

**DECLARATION ORDER MADE UNDER THE
ENVIRONMENTAL ASSESSMENT ACT**

**Declaration – Ministry of Northern Development and Mines Mine Hazard
Rehabilitation Activities**

Having received a request from the Director of the Mineral Development and Lands Branch, Ministry of Northern Development and Mines (MNDM) that undertakings, namely:

all activities of MNDM related to its mine hazard rehabilitation projects
under the Abandoned Mines Rehabilitation Fund

be declared not subject to the *Environmental Assessment Act* (the Act) and its regulations, pursuant to section 3.2 of the Act; and

Having been advised by MNDM that if the undertakings are subject to the application of the Act, the following damage or interference with the persons indicated will occur:

- A. With respect to the rehabilitation of physical and environmental mine hazards, the Crown and the public will be interfered with and damaged by the undue time and expense required to prepare environmental assessments for rehabilitation activities which are undertaken for the purpose of protection of the public from safety hazards and for the purpose of alleviating adverse effects on the natural environment.
- B. In particular, the unacceptable and possibly hazardous discharge of contaminants to surface and/or groundwater, and the exposure of the public to mine safety hazards, will continue while such environmental assessments are being prepared.

Having considered comments made on the proposal for this Declaration Order, posted on the Environmental Registry established pursuant to the *Environmental Bill of Rights, 1993*;

Having weighed the betterment of the people of the whole or any part of Ontario by providing for the protection, conservation and wise management in Ontario of the environment with the injury, damage, or interference which could result from the undertaking being subject to the application of the Act;

The undersigned is of the opinion that it is in the public interest to declare and orders that the undertakings are declared exempt from the application of the Act, for the following reasons:

- A. Discharge of contaminants to surface and/or groundwater and the public's exposure to physical safety hazards will be reduced.
- B. Various approvals which may be issued under the Environmental Protection Act, the Ontario Water Resources Act, the Lakes and Rivers Improvement Act or the Aggregate Resources Act can, where applicable, include conditions requiring the rehabilitation activities to be carried out in a safe manner.

- C. Mine hazards will be rehabilitated in accordance with the Mine Rehabilitation Code of Ontario, Schedule 1, O. Reg. 240/00 as amended.
- D. Where applicable, rehabilitation activities will be in compliance with the *Fisheries Act* and the *Canadian Environmental Assessment Act*.

This Declaration Order is subject to the following terms and conditions:

General

1. In this order;

“environment” has the same meaning as in the Act and includes the natural environment and the social, economic and cultural conditions that influence the life of humans or a community; and,

“project” means an activity which MNDM is carrying out at a site within Ontario which is or is related to a mine hazard rehabilitation project under the Abandoned Mines Rehabilitation Fund, but does not include such an activity where carried out in response to an emergency.

2. Where any project is being carried out as, or is part of, an undertaking for which an individual environmental assessment has been accepted and approval to proceed received, the project shall be carried out in accordance with any terms and conditions in the approval to proceed.
3. Where any project is being carried out as, or is part of, another undertaking which is the subject of another declaration or exemption order under the Act, the project shall be carried out in accordance with any terms and conditions in the other declaration or exemption order as well as the conditions in this order.

Notification

4. MNDM shall make an information posting on the *Environmental Bill of Rights* Environmental Registry for each proposed project at least 30 days before the specified date for implementation of the project,
5. Subject to conditions 6 and 7, MNDM shall notify the Ministry of the Environment, the Ministry of Natural Resources (MNR), and the Ministry of Culture, the municipality or municipalities, if any, where the project will be implemented, and any other potentially affected bodies of each proposed project at least 30 days before the specified date for implementation of the project.
6. Should MNDM determine that a proposed project requires federal environmental approval, MNDM shall notify the Canadian Environmental Assessment Agency at least 30 days before the specified date for implementation of the project.
7. MNDM shall notify potentially affected aboriginal communities of each proposed project at least 30 days before the specified implementation date for the project. However, nothing in this condition, or any other condition of this Declaration Order, is intended to alter or detract from any obligation the Crown may have to consult with aboriginal communities in light of the protection provided for the existing aboriginal and treaty rights of the aboriginal peoples of Canada as recognized and affirmed in section 35 of the *Constitution Act, 1982*.

