

Terms of Reference

A Class Environmental Assessment for Activities of the Ministry of Northern Development, Mines and Forestry under the *Mining Act*

Ontario Ministry of Northern Development, Mines and Forestry
Mineral Development and Lands Branch

Amended: July 5, 2011
Approved (Ministry of the Environment): August 23, 2011

TABLE OF CONTENTS

1.0	INTRODUCTION.....	3
1.1	Mining in Ontario	3
1.2	Environmental Assessment	4
2.0	PURPOSE OF THE CLASS ENVIRONMENTAL ASSESSMENT	4
2.1	Activities Subject to the Proposed Class EA.....	4
2.1.1	Discretionary Decisions Related to Surface Rights, Mining Rights and Chattels.....	5
2.1.2	MNDMF-Administered Mine Rehabilitation Activities.....	6
2.2	Environmental Setting and Effects.....	7
2.3	Scope of MNDMF's Class EA.....	8
2.4	Class EA Administrative Practices and Procedures	9
2.4.1	Amendments to MNDMF's Class Environmental Assessment	9
2.4.2	Part II Order Process.....	9
2.4.3	Monitoring and Reporting	9
2.5	Justification of the Class EA Approach.....	10
3.0	MNDMF'S CLASS ENVIRONMENTAL ASSESSMENT.....	11
3.1	Need for Categories	11
3.2	Proposed Categories.....	12
3.2.1	Category A: Activities with No Potential Environmental Effects.....	12
3.2.2	Category B: Activities with Low Potential Environmental Effects...	12
3.2.3	Category C: Activities with Moderate Potential Environmental Effects	13
3.2.4	Category D: Activities with Significant Potential Environmental Effects	13
3.2.5	Category E: Individual Environmental Assessment	13

Terms of Reference

3.3	Class or Category Change	13
3.4	Proponent	14
4.0	CONSULTATION AND ENGAGEMENT	14
4.1	Consultation.....	14
4.1.1	Aboriginal Engagement	15
4.2	Cultural Heritage.....	16
4.3	Coordination with Other Approval Processes	16
5.0	PHASES OF THE CLASS ENVIRONMENTAL ASSESSMENT REVIEW AND APPROVAL PROCESS	17
5.1	Phase One –Terms of Reference Development	17
5.2	Phase Two – MOE Review and Approval Process for Terms of Reference.....	17
5.3	Phase Three – Class EA Development	18
5.4	Phase Four – MOE Review and Approval Process for Class EA	18
6.0	MODIFICATIONS TO THE TERMS OF REFERENCE	18
	APPENDIX 1: GLOSSARY	19
	APPENDIX 2: THE MINING CYCLE.....	22
	APPENDIX 3: STAKEHOLDERS, ABORIGINAL COMMUNITIES, AND INTEREST GROUPS.....	23

1.0 INTRODUCTION

1.1 Mining in Ontario

Ontario's mining legacy spans over two centuries. The mining industry has been and continues to be an essential part of Ontario's economy. The mineral sector is a significant contributor to the well-being and high standard of living in Ontario and is an especially significant economic base of many small communities, towns, and cities in Northern Ontario, including world-renowned mining camps such as Sudbury, Red Lake, Timmins, Hemlo and Kirkland Lake.

The Ontario Ministry of Northern Development, Mines and Forestry (MNDMF) serves Northern Ontario and the province's mineral and forestry industries.

MNDMF's Mines and Minerals Division works to support responsible land use management and mineral resource development by administration of Ontario's *Mining Act*, providing public geoscience information and client services. The division mandate is to be an acknowledged global leader in the sustainable development of earth and mineral resources, contributing to a robust economy, strong communities, and a healthy environment.

The Northern Development Division is responsible for promoting economic development in Northern Ontario and for the delivery of a variety of government programs and/or services in the North relating to community/regional economic development, transportation, and community infrastructure. Activities undertaken by this division are not subject to the *Environmental Assessment Act*.

The Forestry Division provides leadership on forest products, industry sector revitalization and transformation initiatives, and acts as an advocate for business and economic functions within the forest industry. The Ontario government's forest stewardship responsibilities, including *Environmental Assessment Act* responsibilities, are with the Ministry of Natural Resources (MNR).

The mineral sector in Ontario pursues mineral *exploration* and development activities and is made up of individual prospectors, junior exploration and development companies and major mineral producers (italicized terms are defined in the glossary in Appendix 1). These activities undertaken by the mining industry are private sector activities and, unless the activity triggers the *Environmental Assessment Act* requirements of another ministry or agency, or is designated by regulation or through a voluntary agreement with the Minister of the Environment, are not subject to the *Environmental Assessment Act* (see Appendix 2 for illustration of the mining cycle).

Because mineral ore bodies are finite resources, mining is, for the most part, an interim activity upon the land. The *Mining Act* encourages prospecting, staking and exploration for the development of mineral resources in a manner that minimizes the impact of these activities on public health and safety and the

environment. The sustainable use of the land and environmental integrity after mineral exploration or extraction has been completed is also essential. The proposed Class Environmental Assessment (Class EA) will contribute to sustainable development by ensuring those activities undertaken by MNDMF for the purposes of administering the *Mining Act*, and which are subject to the *Environmental Assessment Act*, are carried out in a manner that provides for long term sustainability.

These terms of reference have been prepared in accordance with the requirements set out in section 13(2) of the *Environmental Assessment Act* and describe the process by which MNDMF will develop a Class EA for its activities under the *Mining Act* that are subject to the *Environmental Assessment Act*.

1.2 Environmental Assessment

Environmental assessment is a study to assess the potential environmental effects of an activity undertaken by or on behalf of the government of Ontario, or by public bodies, municipalities or designated private sector proponents. Environmental assessment requires that different methods or alternatives to the *undertaking* are considered and consulted on where necessary (italicized terms are defined in the glossary in Appendix 1). The *Environmental Assessment Act* sets out a planning and decision-making process with the purpose of providing for protection, conservation and wise management of the environment in Ontario.

A Class EA is a document that describes a planning and decision-making process for groups (or classes) of activities for which a proponent is responsible to conduct an environmental assessment. The classes of activities are considered to be routine in nature with predictable and manageable environmental impacts.

Individual Environmental Assessments (Individual EA), on the other hand, are used for large-scale, complex activities that have the potential for significant environmental effects.

Activities assessed under a Class EA document require no further approval under the *Environmental Assessment Act* if the planning process is adhered to; however, interested persons may request that the Minister of the Environment elevate the activity to an Individual EA by making a Part II Order request under the *Environmental Assessment Act*.

