SUBMISSION ON PROPOSED NWT MINERAL RESOURCES ACT

Submitted by the NWT & Nunavut Chamber of Mines
on behalf of its membership, in response to
NWT Government request for comments.

Submitted: December 1, 2017

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NWT & NUNAVUT CHAMBER OF MINES

December 1, 2017

Ms. Pamela Strand
Deputy Minister
GNWT – Industry, Tourism & Investment
P.O. Box 1320
Yellowknife, NT X1A 2L9
Email:

Dear Pam,

Please find attached a submission from the Chamber of Mines on the proposed NWT Mineral Resources Act.

We look forward to continued discussions as the Act is drafted and moves forward to promulgation.

Yours truly,

NWT & NUNAVUT CHAMBER OF MINES

Tom Hoefer
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NWT & NUNAVUT CHAMBER OF MINES

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CONTENTS

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1. INTRODUCTION

The Government of the Northwest Territories (GNWT) has invited participation in the creation of a new NWT Mineral Resources Act. The Chamber of Mines is pleased to submit this document on behalf of its members.

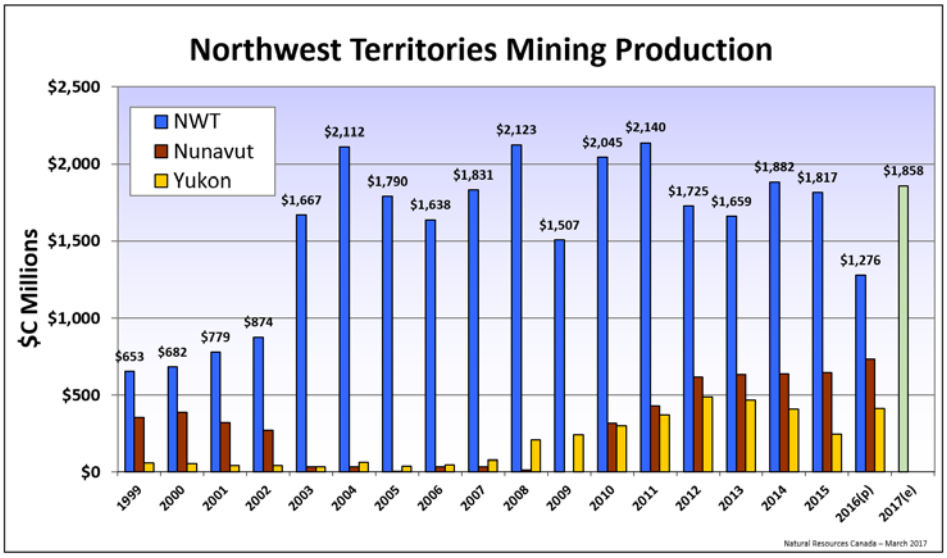
By way of context, there has been a notion invading popular culture lately that industry is an "outsider" that comes uninvited into peoples' back yards to explore for, find and operate a mine. While this may have held some truth in a previous time of centralized government decision-making, that is not the situation today, most certainly in the Northwest Territories with its MVRMA environmental legislation, with its foundation in land claims, co-management processes, transparency and consultation requirements.

The duty of public governments – and Indigenous Governments too – is to look after their land and their beneficiaries, but in so doing, to also provide opportunities to make people, communities and economies healthy and safe. That is the role of any government.

a. The importance of the minerals industry

The NWT Minerals Industry is very important, not just because it is the largest private sector economic activity, but because it makes far reaching contributions to residents, communities, businesses, and Indigenous and public governments through training, jobs, contracts, purchases, tax and royalty payments, infrastructure, scientific knowledge, and community contributions like scholarships and donations.

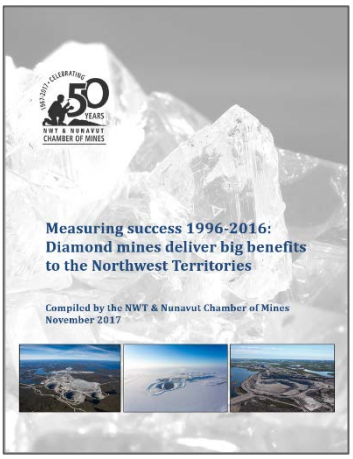
Annual contributions of the NWT mineral industry are significant compared with the other territories, primarily because of 21 years of diamond mining.



The value of mineral production from the NWT is significant both nationally and in comparison with other northern jurisdictions, particularly over the last 21 years of diamond mining. The Mineral Resources Act can help sustain this.

b. Measuring Success: Significant contributions from mining

Benefits to communities and local economies are also significant. Recently released by the Chamber of Mines, the report: *Measuring success 1996-2016: Diamond mines deliver big benefits to the NWT* provides a measure of accumulated value as documented in formal public reports submitted by the diamond mines to the Government of the NWT (GNWT) to fulfil socio-economic agreement commitments. The benefits since 1996 include:



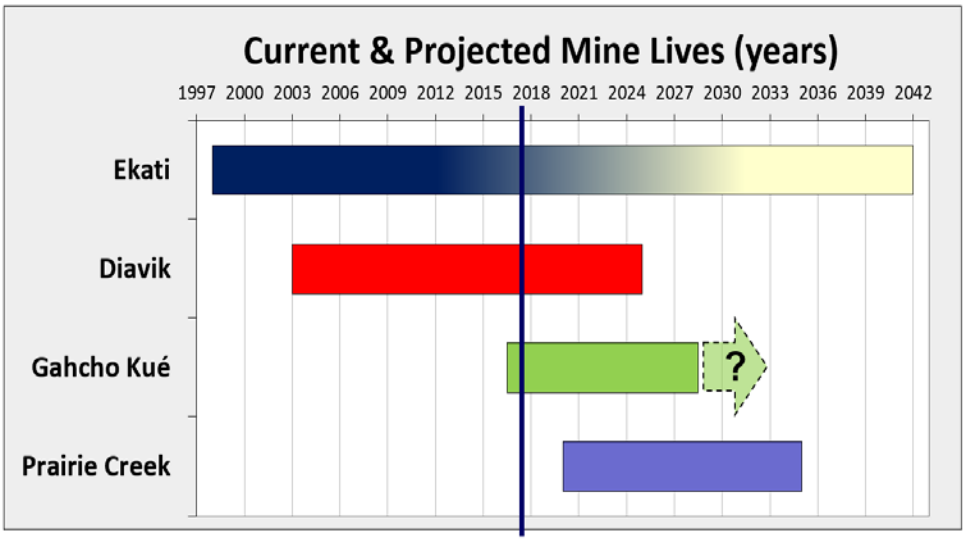
- 54,918 person years of employment of which 26,441 person years (48%) has been northern. Half of the northern workforce has been Indigenous; and
- $18.7 billion for construction and operations, of which $13.1 billion (70%) was with northern businesses and $5.6 billion (30%) was with northern Indigenous businesses.
- Over $100 million in community contributions.

c. Mine lives

There are two major challenges to sustaining healthy mining benefits: the life of any mine since mines don't last forever, and exploration investment to help find new mines.

A significant challenge facing the NWT will be the closure of the Diavik mine in 2025, since it is a larger mine employing over 1,000 workers.

