

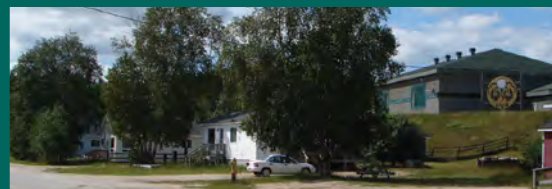


# MISSED OPPORTUNITIES, GLIMMERS OF HOPE

Aboriginal communities and mineral  
development in Northern Ontario

HEATHER HALL AND KEN S. COATES

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## PREFACE

**T**he year 2013 was the 250th anniversary of the Royal Proclamation of 1763. The Royal Proclamation is widely regarded as having been one of the cardinal steps in the relationship between Aboriginals and non-Aboriginals in British North America – what eventually became Canada.

A quarter of a millennium later it is our judgment that that relationship has often not been carried out in the hopeful and respectful spirit envisaged by the Royal Proclamation. The result has been that the status of many Aboriginal people in Canada remains a stain on the national conscience. But it is also the case that we face a new set of circumstances in Aboriginal/non-Aboriginal relations. Indigenous peoples in Canada have, as a result of decades of political, legal, and constitutional activism, acquired unprecedented power and authority. Nowhere is this truer than in the area of natural resources.

This emerging authority coincides with the rise of the demand for Canadian natural resources, a demand driven by the increasing integration of the developing world with the global economy, including the massive urbanisation of many developing countries. Their demand for natural resources to fuel their rise is creating unprecedented economic opportunities for countries like Canada that enjoy a significant natural resource endowment.

The Aboriginal Canada and the Natural Resource Economy project seeks to attract the attention of policy makers, Aboriginal Canadians, community leaders, opinion leaders, and others to some of the policy challenges that must be overcome if Canadians, Aboriginal and non-Aboriginal alike, are to realise the full value of the potential of the natural resource economy. This project originated in a meeting called by then CEO of the Assembly of First Nations, Richard Jock, with the Macdonald-Laurier Institute. Mr. Jock threw out a challenge to MLI to help the Aboriginal community, as well as other Canadians, to think through how to make the natural resource economy work in the interests of all. We welcome and acknowledge the tremendous support that has been forthcoming from the AFN, other Aboriginal organisations and leaders, charitable foundations, natural resource companies, and others in support of this project.

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# EXECUTIVE SUMMARY

Resource development in Northern Ontario has been the focus of considerable attention for much of the last decade. Mining exploration activity has reached historic levels. Of particular note has been the discovery of the Ring of Fire – a large-scale mineral deposit in the James Bay Lowlands area of Northern Ontario that is the site of over 35 advanced exploration projects.

Aboriginal people have, in turn, made a substantial, nationwide commitment to the natural resource economy, particularly in Northern Ontario. Indeed, successive Supreme Court of Canada decisions have extended and clarified Aboriginal resource rights. As a result, First Nations have established a substantial role in the approval of projects and, using their legal rights, have secured substantial benefits in the form of employment, Aboriginal business opportunities, and community support.

Despite unprecedented opportunities to influence and benefit from natural resource development, this process has not always been smooth. First Nation communities often face substantial internal disputes over proceeding with a major resource project, struggling to balance the widespread desire for work and income against the goals of protecting traditional ways of life and the local environment, while occasions of conflict have often attracted national and even international media attention.

This report examines the relationship between Aboriginal communities and the mining sector in Northern Ontario. A large part of this research involved an extensive review of government documents, media sources, and stakeholder reports. It also draws on discussions with over 30 stakeholders from government, Aboriginal communities, and the mining industry, who shared their thoughts about mining and mining-related conflicts in the region.

The relationships in the Northern Ontario mining sector have had a turbulent past, one that includes both missed opportunities and occasional glimmers of hope. As a result, the mineral potential of the Ring of Fire remains substantially locked, in large measure because of continuing conflict between First Nations, governments, and mining companies, with key stakeholders continuing to debate issues such as the responsibility for infrastructure development, support for First Nation communities across much of Northern Ontario, and conflict between the governments of Ontario and Canada.

Despite these challenges, the ways and means exist to overcome the conflicts, resistance, and uncertainty facing the mining sector of Northern Ontario. Drawing on examples from across the country, Indigenous communities, mining companies, and governments can, if the shared will exists, create viable solutions that permit development to proceed. Getting there requires acknowledgement of the problems of the past and a commitment by all concerned to be fair and accommodating, and to be respectful of the renewed legal and political authority of Indigenous peoples.

The following general recommendations are offered as a means of reframing the relationships surrounding resource development and providing new opportunities for all participants. These ideas build on the hard work and experience of stakeholders in the region:

- *Build a stronger understanding between government, mining companies, and Indigenous communities.* It is important that the government create certainty around fees and the permitting requirements for mining companies. The provincial government should lead with industry on the consultations with Indigenous communities, compared to the past where it delegated to companies.
- *Overcome disputes about interpreting the treaties.* The federal government should make a clear declaration on the importance of the historic treaties in Northern Ontario, paving the way for a new nation-to-nation approach.

- *Build infrastructure.* The Ring of Fire Infrastructure Development Corporation should have representation from Aboriginal groups, industry, and the federal government. The province needs to lead on determining where key infrastructure should go and what kind rather than waiting on industry to set the agenda for the province. Collaboration with Indigenous communities and industry is essential.
- *Build regional plans and agreements.* The provincial and federal governments in partnership with Aboriginal communities need to develop plans and agreements that resolve the longstanding social and physical infrastructure needs of communities. Mining should not be the spark that brings Northern services in line with provincial norms.
- *Strengthen community readiness.* All stakeholders should access available resources and share best practices on community readiness. However, leadership from the provincial government is needed to close the implementation gap on policies and agreements.
- *Encourage Indigenous ownership options.* Greater consideration should be given to facilitating Indigenous ownership options in the natural resource sector. Equity participation is likely the next wave in Indigenous engagement and steps should be taken to accelerate this option in Northern Ontario.
- *Ensure cumulative environmental impacts are part of the review process.* In Northern Ontario, particularly in the Ring of Fire, greater attention should be paid to an anticipatory environmental review process that examines cumulative impacts and takes a broad view of the potential ecological disruptions from resource activities.
- *Focus on creating a strong process.* Companies that approach Indigenous communities in an open, non-confrontational manner, communities that listen to company proposals and that seek viable and long-term resolutions, and governments that solve problems, eliminate barriers, and make strategic investments and commitments can, collectively, move the development agenda forward.

Northern Ontario has enormous economic potential that could help address Ontario's economic woes, provide Indigenous communities with additional employment and business opportunities, and allow companies to invest in the provincial North. The current challenges – different in scale and complexity but not in kind from those facing other resource development projects – undermine the aspirations of all participants. Northern Ontario faces a major test in the coming years as it seeks to put the acrimony and uncertainty of the past behind it and forge the new relationships needed to provide opportunity for all in one of the most important resource regions in Canada.

## SOMMAIRE

La mise en valeur des ressources dans le nord de l'Ontario a fait l'objet d'une attention considérable durant la plus grande partie de la décennie écoulée. L'exploration minière s'est hissée à des sommets historiques. La découverte du Cercle de feu – vaste dépôt minéral dans la région des basses terres de la baie James – a joué un rôle de premier plan, terre d'accueil pour plus de 35 projets d'exploration avancée.

Les peuples autochtones se sont à leur tour engagés fermement, à l'échelle nationale, à appuyer l'économie des ressources naturelles, en particulier celle du nord de l'Ontario. D'ailleurs, par

décisions rendues successivement, la Cour suprême du Canada a étendu et clarifié leurs droits dans ce domaine. Les Premières Nations se sont vu garantir un rôle majeur dans l'approbation des projets et, forts de leurs droits juridiques, se sont assurées d'une place importante sur le plan des emplois, des possibilités d'affaires et du soutien de la collectivité.

Malgré la possibilité sans précédent d'influer sur la mise en valeur des ressources naturelles et d'en tirer des bénéfices, ce processus ne se fait pas sans heurts. Les Premières nations doivent souvent composer, au sein même de leurs collectivités, avec d'importants litiges causés par l'avènement d'un grand projet de ressources tout en s'efforçant d'assurer un équilibre entre les vastes besoins de travail et de revenu et l'objectif de protection des modes de vie traditionnels et de l'environnement local. En parallèle, les conflits attirent souvent l'attention des médias à l'échelle nationale et même internationale.

Le présent rapport examine la relation entre les collectivités autochtones et le secteur minier dans le nord de l'Ontario. La recherche a largement reposé sur l'examen approfondi de documents gouvernementaux, de sources médiatiques et de rapports d'intervenants dans le domaine. Elle a également tiré parti d'entretiens réalisés avec plus de 30 de ces intervenants issus des milieux gouvernementaux, autochtones et miniers qui ont partagé leurs réflexions sur l'exploitation minière et les conflits liés au secteur minier dans la région.

Les relations au sein du secteur minier du nord de l'Ontario ont connu un passé tumultueux, composé à la fois d'occasions manquées et de lueurs d'espoir. Ainsi, le potentiel minier du Cercle de feu demeure essentiellement verrouillé, en bonne partie à cause des différends qui perdurent entre les Premières Nations, les gouvernements et les sociétés minières, les intervenants clés continuant toujours de débattre de la responsabilité concernant l'aménagement des infrastructures et du soutien aux collectivités des Premières nations dans le nord de l'Ontario, sur fond de conflit entre le gouvernement ontarien et le fédéral.

Malgré ces difficultés, des moyens et des façons de faire permettraient de surmonter les conflits, la résistance et l'incertitude à laquelle les sociétés minières du nord de l'Ontario sont confrontées. S'appuyant sur des exemples de partout au pays, les collectivités autochtones, les minières et les gouvernements peuvent, s'ils en ont la volonté, concevoir des solutions viables pour favoriser le développement. Pour y arriver, il faut reconnaître les difficultés survenues dans le passé et obtenir de la part de toutes les parties concernées leur engagement à l'égard de l'équité, des besoins d'accommodement et du respect de l'autorité juridique et politique renouvelée des peuples autochtones.