2.0 PURPOSE OF THE CLASS ENVIRONMENTAL ASSESSMENT

2.1 Activities Subject to the Proposed Class EA

Under the *Mining Act*, MNDMF administers Crown land for mining purposes and for Crown-held mining rights in the land. All Crown land and Crown-held mining

rights are open to *prospecting* and *mining claim staking*, unless the rights have been withdrawn from or are otherwise not open for staking (italicized terms are defined in the glossary in Appendix 1). The majority of mining lands are staked mining claims, primarily on Crown lands in Northern Ontario.

Prospecting and *mining claim staking* are activities carried out by the private sector pursuant to rights established under the *Mining Act* and are not undertakings of MNDMF. The *Mining Act* provides a claim holder with a legal right to obtain a *mining lease* for their mining claim upon both the completion of assessment work and compliance with all the requirements of the *Mining Act*. There is no discretionary decision-making or approval by MNDMF in these circumstances.

Non-discretionary activities, such as the statutory entitlement to mining claims and mining leases where no decision or approval by MNDMF is required, are not subject to the *Environmental Assessment Act* and will not be included in the proposed Class EA.

The proposed Class EA will encompass only MNDMF's activities under the *Mining Act* that are subject to the *Environmental Assessment Act* and that have predictable and manageable environmental effects. There are two types of activities:

1. MNDMF's discretionary decisions related to *surface rights, mining rights* and *chattels*, and
2. MNDMF-administered mine *rehabilitation* activities.

2.1.1 Discretionary Decisions Related to Surface Rights, Mining Rights and Chattels

The proposed Class EA will apply to MNDMF's discretionary decisions regarding surface rights, mining rights and chattels. The majority of *Mining Act* dispositions are not discretionary.

Despite the non-discretionary nature of most *Mining Act* dispositions, MNDMF has discretion in certain special circumstances to *grant* rights, interests, and title in Crown lands for mining and mining purposes, or to sell or dispose of mining-related chattels and assets.

There are four types of discretionary activities carried out by MNDMF under the *Mining Act* that are subject to the *Environmental Assessment Act*.

1. New dispositions, including: *exploratory licences of occupation, surface rights leases* for mining, mineral rights under road allowances, or portions of lands accidentally omitted at the time of the original grant.

2. Conversions of existing tenure, including: licence of occupation to a lease, lease to an *unpatented mining claim*, lease to a *mining patent*, single lease to a multiple lease, or a multiple lease to a single lease.
3. Forfeiture or surrender of title, including: non-compliance with statutory or contractual obligations to the Crown, tax arrears, or a voluntary surrender.
4. Disposition of assets, including: permissions to remove bulk minerals or ores for testing purposes, or physical assets, such as buildings, rock piles or tailings areas, which become the property of the Crown upon the title reverting to the Crown.

2.1.2 MNDMF-Administered Mine Rehabilitation Activities

The *Mining Act* currently requires the rehabilitation of mine sites by the current or previous owners; however, prior to this 1991 amendment to the *Mining Act*, Ontario was left with a legacy of over 5,700 known *abandoned mine* sites (containing about 16,800 separate *mine hazards*). Of the 5,700 abandoned mines sites, only 30 to 40 percent are located on Crown land, with the rest being privately-held. The Crown's direct involvement in mine rehabilitation activities is an undertaking subject to the *Environmental Assessment Act*. The majority of rehabilitation activities undertaken by MNDMF are on Crown land.

MNDMF has recently categorized abandoned mine sites in order to evaluate and prioritize environmental and public health and safety risks. Approximately 1,700 of the 5,700 abandoned mine sites in Ontario are administered by other authorities or legislation.

Of the remaining 4,000 abandoned mine sites, less than 20 fall under the category with the highest risk of potential environmental or public health and safety risks (e.g., major past-producing mine sites with extensive infrastructure and large tailings ponds or waste rock piles with acid rock drainage concerns). Approximately 115 sites fall under the category for limited environmental impacts and moderate public health and safety concerns (e.g., dilapidated buildings, mine workings open to the surface, and minor amounts of *tailings*, waste rock or other potential chemical contaminants). Approximately 1,600 of the sites contain only physical hazards (e.g., shafts, raises and adits). The remaining 2,300 sites will have minimal or no physical hazards only with no potential for impacts on the environment (e.g., shallow trenches or pits).

Since 1999, MNDMF has administered the Abandoned Mines Rehabilitation Fund to rehabilitate Crown-held, abandoned mine sites. In addition, funds have been allocated for special projects where the mine hazards are not Crown properties.

In some circumstances, MNDMF or agents of the Crown conduct various mine rehabilitation activities throughout Ontario. For example, since the inception of the Abandoned Mines Rehabilitation Fund, MNDMF has undertaken

rehabilitation work on approximately 75 separate sites. MNDMF projects range from being small in size with minimal potential environmental effects to large-scale engineering and design projects that involve the disposal of hazardous materials and containment and treatment of acidic and metal laden discharges.

In emergency situations, where the Minister of Northern Development, Mines and Forestry has reasonable grounds to believe that a mine hazard is causing or is likely to cause an immediate and dangerous adverse effect to public health and safety and/or the environment – for example, a tailings dam failure or a sudden ground subsidence in a populated area – MNDMF or its agents will take steps to prevent, eliminate and alleviate the threat as soon as possible. Emergency measures undertaken by MNDMF on privately-held sites to remedy these threats are not subject to the *Environmental Assessment Act* and will not be included in the proposed Class EA. However, emergency measures undertaken by MNDMF on Crown-held sites are subject to the *Environmental Assessment Act*. Though very unlikely, situations may develop on Crown-held sites where there is a threat or potential threat to human life or safety, property, public service, or the environment. MNDMF will develop a procedure to deal with these situations under its Class EA and will assess appropriate notification procedures in consultation with government agencies.

2.2 Environmental Setting and Effects

Ontario has a long history of mineral exploration and development and has become a world leader in mineral research, development and technologies, especially in mineral processing, mine reclamation and mine site rehabilitation.

When considering the potential environmental effects of MNDMF's activities under the *Mining Act* that are subject to the *Environmental Assessment Act*, MNDMF will consider all aspects of the environment, as described in section 1(1) of the act, including:

- air, land or water;
- plant and animal life, including human life;
- the social, economic and cultural conditions that influence the life of humans or a community;
- any building, structure, machine or other device or thing made by humans;
- any solid, liquid, gas, odour, heat, sound, vibration or radiation resulting directly or indirectly from human activities; or
- any part or combination of the foregoing and the interrelationships between any two or more of them.

