

Mining Report

Mining Exploration Conflicts in Canada's Boreal Forest

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Canada's booming mining industry operates extensively throughout the Boreal Forest. Conflicts are arising between mining companies, Aboriginal communities, private landowners and other stakeholders as a consequence of the free entry tenure system which grants mineral rights to prospectors without prior consultation with affected communities or regard for ecological and cultural values. Fundamental legislative and industry reform is necessary to resolve current conflicts and prevent future ones.

See below for maps, descriptions, and recommendations included in the report. See right column for downloadable document and high-resolution maps.

Mineral Claims and Active Mines in Canada's Boreal Forest

As of September 2007, 583,000 square kilometres of mineral claims were staked across Canada's Boreal Forest (approximately 10% of the ecosystem) under a free entry tenure system established 150 years ago. This antiquated system gives priority to mining claims and makes it difficult to plan for other values such as protected areas, cultural values and Aboriginal rights and other economic development, resulting in escalating conflicts.

Mineral Claims and Aboriginal and Treaty Rights in Canada's Boreal Forest

Mineral claims granted under free entry tenure systems may result in conflicts with Aboriginal communities. Governments are required to consult with Aboriginal peoples before granting rights which may conflict with constitutionally protected Aboriginal and treaty rights. Mineral claims are currently granted without prior consultation in most of Canada.

Mineral Claims and Active Mines in Ontario's Boreal Forest

More mining is taking place in Ontario than in any other province in Canada. The conflicts in Ontario have become so severe that First Nations leaders have been jailed for peacefully protesting mining exploration on their lands. Values such as Aboriginal rights and conservation need to be put on par with mining.

Mineral Claims and Active Mines in British Columbia's Boreal Forest

Mining exploration in British Columbia also illustrates the rising conflicts associated with booming mineral claims and the outdated free entry mining system. The vast majority of resource development in the province occurs within Aboriginal traditional territories where Aboriginal rights issues have not been settled. Recent court decisions have cautioned that resource tenures that fail to meet consultation requirements risk being struck down as unconstitutional, while some projects have been rejected due to risks of significant adverse environmental, social and cultural effects. Reform that requires conservation-first land use planning and free, prior and informed consent for First Nations would eliminate conflicts between mining and other land use priorities.

Mineral Claims and Active Mines in Quebec's Boreal Forest

The province of Quebec is an extremely permissive jurisdiction for mining due to accessible land, cheap electricity, large and well documented mineral deposits, and favourable tax credits for the mining sector. Mining claims have doubled since 2004, leading to exploration activities covering more than 12,000,000 hectares of Quebec's territory. Mining claims are major impediments to conservation projects and land use planning by First Nations and local communities.

Mineral Exploration and Active Mines in Caribou Range in Canada's Boreal Forest

Some of the world's largest remaining populations of Woodland and Barren Ground Caribou occur in Canada's Boreal Forest. Susceptible to development impacts, caribou are used as a focal species in conservation planning. Broad impacts from widespread mining development across the Boreal may result in a further decline in caribou populations. Of particular concern are the many dwindling Woodland Caribou populations that are especially susceptible to disturbance. Woodland Caribou are listed as a threatened species throughout the Boreal Forest.

Roadmap to Mining Reform

Replace Free-Entry with a Permitting System for Prospecting and Exploration:

Instead of allowing rights to be acquired by staking, legislation should establish a permit regime that promotes government discretion before rights are granted through the whole mining cycle, from prospecting to development. Under a permit-based tenure system, permit holders acquire permission to carry out activities, but do not automatically acquire rights to minerals as they do under a free entry system. Mineral rights would be issued only where projects satisfy economic, environmental and social objectives, and do not conflict with the rights of Aboriginal people or private landowners.

Require Exploration and Mining Activities to Conform to Land Use Plans

Mineral exploration should be situated within a broader policy framework for land use that balances conservation with development and ensures that environmental protection and other public policy objectives are achieved. Land use planning is a flexible tool to accommodate exploration within terms and conditions set out in the plan, while ensuring that conservation, cultural protection and other goals are achieved. Requiring comprehensive land use planning before

mineral tenures are granted would prevent conflicts and assist governments in meeting consultation obligations to Aboriginal peoples.

Require Prior and Informed Consent from Affected First Nations

Before permits are granted for exploration, mining laws should require applicants to provide detailed work plans and impact analyses to affected First Nation communities in order to enable decisions about whether the activity is acceptable, and to decline projects which are not. When achieved, exploration agreements with First Nations create a supportive environment for mining, and a more secure climate for investment, as well as enabling Aboriginal training, employment and business opportunities prior to development.

Improve Environmental Standards for Exploration

Many jurisdictions require exploration companies to submit detailed work plans before authorization is issued for ground disturbing work such as drilling or blasting. These work plans enable regulators to ensure that activities meet approved standards, assess the likely impacts of activities, and facilitate consultations with potentially affected Aboriginal communities, landowners and other stakeholders.

Require Financial Assurances at the Exploration Stage

At present, financial assurances or performance bonds are rarely required for the exploration phase; consequently, many abandoned exploration projects become public liabilities. Financial assurances sufficient for remediation should be required of exploration companies as part of the initial approval process.

Implement Regional Environmental Monitoring Bodies for Intensive Exploration

Establishing an environmental monitoring agency has been a condition of a project's approval for several significant mining developments in recent years, including the Ekati and Diavik diamond projects and the Voisey's Bay nickel project. These bodies provide opportunities for Aboriginal communities and other stakeholders to engage with companies and regulators to ensure that environmental performance objectives are achieved through effective monitoring and reporting. This approach should be broadly adapted to areas subject to intensive exploration activities to enable cumulative effects to be identified and addressed.

Such reforms will promote a viable climate for investment, ensure protection of critical habitat for species, and improve opportunities for Aboriginal and Northern communities to benefit from responsible mineral exploration and development.

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