Les recommandations générales suivantes sont proposées comme moyen de recadrer les relations entourant la mise en valeur des ressources et d'offrir de nouvelles possibilités à tous les participants. Ces idées ont été dégagées des discussions soulignées plus tôt et mettent à profit le travail acharné et l'expérience des parties prenantes dans la région :

- *Favoriser la compréhension mutuelle entre le gouvernement, les sociétés minières et les collectivités autochtones.* Il est important que le gouvernement apporte davantage de certitude quant à la question des exigences de permis et des frais imposés aux sociétés minières. Le gouvernement provincial et l'industrie devraient conjointement prendre l'initiative de consulter les collectivités autochtones.
- *Surmonter les différends qui portent sur l'interprétation des traités.* Le gouvernement fédéral devrait faire une déclaration dans laquelle il pourrait préciser l'importance des traités historiques dans le nord de l'Ontario, ouvrant ainsi la voie à une nouvelle approche de nation à nation.
- *Construire des infrastructures.* Les groupes autochtones, l'industrie et le gouvernement fédéral devraient être représentés au sein de la Société de développement de l'infrastructure du Cercle

de feu. La province doit exercer son leadership pour déterminer le lieu d'aménagement et le type des infrastructures clés plutôt que d'attendre de l'industrie qu'elle définisse son programme. La collaboration avec les collectivités autochtones et l'industrie est essentielle.

- *Élaborer des plans et des accords régionaux.* Le gouvernement fédéral et celui de la province doivent élaborer, en partenariat avec les Autochtones, des plans et des accords pour répondre aux besoins en infrastructures sociales et matérielles depuis longtemps ressentis par les collectivités. L'exploitation minière ne devrait pas être l'étincelle qui rapproche les services du nord des normes provinciales.
- *Accroître l'état de préparation des collectivités.* Toutes les parties prenantes doivent avoir accès aux ressources disponibles et partager les pratiques exemplaires en matière de préparation communautaire. Toutefois, un leadership provincial s'impose pour combler le déficit de mise en œuvre des politiques et des accords.
- *Renforcer les options d'accession à la propriété autochtone.* Il faut davantage tenir compte des moyens de faciliter l'accession à la propriété autochtone dans le secteur des ressources naturelles. La prochaine vague de mobilisation des Autochtones passera probablement par la participation au capital-actions, de sorte que des mesures doivent être prises pour accélérer cette option dans le nord de l'Ontario.
- *S'assurer que les effets environnementaux cumulatifs font partie du processus d'examen.* Dans le nord de l'Ontario, plus précisément à l'intérieur du Cercle de feu, il conviendrait de porter une attention particulière à la tenue d'un processus d'examen environnemental par anticipation afin d'examiner les impacts cumulatifs et d'élargir la perspective quant aux possibilités de perturbations écologiques découlant de l'exploitation de ressources.
- *Mettre l'accent sur la création d'un processus solide.* Le programme de mise en valeur peut être avancé collectivement par des entreprises ouvertes et accueillantes envers les collectivités autochtones, des collectivités à la recherche de solutions durables qui demeurent à l'écoute des entreprises et des gouvernements qui règlent les problèmes, éliminent les obstacles, font des investissements et prennent des engagements stratégiques.

Le nord de l'Ontario jouit d'un potentiel économique énorme qui pourrait atténuer les difficultés économiques de l'Ontario, fournir aux collectivités autochtones de nouvelles possibilités d'emploi et d'affaires et permettre à l'industrie d'investir dans le Nord provincial. Les difficultés actuelles – différentes les unes des autres quant à leur échelle et leur complexité, mais semblables en raison de leur nature à celles constatées pour d'autres projets de mise en valeur des ressources – nient les aspirations de tous les participants. Le nord de l'Ontario subira une épreuve majeure dans les années à venir, car il cherchera à prendre le pas sur l'acrimonie et l'incertitude du passé pour forger de nouvelles relations et offrir des possibilités à toutes et à tous dans une des plus importantes régions de ressources au pays.



# INTRODUCTION

Aboriginal people have made a substantial, nationwide commitment to the natural resource economy over the past quarter century. Empowered by a series of Supreme Court of Canada decisions that extended and clarified Aboriginal resource rights, First Nations have established a substantial role in the approval of projects and, using their legal rights, have secured substantial benefits in the form of employment, Aboriginal business opportunities, and community support. Impact and benefit agreements (IBAs) and other forms of First Nations–industry and First Nations–government collaboration have altered the face of the Canadian resource economy and provided Indigenous communities with unprecedented opportunities to influence and benefit from natural resource development. However, this process has not always been smooth. First Nation communities often face substantial internal disputes over proceeding with a major resource project on their traditional territories, struggling to balance the widespread desire for work and community income against the goals of protecting traditional ways of life and the local environment. Meanwhile, occasions of conflict often attract national and even international media attention.

For much of the last decade, resource development in Northern Ontario has been the focus of considerable attention with mining exploration activity reaching historic levels. This includes the discovery of the Ring of Fire, a large-scale mineral deposit in the James Bay Lowlands area of Northern Ontario and over 35 advanced exploration projects (Ontario Prospectors Association 2015). Much of this exploratory work occurred on the traditional lands of Aboriginal peoples, especially in the Far North region, leading to controversy, debate, and frustration between all stakeholders, including the Governments of Canada and Ontario, the mining companies, and First Nations.

This report examines the relationship between Aboriginal communities and the mining sector in Northern Ontario. A large part of this research involved an extensive review of government documents, media sources, and stakeholder reports. It also draws on discussions with over 30 stakeholders from government, Aboriginal communities, and the mining industry, who shared their thoughts about mining and mining-related conflicts in the region. The relationships in the Northern Ontario mining sector have had a turbulent past, one that includes both missed opportunities and occasional glimmers of hope. As a result, the mineral potential of the Ring of Fire remains substantially locked, in large measure because of continuing conflict between First Nations, governments, and mining companies, with key stakeholders continuing to debate issues such as the responsibility for infrastructure development, support for First Nation communities across much of Northern Ontario, and conflict between the governments of Ontario and Canada.

*Resource development in Northern Ontario has drawn attention with mining exploration activity reaching historic levels.*

# A BRIEF LOOK AT NORTHERN ONTARIO

Northern Ontario is a vast, sparsely populated area, making up over 90 percent of the provincial landmass but home to only 6 percent of Ontario's population, or roughly 786,000 people. Over 55 percent of the population resides in the five largest urban centres: Greater Sudbury (population 160,000), Thunder Bay (121,000), Sault Ste. Marie (79,000), North Bay (64,000), and Timmins (43,000). The remainder of the population is distributed among much smaller single industry towns and Aboriginal communities. There are 106 First Nation communities in the region (Ontario 2008), including six treaty areas (Treaty 3, Treaty 5, Treaty 9, Manitoulin Island, Robinson-Huron, and Robinson Superior), represented in 14 tribal councils, and four regional political organizations (Nishnawbe Aski Nation, Anishinabek Nation, Grand Council Treaty #3, and the Métis Nation of Ontario). Despite being part of the most populous province in Canada, Northern Ontario has several of the most remote First Nation communities. In an area often referred to as the Far North, over 30 communities lack year round road access (MNDM 2016b; INAC 2014).

In First Nation and Métis communities in Northern Ontario, especially those in the Far North, traditional activities like hunting, fishing, and trapping remain vital. The land is an integral part of their culture and way of life (Ministry of Natural Resources and Forestry 2015). However, these communities, especially those without road access, face significant socio-economic and infrastructure challenges. While some issues have attracted international attention, the realities facing many remote Aboriginal communities are poorly understood across Canada. This includes extreme poverty, over-crowded and substandard housing, problems with education and health care, and very high unemployment rates. Take for example the Neskantaga First Nation, a fly-in community 480 kilometres northeast of Thunder Bay. This community has the longest standing boil water advisory in Canada – it's been in place for more than 20 years (Levasseur and Marcoux 2015).

*Many First Nations have been unable to effectively engage with mineral companies.*

These communities also face other serious challenges, often revealed through staggeringly high rates of suicide and widespread substance abuse, associated with the intergenerational trauma caused by residential schools and the harmful effects of long-term marginalization. Many First Nation communities in Northern Ontario are hurting. Pikangikum, for example, is more than 500 kilometres northwest of Thunder Bay and was once described as the suicide capital of the world. In 2011, it had a suicide rate of 250 per 100,000 people. This was nearly 20 times the national average and the highest of anywhere in the world (Patriquin 2012). Educational attainment also

remains a significant concern. Many students in the Far North need to leave their communities to complete high school and in some communities most of the working age population lacks a high school diploma (Chong 2014; Hall and Hesseln with Coates 2015).

These issues provide the background to understand the complex relationship between Aboriginal communities and stakeholders in the Northern Ontario mining sector. Many First Nations have been unable to effectively engage with mineral companies. Some communities struggle almost daily with life or death issues and rarely have the personal energy or administrative capacity necessary to handle extensive multi-party negotiations, especially after years of lobbying for attention for basic infrastructure and social service needs. Even with the best intentions and openness to collaboration and partnership, Indigenous peoples have a hard time finding the resolve, time, focus,

and resources to tackle multiple levels of government and administration, and the complexities of emerging career opportunities.

More than a few officials – corporate, government, and Indigenous – have argued that Ontario and Canada need to deal first with the individual and community crises before headway can be made on the complex environmental, technical, and economic questions posed by the prospect of large scale and rapid resource development. From the Indigenous perspective, the absence of a viable, long-term government strategy for human development and the constant lurching from crisis to crisis in Northern Ontario has undercut the government’s credibility as a solution provider and offered little reason for optimism about the near future. At the same time, communities are financially and administratively dependent on government to help solve these deeply entrenched challenges.

The situation in Northern Ontario can be summarized in simple terms. An operating mine is important to the companies wishing to capitalize on mineral discoveries that have real market potential. Mineral development is also a useful source of revenue for the Government of Ontario through taxes, royalties, and opportunities for business spin-offs. Mining is less important to First Nation and Métis communities, in large measure because promises and assurances made in the past were not achieved. Indigenous leaders are not uniformly convinced that resource activity will bring about major changes in the material, social, and psychological well-being of their people. Those firms that have been successful in launching a mining project, including the De Beers’ operation near the community of Attawapiskat, often assume a variety of welfare state-type responsibilities, including skills training, specialized employment, community development, and other measures to try and address the needs of hurting communities.

*In 2014, \$11 billion worth of minerals were produced in Ontario.*

## Mining in Northern Ontario

The modern mining industry in Northern Ontario commenced in the 1880s when copper was discovered in the Sudbury region during the construction of the railway (Wallace and Thompson 1996; Hall 2016a). By 1925, significant discoveries had been made across Northern Ontario in Cobalt, Timmins, Kirkland Lake, and Red Lake (Sudol 2010). Mines in these communities would all become at one point in time world leaders in producing nickel, gold, and silver. All but Cobalt still have active mining operations. The amount of mineral wealth that has been generated in Northern Ontario is immense. In 2014 alone, \$11 billion worth of minerals were produced in the province, most of that in Northern Ontario (MNMD 2015b).