The potential environmental effects of MNDMF's activities vary based on the location, history, and environmental setting of a particular site. The activity may occur within a relatively unaltered natural environment or it may occur within a previously impacted site. For both MNDMF-administered mine rehabilitation activities and discretionary decisions related to surface rights, mining rights and chattels, there may also be unknown factors (e.g., forgotten underground workings, certain infrastructure requirements). The potential net effects of MNDMF's activities can only be assessed on a site-by-site basis.

2.3 Scope of MNDMF's Class EA

MNDMF's proposed Class EA document will be prepared in accordance with the requirements of section 14(2) of the *Environmental Assessment Act* including descriptions of:

1. Classes of undertakings to which it applies.
2. Reasons for using a Class EA with respect to undertakings in the class.
3. Similarities and differences to be expected among the undertakings in the class.
4. Expected range of environmental effects that may result from proceeding with undertakings in the class.
5. Measures that could be taken to mitigate adverse environmental effects that may result from proceeding with undertakings in the class.
6. Process to be used by MNDMF to consult with government agencies, members of the public, Aboriginal communities and organizations, and other interested groups or individuals who may be affected by the undertaking.
7. Methods to be used to evaluate a proposed undertaking with respect to the matters described in numbers 4 to 6.
8. Methods to be used to determine the final project design of a proposed undertaking based upon the evaluation described in number 7.
9. Such other information as may be prescribed.

An approved Class EA for MNDMF's activities under the *Mining Act* would provide a clear and defined framework and process that will allow activities to be carried out.

2.4 Class EA Administrative Practices and Procedures

The proposed Class EA will include a description of administrative processes such as the procedures to monitor and amend the Class EA and how Part II Order requests will be conducted.

2.4.1 Amendments to MNDMF's Class Environmental Assessment

There may be times when MNDMF may need to amend the Class EA, due to:

- Changes to policy, regulations or legislation;
- Changes or improvements in processes;
- New activities; and/or,
- Changes to activities, classes or categories based on experience and results from applying the Class EA.

The proposed Class EA will outline an amendment procedure, including types of amendments and the process for bringing forward, consulting on and approving the amendments. The proposed Class EA will be reviewed five years from the date of its approval to ensure that the document remains current with policy, legislation, and MNDMF needs. The method for undertaking the 5-year review, including consultation provisions, will be included in the proposed Class EA.

2.4.2 Part II Order Process

As set out in section 16 of the *Environmental Assessment Act*, the proposed Class EA will describe the process for an interested person(s) to request that a project, which would otherwise be subject to the Class EA, be made subject to an Individual EA under Part II of the *Environmental Assessment Act*. Part II Order requests are submitted for consideration and a decision by the Minister of the Environment.

The proposed Class EA will describe how MNDMF will respond to MOE regarding Part II Order requests and how the Class EA process will be managed while any Part II Order requests are under consideration.

2.4.3 Monitoring and Reporting

The proposed Class EA will provide for periodic review and reporting to ensure that activities are carried out in a manner consistent with the Class EA provisions, as well as the Ontario environmental assessment process. The monitoring program will include details regarding the production of an annual compliance report, including format, content, submission and review requirements.

2.5 Justification of the Class EA Approach

Since the creation of the Ministry of Northern Development and Mines (MNDM)¹ in 1987, and until 2003, MNDM's *Environmental Assessment Act* coverage for its mandated mineral development activities was under MNR's Exemption Order MNR 26/7.

The purpose of the Exemption Order was to declare the disposition of Crown Resources by MNR (and MNDM) exempt from the requirements of the *Environmental Assessment Act* under certain terms and conditions as set out in the order. Exemption orders are generally of short duration and have to be re-applied for at the end of their term.

In 2003, Exemption Order MNR 26/7 expired and was replaced by MNR with a Class EA that did not include MNDM activities. As a result, MNDM obtained its own *Environmental Assessment Act* coverage for discretionary mining land grants under Declaration Order MNDM-3. The Declaration Order, like previous exemption orders, declared MNDM temporarily exempt from the *Environmental Assessment Act* requirements, subject to certain terms and conditions.

Declaration orders are temporary in nature and from 2003 to 2009 there was an ongoing dialogue between MNDM and the MOE regarding MNDM's *Environmental Assessment Act* coverage.

In 2004 and 2006, the expiry date of MNDM-3 was extended to allow MNDM to continue with its day-to-day business while it pursued a long-term strategy for meeting its obligations under the *Environmental Assessment Act* in a manner other than a declaration order. In June 2007, the expiry date of MNDM-3 was extended to permit the completion of a Class EA for those mining activities previously covered by the Declaration Order. Declaration Order MNDM-4, for MNDM's Abandoned Mines Rehabilitation Program, was also obtained that year.

In 2008, MNDM deferred work on the Class EA pending the completion of the *Mining Act* Modernization process. The following year, MOE extended the expiry dates of MNDM-3 and MNDM-4 to December 31, 2012, by which time MNDMF will have completed its Class EA for all activities previously covered by the declaration orders and all new activities subject to the *Environmental Assessment Act* that are introduced through *Mining Act* Modernization.

¹ In June 2009, the business functions of forestry were realigned from the Ministry of Natural Resources (MNR) to the Ministry of Northern Development and Mines (MNDM), which was then renamed the Ministry of Northern Development, Mines and Forestry (MNDMF). References to MNDM indicate occurrences before June 2009.

MNDMF is responsible for administering the *Mining Act* on behalf of the province in an efficient, timely, and environmentally-responsible manner. Based upon the evaluation of all *Environmental Assessment Act* coverage options, a Class EA has been deemed to be the most appropriate instrument for long-term coverage of MNDMF's *Mining Act* activities. A Class EA will:

- Provide long-term *Environmental Assessment Act* coverage for MNDMF's activities under the *Mining Act* that have predictable and manageable environmental effects.
- Provide for an efficient, transparent process that is subject to reporting, consultation and periodic review and amendments.
- Provide for a consistent consultation framework.
- Allow MNDMF to identify and assess the significance of any potential environmental effects from activities subject to the Class EA.
- Provide clear and consistent direction regarding assessment and study processes in compliance with the *Environmental Assessment Act*.
- Allow MNDMF to plan, design and amend activities in a consistent manner to mitigate potential environmental effects from activities subject to the Class EA.
- Be consistent with how other Ontario ministries obtain long-term *Environmental Assessment Act* coverage.

3.0 MNDMF'S CLASS ENVIRONMENTAL ASSESSMENT

3.1 Need for Categories

Within each class, activities will be categorized based upon the potential for effects on all aspects of the environment as described in the *Environmental Assessment Act*. The categories will range from those that can proceed immediately, to those that require notices and input from other government agencies, members of the public, Aboriginal communities and organizations, and other interested groups or individuals, to those requiring detailed and effective planning, inter-ministry coordination and broad consultation. Five categories are described below; the proposed Class EA document will contain a final subdivision of categories and activities. The categories below represent one possible approach to categorizing activities and, as such, the categories described in the following sections may be adjusted, based upon input received on the proposed terms of reference.

