

NORTHERN MINERAL ADVISORY COMMITTEE

A PROPOSAL FOR ADMINISTRATION OF NATURAL RESOURCES IN NORTHERN CANADA

1. This paper discusses how the administration of natural resources can best be organized in the N.W.T. and Yukon as part of an effective northern development strategy. The proposals contained in it arose out of consideration, by the Northern Mineral Advisory Committee, of means of improving the interface between government and industry in those matters that impinge directly on resource development. It is hoped the Minister will see a number of advantages for northern and national interests in these proposals.
2. Ownership of the vast majority (99⁺ percent) of land in the N.W.T. and Yukon is vested in the Crown. Management and development of subsurface resources and control of surface use, normally undertaken by provincial governments south of 60⁰, is undertaken by the Government of Canada in the territories, through the Northern Program of the Department of Indian Affairs and Northern Development.
3. In the N.W.T., management of surface and subsurface resources is governed primarily by the Territorial Lands Act. Administration of subsurface resources in the mining sector is controlled by the Canada Mining Regulations, the Territorial Coal Regulations and the Quarry Regulations, all issued under the Territorial Lands Act. In the Yukon, minerals fall under the Yukon Quartz Mining Act and the Yukon Placer Mining Act. Administration of the land surface resources in both territories is similarly controlled

by regulations issued under the Territorial Lands Act, including the Territorial Land Regulations (governing land acquired by lease or sale), the Territorial Land Use Regulations (governing temporary or transitory uses), the Territorial Timber Regulations, the Territorial Quarrying Regulations, the Territorial Dredging Regulations, and the Territorial Coal Regulations.

4. While mining is primarily concerned with extraction of subsurface resources, the industry is subject in almost every case to the land regime. While a prospecting licence or permit issued under the Canada Mining Regulations may enable prospecting and staking to occur, any exploration party utilizing equipment weighing more than 5 tonnes or which involves 100 or more man-days of work requires a Land Use Permit. Again, while a mining lease issued under the Canada Mining Regulations provides the mineral tenure needed to bring an ore body into production, all new mining sites must have surface access and thus are subject to environmental controls embodied in the Territorial Land Regulations. Mines must also comply with the water use and water quality standards of the Northern Inland Waters Act and other operating and safety legislation.
5. All of the regulations cited above are administered from Regional offices of the Federal Department of Indian Affairs and Northern Development located in Yellowknife and Whitehorse (see attached tables of activities of the N.W.T. Region). If the Acts and Regulations governing the operation of industry are to be effectively integrated into a unified resource

management regime, it follows from the inter-relations noted above that surface and subsurface controls should be administered by one agency, as far as possible. To this end, the Federal Government now administers three Territorial Ordinances -- the Mine Safety Ordinance, the Explosives Ordinance and the Forest Protection Ordinance (fire protection).

6. Conversely, the territorial governments now administer lands surrounding most communities in both territories, and campground and recreational sites in the N.W.T., under the authority of the Territorial Lands Act. Other services affecting the mining industry now administered by the territorial governments include management of non-migratory wildlife, employment and training programs, education, local government, small business development, highway maintenance and reconstruction, social services and health insurance. These programs fall under Ordinances of the Yukon and N.W.T. Legislative Assemblies, as authorized by the Yukon or N.W.T. Acts.
7. The administration of regulations governing the mining industry was reviewed recently at the request of the Department of Indian Affairs and Northern Development by the Centre for Resource Studies at Queen's University. The results of that review are contained in the October, 1978 report entitled "The Administration of Mineral Exploration in the Yukon and Northwest Territories". The report made a number of recommendations

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administration of resources regulated under the Territorial Lands Act, the Northern Inland Waters Act, the Yukon Placer Mining Act and the Yukon Quartz Mining Act be transferred to the Government of the Northwest Territories and the Yukon Territorial Government respectively. This transfer of administrative authority would include responsibility for administering all Regulations under these Acts which affect the mining industry, such as the Territorial Land Regulations, the Territorial Coal Regulations, the Territorial Land Use Regulations, the Territorial Quarrying Regulations, the Territorial Timber Regulations, and the Territorial Dredging Regulations.

Regulations governing the production and conservation of oil and gas, which occurs both onshore and offshore in the north, will eventually be transferred from the Territorial Lands Act to a separate Act. While the administrative responsibilities under the Acts and Regulations described above would be transferred to the respective territorial governments, amendment of the Regulations would remain under Federal control as they would be alterable only by Ministerial decision on the advice of the Territorial Commissioners-in-Council. Fiscal measures relating to the mining industry would remain in the hands of the Federal government at this time.

10. Such changes would provide a number of tangible benefits for the orderly development of the north. Transfer of administration of regulations to

which, if implemented, would significantly improve the administration of regulations. It also recommended reorganization within the Department of Indian Affairs and Northern Development to give a stronger voice to speak on the problems of the mining industry. At present, the senior northern mining official in Ottawa is located some five levels below the Minister in the departmental hierarchy.

8. The latter recommendation is of special concern to the Northern Mineral Advisory Committee. The major source of dissatisfaction with the governmental regime governing the mining industry in the north relates to uncertainty regarding future access to mining property in the territories. Withdrawals of land from access for economic purposes for parks, sanctuaries and other environmental and native rights reasons have been made by Ministerial decision under Section 19 of the Territorial Lands Act. The Committee has recognized the importance of development restrictions in parts of the territories in its proposed policy statement on northern mineral strategy provided recently to the Minister. However, the Committee's view is that insufficient weight has been given to long range economic considerations in the north in the advice provided by the Department of Indian Affairs and Northern Development to the Minister in these decisions. There must be a mechanism which allows for wider scope in evaluating proposals to withdraw lands.
9. In order to achieve a desirable responsiveness to northern needs and conditions, the Northern Mineral Advisory Committee proposes that the

the territorial governments would provide Executive level direction and a capability for resolution of problems at the highest administrative level resident in the territories, through the Office of the Commissioner. It would contribute to the development of a truly resident industrial base, by encouraging industry in the territories to look to the north for decisions affecting their day-to-day operations. It would enhance the principle that problems capable of resolution within the region should be solved there.

11. In those matters that require policy decisions at the Ministerial level, transfer of administrative functions will provide a source of balanced, senior level advice from within the territories through the Commissioners who report directly to the Minister. With the transfer of day-to-day administration of regional activities within an established regulatory framework to the territorial governments, the Minister's departmental advisors will be afforded additional time to concentrate on other issues of national concern for which they are responsible -- constitutional development of the north, aboriginal rights and social programs across the country, and national parks. These issues are already seen as occupying a predominant amount of senior officials' time, to the detriment of the economic aspects of northern development.
12. Transfer of administrative functions relating to surface and subsurface resources will provide a mechanism for a greater degree of responsiveness to northerners' concerns, through their elected representatives in the

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Legislative Assemblies and on the Executive Committees, which is now lacking. It would create a greater identification with the industry amongst northerners, both native and non-native, which may be expected to further both northern and national interests in resource development. By placing economic and social concerns within the purview of territorial governments, transfer would induce amongst northerners a more balanced view of competing resource uses. Rather than compromise native interests, such a move would enhance the thrust of constitutional development leading to a more responsible government in the territories.

13. The Minister's serious consideration of these proposals is strongly recommended as one element within a broader strategy for economic, social and political development of the north.