In 2015, there were 43 active mines in the province, with the majority (34) located in Northern Ontario (Ontario Prospectors Association 2015). Several new mines have opened over the last decade, including Victor Mine – Ontario’s first diamond mine – near Attawapiskat. Exploration activity also reached historic levels in Northern Ontario over the last decade with exploration spending hitting over \$1 billion in 2011 (MNMD 2012b). Northern Ontario is also home to a globally significant mining supply and services cluster, which includes more than 500 small and medium sized enterprises (SMEs) and over 23,000 people creating and adapting technologies, products, and services for local, regional, national, and international mining markets. Mining innovation centres, like the Centre for Excellence in Mining Innovation (CEMI) in Sudbury, are vital to advancing research, innovation, and business start-ups in Northern Ontario (Hall 2015). In addition to this expertise, Northern Ontario is internationally recognized for its mine rescue training while the Toronto Stock Exchange (TSX) has become the global centre for mine financing. Ontario, and specifically Northern Ontario, matters in the worldwide mining industry.

There are a number of major stakeholders in the mineral sector. This includes prospectors, junior exploration companies, large mining firms, the provincial and federal governments, and Aboriginal communities. Surrounding these major stakeholders are industry associations (such as the Prospectors & Developers Association of Canada, Ontario Prospectors Association, and Ontario Mining Association), investors, environmental NGOs, Aboriginal political organizations, municipalities, cottage associations, hunting and trapping associations, and a variety of other interest groups.

Virtually all Crown land in Ontario is available for staking with specific exceptions: land previously staked; land designated as an Aboriginal reserve; land in an environmentally sensitive area; land in a provincial park or conservation area; or land that is part of a residential area (MNDM 2015e). The current requirements for staking land include having a valid prospector's licence and completing the Mining Act Awareness Program. The prospector then registers mining claims. As of April 1, 2013, any assessment work requires either an exploration plan for low-impact activities, or an exploration permit (MNDM 2015a) for more substantial developments.

## Mining and Aboriginal communities

In 2006, the Ontario government announced a *Mineral Development Strategy* that included provisions for developing “new, collaborative Aboriginal-mineral development engagement and effective consultation processes” (6). It also emphasized the government's commitment to “ensuring that mineral sector activities occur in a manner consistent with Ontario's consultation obligations related to Aboriginal and treaty rights” (11). This was largely in response to Supreme Court decisions, including the *Haida Nation* and *Taku River* (2004) decisions that reinforced Aboriginal rights and title and the Crown's duty to consult and accommodate.

Ironically, that same year, Platinex Inc., a junior mineral exploration company, filed a \$10 billion lawsuit against Kitchenuhmaykoosib Inninuwug (KI) First Nation, a remote community in the Far North. The company also requested an injunction to prevent members of the community from interfering with their exploration. KI filed a countersuit against the company and declared the *Mining Act* unconstitutional for its failure to recognize Aboriginal and treaty rights and absence of consultation protocols. This case reflected significant shortcomings in the relationship between the mining industry, the provincial government, and First Nation communities.

Several issues prompted this dispute. In 1999, Platinex secured mining claims and leases under the *Mining Act* on KI's traditional territory while KI was in the process of filing a Treaty Land Entitlement Claim (TLE) for additional reserve land. KI issued a moratorium on mineral development in 2001 while their TLE was being processed. While the company did try to obtain support for their exploration plans, the community reached a consensus against exploration on their traditional lands. Despite these actions, Platinex allegedly told investors that they had received verbal consent for “low impact exploration” and established a drilling camp in early 2006. KI established a peaceful protest camp near the site after the company refused to leave (Ariss with Cutfeet 2012; Siebenmorgan 2010).

As the case worked its way through the courts, six members of the community, including the Chief and four councillors, were charged with contempt of court and jailed for six months in 2008 for preventing exploration on their traditional territory. The KI Six served 68 days in jail before being released by a Court of Appeal decision. Platinex then launched a lawsuit against the Ontario government for \$70 million in damages over the province's failure to consult with KI. They dropped the court action in 2009 and gave up their claims on KI's traditional territory in exchange for \$5 million and a 2.5 percent smelter royalty for any future mine associated with those claims (Ariss with Cutfeet 2012; Siebenmorgan 2010). In 2012, the Ontario government withdrew land around KI from prospecting and paid another junior exploration company, God's Lake Resources, \$3.5 million for surrendering their mining lease and claims near KI (MNDM 2012d; Jamasmie 2012).



During the KI and Platinex dispute, the provincial government released a discussion paper entitled “Toward Developing an Aboriginal Consultation Approach for Mineral Sector Activities” (2007). That same year, the Environmental Commissioner of Ontario criticized the Ontario government for the lack of requirements in the *Mining Act* to consult with First Nations (Environmental Commissioner of Ontario 2007). In response, the premier made a commitment to modernize the *Mining Act*, a process that started in 2008 and is still underway. The major objective is to “modernize the way mining companies stake and explore their claims to be more respectful of private land owners and Aboriginal communities” (Ontario 2008, 6). Through the *Mining Act* modernization process, “Ontario became the first Canadian jurisdiction to recognize Aboriginal and Treaty rights in its mining legislation” (Grant 2013).

The *Mining Act* modernization process is unfolding in three phases. Phases I and II were implemented between 2011 and 2013 and included new requirements for exploration plans and permits, clarified requirements for Aboriginal consultation, initiated the Mining Act Awareness Program (MAAP) as a requirement for obtaining a prospector’s licence and for supervising exploration projects, and permitted the withdrawal of Aboriginal sites of cultural significance from staking. Phase III is being implemented in 2016 and 2017, and includes replacing ground and paper map staking with an online registration of mining claims and the creation of a Mining Land Administration System (MLAS) (MNDM 2016a).

The Crown has chosen to “delegate ‘procedural aspects’ of consultation to third party proponents” (MNDM 2012c, 3), based on the argument that they are in a better position to discuss their projects, address concerns, and adjust their plans in response to community input. As a result, the mining sequence currently unfolds in the following way. When a mining claim is recorded, MNDM provides written notification to the claim holder of Aboriginal communities nearby and provides the Aboriginal communities with information about the claim holder. Proponents and communities are encouraged to start building a relationship in these early stages. With regards to exploration plans, Ontario’s Ministry of Northern Development and Mines (MNDM) will circulate them to potentially affected Aboriginal communities and invite written concerns within three weeks.

In many instances, however, First Nation or Métis communities lack the local resources and professional capacity to respond adequately to the deadlines. For exploration permits, MNDM will circulate the application to potentially impacted Aboriginal communities. Proponents are expected to engage with communities and report to the government on their efforts. Permitting decisions will take into account ongoing monitoring and information sharing, specific mitigation measures, and financial components related to consultation and mitigation. Additional commitments might include provisions related to employment and training, goods and services, and future opportunities (MNDM 2012c).

*Ontario became the first Canadian jurisdiction to recognize Aboriginal and Treaty rights in its mining legislation.*

# BUILDING STRONGER RELATIONSHIPS

In 2008, the Ontario government created an Aboriginal Affairs Branch within the Mines and Minerals division of the Ministry of Northern Development and Mines to assist the Ministry in meeting consultation obligations and to facilitate relationships. MNDM has also introduced a number of other initiatives since 2008 to support Aboriginal engagement with the mineral sector. This includes training and information sessions on the mineral sector as well as support for individuals from First Nation communities to participate in workshops, conferences, and other mining-related events. Formal agreements were also created with the Union of Ontario Indians, Grand Council Treaty 3, the Algonquins of Ontario, the Matawa Tribal Council, Matawa First Nations Management, Nishnawbe Aski Nation, the Fort Frances Chiefs Secretariat, the Mushkegowuk Council, the Wabun Tribal Council, and the Métis Nation of Ontario to support capacity development related to mining, including hiring mineral advisers and coordinators, training in GIS and values mapping, and support for preparing community engagement guidelines. In addition to these efforts, technical tables with some Aboriginal organizations have been developed to exchange information, along with a three-year pilot Aboriginal Capacity Initiative (2012–2015) designed to assist Aboriginal communities with the new consultation requirements for exploration plans and permits and closure plans (MNDM 2008; 2009; 2010; 2011; 2012a; 2013; 2014; 2015c).

*Many Aboriginal communities take a proactive approach to engagement with the mineral sector.*

Industry associations also introduced a number of resources to educate companies in the mining industry. For example, the Prospectors & Developers Association of Canada (PDAC) created *e3 Plus: A Framework for Responsible Exploration*, which is focused on social responsibility, environmental stewardship, and health and safety. Resources include eight principles for responsible exploration, toolkits, and a community engagement guide. PDAC also

has an Aboriginal Affairs Program that provides research, policy, and outreach to support Aboriginal participation in the mining industry and a positive relationship between exploration and Aboriginal communities (PDAC 2016a; 2016b). Likewise, the Mining Industry Human Resources Council (MiHR) has a number of resources for Aboriginal engagement in mining including their *Mining Essentials* pre-employment training program for Aboriginal peoples (MiHR 2016). Junior exploration and mining companies have also created First Nations' advisory boards as well as Aboriginal affairs and community relations positions to promote corporate social responsibility and community engagement within their organizations. Some companies require all employees at their operations to take Aboriginal awareness training.

Many Aboriginal communities are also taking a proactive approach to engagement with the mineral sector. Anishinabek Nation, for example, has held community engagement sessions on mining to put forward recommendations on the *Mining Act* and to update communities on mining regulations (Anishinabek Nation 2009; 2011; 2015). Many communities have also created consultation protocols and lands and resources staff positions, and received training on the mining sequence and processes. Others have created economic development corporations (EDCs), joint ventures, and companies like New Post Constructors, a Taykwa Tagamou Nation company (New Post Constructors 2016) established to secure contracts at the Detour Lake mine. Another example is the Tahgaiwinini Technical and Environmental Services Group, created by Wahnapiitae First Nation to provide environmental

services to industry partners including expertise in geospatial analysis, environmental assessments, and regulatory permitting (Krackle 2015; Migneault 2014).

## Areas for improvement

However, a number of challenges still need to be addressed to strengthen the relationship between Aboriginal communities and other stakeholders in the mining sector in Northern Ontario. These observations arise from conversations with more than 30 professionals associated with the Northern Ontario mining sector, including Aboriginal representatives, mining and mining association officials, and civil servants with responsibilities in the area.

### Industry consultation with Indigenous communities

The top Northern priority is to bring Aboriginal people into the development process in a collaborative, mutually beneficial manner. The majority of industry proponents want to engage with communities. However, there is concern that the Crown's delegation of consultation to project proponents is blurring the Crown's duty to consult with industry's social licence to operate. Under the new system, the mining industry ends up shouldering the costs of consultation and much of the dissatisfaction communities have, which is focused on the Crown. A recent Fraser Institute report calls Ontario a laggard in issuing exploration permits and argues that the process offers less transparency and certainty (Jackson and Green 2016). This is largely related to the new permitting requirements under the *Mining Act*, with one mining company official stating "striving for clarity has resulted in complete incomprehensibility, impractical regulation, and misinterpretation of rights on all sides" (Jackson and Green 2015, 39).