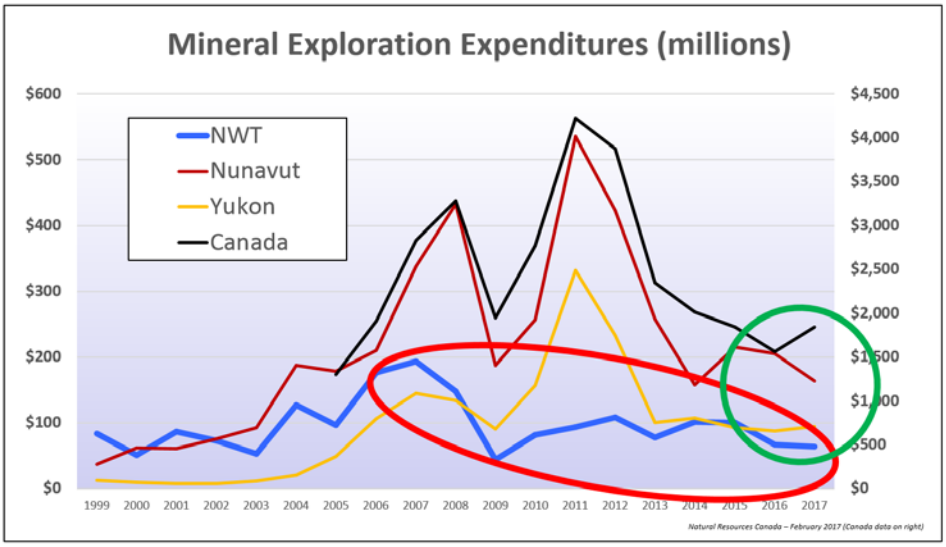
Other mining projects on the horizon do not match Diavik's size and economic impact. We need to find more mines.



Mines don't last forever, but the minerals industry can. Work must be done to sustain mining. The Mineral Resources Act can help.

d. Exploration investment: Houston, we have a problem!

Exploration investment has not been healthy in the NWT, and a combination of factors (MVRMA, unsettled land claims, reduced land access, etc.) have conspired to reduce exploration attractiveness and annual exploration.



Exploration investment in the NWT has been out of synch with even its neighbours due to self-inflicted circumstances. The Mineral Resources Act can help.

Since 2007, the NWT has missed out on over $1 billion in exploration investment compared to its northern neighbours, Nunavut and Yukon. Annual surveys of investors by the Fraser Institute help corroborate the reasons for the NWT's lacklustre investment performance.

e. Compete, compete, compete

The creation of a NWT Mineral Resources Act must recognize that all mining jurisdictions must compete for investment. If it fails to recognize that, it will not be successful.

The Fraser Institute measures competitiveness through 15 factors which influence investors' decisions on where to invest:

1. Uncertainty concerning the administration, interpretation, or enforcement of existing regulations;
2. Uncertainty concerning environmental regulations (stability of regulations, consistency and timeliness of regulatory processes, regulations not based on science);
3. Regulatory duplication and inconsistencies (includes federal/provincial, federal/state, inter-departmental overlap, etc.);
4. Legal system (legal processes that are fair, transparent, non-corrupt, timely, efficiently administered, etc.)
5. Taxation regime (includes personal, corporate, payroll, capital, and other taxes, and complexity of tax compliance);
6. Uncertainty concerning disputed or unsettled land claims;

7. Uncertainty concerning what areas will be protected as wilderness, parks, or archeological sites, etc.;
8. Infrastructure (includes access to roads, power availability, etc.);
9. Socio-economic agreements/community development conditions (includes local purchasing or processing requirements, or supplying social infrastructure such as schools or hospitals, etc.);
10. Trade barriers (tariff and non-tariff barriers, restrictions on profit repatriation, currency restrictions, etc.);
11. Political stability;
12. Labor regulations/employment agreements and labor militancy/work disruptions;
13. Quality of the geological database (includes quality and scale of maps, ease of access to information, etc.);
14. Level of security (includes physical security due to the threat of attack by terrorists, criminals, guerrilla groups, etc.);
15. Availability of labour/skills.

Additional factors in the north include carbon taxes, disputed land claim rights and Impact Benefit Agreement requirements, and uncertainty over future access to land due to different requirements in a patchwork of Federal, Territorial and Aboriginal jurisdictions.

2. WHAT SHOULD BE IN A MRA – WHAT IT IS, AND ISN'T

The NWT Minerals Act is not a silver bullet, though.

While discussion on the NWT Mineral Resources Act will attract discussion on many of these factors, many of them already fall under different legislation, regulations and/or policies that are better suited to addressing them.

Only some of them can, and should be addressed in the proposed NWT Mineral Resources Act and we would argue that these include taxation regime (eg, royalties), quality of the geological database, and legal systems (particularly land tenure).

a. Purpose: making things better, not worse

The purpose of the proposed NWT Mineral Resources Act should be to make the Northwest Territories a better investment destination, and one that competes better. If it fails to do that, we would argue that the legislation is a failure.

As we heard from industry, the current mining regulations are pretty good, and have been relatively consistent and well understood by industry for many years. That is really important for investment. We don't expect to see wholesale change here – there is no need to fix something that isn't broken.

b. Why it's important to have a healthy industry

The Northwest Territories must compete better than it has over the past 11 years if it is to strengthen its minerals industry. To find mines takes significant, reiterating investment, over many years, in many locations. Previous work has demonstrated that only 1 in 1,000

exploration projects results in a mine; the process of finding a mine can take 10 years, with additional time to get it approved, constructed and operating.

c. Content of the Act versus Regulations

Finally, the creation of any Act, including the NWT Mineral Resources Act, will be done through considerable discussion and debate and finally approval of the Legislative Assembly. Legislation is not always an easy or quick task, and consideration must be given on what goes into it.

Regulations, on the other hand, are much more easily changed, as they do not need to get the approval of the Legislative Assembly, rather can be done through the bureaucracy.

Just as the current *Mining Regulations* are comprehensive, they are created through a relatively simple line in the Territorial Lands Act. Similarly, we would expect the GNWT to use a less detailed NWT Mineral Resources Act to allow the creation of more detailed regulations, and their discussion would be done through a different process.

d. Being Visionary

One of the main challenges in creating the MRA will be to make it forward looking, with a view on what the future direction of the industry will be, and to anticipate how rapid technological change will impact the way the industry operates particularly in terms of efficiency. We need to be careful we don't get stuck in the present which will soon be the past. It will be missed opportunity if the new legislation is outdated before the ink is even dry.

Moving to on-line map staking is a good example of beneficial technological change.

Another area of change is in the mineral commodities that will be sought after. In this rapidly changing world, we can't predict what all the mineral commodities are that we may need in the future or where they will be found. This means we need to maintain maximum flexibility on land access, minimizing the protection of lands from development in perpetuity.

Research is also showing that by preserving connectivity of ecosystems, wildlife can adapt and even thrive, in urbanized and industrialized environments. This is important as the notion of closing huge areas to all development forever, is no longer necessary or even advisable, since it is not in the interests of society generally.

Artificial intelligence and sensor technology may also change things in future.

We need to think about how to draft a Mineral Resources Act knowing that mineral development in future will become a much more sustainable and much less intrusive industry in terms of environmental impacts.

3. INDUSTRY RESPONSES TO GOVERNMENT QUESTIONS ASKED

The GNWT has posed 9 topic areas for discussion and input. The Chamber shared these with members and has summarized what it heard below. Detailed comments on each topic are provided in the Appendix, which should be read.

a. Land access for prospecting and exploration

Access to land is the lifeblood of exploration, and maximizing access to land will increase the probability of exploration success.

Preserve the claim staking system

Our members were emphatic that the claim staking system must be preserved. Sometimes referred to as "free entry" (despite there being nothing free about it), claim staking to acquire mineral tenure is used throughout Canada, is well understood by industry, and has proven to be good for Canada. We have had staking rushes since the 1930s, and we had the world's largest rush in the 1990s for diamonds. It proved the system works.