8. MNDM shall respond to any submissions about a proposed project that are received by MNDM prior to the specified date for implementation set out in the posting or notices referred to in conditions 4 through 7. MNDM shall make reasonable efforts to enter into a dialogue with each person who makes a submission, before implementation of the project, and MNDM shall if necessary delay implementation, to the degree reasonable and practical, in order to do so.
9. Prior to implementation of each project, MNDM shall consider, taking into account, among other matters which may be relevant, all submissions and dialogue related to such submissions that may have been made under or occurred as a result of conditions 4, 5, 6 or 7, whether the proposed project may have significant adverse effects on the environment, and whether the proposed project has not already been subjected to a substantially equivalent environmental assessment impact evaluation process pursuant to a statute of Ontario or another jurisdiction.
10. In any case where MNDM concludes that the proposed project may have a significant adverse effect on the environment, and the proposed project has not already been subjected to a substantially equivalent environmental assessment impact evaluation process pursuant to a statute of Ontario or another jurisdiction, MNDM shall notify in writing all parties who made submissions in response to the posting under condition 4 as well as all bodies to whom notice was required to be given under conditions 5, 6 and 7:
 - (i) of the purpose, location, and description of the proposed project;
 - (ii) of the expected significant adverse environmental effects;
 - (iii) of the proposed mitigation measures;
 - (iv) that the proposed project will be referred to the Ministry of the Environment for consideration and may ultimately be subject to the Act;
 - (v) of the manner in which the project may become subject to the Act; and
 - (vi) that the project may not proceed until a determination has been made by the Ministry of the Environment on whether or not the project will be made subject to the Act.
11. At the time of giving the notification under condition 10, MNDM shall also advise the Director of the Environmental Assessment and Approvals Branch of the Ministry of the Environment, and the appropriate Regional Director of the Ministry of the Environment, in writing, of the notice, and provide these Directors with the following information:
 - (i) the purpose, location, and description of the proposed project;
 - (ii) expected significant adverse environmental effects;
 - (iii) proposed mitigation measures;
 - (iv) the identity or description of any affected agencies and members of the public with concerns with respect to the proposed project; and,
 - (v) any proposed means of addressing the concerns.

12. Any additional comments or information received by MNDM following notification pursuant to condition 10 shall be forwarded by MNDM to the above Directors.
13. Within 45 days of the Director of the Environmental Assessment and Approvals Branch of the Ministry of the Environment receiving a notice pursuant to condition 11 the Director will, by written notice to the Director of Mineral Development and Lands Branch of the Ministry of Northern Development and Mines, advise:
 - a. that the project will not be made subject to the Act, in which event MNDM may proceed with the project; or
 - b. that the project will not be made subject to the Act, but will be subject to conditions being met before MNDM may proceed with the project; or
 - c. that the project will be made subject to the Act, in which case MNDM may not proceed with the project until approval to proceed with the project is granted; or
 - d. that the Director of the Environmental Assessment and Approvals Branch of the Ministry of the Environment is considering the application of condition 13(c) above to the project, in which event a specified time for a decision will be set out in the notice to MNDM, and the 45-day period shall be extended accordingly.
14. At any time before implementation of a project MNDM may determine that it does not wish to proceed with the proposed project. In the event MNDM wishes not to proceed with a project that is under review with the Ministry of the Environment pursuant to condition 13, MNDM shall immediately notify in writing the Director of the Environmental Assessment and Approvals Branch of the Ministry of the Environment.
15. Where the Director of the Environmental Assessment and Approval Branch of the Ministry of the Environment is reviewing a proposed project, and written notice of a decision on whether a project will be subject to the Act has not yet been provided to MNDM under condition 13:
 - a. the Director of the Environmental Assessment and Approval Branch of the Ministry of the Environment may give such further notices to the public and other individuals or agencies who might be affected by the project or carry out other public consultation as is deemed appropriate; and,
 - b. MNDM shall provide further information upon the request of the Director of the Environmental Assessment and Approval Branch of the Ministry of the Environment.
16. The Director of the Environmental Assessment and Approval Branch of the Ministry of the Environment may at any time, with respect to a proposed project that has not yet been implemented, by written notice to MNDM;
 - a. determine that the proposed project may have significant adverse environmental effects; and, if such a determination is made, conditions 4 to 14 shall apply to the project; and,
 - b. determine the form of any notice issued in regard to the project, and identify the parties who are to receive such notice.

17. Subject to condition 16, in any case where MNDM concludes, pursuant to condition 9, that a proposed project will not have a significant adverse effect on the environment, as described in condition 8, MNDM may proceed with implementation of the project.

Bat Habitat and Species at Risk

18. Prior to conducting any project, MNDM shall contact the appropriate MNR Regional Wildlife Biologists for identification of any bat habitat, peregrine falcon habitat or other threatened and endangered species as listed under the *Species at Risk Act* (S.C. 2002, c. 29), as well as any peregrine falcon habitat or other threatened or endangered species as listed under the *Endangered Species Act, 2007* (S.O. 2007, c. 6). Should the MNR Regional Wildlife Biologists consider it appropriate, MNDM shall develop, in consultation with the MNR Regional Wildlife Biologists, the necessary mitigation and or avoidance measures before the project may proceed.

Approval

19. This order does not abrogate MNDM's responsibilities to ensure that all applicable approvals and permits are obtained for the rehabilitation work(s) to be conducted.
20. All Mine Hazard Rehabilitation work undertaken by MNDM will be carried out in accordance with the standards outlined in the Mine Rehabilitation Code of Ontario, Schedule 1, O. Reg. 240/00 as amended.

Duration of Declaration Order

21. This order shall expire on the third anniversary of the date of approval of this Declaration Order by Order in Council, or such later date as is determined by the Minister of the Environment, or determined through a new class environmental assessment that includes activities carried out by MNDM related to rehabilitation measures on mine hazards within Ontario.
22. Any request for an extension of this Order shall be made at least six months prior to the expiry of this Order and accompanied by documentation supporting the continuance of the Order, or any amendments to the Order which may be proposed

Declaration Order which was approved by OIC ____/____.

Dated the 7th day of JUNE, 2007 at TORONTO.



Minister of the Environment

Approved by O.C. No. 1689 12007.

Date O.C. Approved June 27, 2007

Environmental Assessment & Approvals Branch Contact: Edward Naval
Telephone No.: 314-8433