

## REMARKS BY

Minister of Northern Development, Mines and Forestry Michael Gravelle  
Introduction to Third Reading Debate on Bill 173, An Act to amend the  
Mining Act

Queen's Park

Wednesday, October 21, 2009

## CHECK AGAINST DELIVERY

---

Mr. Speaker, I am honoured to lead off today's debate on Bill 173, an Act to amend the Mining Act.

And I am pleased to have this opportunity to review for the House the strengths of this proposed legislation, and why this is a bill that our government can be proud of.

Bill 173 is aimed at bringing our mining legislation into harmony with the values of today's society while, at the same time, promoting a strong, vibrant and competitive minerals industry.

As I said throughout the comprehensive consultation process prior to drafting the Mining Act amendments, a balanced approach that seeks to reconcile divergent views is the only way to achieve our social and economic goals.

It is not surprising that there is widespread agreement for the need to modernize the Mining Act. Neither is it surprising that legislation that affects so many Ontarians, in so many different regions and in so many different ways, should engender passionate discussion, opinion and debate.

However, our government is tackling the very necessary task of drafting legislation designed to make the Mining Act relevant in the 21st century, and revitalize Ontario's approach to mineral exploration and development.

We have gone about the process with deliberation and careful planning, and with the highest regard for the opinions of all those who are directly or indirectly involved in or affected by Ontario's minerals industry.

Our government has been working toward proposed amendments of the legislation for some time. And we have not worked in isolation. We have involved and consulted a wide range of stakeholders and aboriginal communities, in a focused way, over a period of several years.

The initial process of engaging with aboriginal communities and stakeholders about the province's minerals industry prepared our government well for the extensive and comprehensive consultation we undertook to prepare for amending the Mining Act.

Details of the subsequent process of consultation have been well documented in the House.

You may recall, Mr. Speaker – and despite characterizations to the contrary by some of my friends across the aisle – the extensive consultation process by which we invited public, stakeholder and Aboriginal community input into the drafting of Bill 173.

These included:

- Public consultations and some 20 stakeholder sessions that involved more than 1,000 participants across the province,
- 156 responses to the discussion paper posted on the Environmental Registry,
- 10 sessions with regional prospecting and exploration organizations, with more than 200 participants
- 15 workshops and regional sessions that included over 100 Aboriginal communities, treaty organizations, tribal councils and the Métis Nation of Ontario
- 11 meetings in individual First Nations communities,
- Support from our Aboriginal Relations Unit staff at 14 sessions led by the Union of Ontario Indians First Nations,
- And of course, further consultation in five Ontario communities this summer by the Standing Committee on General Government.

That our government facilitated such extensive consultation is not, in itself, the important thing.

Absolutely, we had good debates and received much valuable input that raised important issues.

The point, Mr. Speaker, is that this comprehensive consultation, and the discussion it engendered, has produced a balanced piece of legislation.

Let me repeat: our aim in modernizing the Mining Act is to offer a balanced approach to mineral development that considers a range of interests while supporting a competitive economic climate for the minerals sector.

We are confident that the proposed legislation reflects the values of a modern Ontario while, at the same time, promoting a strong, vibrant and competitive minerals industry.

Should Bill 173 pass third reading we would move to next steps.

We understand that certainty of rules, and clarity and timeliness of process are crucial for the industry to make investment decisions.

We are well prepared to move forward on the balanced, moderate course we are proposing, to achieve real progress.

Upon receiving royal assent, some new provisions would be in effect immediately.

These would include:

- The inclusion of a clause in all leases and lease renewals highlighting the protection for existing aboriginal and treaty rights provided in Section 35 of the Constitution Act,
- The ability to replace a lost or stolen prospectors licence without requiring an affidavit, which will be a significant benefit in areas such as First Nations communities where no Commissioner for taking Affidavits is available,
- Provisions for streamlining some administrative processes.
- And in southern Ontario, the automatic withdrawal of Crown mineral rights under privately held surface rights.

As the issue of surface rights versus mining rights has been a fairly contentious one in southern Ontario, let me offer a brief reminder of what our legislation is proposing on this issue.

One objective in modernizing the Mining Act is to mitigate the conflicts that have arisen between mineral exploration companies and private landholders who do not hold the mineral rights on their properties.

Lands with private surface rights and Crown mineral rights that are open for staking represent only 1.4 per cent of the land in southern Ontario. However, we recognize that this has been a frustrating and worrisome issue for some land owners.

Bill 173 would address conflicts where private surface rights owners do not hold mineral rights on their lands.

The Mining Act amendments propose to automatically withdraw Crown-held mining rights in southern Ontario where surface rights are privately held, while respecting existing claims and leases. If those claims or leases forfeit or terminate and the mineral rights return to the Crown, those mineral rights would be automatically withdrawn.

As well, exploration where there are mining claims involving private surface rights would be subject to the new graduated regulatory scheme for exploration, which requires exploration plans for low impact activities and exploration permits for activities with a moderate impact.

In addition, owners of certain lands originally patented as mining land, who are not using their land for mining purposes, would be able to apply for an exemption from the mining land tax. This would end a tax that some have considered unfair.

These proposed changes would address the concerns of private property owners and provide clear rules to the exploration industry.

I also emphasize, Mr. Speaker, that much of the proposed Act enables processes that would be detailed in the regulations. My ministry would begin to develop these regulations, in consultation with our stakeholders, immediately upon passing of this bill.