3.2 Proposed Categories

The proposed categories are:

- Category A: Activities with Potential for No Environmental Effects
- Category B: Activities with Potential for Low Environmental Effects
- Category C: Activities with Potential for Moderate Environmental Effects
- Category D: Activities with Potential for Significant Environmental Effects
- Category E: Individual Environmental Assessment

The proposed categories are based on the potential environmental impact of the activities, as well as the anticipated level of public interest.

3.2.1 Category A: Activities with No Potential Environmental Effects

Activities in this category either have no impact and no net effect upon the environment.

Activities with no environmental effects may either be administrative in nature or do not change the pre-existing status or approved land uses (e.g., MNDMF may renew an existing lease or issue two or more new leases for lands currently held under a single lease). For these activities, or other activities which have no effect upon the environment, no further assessment would be required for implementation. These activities may include providing notice to other government agencies, members of the public, Aboriginal communities and organizations, and other interested groups or individuals.

3.2.2 Category B: Activities with Low Potential Environmental Effects

Activities in this category may have a low potential for impacts on the environment.

Activities with potential for low environmental effects may be predictable and their effects easily managed or mitigated. These activities can be implemented by applying appropriate terms and conditions and following established prescriptions and regulations (e.g., routine maintenance of an existing *tailings dam* may be regulated by the *Rehabilitation Code of Ontario*, Schedule 1, O.Reg. 240/00) (italicized terms are defined in the glossary in Appendix 1). These activities will include providing notice to other government agencies, members of the public, Aboriginal communities and organizations, and other interested groups or individuals.

3.2.3 Category C: Activities with Moderate Potential Environmental Effects

Activities in this category would have moderate environmental effects, or known issues that are not mitigated through established regulations or prescriptions, but may require specific planning, design and mitigation measures (e.g., dismantling an abandoned headframe). Both notice and consultation may be required with other government agencies, members of the public, Aboriginal communities and organizations, and other interested groups or individuals to determine and address questions and concerns. The Class EA will include the process in which an interested person(s) can request that a project in this category, which would otherwise be subject to the Class EA, be made subject to an Individual EA (see section 2.4.2 Part II Order Process).

3.2.4 Category D: Activities with Significant Potential Environmental Effects

Certain activities may be determined, in the initial planning stages, to have known and potentially significant environmental effects (e.g., the rehabilitation of a large tailings area). This category of activities will involve an extensive and detailed planning process, subject to review and consultation with other government agencies, members of the public, Aboriginal communities and organizations, and other interested groups or individuals.

These activities may require public information sessions, as well as the participation of steering groups and working groups, and may involve regulatory agencies and stakeholders. Activities will not proceed until a project planning, consultation and review process has been completed. The proposed Class EA will outline the framework, processes and contingencies and range of options for project planning, consultation and review for activities that fall within this category. The Class EA will include the process in which an interested person(s) can request that a project in this category, which would otherwise be subject to the Class EA, be made subject to an Individual EA (see section 2.4.2 Part II Order Process).

3.2.5 Category E: Individual Environmental Assessment

If MNDMF determines that an activity is outside of the scope of the Class EA, or if it has environmental effects that are not predictable or manageable, it will be made subject to *Environmental Assessment Act* requirements for an Individual EA. The proposed Class EA will describe how MNDMF will determine the conditions under which an Individual EA is needed.

3.3 Class or Category Change

The proposed Class EA for MNDMF's applicable activities under the *Mining Act* will provide an efficient and effective review process to protect and wisely manage the environment and effectively seek to resolve issues. Provisions in the

Class EA will ensure that an activity is assigned to the appropriate class and category and that the review of potential environmental effects is carried out in the most appropriate manner.

The Class EA development process will assign activities to the appropriate categories. A screening process, which will include detailed screening criteria, will be developed in the proposed Class EA document in order to provide a clear description of why a particular activity or project falls within a certain category. The screening process will also help to identify projects or activities that may need to be re-assigned to higher category based on potentially higher levels of public interest and/or environmental effects.

The process may also indicate whether any activities, classes or categories listed in the terms of reference may be removed from or added to the Class EA.

3.4 Proponent

The proponent of the proposed Class EA for MNDMF's activities under the *Mining Act* is MNDMF. The Ministry will be responsible for monitoring the Class EA and submitting annual reports to MOE.

The proposed Class EA will clarify roles and responsibilities for activities:

- In which MNDMF is carrying out the activity
- In which MNDMF is a partner for the activity (e.g., MNDMF working with a partner to jointly rehabilitate a mine hazard).

4.0 CONSULTATION AND ENGAGEMENT

4.1 Consultation

Consultation with government agencies, members of the public, Aboriginal communities and organizations, and other interested groups or individuals is an essential part of planning, designing and implementing projects, as well as a key component of the Ontario environmental assessment process.

MNDMF is seeking input on the proposed terms of reference to ensure that all relevant concerns are considered and addressed during the preparation of the Class EA.

A summary of the input received and MNDMF's responses is documented in a separate consultation record.

Consultation opportunities are planned throughout the Class EA development process and will be advertised in newspapers, by direct mail-out and notification on the Environmental Registry, and on the MNDMF Class EA website. Meetings and other information sessions may be provided as necessary.

MNDMF will ensure that government agencies, members of the public, Aboriginal communities and organizations, and other interested groups or individuals that provided comments or expressed an interest in the development and review of MNDMF's declaration orders are provided with notification.

On December 15, 2010, a Notice of Commencement was sent to government agencies, members of the public, Aboriginal communities and organizations, and other interested groups or individuals with a known interest in mineral exploration, development and mine rehabilitation in order to determine their level of interest in commenting on the draft terms of reference. The wide-ranging list of government agencies, mineral sector and northern development organizations, non-government organizations, and Aboriginal communities and organizations that were initially contacted is provided in Appendix 3.

In subsequent consultation phases of the development of the Class EA, all individuals or groups who have offered input during previous phases will receive direct notice from MNDMF when the proposed Class EA for MNDMF's activities under the *Mining Act* is submitted to MOE for review and approval.

4.1.1 Aboriginal Engagement

The proposed Class EA will provide a method of engaging Aboriginal peoples and communities who may have an interest in a proposed decision, as well as a method to incorporate input and advice from Aboriginal communities and organizations. The Class EA will not, however alter or detract from any obligation the Crown may have with respect to Aboriginal consultation.