Any concerns over claim staking can be addressed with map- or online-staking (addressed later in this submission), and through completion of land use plans.

Address the MVRMA Hair Trigger

Concerns were raised with an aspect of the MVRMA, which makes access to land for exploration unnecessarily challenging. The MVRMA is unique in Canada with a "might be a cause of public concern" clause. This "might test" is a "hair trigger", that can quickly and unnecessarily push small, inconsequential projects to full environmental assessments. When this has occurred, proponents have left the North for more secure jurisdictions, and their experiences have tarnished the NWT's reputation. The ultimate fix would be through amendments to the MVRMA, but the Mineral Resources Act might consider providing a mechanism for a proponent to appeal or take the referral to arbitration.

Reduce areas protected for conservation

Consideration should be made for all protected areas to be vetted through the Mineral Resources Act.

Mines are very rare and mineral explorers need access to as much land as possible to find them. Members have grave concerns over areas protected for conservation and the expense of development, particularly since there are so many of them proposed, and so much land off limits to development. Our statistics show that well over 30% of the NWT is off limits to exploration and development, and the NWT Premier recently said that figure is actually over 40%, which is even worse. There should be limits on the creation of new protected areas.

Protected areas should impose limitations on resource development activity where it is shown to be needed. But protected areas should not be permanently closed to mineral development, since it is not possible to determine now whether it may cover mineral resources of real value to the future needs of society. Further, as mineral extraction technology becomes more

efficient, it is likely that mineral extraction in the future will be done much more sustainably without significant lasting impacts to the environment or wildlife habitat.

Under the modern MVRMA regulatory system – rooted in Indigenous Land Claims agreements and overseen by co-management boards – 100% of the NWT is protected. The public needs to know this, and it should provide public assurance of land protection. By the nature of the territory's remoteness, much of the territory is even further protected. And the reality is that only a very small portion of the territory is affected by mineral development. The area of all mines, past and present is only about 0.03% of the area of the NWT; our current mines footprints are about 0.005% of the NWT. Even land tenure for exploration, which has virtually no impact, covers less than 2% of the NWT.

Identifying high mineral potential areas and conserving them for exploration and mining might help. However, trying to identify special mining zones and treatment of high mineral potential lands was easier in the past when greenstone belts were the discrete targets of exploration for precious and base metals. With diamonds and more exotic minerals like rare earths and lithium occurring in different geological environments, it is no longer possible to say whether any particular area has, or will have high mineral potential or not.

In addition, for existing protected areas and potential future protected areas, consideration should always be given to allowing access through the protected areas for future mining projects.

b. Opportunities for online map staking

Currently claims have to be staked on the ground, which is an outdated, antiquated and expensive process no longer needed to accurately define mineral tenure. Map staking will allow people to put money into actual exploration, money that formerly was used for acquiring tenure through ground staking.

Virtually all respondents stated that the NWT needs to institute online or "map" staking. There was one dissenting opinion. A recommendation was to look at hybrid system as proposed by the Yukon Prospector Association where you could apply for a claim *in person at the mining recorder's office* instead of physically staking it.

Specific comments include:

- Learn from other jurisdictions like British Columbia, Quebec, Nunavut and Yukon.
- Ensure accurate maps are in place to support map staking.
- Methods must be found to prevent "scalpers" like with concert ticket sales.
- Before online staking does become a reality, the mining regulations should demand GPS coordinates be submitted for claim posts.

c. Acquiring and maintaining mineral tenures

Several themes emerged here: recirculating lands (use it or lose it), dealing with circumstances beyond the mineral tenure holder's control, and helping prospectors.

An additional recommendation included writing the MRA so as to allow the GNWT to disperse mineral tenure on behalf of Indigenous governments and help streamline tenure processes in a jurisdictionally complex territory.

One general question was posed on how coal and granular materials will be addressed under the NWT Mineral Resources Act.

Leases are problematic

Respondents believe it is good to recirculate land and not leave it sit fallow for years with no exploration. This would allow more aggressive explorers, with innovative new ideas, to explore lands that would otherwise sit idle, and raise the odds of mine discovery.

The Mineral Resources Act should support active mineral exploration and mining, not land holding. It should send the message that claim holders should be serious about engaging in exploration and 'use it or lose it' when it comes to exploration privilege.

Leases received a great deal of attention, as work is not required on them.

There are some leases that are grandfathered for 100 years, and this has taken attractive land out of exploration circulation for an excessively long time. For more "normal" leases, no geoscience work is required and only lease fees need be submitted.

Ideas put forward to get the land working again include:

- There should be NO grandfathering of old lease renewals under the new legislation. If there is, lots of properties currently under lease will continue on for decades as they are now…that is not necessarily helpful considering much the best known mineral potential in the NWT is tied up in leases.
- Lease holders should be forced to advance geoscience on their leases through actual work, and not be able to just pay rent on their leases to keep them in good standing.
- The lease should expire and the land be returned to circulation if a company does not advance work on the lease after the first 10 years.
- Make the lease system apply only to claims which are going into production. After 10 years, assessment requirements could be ratcheted up to dissuade claim holders not intent on developing their claims.
- Mineral leases should only be granted to those who prove they have a reasonable prospect or deposit worth mining (with grades and tonnages as delineated by a Professional Geologist) and are earnestly working towards development.
- Lease renewals should only be granted to those that prove they have been doing exploration over the last 21 years and/or prove they have a deposit or reasonable prospect that is progressing.
- The work assessment credit amount required to take a property to lease could be increased. At $25 per hectare, many properties can to be taken to lease with very little work, including many small claims that are ultimately used for recreational purposes around Yellowknife.
- A cautionary note was raised that this will be a balancing act. Commodity prices are very cyclical and capital raising can only be done when commodity prices are strong.

Sometimes companies do a lot of work allowing them to go to lease, but then market conditions or other factors may make the project un-fundable until market conditions or commodity prices change. It is not fair for a developer to lose tenure simply because he could not move forward due to the commodity prices having dropped. With the lengthy permitting and EA process it is almost impossible to advance a project to production in any one favourable commodity price cycle.

Claims & Work Requirements

In regards to claims, there were some concerns on bundling of claims being too large. Also, when claims lapse, there was a recommendation to allow the original owners to re-stake after 30 days not a year. There was a feeling that there are so few groups engaged in mineral exploration in the NWT that the 1 year hiatus coupled with diminished areas left to explore constricts additional exploration.

In regards to work requirements and submission of data, it was observed that there is data collected on mineral leases that is not going into the public assessment files database, to the detriment of knowledge. Allowing companies to hold large tracts of land and keep data confidential is not the way to advance exploration, rather hold it back.

One respondent believed that the work credit on claims should be raised incrementally over the life of a claim to reflect the natural work progression that should be expected. For example, $5-10 per hectare could be charged for the first couple work periods as work should include basic mapping/sampling work. When more advanced work like geophysics begins, the charge could increase to say, $20-25 per hectare. Then $30-40 per hectare for the next couple work periods when one might expect to reach the drilling stage.

The 3 years of confidentiality of assessment work filings works well. Keep it.

Extenuating Circumstances

Sometimes there are extenuating circumstances beyond the tenure holder's control that prevent them from fulfilling their work requirements or even successfully raising money to do so. Recommendations included:

- Reinstate the old Section 81 clause of the Canada Mining Regulations which was essentially a *force majeure* clause to allow companies to defer exploration work when there were unforeseeable circumstances that prevented them
- A provision to allow Ministerial appeal and review if there are unusual economic circumstances that result in a lease being lapsed due to lack of work.

Helping Prospectors

Respondents indicated that the new MRA should help prospectors.