For example, this consultation would occur as my ministry develops regulations and policies dealing with:

Aboriginal consultation provisions throughout the mining sequence and, more specifically, consultation with respect to:

- the criteria for sites of aboriginal cultural significance, and the process for these withdrawals
- exploration plans and permits, including the terms, conditions and requirements for early exploration;
- clarifying the existing consultation process for closure plans for advanced exploration and mine development projects; and
- developing a dispute resolution process for Aboriginal-related mining issues.

We would also develop regulations and policies dealing with:

A prospectors awareness program for holders of prospector's licences.

Let me be clear: this would not be a test to quiz prospectors about their knowledge of their business, which our government appreciates is substantial. It would not be a training or a certification program. The intent is to ensure that prospectors are aware of the new provisions of the Mining Act, aboriginal engagement and consultation requirements and "best practices," reclamation of exploration sites, and rules for staking claims and exploring for minerals on private lands.

Regulations and policies would also deal with:

Exploration plans and permits that regulate earlier stages of exploration through a graduated approach, to ensure that exploration activities will be carried out with the appropriate aboriginal consultation, and with regard to private landowner's interests, and remediation of disturbances to the land.

And our regulations and policies would address:

A map staking regime that maintains a competitive system for acquiring mining claims in Ontario.

On this last point, map staking would mark a change from the current system of claim staking, whereby mining companies and prospectors enter onto land to mark their claims.

We understand how contentious this new approach might be, Mr. Speaker, and we would introduce this concept in a very carefully measured way.

Let me repeat that the phased implementation of map staking over a period of three to five years would start with a paper-based system in southern Ontario, then move to an online electronic system across the province.

This modern, computer-based system of staking would reduce even further the already low impact of ground staking. Let me remind members that we are now in the era of GPS and Google Earth, and map staking is already an important part of current mining legislation in a number of jurisdictions.

I believe there are several advantages to map staking, which other mining jurisdictions in Canada, such as British Columbia, Quebec and Newfoundland, have already discovered:

Map staking would enable prospectors and stakers to acquire land that was previously inaccessible to them because of difficult terrain, remoteness or other aspects of inaccessibility.

It would help to level the playing field in those parts of the province where it is currently too expensive for prospectors to operate, and allow them to stake more land efficiently and accurately.

And no matter how the claim is staked, the work still has to be done on the ground, and that means the investments in staking and exploration remain local.

There have been concerns expressed about map staking opening up the possibility of a single, large company staking large tracts of land.

I can assure you that, should our Mining Act proposals be passed, ongoing consultation and the experience of other jurisdictions will help guide our efforts to ensure that we develop a map staking system that's right for Ontario -- a system that maintains competitive access to mineral tenure for all explorationists... individual prospectors, junior exploration companies, and senior mining companies alike.

We know that the business of prospecting and exploration is the foundation upon which Ontario's diverse mining industry has been built, and we will work to ensure it continues to be the bedrock that supports future growth.

On a related topic, Mr. Speaker, I am glad to have the opportunity today to clear up some misconceptions by opposition members concerning the issue of payments in lieu of assessment work.

Let me emphasize three important points:

- First, our government is absolutely clear on the importance to local economies of assessment work, and the benefits of assessment work reporting to our geological knowledge. There is no intention to “do away” with the requirement to do assessment work.
- Second, the Act provides for rules around payment in lieu of assessment work, such as when and how often it can be used to replace actual exploration work, to be set out in regulations, which would be developed through consultation.
- And third, payments in lieu would provide an alternative to current provisions in the Act that allow for extensions of time when assessment work has not been completed by required deadlines.

Keep in mind that this would represent a very small amount of the annual requirement for assessment work. In fact, in other Canadian jurisdictions, this provision accounts for less than 5-10 per cent of total annual assessment reporting requirements.

A vibrant Ontario minerals industry will continue to need and rely on the expertise and knowledge of the local geology by prospectors. Most certainly, prospectors will continue to be an important and valued part of the exploration process.

I want to emphasize that, should the Bill be enacted, consultation would not end. My ministry would continue to consult broadly to gather input into the development of regulations.

We are committed to providing more opportunity for input from stakeholder groups, aboriginal organizations and the public to make sure we get it right.

In summary, Mr. Speaker, when it comes to developing an amended Mining Act to promote balanced mineral sector development that benefits all Ontarians, we listened.

We respected the input from stakeholders, and we reflected that input in our proposed amendments, which would bring clarity and certainty for the minerals industry.

The amendments would also make Ontario the first jurisdiction in Canada to expressly recognize aboriginal and treaty rights in its mining legislation.

And, again for the first time in Canadian mining legislation, they would provide for the development of dispute resolution process for aboriginal-related issues.

They would address issues related to surface versus mineral rights.

They would link mining development to the development of land use plans in Ontario's Far North.

They would maintain fair and competitive access to mineral tenure through the introduction of map staking.

They would propose a graduated regulatory approach for exploration.

In developing this legislation, our government was very mindful of the need to help many of our communities realize their economic and social aspirations.... And to help ensure Ontario remains one of the best places in the world for mineral exploration and mining investment.

The amendments offer a balanced approach to mineral development that considers a range of interests, while supporting a competitive economic climate for the minerals sector.

Should the Legislature pass the proposed Mining Amendment Act, I believe that those who are currently involved in the sector, as well as those who want to invest in it, will be better able to take advantage of new opportunities in the industry for the benefit of all Ontarians.

Thank you.