MNDMF recognizes that Aboriginal organizations and communities will have distinct and varied interests in MNDMF's Class EA activities. To account for these varied interests, as well as anticipated differences in the preferred approach to engagement, MNDMF contemplates a proactive, flexible model to accommodate, as appropriate, the preferred methods of engagement.

Aboriginal communities and organizations will be notified at each stage of the Class EA development of the opportunity to provide advice and input and will continue to be provided with notifications and updates, regardless of whether input is offered. Direct notification to Aboriginal Affairs and Northern Development Canada and the Ontario Ministry of Aboriginal Affairs will also be provided.

MNDMF's general methodology for engaging Aboriginal communities, organizations and Tribal Councils who express an interest in participating in the development of the Class EA will be as follows:

- Request for input on preferred methods of engagement
- Solicitation of advice and input on the development of the Class EA

- Identify issues and propose resolutions
- Provide draft Class EA for review
- Provide final draft Class EA prior to formal submission to MOE
- Document a record of dialogue.

4.2 Cultural Heritage

When considering the potential environmental effects of MNDMF's activities under the *Mining Act* that are subject to the *Environmental Assessment Act*, MNDMF will consider all aspects of the environment, as described in section 1(1) of the act.

The mining industry is an integral part of Ontario's history and heritage, particularly in the exploration, opening up and settlement of Northern Ontario. Closing and/or rehabilitating mine sites may potentially have adverse effects upon features that may have cultural heritage value or interest. Discretionary grants of mining land rights may also potentially affect *cultural heritage resources* (italicized terms are defined in the glossary in Appendix 1).

The proposed Class EA will define processes that ensure that appropriate measures are in place to avoid or reduce impacts to cultural heritage resources and that appropriate mitigation measures are incorporated into discretionary decisions related to surface rights, mining rights and chattels and MNDMF-administered mine rehabilitation projects.

4.3 Coordination with Other Approval Processes

The Class EA process will be developed within the existing legislative framework of the *Mining Act* and the *Environmental Assessment Act* as well as other relevant provincial policies and legislation including, but not limited to, the *Environmental Protection Act*, the *Ontario Water Resources Act*, the *Public Lands Act*, the *Lakes and Rivers Improvement Act*, as well as existing Class EAs such as those for MNR, the Ministry of Energy and the Ministry of Infrastructure, etc. In addition to provincial requirements, a federal environmental assessment process may be triggered under the *Canadian Environmental Assessment Act* by activities that affect areas of federal government jurisdiction (e.g., activities involving federal funding or affecting fish and fish habitat and/or navigable waters). Federal and provincial environmental assessment requirements will be coordinated consistent with the *Canada-Ontario Agreement on Environmental Assessment Cooperation*.

The proposed Class EA will identify the linkages to other ministries and agencies and other legislative requirements including linkages to substantially equivalent environmental assessment processes (e.g., a public participation process or other requirements imposed by another jurisdiction that the Minister of the

Environment considers to be equivalent to *Environmental Assessment Act* requirements). *Environmental Assessment Act* approval requirements will be coordinated with other ministries and agencies.

Where MNDMF is the proponent of the activity, MNDMF will follow its Class EA. Where the proponent of an activity other than MNDMF is subject to another Class EA or equivalent approval process and the proponent's activities are conditional upon a grant or transfer from MNDMF, the grant or transfer by MNDMF will not be made until the other environmental assessment or equivalent process is complete. If there is no other Class EA or equivalent process, the proposed activity may be dealt with under MNDMF's Class EA.

Occasionally there may be undertakings that are also subject to another agency's environmental assessment requirements. Activities that need to be assessed under MNDMF's Class EA and another Class EA will be coordinated in a manner that ensures the fulfillment of all Class EA requirements. MNDMF will also provide evidence to partnering agencies that appropriate *Environmental Assessment Act* coverage has been completed.

5.0 PHASES OF THE CLASS ENVIRONMENTAL ASSESSMENT REVIEW AND APPROVAL PROCESS

5.1 Phase One –Terms of Reference Development

- Distribute draft terms of reference to government agencies, members of the public, Aboriginal communities and organizations, and other interested groups or individuals for input and response.
- Assess input and revise terms of reference as necessary.
- Submit terms of reference to MOE for review and approval.
- *Completed: May 2011.*

5.2 Phase Two – MOE Review and Approval Process for Terms of Reference

- Thirty-day consultation period for government agencies, members of the public, Aboriginal communities and organizations, and other interested groups or individuals to provide input and response.
- MOE Environmental Assessment and Approvals Branch will review and evaluate Terms of Reference; provide recommendation to Minister of Environment.
- Minister of Environment's decision.
- *Estimated Completion Date: August 2011.*

5.3 Phase Three – Class EA Development

- Prepare Class EA document.
- Distribute draft Class EA to government agencies, members of the public, Aboriginal communities and organizations, and other interested groups or individuals for input and response.
- Assess input and revise Class EA as necessary.
- Submit Class EA to MOE for review and approval.
- *Estimated Completion Date: May 2012.*

5.4 Phase Four – MOE Review and Approval Process for Class EA

- Thirty-day consultation period for government agencies, members of the public, Aboriginal communities and organizations, and other interested groups or individuals to provide input and response.
- MOE Environmental Assessment and Approvals Branch will review and evaluate Class EA; provide recommendation to Minister of Environment.
- Minister's of Environment's decision.
- *Estimated Completion Date: December 2012*

6.0 MODIFICATIONS TO THE TERMS OF REFERENCE

Once approved by the Minister of the Environment, these terms of reference will set out the process by which MNDMF will develop a Class EA for its activities under the *Mining Act* that are subject to the *Environmental Assessment Act*. The terms of reference are not intended to describe, in detail, all of the activities involved in the preparation of the Class EA document. Since approved terms of reference cannot be amended, the terms of reference framework will allow for identifying new issues and activities, discarding unnecessary issues and activities, and adapting the consultation plan as required.

APPENDIX 1: GLOSSARY

Abandoned mine: the proponent has ceased or indefinitely suspended advanced exploration, mining, or mine production on a site without rehabilitating it.

Chattels: includes any building, structure, machinery, personal property, ore, slimes, tailings or other effects not otherwise privately owned and on mining lands that have reverted to the Crown.

Cultural heritage resources: include built heritage resources, cultural heritage landscapes, and archaeological sites.