Prospectors currently need to hire a professional to write the reports required of them. This does not encourage the small prospector with limited resources. They need help too, and this will be even more important as we attract more community members into the prospecting trade.

Prospectors should not need to hire a professional to write their reports. Generally, their work would not be that detailed. Sample results should have assay certificates which in turn add to credibility. A Professional Geologist either with the NT Geological Survey or with Mineral titles/Mining Recorder's Office should be put in place to review all assessment reports, be it those of company or prospector. In Yukon, any report in the proper format with all the attendant data is acceptable – it shouldn't matter who wrote it.

The MRA and Indigenous Lands

The NWT is becoming a complex web of public Crown lands and private Indigenous lands. Fractionation of jurisdictional management does not enhance investment certainty.

While the MRA is intended to focus on Crown lands, a recommendation was made that the MRA might allow for the GNWT to contract administration of mineral tenure on Indigenous-owned lands too, so that industry would only have to go to one window to conduct tenure business, and to save Indigenous governments the need to establish their own administrative processes.

There was also a suggestion that the NWT MRA provide a common framework for public and Indigenous lands and a common set of policies/regulations for land access and ultimately IBA's.

Coal and Granular Materials

A more general question was posed on how coal and granular materials will be addressed under the NWT Mineral Resources Act.

d. Transparency, public accountability, and ministerial authority

Transparency is very important for at least two reasons: intellectual property and social license.

Intellectual Property / Confidentiality

With regards to intellectual property, explorers have a right to protection of their innovative ideas, certainly for some time period. As stated previously, when it comes to work requirements, it was felt that the 3 years of confidentiality of assessment work filings works well. Keep it. Companies should be able to hold exploration data in confidence while they develop their plans. Onerous requirements to release data too early will discourage exploration.

There was concern raised if government is contemplating whether consultation should be required prior to acquiring mineral claims. It was felt that this should be resisted because if implemented, it will be a strong deterrent to mineral exploration. Confidentiality is required at the early stages of exploration before claims are staked.

Social license and public support

Social license is an important concept in as much as public acceptance and influence is important to the mineral industry's success. Transparency is a critically important ingredient to gaining and maintaining that public acceptance and support. Transparency increases trust.

Publicly traded companies have many requirements to report to investors and the public, and this transparency is helpful.

However, private companies do not need to report publicly. In addition, large publicly traded companies do not need to report on what they see as small projects that are not material to their large portfolios. There is risk that information on their projects will dry up, and transparency suffer along with public support of the industry.

Socio-Economic reporting is showing it is powerful and helpful. But more updates as are presented in public company news releases is also required.

The NWT Mineral Resources Act could fill this gap and require regular public updates from large projects and mines.

e. Inspections, monitoring and auditing

Members observed that the capacity of the Northwest Territories Geological Survey (NTGS) has diminished.

- There are no more District Geologists which some believe signalled that the GNWT did not take exploration and mining seriously. The District Geologist positions of decades ago were genuinely interested in the work of industry and furthering exploration and mining for economic development sake. There is a feeling that someone should be tasked with approving assessment reports, promoting areas/commodities to inspire/encourage new exploration and monitoring exploration activities.
- Like many surveys, NTGS has shifted focus from industry to more academic pursuits, eg, permafrost, environmental, geohazards, etc. to better serve the public good in their mandates. Supporting exploration is not their primary goal anymore but governments should not abandon that responsibility.
- Additionally, NTGS geologists are now vetting reports from Professional Geologists, and should also be registered Professional Geoscientists.

f. Rehabilitation and closure of mining and exploration sites

A functional, reasonable and credible system needs to be in place to determine bonding/ security deposit amounts for projects. That is also good for public understanding and support.

- If authority to approve a project lies under other legislation, then one wonders how the MRA can direct any authority over rehabilitation and closure.
- However, in regards to security, requirements should be standardized for a given level of operation, based on fair market prices to reclaim sites, with standardized contingencies.

An interesting point raised was that any usable infrastructure at a decommissioning mine or exploration site should be reviewed by the GNWT prior to mandatory rehabilitation to determine if retaining it would be in the future public interest for public service development or future socio-economic development. There has been valuable infrastructure removed that could be serving future developments today; this lack of cumulative infrastructure does not serve long term development, and forces every developer to start from scratch.

g. Indigenous engagement and consultation

There was strong response that Indigenous consultation is the legal role of governments and not industry, but acknowledgement that industry has a role of engaging with communities as it develops its projects.

That being said, members said GNWT must do more to assist with Aboriginal consultation.

For example, the requirement to consult 5 or more different Aboriginal groups for simple permits is expensive, time consuming and a strong disincentive to explore in the NWT. Government can help streamline this, and assist companies.

The Act could allow revised mining regulations to crystallize the rules for consultation with communities affected by exploration and mining projects.

Consultation and engagement must be scaled to reflect exploration vs mining stages. Often communities have expectations of (high budget) mine style engagement for a (low budget) grassroots exploration project. Community expectations are mismatched to the scale of the project.

As written earlier, from an intellectual property / confidentiality perspective, there is concern that government might be considering consultation prior to staking mineral claims. This should be resisted as it will be a strong deterrent to mineral exploration, which relies on confidentiality for competitive advantage at the early stages of exploration.

There were observations that Indigenous groups also have a duty to engage.

There are additional issues to be considered in regards to Indigenous engagement that members believe stand in the way of progress. Whether or not the MRA can address them may be questionable, but they are raised here to share the concern.

- Find a way to override the MVRMA hair trigger which can allow one person to refer a proposal to environmental assessment based on a "public concern". There needs to be a mechanism for a proponent to appeal or take the referral to arbitration.
- Settle outstanding land claims. This would bring much more access to land and investment certainty. If a claim cannot be settled after 10 years of interim withdrawal, can the lands be put back into circulation for exploration?

h. Socio-economic benefits, including impact benefit agreements

Benefits from northern resources to northern residents is important and are expected. Legislation supports this, and the MVRMA is unique in Canada (besides having the public concern hair trigger) in that it requires socio-economic well-being of people to be addressed.

With large scale mining projects, benefits are identified and commitments made, through Socio-Economic Agreements (SEAs) with public government and with Impact Benefit Agreements (IBAs) with Indigenous governments.

Guidance is required on how to complete IBAs and SEAs. When is effort expended to reach an agreement considered to be enough effort?

Legislative clarity would help too with a new phenomenon, the Exploration Agreement, which is beginning to look like an exploration phase IBA. Expectations of communities need to be addressed in the form of understanding that each of the various stages of the mining cycle, exploration, advanced exploration, development, mining, decommissioning, should also all have staged expectations. At the initial stages of exploration, for example, companies can't afford to go to every community and promise something.

As mentioned earlier in regards to consultation and engagement, benefits must be scaled to reflect exploration vs mining stages. Community expectations are often mismatched to the scale of the project, with mining type (high) expectations for a low budget grassroots exploration project. Can a Mineral Resources Act help clarify agreements?

i. Revenues, including taxes and royalties

A key aspect in the current mining regulations is mining royalties and the formula for calculating them. As additional taxes on mining, royalty requirements are an important aspect of investment attractiveness.

There have been many misleading comments from the Bauer report and more specifically, the incorrect reporting that the Diavik mine had not paid any royalties. In addition, the Bauer report was bipolar with regards to royalties, expressing an opinion that the NWT was most charitable (critical of industry), and then in another breath, speaking to how royalties are decreased because mines must build their own ice road annually (supportive of industry).

The discussion of detailed royalty formulas should be left to a regulatory discussion, and the Mineral Resources Act should simply allow government to set royalties. The profit based royalty approach that is currently in place seems to work well.