*The top Northern priority is to bring Aboriginal people into the development process in a collaborative, mutually beneficial manner.*

Complicating matters more is the ambiguity surrounding consultation requirements (Bjorkman 2015), specifically with regards to exploration agreements. MNDM's approach at the exploration permitting stage states that arrangements should:

- be proportional to the nature, scale and duration of the project and its potential impacts;
- not place an excessive burden on the proponent or undermine the feasibility of the project; and
- be sufficiently transparent to satisfy MNDM's reporting requirements while also helping to manage expectations and bring a level of certainty and consistency to the field. (MNDM 2012c, 11)

Commitments might include ongoing monitoring and information sharing, specific measures to mitigate identified impacts, and financial components related to consultation and mitigation. Additional measures might include employment and training, purchasing goods and services from the community, and the identification of future opportunities like ongoing dialogue and IBA requirements.

In the majority of cases, exploration companies and communities are trying to build genuine relationships early and are determined to find arrangements that work. Good relations are, after all, in the interests of all parties. However, there is little consistency. Some companies are reportedly being asked to pay to gain community support (for instance, money per drill hole or a significant percentage of their exploration budgets). In one well-known example, Northern Superior Resources cancelled their exploration plans after they were allegedly asked to pay an "administration fee" that amounted to nearly 25 percent of their exploration spending in exchange for community approval (Newman 2015; Ross 2015c).

The challenges associated with distinguishing traditional territories and impacted communities is also affecting consultation processes (Thunder Bay Economic Development Commission 2013). Under the current system, a list of communities is sent to proponents by the provincial government. But on a number of occasions, additional interventions have been made to industry at various points in the mining sequence by First Nation communities not on the list who have traditional claims to the territory. Many Aboriginal communities are also understandably apprehensive with sharing traditional knowledge about their territories with both industry and government (Anishinabek Nation 2011).

### **Building Northern, Indigenous, and sector-wide capacity**

While questions about capacity are often directed at Aboriginal communities, capacity is a challenge for all stakeholders. Many Indigenous communities were not prepared for the number of consultation requests and lacked the resources, tools, and people to engage in a meaningful manner. In response, MNDM funded a number of mineral development adviser positions across Northern Ontario to work closely with Aboriginal tribal councils and communities. However, their focus is primarily on raising awareness by providing basic information about mineral exploration and the mining sequence. Likewise, MNDM has never had sufficient capacity to effectively plan and lead development in Northern Ontario and has never held substantial political importance at Queen's Park (Hall 2012). Likewise, the Aboriginal Relations Branch within the Ministry lacks the mandate, stature, and capacity to do consultation. On the industry side, junior exploration companies, which have limited financial resources and operate under strong pressures to produce substantial results, need to ensure that they have the capacity to effectively engage and consult with communities both in terms of financial resources and people with Aboriginal engagement expertise.

### **Understanding the importance of time to Northern partners**

All stakeholders operate on different timelines. Industry often lacks the luxury of time and feels the need to move quickly to produce reasonable profits and ensure that development proceeds appropriately. Government has its own timelines related to decision-making and political timing, including provincial and federal electoral cycles. Government matters of timing are also often related to the broader dynamics of the provincial economy versus the needs and economic realities of the North.

Aboriginal communities have different timelines that need to be understood and respected. For example, the importance of land cycles (for hunting, fishing and other on the land activities) need to be factored into meeting plans in a real and tangible way. Perhaps more importantly, Aboriginal communities have often been excluded from decisions impacting their traditional territories while dealing with the environmental impacts of resource development. As a result, many Aboriginal leaders are understandably suspicious about rapid decision-making processes. Proper consultation, as well as relationship and capacity building, requires significant investments in time and money.

*There is a feeling that the government is only engaging with Aboriginal communities now to facilitate resource extraction.*

### **Building trust and a shared future**

There is a significant lack of trust in many communities towards provincial and federal government decision-making. There is a general feeling with some of the key stakeholders included in this research that the government is only engaging with Aboriginal communities now to facilitate resource extraction and not to build long-term relationships or to address the deep social, cultural, and economic challenges in the North. Levels of trust and mistrust differ substantially; many communities have had little or no direct experience with the mining industry and appear to be responding to public criticism of the sector. False promises over economic and employment opportunities and misconceptions around the likelihood



of an exploration project becoming a mine have also led to negative perceptions towards the industry. There is a particular frustration with legacy sites, which are exploration and development locations with abandoned equipment and waste left on traditional land (see, for example, Porter 2012). This is further complicated by some local leaders who generate unrealistic expectations within their own communities regarding the mining sequence. This mistrust runs in all directions. There are built-in challenges, including the turn over of Indigenous governments (a function of band election rules) and a variety of political and communications challenges. Major resource development projects work when companies, governments, and Indigenous officials and communities work well together, share a common vision, and have sufficient trust to work through the inevitable differences and tensions that will arise over time.

### **Disagreement over the intent of the treaties and international conventions**

There is a fundamental disagreement over the intent of the treaties in Northern Ontario, specifically whether their purpose was to share the land or to cede and surrender the land and resources to the Crown. Many Aboriginal communities also insist on the application of “free, prior, and informed consent” at all points in the mining sequence and believe that this is both their political and legal right. This position, which is not accepted formally by governments, would require receiving consent from First Nations before entering their traditional territory to stake claims. For mining firms and governments, the assertions about free, prior, and informed consent add to the uncertainty and somewhat dampens industry enthusiasm. While the new mining act encourages early consultation with Aboriginal communities, it is only required for exploration activities.

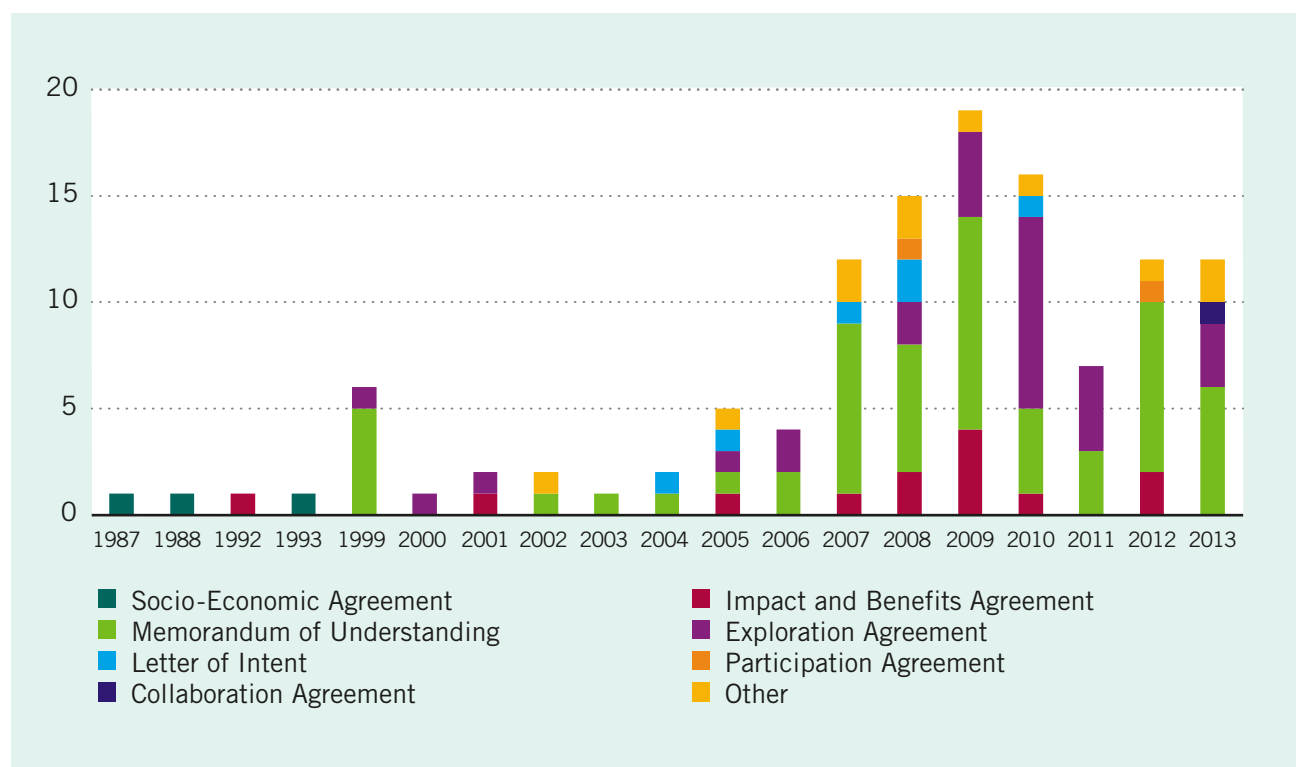
Significant progress has been made, however, in removing sites of Aboriginal cultural significance from staking and discussing land use through the broader Far North land use planning initiative. While consultation is a start, Aboriginal communities want the right to say no. These communities believe, based on the *United Nations Declaration on the Rights of Indigenous Peoples* (UNDRIP) (2008), Supreme Court decisions, and Aboriginal requirements, that they have a veto on future developments. This position, however, is not official policy for the Government of Ontario or Government of Canada. For example, the Government of Canada clarified in 2016 that UNDRIP would not be adopted directly as Canadian law in 2016, despite stating in 2015 that it would be key to Canadian policy. In April 2017, the government moved back toward its original position, although the precise plans remain unclear. The different perspectives on the matter of free, prior, and informed consent, which emerges from UNDRIP, add to the uncertainty in the sector and across the region.

# UNDERSTANDING RESOURCE DEVELOPMENT AGREEMENTS IN NORTHERN ONTARIO

Agreements between mining companies and Aboriginal communities first emerged in Ontario in 1987.<sup>1</sup> The Windigo Tribal Council and several of its member First Nations, the provincial and federal governments, and the mining companies responsible for the Dona Lake, Golden Patricia, and Musselwhite mines signed a series of agreements in the late 1980s and early 1990s. These early agreements included provisions for employment and contracting, traditional uses, environmental management, and compensation for harvesters impacted by these mining operations (Doelle 1992; Windigo First Nations Council 2009).

Starting in 2007, the number of agreements between the mining industry and Aboriginal communities increased significantly (see chart 1).

**Chart 1:** Aboriginal agreements with the mining sector in Northern Ontario, 1987–2013



Source: Natural Resources Canada 2013.

Note: It is difficult to differentiate between these various agreements, some of which are extensions or elaboration of earlier agreements.

