

Submitted by email to mds.mndm@ontario.ca, and also on EBR File # 012-3609



Federation of Ontario Cottagers' Associations
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May 8, 2015

Ontario's Mineral Development Strategy
Ministry of Northern Development and Mines
Level 6B, Willet Green Miller Centre
933 Ramsey Lake Road, Sudbury ON P3E 6B5

FOCA Comments on the Discussion paper on Renewing Ontario's Mineral Development Strategy

To Whom it May Concern,

The Federation of Ontario Cottagers' Associations (FOCA) is a not for profit association representing property owners across Ontario in 300 rural Ontario municipalities. FOCA has been represented on the Minister's Mining Act Advisory Committee (MMAAC) for over ten years, and remains committed to sound approaches to resource management in Ontario. We are pleased to provide comments with respect to the call for public input into a renewed Ontario Mineral Development Strategy.

FOCA is supportive of the Province's objectives to foster a vibrant mining industry with the appropriate balance in environmental and community protection as described by Minister Gravelle when he recently met the MMAAC in Toronto.

As part of FOCA's active participation on the MMAAC, we have contributed to the development of the new Mining Act and in subcommittee to the development of the plans and permits process under the new Act. We have listened closely to the concerns raised by industry as the new procedures have unfolded.

Note that FOCA's interests extend beyond cottagers as a narrowly defined group of waterfront property owners. In working with the industry and Ministry representatives, FOCA has always tried to speak for the larger group of rural residents and land owners including the permanent residents on land adjacent to proposed exploration lands and even urban communities that abut or are close to Crown Land open to staking. In addition we have recognized that other public interest groups like environmental groups also have legitimate concerns in the proposed use of environmentally sensitive Crown lands. Finally, recreational users of Crown lands may also have interest in potential disruption of use by exploration activities. All these groups, not just

cottagers, deserve to be considered in any proposed changes to regulations under the Act. All these groups have been empowered through the new Mining Act and the EBR process and any further version to the Act and related processes must ensure these groups continue to be part of the process.

We appreciate the difficulties the industry has been facing since the economic downturn and we understand the concerns expressed by the industry with some of the provisions of the new Mining Act and its regulations. We particularly recognize the frustration expressed with regard to map staking and the related transition process, and with regard to some aspects of the required consultations with First Nations. We also appreciate the frustration of some industry representatives with the issues they feel have arisen with the new plans and permits approach and with a lack of clarity regarding some areas of process.

On behalf of FOCA members and other landowners adjacent to exploration areas, FOCA would like to note the aspects of the current permits process that we value most and view as significant new protections under the new Mining Act. We believe these gains came after many years of work by FOCA and others on MMAAC and in other forums to gain recognition of our legitimate interests and represent the balance often referred to by the Minister.

IN FOCA's opinion, the most important changes gained under the plans and permits regime are as follows.

1. The guarantee that all proposed exploration permit applications are posted on the EBR for 30 days and any member of the public or an interest group has the opportunity to raise concerns.
2. The Ministry is then obligated to consider issues raised by the public.
3. The Ministry has the power to then impose terms and conditions on the permit if it deems the concerns raised warrant that exceptional action.

The most important aspects of this process are that it is a formal process which includes posting on an accessible website and a clear opportunity for the public - which might include adjacent landowners or environmental groups - to raise questions and issues in the same way First Nations and surface rights holders are guaranteed similar opportunity and consideration.

The current process with the EBR is the first time these groups have been guaranteed notice of the planned exploration activities and guaranteed a process to formally raise concerns. Under no circumstances do we want to see these provisions lost.

Having made the above points FOCA recognizes that the new process has not been entirely satisfactory to industry. We also note that the concerns with the process do not include any suggestion that landowners or environmental groups have in any way abused the EBR process regarding Permits. The fact that legitimate concerns raised by landowners or environmental groups have been small in number is not sufficient reason to eliminate public notification, and a process to guarantee consideration of legitimate concerns.

We would be open to consider supporting changes to the current plans and permits process as long as those changes include public notification of proposed activities, a reasonable opportunity for concerns to be raised with the Ministry, and a guarantee those concerns will be

considered, with the option for the Ministry to impose terms and conditions on activities in exceptional cases.

Some further specific FOCA input around a renewed Mineral Development Strategy.

Given the stated objectives related to getting input:

- addressing public expectations regarding safe and environmentally sound exploration and mining
- new considerations of areas of high mineral potential in Crown land-use planning
- defining clear rules around surface and mining rights,

FOCA has some specific recommendations for changes and additions to the Plans and Permits regulations as they now exist. Because other groups are demanding significant changes we want to be clear on what we value most as set out above and also offer specific suggestions for improvements. Here are some specific recommendations:

Section 7 Notice of submitted exploration plan

There is no reference here to the Ministry's long standing commitment to post this notice in a accessible place on the MNM website. We want to see that commitment in writing as the public may have legitimate concerns that the proponent and the Ministry need to be aware of. As you know we have also been concerned that the list posted on the MNM website is hard to search.

Section 18 Discretion to require an exploration permit

You acknowledge you are considering the request from MMAAC members to broaden discretion.

In your review of this item we want to see input from the public or issues raised by the public to be formally recognized as possible grounds for the discretion to elevate an application to a permit. It is very important that public input be recognized along with First Nation concerns, and surface rights holders concerns as possible reasons for the ministry to act to elevate an application and possibly require terms and conditions. The public should be recognized to include land owners adjacent to exploration sites as well as public interest groups like ratepayers' or environmental groups.

Section 16 Temporary Hold on an application

This regulation needs to formally acknowledge that input from the public might be the grounds for the Director to put a temporary hold on an application. The input would normally come through the EBR and in exceptional cases where additional time is required to properly consider concerns from the public the Director should have discretion to use a temporary hold.

Omission of reference to the public or the EBR throughout the regulations.

We note that the regulation avoids reference to the EBR process or to input from the public. Apparently this is intentional but it also contradicts all the Ministry's Statements and the Minister's statements about an open balanced process.

The EBR is a reality and even though it relates to a different Ministry's process it needs to be acknowledged. If for legal reasons you must avoid reference to the EBR then surely you can record that a process is now in place that requires the 30 day posting of permit applications for public comment, that the Ministry is required to consider concerns raised by the public, and that the Ministry has discretion to impose terms and conditions. Those are the essential components of the EBR process you have agreed to from the start.

We note that in the concerns raised by industry there is no reference to any delays resulting from abuse of the EBR process by the public or environmental groups. In whatever amendments you make to the regulations we request that you make clear that a formal process is maintained for public notification and input and consideration of that input by the ministry.

FOCA respectfully submits these comments for your consideration and we look forward to continued progress towards a sustainable resource industry, including the requisite balance with other economic and community interests.

Sincerely,

A handwritten signature in blue ink, appearing to read "Ted Spence". The signature is fluid and cursive, with a long horizontal stroke at the end.

Ted Spence, FOCA Mining Liaison, MMAAC member

A handwritten signature in black ink, appearing to read "Terry Rees". The signature is cursive and somewhat stylized.

Terry Rees, Executive Director, FOCA