Any detailed discussion of royalty formulas must be done in a broader discussion of all taxes, as they are all interconnected in their effects on industry.

As we have stated earlier, transparency is important to public trust. The public wold benefit from information on the gross royalties collected and also how they are paid out to individual Indigenous groups through royalty sharing formulas in their land claim agreements and sharing through the Devolution Agreement.

Similarly, the public should also be informed of the many other taxes industry pays, eg, corporate, income, payroll, property, fuel, etc.

In regards to property and fuel taxes, government should also inform the public that the NWT and Nunavut are the only Canadian jurisdictions that levy property taxes at significant levels, and that mines in similar remote hinterland areas in provinces would not pay property taxes. Furthermore, the GNWT applies a fuel tax on off-road fuel consumption which mines do not pay in other jurisdictions. (Source: *Northwest Territories Revenue Option, February 2016*)

In any detailed discussions on royalties, the GNWT should review previous work conducted by the Federal Government and The Mining Association of Canada in 2008, titled: *Comparative Review of the Rate of Royalty in the Canada Mining Regulation, as Relates to National and International Competitiveness*.

4. ADDITIONAL COMMENTS RECEIVED

The Chamber also received comments outside of the 9 topic areas above, including:

- Brownfield redevelopment should be encouraged and incentivized. GNWT must also work with the Federal government to revise the Mackenzie Valley Resource Management Act to include this issue, among others. In the meantime, the revised Mineral Resources Act should address a more reasonable permitting process for brownfields including: different baseline study expectations, different reclamation standards/expectations, different security calculations, clear directives on what liabilities must be assumed by new proponent.
- Separate Land Use Permitting on Territorial Lands from the MVLWB. Decision-making and permitting on Territorial lands should be made by GNWT not the Feds.
- Mineral overlays in land use planning and zoning could encourage investment.
- In any areas where land is being removed in perpetuity (parks and protected areas), access corridors must be allowed.
- You need to clearly identify that the purpose of the MRA is to improve mineral and mining investment in the NWT.
- Make the purpose of the new MRA relevant to all Northerners. Mining is not just important for the economy and jobs and benefits to the North. Northerners should have a vested interest in mining various commodities because Northerners also need and use commodities.
- The MRA has to appreciate scales of work and involvement and avoid writing the legislation focused solely on companies and big corporations. Many jurisdictions have self-sufficient small-scale mining operations (artisanal mining) but should they necessarily be held to the same expectations as an Ekati or Diavik? Is there room to include variations of scale in the legislation? The general legislative practice appears focused on adding more rules but that possibly could make the industry only open for the big corporations to participate (meeting all the regulations takes prohibitive financing for smaller companies) and makes it harder for Northerners (ie. prospectors) to continue to be involved, which is contrary to the goal of the MRA benefiting residents of the NWT.
- There should be an introduction in the Act that describes its purpose, namely to make the NWT more attractive and competitive, and to grow industry and its benefits to the north. This is important. There are likely some who will want this Act to not support mining.
- Unilaterally establishing areas of no-go, showing no interest to encourage development in the North and choose to use any way possible to create sovereignty across the North.
- The MRA should establish a Minister of Mines given the industry's size and importance.

Foreign ownership

- Several respondents worried about foreign governments' state owned enterprises holding and owning deposits in the NWT. They felt there should be something in the new mining act to review foreign state ownership to determine the net Territorial and National benefit prior to granting ownership. State owned companies can have a

mandate to secure resources for "future generations" and they can have no incentive to advance a project like a normal business.

5. IN CONCLUSION

The most important message we wish to reinforce is that the creation of a new NWT Mineral Resources Act must be to improve the NWT's investment climate so that the territory can attract more outside dollars to sustain and grow its industry, and all of the industry's benefits to the North and to Canada.

It is important for government and the public to understand that industry is essentially the government's prime contractor with the finances and technical expertise to squeeze opportunity and benefits from rock – the training, jobs, business revenues and taxes that governments want and need to create healthy residents, communities and economies – but that industry cannot do it all alone.

Even Indigenous Governments should understand and perhaps be urged to provide opportunities to make their people and their communities and their economies healthy using the resources of the land, including mining. It is the role of any government to look at what they have to work with to make people's lives healthy and safe, and to do it in an environmentally responsible way. The Tlicho Government understands the importance of high paying mining jobs given these jobs directly affect the amount of income taxes which they are now mandated to collect.

The Mineral Resources Act can be a very simple Act, empowering regulations, which would contain more detail and be more easily changed outside of the Legislative Assembly.

Admittedly, much of what we have identified may not find its way into the Act, and would be more appropriately put into new regulations. However, it is important that the Act recognize their circumstances so as to allow them to be addressed in regulations. We suggest that for those issues that cannot be addressed in the MRA, GNWT work with industry in a separate discussion to address them.

In closing, an important point raised in our consultations is worth restating: the current mining regulations are quite good, and they have been relatively consistent and well understood by industry for many years. That is really important for investment. We don't expect to see wholesale change here; there is no need to fix something that isn't broken.

We look forward to continued discussions as the Act is drafted and moves forward to promulgation.

APPENDIX: DETAILED COMMENTS RECEIVED

Following are verbatim comments received from members.

a. Land access for prospecting and exploration

Access to land is the lifeblood of exploration, and maximizing access to land will increase the probability of exploration success. Issues raised by our members include:

- There is adamant support that the claim staking system must be preserved. Sometimes referred to as "free entry" (despite there being nothing free about it), claim staking to acquire mineral tenure is used throughout Canada, is therefore well understood by industry, and has proven to be good for Canada. We have had staking rushes since the 1930s, and we had the world's largest rush in the 1990s for diamonds. It proved the system works. Therefore, the claim staking system **must be protected in the NWT if the investment climate is to be improved.** Concerns over claim staking can be addressed with map or online staking (addressed later in this submission), and land use planning.
- 'Free entry' is worth preserving because it means anyone (of age) can prospect – it is a public activity on public land. Two often suggested alternatives, that Government allow mining concessions or bidding on ground for exploration, would eliminate most 'prospectors' from the picture and almost imply government gets to choose who gets to participate in exploration. That is not very 'free'.
- Only anti-miners and those that don't understand how industry works will propose that the claim staking system be discarded.
- The regulatory system today is one of the most progressive in Canada, being rooted in Indigenous Land Claims agreements, and overseen by co-management boards.
- There are still areas of the NWT without settled land claims. There are also areas without land use plans, which the legislation commits to developing.
- Find a way to override the flaw in the MVRMA which allows as little as one person to refer a proposal to environmental assessment based on the possibility it "might be a cause of public concern". This "might test" is a "hair trigger", that can quickly and unnecessarily push small, inconsequential projects to full environmental assessments. When this has occurred in the past, proponents have left the North for friendlier jurisdictions. The MRA should consider providing a mechanism for a proponent to appeal or take the referral to arbitration.
- Trying to identify special mining zones and treatment of high mineral potential lands were easier in the past prior to diamonds when greenstone belts were the discrete targets of exploration. But with diamonds now, and even more exotic minerals like rare earths and lithium, it is now extremely difficult to identify lands that are or aren't high mineral potential.
- Protected areas should all be vetted through the Minerals Act. Protected areas should impose limitations on resource development activity but not be permanently closed to mineral development, since it is not possible to determine now whether it may cover mineral resources of real value to the future needs of society. Further, as mineral extraction technology becomes more efficient, in the future it is likely that mineral extraction will be done much more sustainably without significant lasting impacts to the

environment or wildlife habitat. [All stakeholders and their interest must be taken into account in the decision process. That includes the general public as economic development is vital.]