- Built heritage resources means one or more significant buildings (including fixtures or equipment located in or forming part of a building), structures, earthworks, monuments, installations, or remains that have cultural heritage value.
- Cultural heritage landscape means a defined geographical area that human activity has modified and that has cultural heritage value. Such an area involves one or more groupings of individual heritage features, such as structures, spaces, archaeological sites, and natural elements, which together form a significant type of heritage form distinct from that of its constituent elements or parts. Heritage conservation districts designated under the Ontario Heritage Act, villages, parks, gardens, battlefields, main streets and neighbourhoods, cemeteries, trails, and industrial complexes of cultural heritage value are some examples.
- Archaeological site means any property that contains an artifact or any other physical evidence of past human use or activity that is of cultural heritage value or interest. Marine archaeological site means an archeological site that is fully or partially submerged or that lies below or partially below the high-water mark of any body of water.

Discretionary grant: a grant of land where the ministry has discretion whether or not to issue the grant (e.g., surface rights only leases or mining claims, exploratory licenses of occupation, mining lease and fee simple Crown patents issued under special circumstances).

Environment: defined in the *Environmental Assessment Act* to mean

- a. air, land or water;
- b. plant and animal life, including human life;
- c. the social, economic and cultural conditions that influence the life of humans or a community;

- d. any building, structure, machine or other device or thing made by humans;
- e. any solid, liquid, gas, odour, heat, sound, vibration or radiation resulting directly or indirectly from human activities; or
- f. any part or combination of the foregoing and the interrelationships between any two or more of them,

Exploration: any activity pertaining to the search for and investigation of minerals.

Exploratory license of occupation (ELO): a license that allows for the exploration of tracts of land and/or land under water, under specific terms set by the Minister of Northern Development, Mines and Forestry. An ELO is issued at the discretion of the Minister and are usually for areas that are not open to staking or lands that are sensitive to environmental damage, such as abandoned mines that have been withdrawn from prospecting and mining claim staking.

Mine hazard: any feature of a mine, or any disturbance of the ground, that has not been rehabilitated to the prescribed standard.

Mining claim: a parcel of land, including land under water that has been staked and recorded in accordance with the *Mining Act* and the regulations.

Mining claim staking: the physical process and actions on the ground to mark out a mining claim, by erecting and inscribing posts at the corners and along the boundaries, and blazing along the boundaries.

Mining lease: A mining lease, for the purposes of this environmental assessment, is a lease issued by the Crown pursuant to the *Mining Act*. A mining lease may be a lease of both the surface rights and the mining rights, or just the mining rights alone but in all circumstances, the lease confers on the lessee the right to access, enter and occupy the lands for the purpose of extracting the minerals.

Mining patent: a grant from the Crown in fee simple, also referred to as freehold patents. The patent cannot be terminated by MNDMF, except for voluntary surrender or non payment of mining lands taxes.

Mining rights: defined in the *Mining Act* as rights to mineral on, in or under any land.

Prospecting: the investigation of, or search for, minerals.

Rehabilitation: protective measures, including those undertaken in accordance with prescribed standards, to treat a site or mine hazard so that the use or

condition of the site is restored to its former use or condition, or is made suitable for some other use.

Surface rights: defined in the *Mining Act* as all other rights, besides the mining rights, in land.

Surface rights lease: a surface rights only lease, for the purposes of this environmental assessment, is a lease issued pursuant to the *Mining Act* that gives the exclusive use of the surface rights for the lands for mining or exploration purposes, to an existing lessee or owner of mining rights or a holder of a mining licence of occupation. This kind of lease is for available surface rights, whether they lie inside or outside the lands covered by an existing mining lease, fee simple patent or licence of occupation for mining purposes.

Tailings: the residual material or byproduct remaining after the processing of ore to remove the valuable mineral(s) from the host rock.

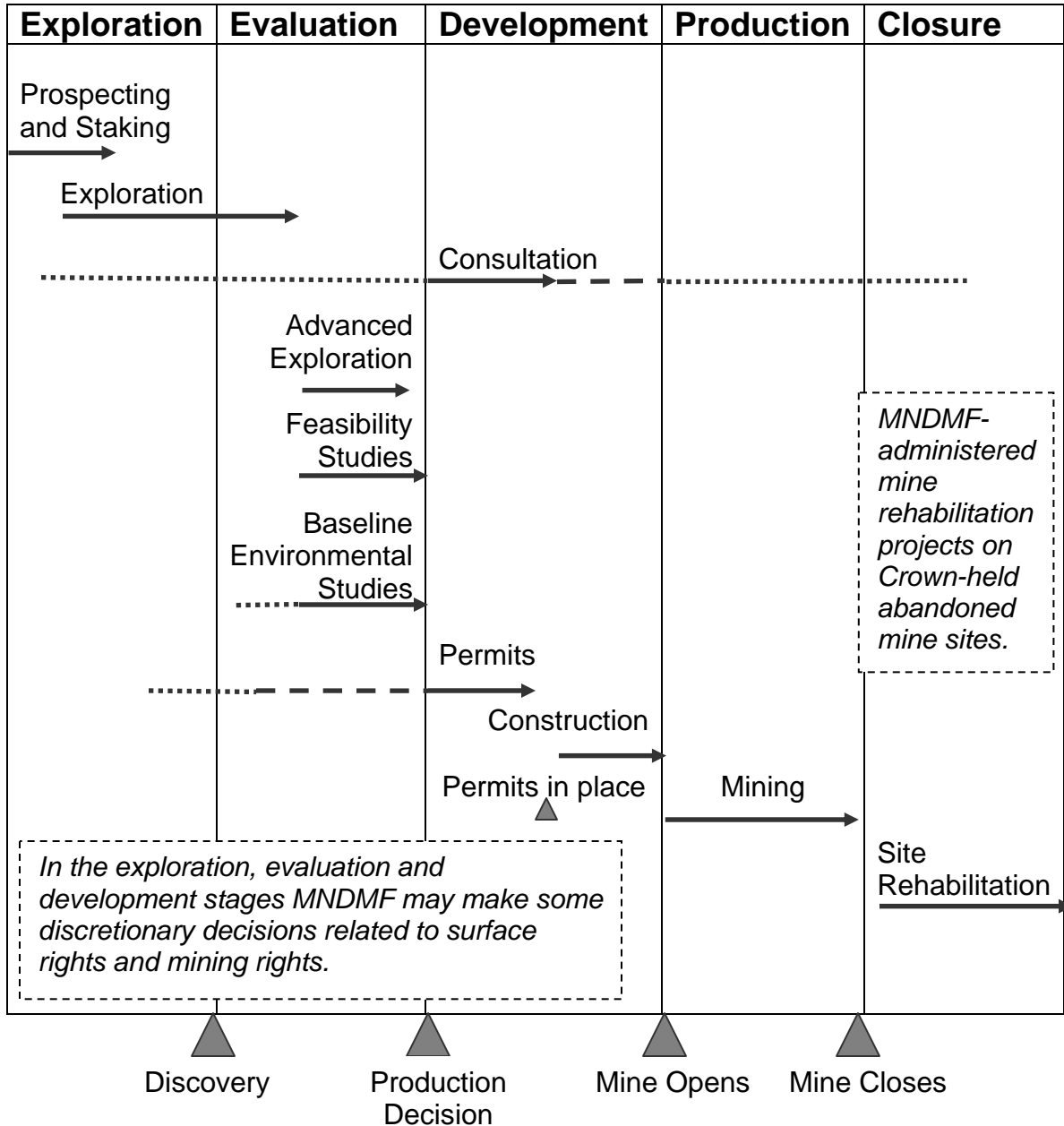
Tailings dam: an engineered structure designed to hold back and impound the enclosed tailings, as well as any water, or other materials that may be located within the tailings dam area.