Over 93 agreements have been signed since 2007, compared to 27 agreements signed between 1987 and 2006. There are several reasons for this increase. First, the boom in mineral prices led to histor-

ic levels of exploration in the Far North. Second, the need for a *social licence*, which is implicit or explicit community support for local mining activity, to operate was firmly established in the mining industry with its corporate social responsibility and in project approval processes. These steps were undertaken not only to gain community support for development but to secure the approval of investors and governments. Third, a large part of the provincial mineral development strategy and the subsequent modernization of the *Mining Act* has focused on Aboriginal engagement and meeting its constitutional obligations for consultation. Governments and industry have been drawn closer to Indigenous expectations, if only for pragmatic reasons associated with getting projects approved.

There are various types of resource development agreements being used in Ontario throughout the mining sequence. This includes exploration agreements, memorandums of understanding (MOUs), and letters of intent in early and more advanced stages of exploration. They often outline provisions for engagement, consultation, and communication. Some also include requirements for employment, joint ventures, procurement, and monetary contributions. At the mine development stage, impact and benefit agreements, cooperation agreements, and collaboration agreements are being used to secure consent and participation. Components of these agreements often contain employment targets, provisions for education and training, economic criteria like resource revenue sharing or royalty provisions, opportunities for procurement and joint ventures, environmental monitoring, and increasingly, community and social development (Priority Project on Sustainable Resource Development 2013; Kielland 2015).

Recent examples in Northern Ontario include the agreements signed between Detour Gold and Wahgoshig First Nation, Moose Cree First Nation, Taykwa Tagamou Nation, and the Métis Nation of Ontario (Detour Gold 2015) as well as the IBA signed between Vale and Sagamok Anishnawbek First Nation (Northern Ontario Business 2012), and the agreements signed between New Gold and the Rainy River First Nations, Naicatchewenin First Nations, and the Métis Nation of Ontario (Northern Ontario Business 2015). These agreements have brought some employment and training opportunities, scholarships and bursary programs, and new business development through joint ventures and procurement. For example, during the construction of Detour Lake Mine (a site close to commercial services, labour, and mining expertise in the Timmins area), one company official noted that Aboriginal businesses contributed more than \$400 million worth of work. Detour also encouraged major contractors to subcontract work to local businesses and in some instances joint ventures were created like Detour Lake Constructors, which was formed by Moose Cree, Wahgoshig, Taykwa Tagamou, and Peter Kiewit Infrastructure to construct the transmission line. Since starting operations, the agreements ensure employment opportunities, skills training, and shares in Detour Gold Corporation (Phelan 2014).

## Lessons from resource development agreements

The consensus among government, industry, and Aboriginal stakeholders is that many communities are not currently ready for intense resource development. In particular, communities lack large pools of skilled labour with many individuals lacking the proper education and professional qualifications. This is further complicated by mental health and addiction challenges that prevent some individuals from taking advantage of employment opportunities. This lack of community readiness is in many ways a sign of long-term government failure and community shortcomings, particularly related to capacity development. Government simply waited too long to address challenges in these communities, especially those related to education and social development. At the same time, no jurisdiction in Canada has yet to identify a policy and investment framework that will ensure greatly improved economic returns from resource development and the much-needed societal transformation among Northern Indigenous peoples.

*The lack of community readiness is in many ways a sign of long-term government failure.*

Communication can also be a significant challenge associated with resource development agreements. Protocols need to be in place to ensure that community officials tasked with coordinating implementation are communicating effectively with their communities on outcomes. Likewise, companies must continue to engage and communicate with communities on implementation and evaluation. Related to this, there is often a significant “implementation gap” between what is contained in resource development agreements and the reality that unfolds on the ground. Various aspects are never or weakly implemented, in many instances because of a lack of coordination and community readiness. There can also be difficulties with the handoff between junior exploration companies and larger mining companies, without sufficient regional oversight of the process. This implementation gap breeds frustration, affects trust, and causes breakdowns in relationships between Indigenous peoples, mining companies, and government agencies. Finally, many resource development agreements are never made public, for apparently legitimate commercial reasons. However, this lack of regulation and transparency can impact their enforceability and can affect community understanding of corporate and community responsibilities. This is particularly a concern if community readiness and communication are problematic.

Mining activity, however, is not tied solely to Indigenous preparedness, although this is an increasingly crucial element in the development process. Other considerations – exploration results, development costs, and global market conditions – are also determinative. Commercial opportunities, from the availability of development capacity through to prices and international demand for minerals, are cyclical and uncertain. Mining companies, particularly junior mining firms that do most of the exploratory work, do not schedule their work according to Northern political, economic, and social cycles. Some Aboriginal communities, coping with real and serious social and economic challenges, therefore have difficulties matching their requirements, most of which are urgent, to the business cycles and commercial requirements of the mining industry.

## A deeper look at current agreements

### Lessons from De Beers

Victor Mine is located roughly 90 kilometres from Attawapiskat First Nation and is located on the traditional territory of the Mushkegowuk Cree. Between 2005 and 2009, IBAs were signed between De Beers and Attawapiskat, Kashechewan, Fort Albany, and Moose Cree First Nations. At the time, entering into these agreements went beyond the regulatory requirements, which were primarily focused on environmental impacts (Siebermorgan 2010). These IBAs include assistance for education and training, hiring preferences for Aboriginal peoples from the communities, bid preferences for First Nations businesses, financial contributions for social and economic development, and labour clauses to permit cultural breaks for Aboriginal employees to pursue traditional practices like hunting (Priority Project on Sustainable Resource Development 2013). De Beers also pays up to \$2 million a year in royalties to Attawapiskat, which is split between a trust fund and community development. In 2015, this community trust fund held \$13 million while nearly 40 percent of the De Beers labour force was Aboriginal, mostly from Attawapiskat and the surrounding communities (Talaga 2015).

A number of issues emerged during the consultation process including a lack of trust, misunderstandings about the project, and issues with communications, especially with regards to the absence of applicable words in the local dialect (Fowler 2008). De Beers started the process early with Attawapiskat. However, the additional IBAs were initiated after other communities established a blockade over concerns with consultation. There was also significant tension between the communities over



who would and should benefit as well as debate within the communities over the environmental impacts (McCarthy, Whitelaw, and Tsuji 2010; Siebermorgan 2010).

It was important, however, for De Beers to be in the community and the company gradually built relationships (Fowler 2008). They held hundreds of meetings in the communities (Stewart 2009) and the VP of Aboriginal Affairs and Sustainability stated at the time, “It was very important to ensure that we told people what was planned, did what we said we would do, and could report back and demonstrate that this had happened” (Fowler 2008, 25). Engagement was also important in order to address concerns as early as possible (Fowler 2008).

Implementation has been a real challenge. The communities were, in many crucial respects, not ready to take advantage of the opportunities. Many local individuals lacked the basic education and training requirements to take advantage of the employment and economic opportunities (Priority Project on Sustainable Resource Development 2013; Siebermorgan 2010). A lack of communication and understanding of the terms of the IBA between Chief and council and community members has also been an issue (Siebermorgan 2010). There have also been several blockades on the ice road leading to Victor Mine, including one in 2013 that resulted in a court injunction against the First Nations (CBC News 2013). This blockade was reportedly caused by personal grievances over employment, compensation for lost traplines, environmental concerns, and concerns related to housing (Barrera 2013).

The Victor Mine demonstrates the fundamental challenges with meeting all of the industry, government, and Indigenous expectations surrounding mining. One former Chief stated, “De Beers Canada’s diamond mine is the first and only opportunity our community has ever had to break free of our soul-destroying poverty” (Sudol 2008). This statement is accurate; there are few other market-oriented economic opportunities in the region and none with the scale, value, and employment possibilities of a large-scale mine operated by a sophisticated global mining company. And the mining companies, regardless of how much they want to be constructive and engaged partners, are not responsible for the decades-long challenges associated with poverty, marginalization, and the personal and collective crises in the North.

But mining companies are often the only ones directly in the North that are accessible to First Nations and with the financial resources needed to deal with real and desperate local concerns. There is a basic reality here that argues in favour of placing a higher priority on government involvement. Exploration and mineral development are extremely risky and proceed on the basis of anticipated productivity and global prices and demand for minerals. Unlike mining companies, which operate each project independently, governments have the capacity to pool risk and to transfer returns from multiple projects.

For example, the Victor mine brought employment and business opportunities. But the Victor mine did not, and could not, address the challenges associated with social well-being, housing, and water, to say nothing of other community political and societal needs. As this instance demonstrates, mining can be part of the solution for Indigenous economic opportunities in the Far North, but it can in no way overcome past injustices, contemporary social needs, and the long-term structural problems in isolated Indigenous communities.

### **Community readiness: Wabun Tribal Council**

The approach used by Wabun Tribal Council (WTC) is seen by many in industry, government, and other First Nations as one of the best examples in Ontario for community engagement and readiness in the mining sector. WTC represents Brunswick House, Chapleau Ojibwe, Flying Post, Matachewan,

*The Victor Mine demonstrates the fundamental challenges with meeting all of the industry, government, and Indigenous expectations surrounding mining.*

Mattagami, and Beaverhouse, all near Timmins (and therefore operating in the “Near North” as opposed to the “Far North”). With WTC, resource development agreements are not optional. The Tribal Council has negotiated roughly 50 MOUs and exploration agreements and at least 5 IBAs over the last 10 years. They started with mapping their traditional territories, which includes economic boundaries and buffer zones that recognize overlapping territories between communities. WTC also reached a consensus with communities that if a project is located in a buffer zone, those communities will negotiate together on a single resource development agreement. WTC has also worked out a funding formula and revenue allocation with its communities. They have a process that is outlined to project proponents in the early stages of exploration, including initial exploration agreements that are often negotiated in less than a day (Intergovernmental Working Group on the Mineral Industry 2014).