- Protected areas need to follow sound science. The highest range of protection that should be placed on any area would be a conservation area and when someone shows an interest in that area all decisions would be protected using environmental regulations.
- We hope there may be ways found to free up more land for exploration. Access to land to learn more about the geology is our industry's lifeblood, our research and development, if you will. Can high mineral potential lands be "protected" for exploration and development purposes, for example?
- Protected areas create a problem in directly restricting access. But they can indirectly too, and the recent creation of Tsa Tué, a UNESCO Biosphere Reserve site around the entire Great Bear Lake will not help attract investment.
- There should be limits on the creation of new protected areas. We are not sure how the new MRA can address this, but it is very important. Statistics show that well over 30% of the NWT is off limits to exploration and development (the Premier recently said it's over 40%). Interestingly, with the regulatory regime that is in place, 100% of the NWT is protected. And by the nature of the territory's remoteness, most of the rest of the territory is effectively protected. A very small portion of the territory is affected by mineral development. Mines are very rare and mineral explorers need access to as much land as possible. I believe we do not need any more protected areas in the NWT. I realize that this is not entirely the mandate of the MRA and mining regulations.
- Access corridors through existing and future protected areas: For existing protected areas and potential future protected areas, consideration should always be given to allowing limited access through the protected areas for future mining projects.
- In any areas where land is being removed in perpetuity (parks and protected areas), access corridors must be allowed.
- In any future land use planning, a provision should be made that if a prospective mineralized area is identified in a protected area, there should be a process for allowing appropriate exploration and potential exchanging that protected area for another within the Territory.

b. Opportunities for online map staking

Many respondents stated that the NWT needs to institute online or "map" staking. Currently claims have to be staked on the ground, which is an expensive process. Map staking will allow people to put money into actual exploration, money that formerly was used for acquiring tenure through ground staking. Specific comments include:

- The NWT needs to do this to be competitive with other Canadian jurisdictions like Nunavut and Quebec.
- Learn too from NU and processes in these other jurisdictions.

- British Columbia (BC) has had map staking for 21 years. It can be done. The Chief Gold Commissioner (CGC) of BC should be consulted to gain insight into what works best. BC still deals with "legacy" claims which can be problematic and tie up GIS resources.
- The NWT should convert all existing claims into whatever "cell system" is decided on. Existing boundaries would be as recorded on maps unless company disputes. Lots of details would be required to be sorted out such as map projections (perhaps latitude/longitude like permits = no projection issues?). This would also make permits obsolete and I would highly recommend simplifying the current survey requirements for taking a claim to lease. In fact, in BC the CGC has the authority to say a survey is not required. Usually only done when adjacent to something significant like a park boundary etc. Another significant difference in BC is that you do not have to convert to a lease at 10 years, as long as you file work or cash in lieu then you can keep a claim as long as you want. Online staking will be a huge part of any new legislation. Free entry is essential, you need to go online with a system that avoids or deals with legacy issues and eliminates costly "lease surveys". There is mention in the discussion paper about a phased in approach and a long term process. Both items should be and could be avoided with a bit of clear and concise decision making and a proper roll out of an on line staking system. Government plans that start out with the concept of "phased-in" and "long term process" equals scary stuff.
- Accurate maps are required if you want to go to online map staking.

There were cautions put forward too, including:

- Methods must be found to prevent “scalpers” like with concert ticket sales.
- Online map staking actually might work against free entry. Right now, anyone can explore and stake as necessary, with just a prospecting licence. With online systems, one is compelled to stake upfront before exploring. To ‘encourage exploration’ and discourage land holding, jurisdictions often charge an exploration deposit when people stake online. This means people are paying the government to stake and explore before setting foot on the ground. It is still ‘first come, first served’ but overall it seems contrary to free entry.
- ‘Free entry’ is something the mining industry continues to argue for, but I think they need to realize that if they want the convenience of online staking, they willingly concede some hold on ‘free entry’. The two are really not compatible.
- Online staking will no doubt eventually come to the NWT to compete with other jurisdictions, but before online staking does become a reality, the mining regulations should demand GPS coordinates be submitted for claim posts. Eventually, these may be needed as part of the modernization process so it might be good practice for all claim stakers to provide them now (and many use GPS for staking already anyways, so they have this data).
- The staking system should be designed to facilitate mineral rights acquisition by those on the ground or prepared to go on the ground. Online staking will put the prospector on the ground at a disadvantage (find something, not be able to stake it) and will put those prepared to take the physical risks associated with physical staking on par with

anyone who has a computer. Farming rules are built for farmers; commercial fishing regulations are designed for commercial fishermen and the staking regulations should be designed for prospectors on the ground – not the general public. For the record, we are opposed to online map staking and we stake a lot.

- The system proposed by the Yukon Prospectors Association after reviewing the problems with online staking in BC and elsewhere should be examined. They proposed a hybrid system where you could apply for a claim *in person at the mining recorder's office* instead of physically staking it. The applicant had to be a local resident (perhaps in NWT, one with a prospector's licence). Ground would be granted on a first-come / first-served basis like the prospecting permits, using a map grid system. This would dissuade online claim jumpers.
- Some respondents worried about foreign governments' state owned enterprises holding and owning deposits in the NWT. They felt there should be something in the new mining act to review foreign state ownership to determine the net Territorial and National benefit prior to granting ownership. State owned companies can have a mandate to secure resources for "future generations" and they can have no incentive to advance a project like a normal business. Some are not so sure that this is a legitimate concern, and believe it might actually be a good thing for more SOE's to acquire land since one has to take a long term view to any new development in the North.

c. Acquiring and maintaining mineral tenures

Several themes emerged here: recirculating lands (use it or lose it), dealing with circumstances beyond the mineral tenure holder's control, helping prospectors, and an interesting one on creating the MRA so as to allow the GNWT to disperse mineral tenure on behalf of Indigenous governments. Also one general question was posed on how coal and granular materials will be addressed under the NWT Mineral Resources Act.

In regards to recirculating lands, much attention is on leases:

- We need a system that sees ground recirculated and not tied up for years with no exploration on it. This allows more aggressive explorers, with innovative new ideas, to explore lands that would otherwise sit idle.
- Perhaps bundling of claims is too large.
- We have a real problem with leases, particularly those 100 year grandfathered leases that have been taken out of exploration circulation for a very long time. (Of course, if it takes a quarter of a century to get a mine permitted, and that needs to be recognized too.)
- More aggressive explorers say that owners of a mineral lease should be forced to advance geoscience on their leases through actual work, and not be able to just pay rent on them to keep them in good standing.
- One solution offered was that perhaps a claim could be taken to lease and lie dormant for up to 10 years, but if the company does not advance work on the lease after that (say over the next 10 years), the lease should be given up. This would encourage investment through active exploration on the lease even if it forces the land holder into a JV work after 10 years

- A cautionary note was raised that this will be a balancing act. Sometimes companies do a lot of work allowing them to go to lease, but then market conditions or other factors may make the project un-fundable until market conditions or commodity prices change.
- Commodity prices are very cyclical and capital raising can only be done when commodity prices are strong. It is not fair for a developer to lose tenure simply because he could not move forward due to the commodity prices having dropped. With the lengthy permitting and EA process it is almost impossible to advance a project to production in any one favourable commodity price cycle.
- We need an easier process for obtaining surface leases – there's too much uncertainty, especially in areas with unsettled land claims.
- The lease system should only apply to claims which are going into production. After 10 years, assessment requirements could be ratcheted up to dissuade claim holders not intent on developing their claims. When claims lapse, allow the original owners to re-stake after 30 days not a year. There are so few groups engaged in mineral exploration in the territory that the 1 year hiatus coupled with diminished areas left to explore constricts additional exploration. Get the land working again.
- Mineral leases should only be granted to those who prove they have a reasonable prospect or deposit worth mining (with grades and tonnages as delineated by a Professional Geologist) and are earnestly working towards development.
- The work assessment credit amount required to take a property to lease could be increased. At $25 per hectare, many properties can to be taken to lease with very little work, including many small claims that are ultimately used for recreational purposes around YK.
- Lease renewals should only be granted to those that prove they have been doing exploration over the last 21 years and/or prove they have a deposit or reasonable prospect that is progressing.
- There should be NO grandfathering of old lease renewals under the new legislation. If there is, lots of properties currently under lease will continue on for decades as they are now…that is not necessarily helpful considering much the best known mineral potential in the NWT is tied up in leases.