Undertaking: defined in the *Environmental Assessment Act* as

- a. an enterprise or activity or a proposal, plan or program in respect of an enterprise or activity by or on behalf of Her Majesty in right of Ontario, by a public body or public bodies or by a municipality or municipalities;
- b. a major commercial or business enterprise or activity or a proposal, plan or program in respect of a major commercial or business enterprise or activity of a person or persons other than a person or persons referred to in clause (a) that is designated by the regulations; or
- c. an enterprise or activity or a proposal, plan or program in respect of an enterprise or activity of a person or persons, other than a person or persons referred to in clause (a), if an agreement is entered into under section 3.0.1 in respect of the enterprise, activity, proposal, plan or program.

APPENDIX 2: THE MINING CYCLE

The mining sequence rarely triggers MNDMF's *Environmental Assessment Act* responsibilities. Parts of the sequence that may trigger MNDMF's obligations under the *Environmental Assessment Act* are illustrated below.



APPENDIX 3: STAKEHOLDERS, ABORIGINAL COMMUNITIES, AND INTEREST GROUPS

(* indicates respondents to the Environmental Registry notice for Declaration Order MNDM-3)

Provincial Ministries/Agencies

Conservation Ontario	Ministry of Municipal Affairs and Housing
Go Transit and Metrolinx	Ministry of Natural Resources*
Hydro One Networks Inc.	Ministry of the Environment*
Ministry of Aboriginal Affairs*	Ministry of Tourism and Culture*
Ministry of Agriculture, Food and Rural Affairs	Ministry of Training, Colleges and Universities
Ministry of Community Safety and Correctional Services	Ministry of Transportation
Ministry of Education	Niagara Escarpment Commission
Ministry of Energy and Infrastructure	Ontario Power Generation
Ministry of Health Promotion	Ontario Realty Corporation
Ministry of International Trade and Investment	

Federal Departments/Agencies

Canadian Environmental Assessment Agency	Fisheries and Oceans Canada
Department of Indian and Northern Affairs	Industry Canada
Environment Canada	Natural Resources Canada
FedNor	Parks Canada
	Transport Canada

Mineral Sector and Northern Development Organizations

Aggregate Producers Association of Ontario	Minister's Mining Act Advisory Committee
Barrick Gold Corporation	Northern Ontario Tourist Outfitters
Boreal Prospectors Association	Northgate Minerals Corporation
Canadian Association of Mining Equipment and Services for Export	Northern Prospectors Association
Canadian Institute of Mining, Metallurgy and Petroleum (CIM)	Northwestern Ontario Prospectors Association
Canadian Mining Industry Research Organization (CAMIRO)	Ontario Geological Survey Advisory Board
Federation of Ontario Cottagers Association	Ontario Mineral Industry Cluster Council
Lake Shore Gold Corp.	Ontario Mining Association
Marathon PGM Corporation	Ontario Prospectors Association
Mining Association of Canada	Ontario Stone, Sand and Gravel Association (formerly Aggregate Producers' Association of Ontario)

Porcupine Prospectors and
Developers Association
Prospectors and Developers
Association of Canada (PDAC)
Sault and District Prospectors
Association
Southern Ontario Prospectors
Association
St Andrew Goldfields Ltd.

Sudbury Area Mining Supply and
Service Association (SAMSSA)
Sudbury Mine, Mill and Smelter
Workers Union Local 598/C.A.W.
Sudbury Prospectors and Developers
Association
Xstrata
Vale Ltd, Ontario Division.
Wallbridge Mining Company Ltd.

Municipalities and Municipal Organizations

Association of Mining Municipalities of
Ontario
Association of Municipalities of
Ontario
City of Greater Sudbury
City of Kenora
City of North Bay
City of Sault Ste. Marie
City of Thunder Bay

City of Timmins
Federation of Northern Ontario
Municipalities
Mayor's Action Group
Northeast Ontario Municipal
Association
Northwestern Ontario Municipal
Association
Rural Ontario Municipal Association

Non-Government Organizations (NGOs)

Bedford Mining Alert
Canadian Boreal Initiative
Canadian Institute for Environmental
Law and Policy
Conservation Council of Ontario
CPAWS (Canadian Parks and
Wilderness Society)

MiningWatch Canada*
Northwatch*
Ontario Land Trust Alliance
Ontario Nature
Wildlands League*

First Nation Communities

Abitibiwinni, Conseil de la Première
Nation
Alderville First Nation
Algonquins of Pikwakanagan First
Nation (Golden Lake)
Animbiigoo Zaagi'igan Anishinaabek
First Nation (Lake Nipigon
Ojibway)
Anishinaabeg of Naongashiing (Big
Island)
Anishinabe of Wauzhushk Onigum
First Nation (Rat Portage)
Aroland First Nation*
Attawapiskat First Nation

Aundeck-Omni-Kaning First Nation
(Ojibways of Sucker Creek)
Bearskin Lake First Nation*
Beausoleil First Nation (Christian
Island)
Begetikong Anishnabe (Ojibways of
Pic River (Heron Bay))
Big Grassy First Nation
(Mishkosiimiiniiziibing)
Big Trout Lake (Kitchenuhmaykoosib
Inninuwug)
Biinjitiwaabik Zaaging Anishnabek
First Nation (Rocky Bay)

