative action both provincially and federally.

The broader problem is that Canadians are burdened by the accumulating financial liability associated with cleaning up the environmental messes made by abandoned oil wells, closed mines and decaying tailings dams.

For example, in Alberta, the oil sands have been producing a

vast and growing legacy of tailings ponds. These ponds contain leftover toxic hydrocarbons, heavy metals, water and sand.

They now cover an area larger than the preamalgamation city of Toronto and Vancouver combined and are growing at a rate of 25 million litres a day.

Estimates show that it will cost at least \$44.5-billion to clean up the existing tailings ponds. This represents a bill greater than all the royalties paid to the Province of Alberta since the inception of oil sands business in 1970. Cleaning them up is the only option.

The ponds are currently killing wildlife who try to drink from them and require constant costly maintenance to stop the dams from crumbling and releasing their toxic holdings.

Most people will also remember the Giant Mine in Yellowknife. It was made infamous after its owners packed up shop in 2004. Their parting gift was a mine filled with 237,000 tonnes of arsenic trioxide, a deadly byproduct of gold mining. The chemical threatened to leak into Great Slave Lake and Yellowknife's drinking-water supply.

Ten years later, the federal government finally approved a plan that requires keeping the toxic chemical permanently frozen using ice-rink technology at a cost of \$1-billion to the taxpayer. Let's hope a blackout doesn't cause that big cooler to shut down.

The scale of the total public liability for all abandoned mines across Canada is not fully known.

MiningWatch Canada, using government data, estimates that the liability for contaminated mining sites in British Columbia, the Northwest Territories, Ontario and Quebec alone, totals at least \$9.1-billion. The regional distribution and level of threat of these sites can be seen on the federal-provincial National Orphaned and Abandoned Mines Initiative (NOAMI) database, providing a sobering glimpse at the scale of the mess that we as members of the public have been left to clean up.

What is known is that each one of these environmental threats and public liabilities represents a business that either is, or was, generating profits. So you would think that it seems reasonable that tailings should be cleaned up over the course of a mine's life and that money should be set aside for long-term repair of environmental damages in case the company disappears before the cleanup is complete. However, this is not required by provincial mining laws. Instead, most jurisdictions only ask that companies show they have the capacity to pay based on the current value of the

corporation - something that plummets quickly if the company goes bankrupt when the mine is no longer viable.

Addressing this problem could occur in two ways.

The provinces could amend their mining laws to ensure that financial bonds equivalent to the cleanup costs are put in place during the life of the mine. This means that when the owner walks, the money is in a bank account for the cleanup to take place.

Alternatively - and less reliably because it does not link cleanup costs to money available - the federal government could move to ensure environmental cleanup takes priority over creditors in bankruptcy cases. They could do this by amending Canada's bankruptcy laws so that the cleanup of environmental damage takes priority over creditors. This would help internalize the cost of environmental damage while treating secured creditors fairly.

Clearly change is needed. Mining and oil and gas extraction generate huge wealth - some of that needs to be invested in cleaning up the mess. Otherwise, we all pay.

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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.¹ 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.

¹ 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)²
- (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 Act³
- (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 recreation⁴
- (xii) community watersheds

² 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)

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

⁴ 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