The MRA should support active mineral exploration and mining, not land holding. It should send the message that claim holders should be serious about engaging in exploration and either 'use it or lose it' when it comes to exploration privilege on claims.

Sometimes there are extenuating circumstances beyond the tenure holder's control, and we recommend reinstatement of the old Canada Mining Regulations' section 81 clause:

- A provision to allow Ministerial appeal and review if there are unusual economic circumstances that result in a lease being lapsed due to lack of work.
- Reinstate the old section 81 of the Canada Mining Regulations which was essentially a *force majeure* clause to allow companies to defer exploration work when there were unforeseeable circumstances that prevented them from fulfilling their work

requirements, for example, unsettled land claims preventing them from doing their assessment work or raising money.
- Absolutely, I used section 81 as it was the only fair way to deal with the fact that I could not get a land use permit.

Another point raised by several respondents was that the new MRA should help prospectors:

- Prospectors currently need to hire a professional to write the reports required of them. This does not encourage the small prospector with limited resources. They need help too. This will be even more important as we attract more community members into the prospecting trade.
- The Canada Mining Regulations were rigged against the prospector by NAPEGG, the professional organization of engineers and geoscientists.
- In Yukon, any report in the proper format with all the attendant data is acceptable – it shouldn't matter who wrote it. This is particularly applicable to prospecting, sampling, geochemical and simple geophysical surveys. Why should it matter who wrote the report? It's the content that matters.
- Prospectors should not need to hire a professional to write their reports. Generally, their work would not be that detailed. Sample results should have assay certificates which in turn add to credibility. A Professional Geologist either with the NT Geological Survey or with Mineral titles/Mining Recorder's Office should be put in place to review all assessment reports, be it those of company or prospector.
- But at the same time, not sure we should be creating a lot of regs around traditional prospecting as a significant growing part of our industry. Traditional prospecting will be replaced by technology, notably remote sensing technology. Ground follow-up will be required but targets will be defined using technology.

Recommendations were also made that the MRA allow for the GNWT to contract the mineral tenure system on Aboriginal owned lands, so that industry would only have to go to one window to conduct tenure business.

- The concerns noted on access to Inuit Owned Lands, reinforces one of my comments on the NWT MRA in that we should ask the GNWT to work towards a common framework in the MRA for public and Indigenous lands and a common set of policies/regulations for land access and ultimately IBA's. This fractionation of the jurisdictional management will cause great uncertainty and drive investment away.

A more general question was posed on how coal and granular materials will be addressed under the NWT Mineral Resources Act.

d. Transparency, public accountability, and ministerial authority

In regards to work requirements and submission of data:

- There was an observation that there is data collected on mineral leases that is not going into the public assessment files database, to the detriment of knowledge.

- In regards to work requirements on claims, one respondent believed that the work credit on claims should be raised incrementally over the life of a claim to reflect the natural work progression that should be expected (ie. $5-10 per hectare for the first couple work periods as work should include basic mapping/sampling work, $20-25 per hectare for the next couple work periods when more likely doing geophysics and detailed claim work, followed by $30-40 per hectare for the next couple work periods when one might expect to reach the drilling stage).
- The 3 years of confidentiality of assessment work filings works well. Keep it.
- Companies should be able to hold exploration data in confidence while they develop their plans. Onerous requirements to release data too early will discourage exploration.
- Allowing companies to hold large tracts of land and keep data confidential is not the way to advance exploration, rather hold it back. This supports the large companies or large land holders which should be unacceptable to most explorers.

Transparency is very important. Social license is an important concept in as much as it means public acceptance and influence is important to the mineral industry's success. Transparency is a critically important ingredient to gaining public acceptance.

- The scrutiny process that comes with mandatory public reporting by publicly traded companies helps significantly to create transparency. However, transparency suffers with private companies who do not have to report publicly, or with small projects that are not material in large and global companies' portfolios.
- With mines becoming privately owned and not publicly traded, information on their projects will dry up. The NWT Mineral Resources Act should require regular public updates from mines. This transparency is meant to be a positive thing, for there are many developments that are exciting, and will help us keep the public informed. If they are hidden, we lose that ability. And there is always risk from the public that when they do not hear anything, they may suspect there is something nefarious going on (ie, transparency increases trust).
- There is a public perception that mining is not transparent or accountable now. It is possible that lots of information is public but scattered amongst so many different databases, registries and other sources because reporting falls under various pieces of legislation with responsibilities to different governments, departments, agencies and authorities. A better streamlined regulatory process might help, both with companies having to report to fewer authorities and the public finding access to the information a bit more straightforward. Unfortunately, it does not sound like the MRA can actually offer that and might only work to add more layers of reporting!
- 'Free entry' has also meant that data has not always been filed for assessment work (recce programs, lapsing claims do not demand a need to file work). **There should be some recognition by exploration and mining companies that there is a shared responsibility to 'pay it forward' to the industry with making such data available (even if donated a number of years later) as part of the right of free entry**. Otherwise, legislation will find a way to force the issue, which will likely lead to pre-approval of exploration activities so that they know what results to expect and who to expect results

from – such legislation might take away the competitive edge of exploration. Industry should be encouraged to submit any/all data rather than have it legislated!!
- Socio-Economic reporting is showing it is powerful and helpful. But more updates as are presented in public company news releases is also required.

e. Inspections, monitoring and auditing

There were observations that there is less capacity today than previously, and there is need for Professional registration status in the system.

- Capacity of NTGS has diminished, and now there are no more District Geologists.
- Someone, somewhere with the proper expertise needs to be reviewing assessment reports.
- NTGS geologists are now vetting reports from Professional Geologists. Is there a liability issue here? Room for legal challenges?
- Any geologist at the NTGS needs to be a Professional Geologist if they are providing data for the public or vetting any reports.
- NTGS geologists should be registered P. Geo's.
- We should look at recovering all data which has to meet a standard above a certain threshold.
- The term "Engineer" is now removed from the Act. What are the implications?
- Removing the District Geologist positions signalled that the GNWT did not take exploration and mining seriously! Whether the position is located at NTGS or not is irrelevant but someone should be tasked with approving assessment reports, promoting areas/commodities to inspire/encourage new exploration and monitoring exploration activities. The District Geologist positions of decades ago were genuinely interested in the work of industry and furthering exploration and mining for economic development sake.
- NTGS, like many surveys and the GSC, have shifted focus from industry to more academic pursuits. Most now also include many other studies (permafrost, environmental, geohazards, etc.) to better serve the public good in their mandates. Supporting exploration is not their primary goal anymore but governments should not abandon that responsibility.

f. Rehabilitation and closure of mining and exploration sites

A functional, reasonable and credible system needs to be in place to determine bonding/ security deposit amounts for projects. That is also good for public understanding and support.