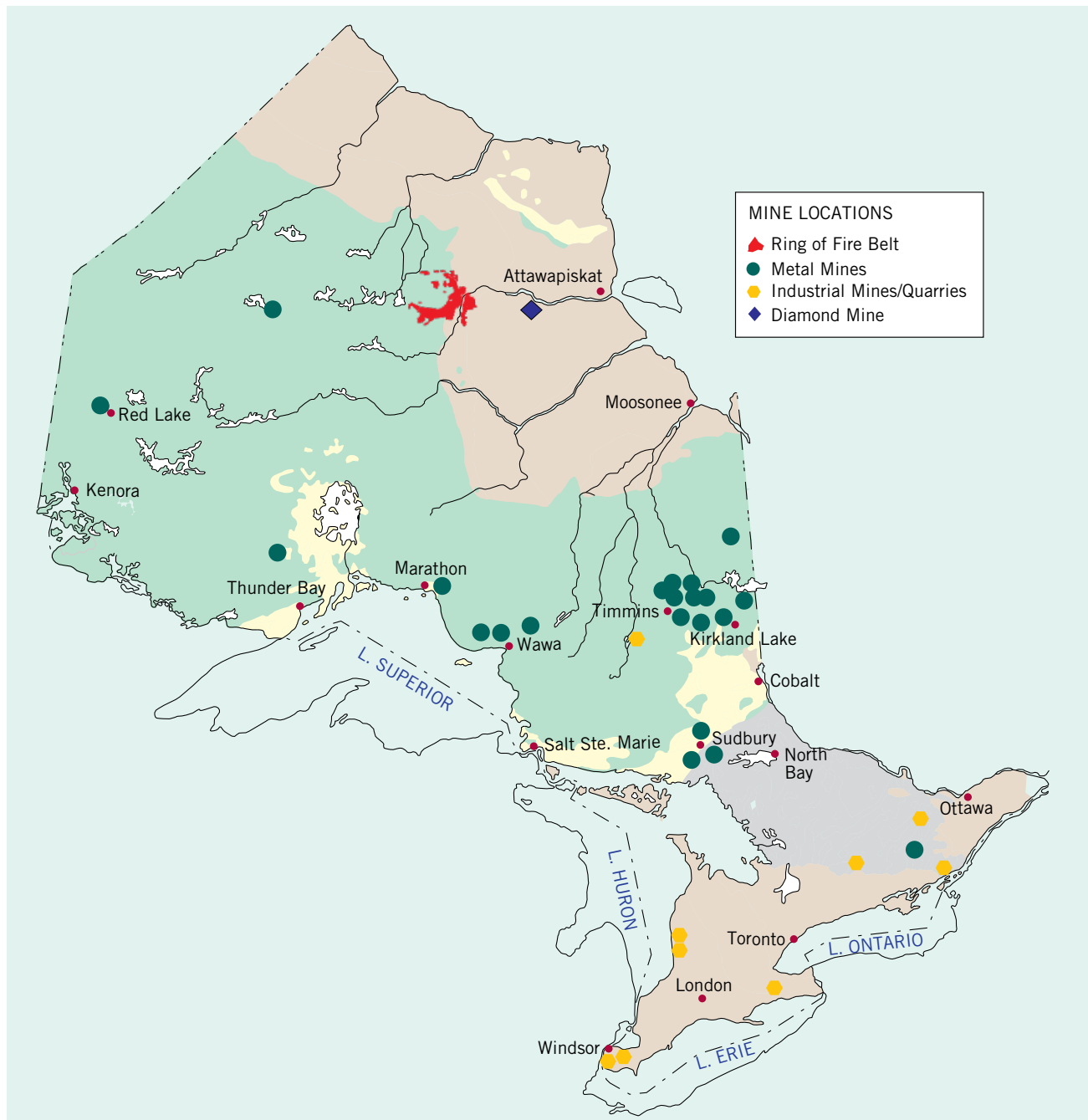
Elements of their exploration agreement includes “the allocation of economic benefits, requirements for consultation and engagement, considerations regarding cultural activities, a successor clause that requires the EA to be transferred to the new company if claims are sold, and a commitment to engage in and fund IBA negotiations if the exploration project develops into a mine project” (Intergovernmental Working Group on the Mineral Industry 2014, 28). The IBAs also include opportunities for First Nation businesses like bid preferences and engagement in the evaluation of tenders (Phelan 2015). More importantly, to avoid politics, they ensure that negotiations only occur between the company and members of the negotiating team. To counteract the implementation gap, each IBA has an IBA committee and IBA Coordinator who spends most of their time at the mine site promoting the terms of the IBA (Intergovernmental Working Group on the Mineral Industry 2014).

## THE RING OF FIRE

The Ring of Fire is a large mineral region located over 500 kilometres northeast of Thunder Bay in the James Bay Lowlands in the Far North (see page 19, map 1). Its discovery has been described as one of the most important mineral finds in Ontario in over a century (Onley 2010). Early estimates suggested that the Ring of Fire would generate over \$25 billion in economic activity, creating thousands of jobs across the province (Ontario Chamber of Commerce 2014; 2015).<sup>2</sup> Exploration in the Ring of Fire intensified in 2003 and by 2010 over 31,000 claim units were held by over 30 companies. Major mineral discoveries to date include chromite, nickel, zinc, gold, and kimberlite (related to diamonds). The chromite potential has generated the most attention because of its value as an alloy in the production of stainless steel and because there is no other significant source of high-grade chromite in North America (MNDM 2015d).

Until 2013, Cliffs Natural Resources was a major claim holder in the region. However, they suspended work that year citing a number of concerns including the lack of clarity surrounding First Nations negotiations (Rees 2013) and difficulties working with local communities. Cliffs had been planning an open pit mine and concentrator in the Far North, an all-weather road from Nakina, and a refinery in Capreol. Their properties were acquired by Noront in 2015. There are currently 20 companies and individuals holding claims in the Ring of Fire including Noront Resources (the largest owner, with roughly 65 percent of the claims), KWG Resources, MacDonald Mines, and Bold Ventures. In June 2015, the provincial government approved the terms of reference for Noront’s Eagle’s Nest Mine, which allows the company to move forward with their EA process (Noront 2015). Initial plans for Noront include an underground mine, underground concentrator, and an east-west road corridor (MNDM 2015d).

**Map 1: The Ring of Fire and other mine locations in Ontario**



Adapted from: Ontario Mining Association, *Mining Life*

The Ring of Fire is located in a region that has no infrastructure or development. The closest First Nation communities lack year-round road access and face extreme socioeconomic challenges, including alarmingly high suicide rates, poor educational performance, and serious community suffering. Whether these communities will be ready to take full advantage of the economic benefits is a significant concern (Aboriginal Affairs 2013 and McKie 2013). There are also substantial fears about the cumulative environmental impacts of development on the James Bay lowlands, which is the third largest wetland in the world (Environmental Commissioner of Ontario 2013; Burkhardt, Rosenbluth,

*The Ring of Fire is located in a region that has no infrastructure or development.*

and Boan; Chetkiewicz and Lintner 2014). Due to these complexities and the economic potential, the provincial government created the Ring of Fire Secretariat in 2010 with an Assistant Deputy Minister to coordinate infrastructure, economic development, the EA process, skills and capacity building, and Aboriginal engagement and consultation (MNMD 2011; 2012c). However, a recent report by the Auditor General (2015) criticized the Ontario government for having no detailed plan or timelines in place to develop the Ring of Fire, a concern that also features prominently in provincial plans for economic development (Hall 2016b).

To date, provincial and federal government efforts have largely focused on building community readiness and negotiations with the nine Matawa First Nations communities (Aroland, Constance Lake, Eabametoong, Ginoogaming, Long Lake #58, Marten Falls, Neskantaga, Nibinamik, and Webequie). Capacity building initiatives in Matawa funded by the provincial government include funding support to hire Community Communications Liaison Officers; support to hire a Mineral Development Information and Support Officer in the Matawa Tribal Council; support for over 300 individuals to participate

in community-based prescription drug abuse and misuse treatment programs; support for Aboriginal Children and Youth Mental Health Workers; financing for well-being studies in Eabametoong and Webequie; and funding for over 1950 people to take life skills training, General Educational Development, and skills training (MNMD 2015d).

## Barriers to developing the Ring of Fire

Despite its huge economic potential, the Ring of Fire has been slow to develop largely because of the absence of agreements with Aboriginal communities in the region and the serious problems associated with regional infrastructure (Ontario Chamber of Commerce 2015). Both Aboriginal and industry officials have been extremely critical about the poor management of the region by the Government of Ontario, the absence of a coordinated federal-provincial strategy for regional infrastructure development, and a fundamental gap between political rhetoric about the Ring of Fire and sustained and strategic investments in the Far North. Put simply, in the opinion of regional participants, the Ring of Fire requires real and sustained provincial leadership that rises above specific cases and provides a clear roadmap for the development of a region that could generate substantial Northern, provincial, and national economic opportunity.

## The need for agreements with Aboriginal communities

Throughout 2011, the provincial government negotiated a series of tri-partite funding agreements between the federal government, Cliffs and Noront, and affected First Nation communities to assist them with capacity to effectively participate in Ring of Fire discussions (MNMD 2012c). Throughout 2012, First Nation communities grew increasingly concerned over what they regarded as “aggressive timetables” to develop in the region without proper consultation. In response, Neskantaga First Nation brought forward a legal challenge against Cliffs and the province (Groves 2012). Neskantaga, Aroland, Constance Lake, Ginoogaming, Longlake #58, and Nibinamik also issued moratoriums on mining and served notice to companies that they would be evicted unless a government-to-government process was established to address concerns regarding consultation, social needs, and environmental impacts (Groves 2012; Net News Ledger 2012).

In March 2013, Chiefs from the Matawa First Nations (listed above) submitted a proposal for a negotiated regional process that commenced in July of that year (MNMD 2013). The Matawa communities



hired former Ontario Premier and former Liberal Member of Parliament Bob Rae, while the provincial government is represented by former Supreme Court of Canada Justice Frank Iacobucci. In March 2014, the regional framework agreement was signed, which defines the principles of consultation and the major objectives that will guide negotiations (see table 1).

**Table 1: Regional framework agreement principles**

<b>Government-to-government</b>	Recognition of the government-to-government relationship among the parties, with the willingness and commitment to strengthen that relationship, including through respect for and good faith intention to reconcile differences between the parties.
<b>Existing rights</b>	Commitment to respect the existing legal and constitutional rights of all parties.
<b>Positive and long-term relationship</b>	Willingness and commitment to forge a positive and long-term relationship based on the principles herein, recognizing the past and seeking to build a more positive future.
<b>Mutual respect</b>	Willingness and commitment to hear each other and to act honourably and in good faith toward each other, including through meaningful appreciation of the parties' perspectives, constraints, values, and culture.
<b>Mutual understanding</b>	Willingness and commitment to understand each other's cultures, responsibilities, and limitations.
<b>Meaningful participation</b>	Willingness and commitment to create and implement mechanisms that achieve culturally sensitive, inclusive, and meaningful opportunities for the individual First Nation communities to participate in matters related to mineral development in the area known as the Ring of Fire in a manner which is respectful of constitutional rights.
<b>Mutual accountability</b>	Willingness and commitment to create and implement mechanisms to ensure that the principles, objectives, and other provisions of this regional framework are carried out in their spirit and intent.
<b>Importance of the federal government's role</b>	Acknowledgement that strategies to appropriately engage the federal government will need to be developed and implemented in consideration of: the federal government's ongoing constitutional and other obligations regarding the individual First Nation communities; the need to improve social and economic conditions for the individual First Nation communities; the need for the federal government to contribute its fair share to support environmentally responsible development in the area known as the Ring of Fire; and the federal government's central role in many other matters addressed in this regional framework, or in other related agreement(s).
<b>Other Aboriginal communities</b>	Acknowledgement that this regional framework and any related agreement(s) may have implications for other communities, which will need to be appropriately considered.
<b>Third parties</b>	Recognition that this regional framework and any related agreement(s) may have implications for third parties, which will need to be appropriately considered.