Bingwi Neyaashi Anishinaabek (Sand Point) First Nation
Bkwejwanong Territory (Walpole Island)
Brunswick House First Nation
Buffalo Point First Nation
Caldwell First Nation
Cat Lake First Nation
Chapleau Cree First Nation
Chapleau Ojibway First Nation
Chippewas of Aamjiwnaang (Sarnia)
Chippewas of Georgina Island
Chippewas of Kettle and Stony Point
Chippewas of Mnjikaning (Rama)
Chippewas of Nawash Unceded (Cape Croker)
Chippewas of Saugeen
Chippewas of the Thames
Conseil de la Nation Huronne-Wendat
Constance Lake First Nation
Couchiching First Nation
Curve Lake First Nation
Deer Lake First Nation
Dokis First Nation (Dokis Reserve)
Eabametoong First Nation
Eagle Lake First Nation
Eagle Village First Nation (Kipawa)
Flying Post First Nation
Fort Albany First Nation
Fort Severn First Nation
Fort William First Nation
Garden Hill First Nation
Garden River First Nation (Ojibways of Garden River, Ketegaunseebee)
Ginoogaming First Nation (Long Lac #77)
Grassy Narrows First Nation (Asubpeeschoseewagoong Netum Anishnabek)
Henvey Inlet First Nation
Hiawatha First Nation
Huron-Wendat First Nation
Iskatewizaagegan No. 39 Independent First Nation
Kasabonika Lake First Nation
Kasheschewan First Nation
Kee-Way-Win First Nation
Kiashke Zaaging Anishinaabek First Nation (Gull Bay)
Kingfisher Lake First Nation
Kitigan Zibi Anishinabeg (Coulonge and Allumettes)
Lac Des Mille Lacs First Nation
Lac La Croix First Nation
Lac Seul First Nation
Little Grand Rapids First Nation
Long Lake #58 First Nation
Magnetawan First Nation
Marten Falls First Nation
Matachewan First Nation
Mattagami First Nation
McDowell Lake First Nation
M'Chigeeng First Nation (West Bay)
Michipicoten First Nation (incl. Michipicoten IR #62 (Missinabie))
Mishkeegogamang Ojibway Nation (New Osnaburgh)
Missinabie Cree First Nation
Mississauga #8 First Nation
Mississaugas of New Credit
Mississaugas of Scugog Island
Mohawks of Akwesasne
Mohawks of the Bay of Quinte (Tyendinaga)
Moose Cree First Nation
Moose Deer Point First Nation
Movarian of the Thames First Nation
Munsee-Delaware Nation
Muskrat Dam First Nation
Naicatchewenin First Nation
Naotkamegwanning Anishinabe First Nation (Whitefish Bay)
Neskantaga First Nation (Lansdowne House)
Nibinamik First Nation (Summer Beaver)
Nigigoonsiminikaaning First Nation
Nipissing First Nation
North Spirit Lake First Nation
Northwest Angle No. 33 First Nation
Northwest Angle No. 37 First Nation

Obashkaandagaang First Nation
(Washagamis Bay)
Ochiichagwe'Babigo'ining First Nation
(Dalles)
Ojibway Nation of Saugeen (Savant
Lake)
Ojibways of Batchewana (Rankin)
Ojibways of Onigaming (Sabaskong)
Oneida Nation of the Thames
(Onyoya'A:Ka)
Opwaaganisning First Nation (Red
Rock Band / Lake Helen)
Pauingassi First Nation
Pays Plat First Nation
Pic Mobert First Nation
Pikangikum First Nation
Poplar Hill First Nation
Rainy River First Nation
Red Sucker Lake First Nation
Sachigo Lake First Nation
Sagamok Anishnawbek First Nation
Sandy Lake First Nation
Seine River First Nation
Serpent River First Nation
(Wiidawtegowinini)
Shamattawa First Nation
Shawanaga First Nation
Sheguiandah First Nation
Sheshegwaning First Nation
Shoal Lake No. 40 First Nation
Six Nations of the Grand River
Territory
Slate Falls First Nation

St. Theresa Point First Nation
Stanjikoming First Nation
Taykwa Tagamou (New Post)
Temagami First Nation
Thessalon First Nation
Timiskaming First Nation
Wabaseemoong Independent Nation
(Whitedog)
Wabauskang First Nation
Wabigoon Lake Ojibway First Nation
Wahgoshig First Nation (Abitibi #70)
Wahnapiatae First Nation
Wahta Mohawks (Mohawks of
Gibson)
Wapekeka First Nation (Angling Lake)
Wasauksing First Nation (Parry
Island)
Wawakapewin First Nation (Long
Dog)
Weagamow First Nation (North
Caribou Lake or Round Lake)
Webequie First Nation
Weenusk First Nation (Peawanuck)
Whitefish Lake First Nation
Whitefish River First Nation
(Wauwauskinga)
Whitesand First Nation
Wikwemikong Unceded First Nation
Wolf Lake First Nation (Wolf Lake and
Dumoine)
Wunnumin Lake First Nation
Zhiibaahaasing First Nation
(Cockburn)

Métis Organizations

Atikokan and Surrounding Area
Interim Métis Council
Chapleau Métis Council
Credit River Métis Council
Georgian Bay Métis Council
Geraldton and Area Métis Council
Grand River Community Métis Council
Great Lakes Métis Council
Hamilton/Wentworth Métis Council
Historic Saugeen Métis
Historic Sault Ste Marie Métis Council

Kenora Métis Council
Mattawa Interim Métis Council
Métis Nation of Ontario
Métis Nation of Ontario Timmins
Moon River Métis Council
Niagara Region Métis Council
North Bay Métis Council
North Channel Métis Council
North Shore Métis Council
Northern Lights Métis Council
Northumberland Métis Council

Northwest Métis Nation of Ontario
Council
Oshawa and Durham Region Métis
Council
Ottawa Region Métis Council
Red Sky Métis Independent Nation
Seven Rivers Métis Council

Provincial/ Territorial Organizations

Association of Iroquois and Allied
Indians
Chiefs of Ontario

Tribal Councils

Algonquins of Ontario Consultation
Office
Anishinaabeg of Kabapikotawangag
Resource Council
Bimose Tribal Council
Independent First Nation Alliance
Keewaytinook Okimakanak
Matawa Tribal Council
Mushkegowuk Tribal Council
Nokiiwin Tribal Council Inc.
North Shore Tribal Council (Head
Office)

Sudbury Métis Council
Sunset County Métis Council
Temiskaming Métis Council
Thunder Bay Métis Council
Toronto-York Interim Métis Council
Wapiti Interim Métis Council
Windsor-Essex Métis Council

Grand Council of Treaty #3
Nishnawbe Aski Nation*
Union of Ontario Indians

Ogemawahj Tribal Council
Pwi-di-goo-zing-ne-yaa-zhing Non
(Fort Frances)
Shibogama Tribal Council
Southern First Nation Secretariat
(SFNS)
United Chiefs and Councils of
Manitoulin
Waabnoong Bemjiwang Association
Wabun Tribal Council
Windigo Tribal Council