- In that regard, security requirements should be standardized for a given level of operation, based on fair market prices to reclaim sites, with standardized contingencies.
- However, if authority to approve a mine lies under other legislation, then one wonders how the MRA can direct any authority over rehabilitation and closure.
- Any usable infrastructure at a decommissioning mine or exploration site should be reviewed by the GNWT prior to mandatory rehabilitation to determine if retaining it

would be in the future public interest for public service development or future socio-economic development.

g. Indigenous engagement and consultation

There was strong response that Indigenous consultation is the legal role of governments and not industry, but that industry has a role of engaging with communities as it develops its projects.

- The GNWT must step up and do its job on aboriginal engagement. Stop passing this on to proponents. It is the Crown's duty to consult and accommodate, not the companies.
- Aspects of consultation with stakeholders such as Indigenous groups is confusing. The revised mining regulations should crystallize the rules for consultation with communities affected by exploration and mining projects. Officially, it is the responsibility of the government or 'Crown' to consult with communities. However, they historically have passed this responsibility entirely to the proponent with no consistent rules or guidelines, which creates confusion among proponents and potential investors.
- There is a gray area between government's duty to consult and industry's need to engage. Too often industry is being asked to consult. Government needs to step up to the plate on its duty.
- The government is currently contemplating whether consultation should be required prior to acquiring mineral claims. This is a terrible idea and should be resisted because if implemented, it will be a strong deterrent to mineral exploration. Confidentiality is required at the early stages of exploration.
- Consistent rules for Consultation: The revised mining regulations should crystallize the rules for consultation with communities affected by exploration and mining projects. Officially, it is the responsibility of the government or "Crown" to consult with communities. However, they historically have passed this responsibility entirely to the proponent with no consistent rules or guidelines which creates confusion among proponents and potential investors. The crown should take responsibility for consultation with support from the proponent and they should clearly define consultation and the part it plays in the regulatory process.
- Need clarity that staged consultation and engagement is required, reflecting exploration vs mining stages. Often communities have expectations of (high budget) mine style engagement for a (low budget) grassroots exploration project. Needs to be communicated to First Nations. Currently expectations are too high.
- The requirement to consult 5 or more different aboriginal groups for simple permits is patently ridiculous, expensive, time consuming and a strong disincentive to explore in the NWT. This has to be streamlined somehow.

There were also observations that Indigenous groups have a duty to engage.

- Work to reduce the old "them vs us" feelings between Indigenous governments and industry and public governments. This is a hangover from a time when central governments made decisions on mining thousands of miles away, and without local community consultation. Those times have changed now. Public governments and even

Indigenous governments now have duties to their beneficiaries to find economic opportunities to help create healthy, strong communities and economies. This needs to be reflected in the document.
- But Indigenous groups also have a duty to engage.

There were a number of issues to be considered that stand in the way of progress. Whether or not the MRA can address them may be questionable, but they are raised here to share the concern.

- Find a way to override the hair trigger flaw in the MVRMA which allows one person to refer a proposal to the MVEIRB based on a "public concern". There needs to be a mechanism for a proponent to appeal or take the referral to arbitration.
- Settle the land claims. We cannot stress enough how much more access to land and investment certainty this would bring. If a claim cannot be settled after 10 years of interim withdrawal, the lands should be put back into circulation for exploration.
- Is an IBA not just a form of accommodation? Also, if these were public and transparent then there would be a way to compare "required" effort.
- Mining should not be the only industry being held to account on Indigenous engagement and perhaps rather than being in the MRA, this needs its own legislation or guiding documents. Surely there are other industries that use the land that should be expected to live up to the same engagement expectations (eg, tourism?).
- Setting a framework with which the various land and water boards approach exploration, mining and reclamation would provide a continuity across the NT with which the mining sector could standardize their approach to engagement.

h. Socio-economic benefits, including impact benefit agreements

Some repetition with transparency comments are found here as well, given that socio-economic benefits are a key benefit arising from a successful minerals industry.

- Transparency is critical.
- Responsibility for healthy communities and healthy economy using the contributions of exploration and mining development is the responsibility of not just public (NWT) governments, but also Indigenous governments.
- Clear guidance on how to complete IBA's (and SEA's) is needed. When is effort expended to reach an agreement considered to be enough effort?
- IBA's were once Corporate Social Responsibility, but now are requirements under EA's.
- Need to remind people that the MVRMA is unique in Canada (and not just because of the public concern hair trigger, which has become a negative aspect), but because it requires socio-economic well-being of people to be addressed, which is a positive.
- We should place "Exploration Agreements" under the same discussion as IBA's as they effectively become an exploration phase IBA. Expectations of communities need to be addressed in the form of understanding the mining cycle: exploration, advanced exploration, development, mining, decommissioning stages. These should also all have

staged expectations. At the initial stages of exploration, companies can't afford to go to every community and promise something.

- Consider a formulaic approach to IBA such that: "The financial benefit is proportional to set metrics such as land disturbed, degree of disturbance (ie, on ground prospecting, less than drilling, less than mine development, etc), duration of disturbance and revenue from mining activity when it gets to that point." Indigenous Groups would then know what one would get out of the economic activity clearly and at each step of the process the explorer/developer/financer would know the cost.
- The premise of SEA is one of supporting local (northern hires, training and procurement, etc.). **So why is this only expected of mining companies – shouldn't it be a requirement of any industry or business operating in the north?** Again, this might be an item that should be separate from the MRA and apply to more than mining as an industry - do tourism operators live up to SEA requirements? Some tourism operators are not even based in the North and some tourism operators and agricultural producers in the NWT make use of 'woofers' (unpaid travelling (tourist) volunteers) – how does that work towards sustainable employment and benefits to Northerners?
- Even government tends to overlook some issues – lots of southern consultants are hired to work in the North and often, the consultants spend more time learning about the North to pad their own CVs than they are capable of advising on!

i. Revenues, including taxes and royalties

A key aspect in the current regulations for mining is royalties and the formula for calculating them. It is an important aspect of investment attractiveness of the North.

There have been many misleading comments from the Bauer report and more specifically, the incorrect reporting that the Diavik mine had not paid any royalties. In addition, the Bauer report was bipolar with regards to royalties, expressing an opinion that the NWT was most charitable (critical of industry), and then in another breath, speaking to how royalties are decreased because mines must build their own ice road annually (supportive of industry).

The detailed discussion of royalty amounts and formulas should be left to a regulatory discussion, and the MRA simply should allow government to set royalties.

- Any discussion of royalty amounts should be done in a broader discussion of all taxes, as they are all interconnected in their effects on industry.
- Transparency is important and the public must be given access to royalties collected and by whom, ie, the amounts shared to each individual Indigenous group both through royalty sharing in their land claim agreements and sharing through the Devolution Agreement. That royalty sharing is good for all.
- In so doing, the public must be informed that these are just one kind of tax, and that there are many other taxes paid, eg, corporate taxes, income taxes, payroll taxes, etc.
- The public must also be informed that the NWT and Nunavut are the only Canadian jurisdictions that levy property taxes at significant levels. Mines in similar areas (remote hinterland) in provinces would not pay property taxes. Furthermore, the GNWT applies a fuel tax on off-road fuel consumption which mines do not pay in other jurisdictions. (Source: *Northwest Territories Revenue Option, February 2016*)

- Royalties are just another tax.
- In discussions on royalties, the GNWT should review *Comparative Review of the Rate of Royalty in the Canada Mining Regulation, as Relates to National and International Competitiveness* study conducted by Federal Gov't and The Mining Association of Canada in 2008.