This includes facilitating the negotiation of one or more agreements related to environmental monitoring, industrial and regional infrastructure planning, improving community social and economic

development support, and the equitable sharing of economic benefits (Regional Framework Agreement 2014). Over \$6.9 million has been spent on negotiations thus far with little publicly available information to report about progress and no timelines for completion, a reality that attracted criticism from the Auditor General of Ontario (Office of the Auditor General of Ontario 2015).

*Over \$6.9 million has been spent on negotiations thus far with little public information about progress and no timelines for completion.*

There have been a number of major challenges in the way of completing these negotiations. This includes finding the right balance between community readiness and industry timelines. Industry, knowing that the commercial opportunities may be transitory and that the costs of delay fall disproportionately on the companies, wants to move forward quickly. The communities, aware of past problems, want to understand the impacts. They want to be ready to capitalize on opportunities, and they insist on being consulted properly (Freeman 2013). The negotiation process is also time intensive and includes the creation of a community foundation, the establishment of technical teams and advisers, and a main negotiating table (Matawa First Nations 2014). In the case of the community foundation, Chiefs take direction from their communities and consensus is needed to move forward. This is not a simple process. There are nine communities at the table with nine different

experiences and nine different timelines. While all stakeholders agree that this process should not be rushed, there is frustration on all sides with the lack of reporting and uncertain timelines. This affects the ability of companies to raise investment capital and to plan their operations accordingly (Ontario Chamber of Commerce 2015; Jackson and Green 2015).

Perhaps one of the largest impediments is the continuing difficulties with the relationship between the Crown and Aboriginal communities. Many First Nations in the region feel that the spirit and intent of Treaty 9 has been ignored, that their laws have been violated, and that their peoples have been disrespected and neglected (Wabasse 2014). This pervasive understanding creates a weak foundation for going forward. Discussions during the negotiations have often shifted to issues with Treaty

9, extending far beyond the specifics of the Ring of Fire. For First Nations, who lack other opportunities to raise Treaty 9 issues that are critical to their communities, the Ring of Fire negotiations provide a real occasion to draw attention to the most fundamental issues facing their people. Government officials, who typically have specific duties and responsibilities, rarely have the authority or mandate to incorporate Treaty 9 issues into economic development discussions.

*Government and corporate interest has emerged only because of imminent resource development.*

While the provincial and federal governments struggle with jurisdictional responsibilities (Morrow 2013), and companies appropriately focus on responsibility for infrastructure development in the region, First Nations have a different priority. As Chief Wabasse (2014) explains: “There is only one road to the Ring of Fire – it is the road that leads to respect and recognition for Webequie and our Indigenous neighbours. It is the road to respect and recognition

of our laws, our Treaty and our inherent right to self-determination.” As with all major projects, communities use approval processes and negotiations to promote broader and longer-term regional interests. But First Nations make the point – and not just in the Ring of Fire – that government and corporate interest has emerged only because of imminent resource development. The governments of Ontario and Canada, representing much larger populations and broader economic objectives, have to respect and acknowledge local and regional needs but also have to address the expectations of provincial and federal constituencies. First Nations have every intention of using the power rooted in economic priorities to get attention for, and resolution of, their long-standing concerns and needs. That the three major participant groups have fundamentally different priorities and agendas speaks

to the inherent challenges of a regional planning process and the commercially-sensitive resolution of outstanding issues.

There are also a number of specific questions surrounding the provincial government's regional process. First is the wider consultation scope for industry, which includes additional First Nation communities outside the Matawa First Nations (Ross 2015a). It is not clear whether provincial negotiations need to occur with those communities and companies do not know, with certainty, that the regional framework agreement requires more extensive industry consultations. The regional framework is also being negotiated between the province and the Matawa communities while the federal government and industry are absent from that table. However, decisions made will certainly require multi-jurisdictional collaboration and industry support.

## Developing Far North infrastructure

In 2013, the province of Ontario announced it would create a Ring of Fire Infrastructure Development Corporation (ROFIDC) with representation from industry, First Nations, and the provincial and federal governments. The ROFIDC would facilitate this multi-stakeholder partnership and guide decision-making and investments in infrastructure. In August 2014, an interim board, appointed to meet political timelines, was created consisting of senior provincial bureaucrats. There was no representation from industry, the federal government, or First Nation communities in the Far North (Porter 2014). This is still the case. Many of the Matawa communities were extremely frustrated by this decision. At the time, the Chief of Webequie argued "Our community members are upset. We agreed as a community to negotiate with Ontario in good faith. This can't happen if Ontario makes decisions without our involvement" (Smith 2014).

The province has committed up to \$1 billion for strategic transportation in the Ring of Fire. However, there has been no infrastructure developed to date and plans remain up in the air. Infrastructure discussions have largely been dominated by industry and First Nation communities while the provincial government has remained silent. Different scenarios include an east-west road linking the Ring of Fire to Pickle Lake, which would also connect some of the remote communities (Sudol 2016). Other options include a north-south road, which was originally proposed by Cliffs, and a north-south railway, supported by KWG Resources, both running between Nakina and the Ring of Fire (Millette and Commito 2015). KWG recently signed an MOU with a Chinese rail design company to proceed with a feasibility study on the design and financing of the railway (KWG Resources 2016).

In early 2015, the federal and provincial governments did announce nearly \$732,000 in funding for a regional community service corridor study in four remote Matawa communities (Webequie, Nibinamik, Neskantaga, and Eabametoong). This study will include GIS mapping of the terrain and extensive consultation with these communities. It will also estimate the costs and feasibility of moving freight and people using a number of different route scenarios (Ross 2015b). The ROFIDC is also working on a series of technical reports on infrastructure, First Nation partnership models, and regional economic development impacts (Ross 2015a). This preliminary work is happening over a decade after the Ring of Fire was first discovered, demonstrating a fundamental problem with the Ontario resource development environment.

Conversations with Ring of Fire participants demonstrate the perception that the Government of Ontario, eager to avoid conflict with First Nations and industry, is waiting for the private sector to select

*Key preliminaries are happening over a decade after the discovery of the Ring of Fire, demonstrating a fundamental problem with the Ontario resource development environment.*

the route. The widely held perception is that government will respond to industry leadership, which they hope is influenced by community consultations. It is also clear that government is unwilling to do anything until they have the agreement with First Nations, for obvious political reasons. Governments want to be seen as doing their due diligence with First Nations. As of 2017, the government has not committed to a particular method of transportation or choice of route. The lack of a resolution on these key points adds to uncertainty and frustrations across the North.

As if to demonstrate the emotions surrounding the Ring of Fire, Premier Kathleen Wynne issued a statement on 10 May 2017, asking the chiefs of Northern Ontario not to “squander” the 3-year-old promise to commit \$1 billion to construct a road into the region. The Premier did not walk away from the initiative but rather – using an approach that Prime Minister Stephen Harper used in the past – threatened to work directly with those political leaders and communities that wanted to deal. The frustration was evident in her comment that “We need to see meaningful progress in weeks, not months” and her clear effort to jump-start the development process. These suggestions, which some see as a “divide and conquer” approach, reflects the Government of Ontario’s determination to get development underway.

That the resolution of the infrastructure initiative has been bogged down in multi-tier negotiations reveals the complexity and intensity of concerns about the Ring of Fire. Governments and companies want action. First Nations want assurances and a greater measure of control over the future of the region. That Premier Wynne is engaging personally is a sign of the high priority assigned to the Ring of Fire. That the intervention threatens to raise the stakes and cause further concerns among the Indigenous communities is a striking reminder of the work that remains to be done.

## RECOMMENDATIONS

Despite these challenges in Northern Ontario, the ways and means exist to overcome the conflicts, resistance, and uncertainty. Drawing on examples from across the country, Indigenous communities, mining companies, and governments can, if the shared will exists, create viable solutions that permit development to proceed. Getting there requires acknowledgement of the problems of the past and a commitment by all concerned to be fair and accommodating, and to be respectful of the renewed legal and political authority of Indigenous peoples.

Northern Ontario likely has billions of dollars worth of undeveloped resources and could be an engine for growth across Ontario and Canada. Indigenous communities have the legal and treaty right to shape the timing and nature of this economic activity. However, fairness toward the companies is also essential. These firms invest heavily in a highly speculative and volatile environment and their commercial interests need to be valued and protected in order to hold and attract financial interest. Finally, global demand for Northern Ontario resources is not assured in the short to medium term. If conditions in Northern Ontario remain unfavourable to development, capital and corporate interest will go elsewhere, potentially creating long-term concerns about investing in the region.

The provincial government needs to lead consultations as opposed to delegating the process to industry proponents. Consultation processes are emerging across the country, and while there are differences between provinces and territories, there are best practices that can offer insights for North-



ern Ontario. For example, the Alberta government created an Aboriginal Consultation Office to provide consultation management services. They also developed guidelines for proponents and levels of consultation based on impacts (Government of Alberta 2016a; 2016b). In Northern Quebec, the recent *Agreement on Governance in the Eeyou Istchee James Bay Territory* (2012) provides the Cree government with much more control over decision-making on their traditional territories, which adds clarity to the mining process and consultation requirements. In Ontario, the Crown should take a stronger and more prominent role in assessing, managing, and advising consultations by sharing knowledge, expertise, and resources throughout the consultation process. With the proper resources, the Aboriginal Affairs Unit within MNDM could lead this process.

Working with First Nations and industry, the Government of Ontario needs a more robust, clear, and early stage permitting process that includes substantial emphasis on securing First Nations participation. A clear government statement about the efficacy of permitting and a shared commitment to appropriate engagement would set the context for subsequent relationships. One potential starting point was outlined in a preliminary report produced by a mining company active in the North. The report called on the government to define general impacts associated with resource projects and to identify a community or region-specific process designed to determine the specific impacts associated with individual projects. Furthermore, the report argues Indigenous communities in the North have to be seen as full partners in development. In particular, this includes the development of appropriate government resource revenue sharing arrangements and more precision on the compensation arrangements expected between corporate proponents and communities, which can be covered in impact and benefit agreements or collaboration accords. Importantly, Indigenous communities, companies, and governments all agree on a specific priority: the provision of clear and structured pathways that are understood and supported by all participants.

*Consultation processes are emerging across the country, and while there are differences between provinces and territories, there are best practices that can offer insights for Northern Ontario.*

Related to consultation, the governments' priority list in Northern Ontario has to include a more precise definition of Indigenous rights. Indigenous communities know that they have substantially expanded rights and should be able to benefit from these rights. At present, there is too much uncertainty about the meaning of this expanded authority. Many Indigenous communities believe the *United Nations Declaration on the Rights of Indigenous Peoples* applies, as written, in their territories. The Government of Canada and the Government of Ontario do not agree at present with the Indigenous interpretation of "free, prior, and informed consent." The gap in understanding and expectations traps all stakeholders in an unresolved legal mess, and has to be resolved so that all parties understand the extent and restrictions of Indigenous rights (Fravel and Coates 2016). Ideally, the Government of Canada's current review of its judicial relations with Indigenous peoples will result in a new declaration about the relevance of historic treaties and a new nation-to-nation approach to updating and empowering these treaties.

At the local level, communities should indicate at the pre-exploratory phase their openness to mining activity on their territory to demonstrate their willingness to proceed with further stages. Conversely, communities that are intractably opposed to development on their territories would send a clear statement about their limits on engagement. Providing these initial statements would also allow governments and companies to identify overlapping territorial claims and disagreement between communities. This information is crucial for industry and for government. For example, a number of Aboriginal communities across the country are creating resource policies that outline provisions for meaningful consultation, environmental stewardship, and economic benefits (such as Northern Secwepemc te Qelmucw, BC). Ideally these policies would be created by a tribal council and include

all communities within that council (for an example, see earlier discussion on the Wabun Tribal Council approach).

Consideration should be given to creating a formal mining advisory council. For example, a Mining Advisory Council was created by the Government of Manitoba in 2013. The council is led by the Minister of Mineral Resources with representation from Chiefs and industry executives. It also includes working groups with First Nations, industry, and provincial government representatives (Natural Resources Canada 2014). While the Minister of Northern Development and Mines has a similar council, it has had limited success, according to key stakeholders, due to two major issues. The first is a lack of consistency in First Nations participation. While it is easy to understand

the many pressures on Aboriginal leaders and while it is imperative that they receive the training and resources to engage properly, Ontario must find a way to get First Nations at the table consistently. The second issue is parallel meetings – government and First Nations; industry and First Nations; government and industry – which is understandable based on collective distrust, but this needs to be fixed. The province has to establish regulatory leadership that defines stakeholder responsibilities and is credible and sustainable. Put more directly, the mandate has to be concise, funding must be adequate, expectations must be made clear to all participants, and the civil service has to be delinked from provincial politics.

*The Government of Ontario needs a more robust, clear, and early stage permitting process.*

As government and business adopt new approaches, as is increasingly commonplace, it is important that First Nation and Métis communities respond in kind. In particular, consistent engagement, following agreed-upon processes

and using accepted structures, is essential. Indigenous peoples have often been frustrated by inconsistent behavior by government and industry – but the reverse is also true. If Indigenous communities change the rules, alter expectations, or start to work outside established processes, they could easily find government and company officials walking away from the negotiations. Successful 21<sup>st</sup> century resource development requires collaboration and partnership. That in turn needs good will and consistency on all sides.

Local politics need to be removed from the negotiation process, but not from the broader issues of policy-making and priority setting. All Northerners have to be involved, alongside provincial and federal representatives, in shaping the priorities for Northern Ontario. But once these parameters have been set, it is vital that the focus turn to Indigenous-corporate relationships to work on the practical and detailed elements. Many communities need to create an economic development corporation or expand the operations of existing EDCs to handle joint ventures and other initiatives rather than continuing to rely on Chiefs and council for handling economic development. Putting the right people, corporate structures, and oversight arrangements in place must be a community and regional priority. Where this has occurred, as in northern Quebec, northern Saskatchewan, and northern Alberta, Indigenous communities have started new businesses, expanded employment opportunities, and even taken equity positions in related ventures. Northern Ontario Indigenous communities have taken some small steps in this direction but, with the cooperation of resource companies, can do a great deal more.

There are a number of insights on consultation emerging from Northern Ontario that were highlighted by officials. Communication is key: how governments and companies engage in a meaningful way is important. They must engage in a culturally relevant manner and build trust with the whole community, not just with Chief and council. If done properly, engagement incorporates the views and priorities of leadership and the community. If done poorly, engagement can drive a wedge between Chief and council and the community. Relationship-building is, therefore, essential. Project proponents have to

be in the community. The old style of “fly-in/fly-out” consultation does not work. First Nations’ feedback is quite clear on what needs to be done: listen, be ready to do things differently, change plans based on community concerns, maintain a consistent presence at the table, expect the unexpected, be flexible, and adapt. Proponents also need to be realistic about jobs, training, and economic impact. Importantly, all representatives have to be informed about the community, its history, relationship with the Crown, and community processes. Consultations take time. Companies and governments have to take a long-term view and have to understand and respect community timelines and processes.

The provincial government should work with Indigenous communities to produce a better and more appropriate system of compensation for communities. As currently constituted, exploration fees are creating serious problems for mining firms. Establishing a cap on fees (for instance, Wabun charges 2 percent of total exploration spending) and sharing these costs between government and industry would possibly remove exploration fees as an early stage impediment to future development. However, exploration fees are emblematic of the lack of clarity on the boundaries of the relationship between resource companies and Indigenous peoples. What the sector needs, and not just in Ontario, is a framework of compensation and financial returns to communities that provides an appropriate return based on Indigenous rights and that makes it possible for resource projects to proceed. Fees like the charge on exploration will continue, if not expand, in the absence of a widely adopted framework for resolving the central question that determines the nature of resource development.

Fortunately, it is possible to move forward constructively. The following general recommendations are offered as a means of reframing the relationships surrounding resource development and providing new opportunities for all participants. These ideas emerge from the discussion above and build on the hard work and experience of stakeholders in the region.

- **Build a stronger understanding between government, mining companies, and Indigenous communities**

It is important that the government create certainty around fees and the permitting requirements for mining companies. The provincial government should lead with industry on the consultations with Indigenous communities.

- **Overcome disputes about interpreting the treaties**

The federal government should make a clear declaration on the importance of the historic treaties in Northern Ontario, paving the way for a new nation-to-nation approach.

- **Build infrastructure**

The Ring of Fire Infrastructure Development Corporation should have representation from Aboriginal groups, industry, and the federal government. The province needs to lead on determining where key infrastructure should go and what kind rather than waiting on industry to set the agenda for the province. Collaboration with Indigenous communities and industry is essential.

- **Build regional plans and agreements**

The provincial and federal governments in partnership with Aboriginal communities need to develop plans and agreements that resolve the longstanding social and physical infrastructure needs of communities. Mining should not be the spark that brings Northern services in line with provincial norms.

- **Strengthen community readiness**

All stakeholders should access available resources and share best practices on community readiness. However, leadership from the provincial government is needed to close the implementation gap on policies and agreements.

- **Encourage Indigenous ownership options**

Greater consideration should be given to facilitating Indigenous ownership options in the natural resource sector. Across Canada, Indigenous communities and economic development corporations are looking for opportunities to buy into the industry and are looking for financing and partnership models that make this possible. Equity participation is likely the next wave in Indigenous engagement and steps should be taken to accelerate this option in northern Ontario.

- **Ensure cumulative environmental impacts are part of the review process**

First Nations have placed a great deal of emphasis on ensuring effective and meaningful environmental review processes. The Canadian, provincial and territorial governments have made major improvements in this field. However, most environmental assessments are project specific. In Northern Ontario, particularly in the Ring of Fire, where numerous projects could potentially come on stream in a short period of time, greater attention should be paid to an anticipatory environmental review process that examines cumulative impacts and takes a broad view of the potential ecological disruptions from resource activities.

- **Focus on creating a strong process**

Canadian experience, including in Northern Ontario, shows that there is no magic or ideal solution. Communities differ, projects differ, companies differ, and non-industry needs and interests differ. No one set of policies and agreements will meet the needs of a complex industry that covers a vast expanse of Northern Ontario and includes dozens of Indigenous communities. But there is a common thread that runs through successful agreements and collaborations across Canada and internationally: respectful and mutually beneficial collaboration. Process is more important, in the end, than the specific details, offers, or arrangements. Companies that approach Indigenous communities in an open, non-confrontational manner, communities that listen to company proposals and that seek viable and long-term resolutions, and governments that solve problems, eliminate barriers, and make strategic investments and commitments can, collectively, move the development agenda forward. The absence of any one of these elements can, and typically does, create distrust and animosity and often brings development to a standstill.

## CONCLUSION

For more than a decade, Northern Ontario and the Ring of Fire have been poised for an unprecedented resource-driven boom. However, it has not happened, and will not happen immediately, in part because of the downturn in global commodity markets. But the rich resources of the region will find markets, and improved technologies will make it faster, cheaper, and easier to extract them from the ground. The fundamental problem in the region rests with relationships between Indigenous communities, governments, and project proponents.

Many Indigenous communities are ready, albeit cautiously, to consider greater engagement in the resource economy. Not all communities, however, are ready or sufficiently trusting of government or private sector proponents and they remain unconvinced of the value of proceeding, much to the frustration of companies that have invested millions of dollars in exploration and early stage development and governments eager for the economic development and revenue that will accompany



substantial mineral activity. Indigenous communities, many struggling with pressing socio-economic challenges, face major issues of capacity, confidence in proponents, and comfort with development plans. They are also not prepared to support specific projects unless they are assured that the appropriate pieces (effective community consultations, environmental protection, appropriate financial returns for the community, and training and employment programs) are in place.

The prospects for significant improvement are, however, close at hand. This could be a crucial moment in the engagement between Indigenous communities and the resource sector in northern Ontario. The Government of Ontario is ready for new and more regionally sensitive approaches. The Government of Canada is committed to renewed nation-to-nation relationships and is focused on closing the gap in living standards between Indigenous people and other Canadians. Companies are taking on board the need for more consultative and community-focused collaboration. Indigenous communities are a more diverse group, with some ready for partnerships and development and others still reserved and cautious. A solution that incorporates all of Northern Ontario is unlikely, as First Nations have legal and political rights that allow individual communities to shape the evolution of the resource sector in the North. But an effective pattern for Indigenous engagement is possible, with accepted practices for negotiation, consultation, and implementation and with provisions that ensure that Aboriginal communities secure an appropriate return for their engagement with resource development. With few other sizable economic opportunities on the horizon in the region, engagement with resource companies is an unavoidable part of the search for prosperity and opportunity in the North.

But as the pre-conditions for collaborative approaches and real partnerships come into existence, the prospect for continued conflict and corporate frustrations also emerge. Resource companies are no more or less altruistic than other companies. They exist to capitalize on opportunities and make money from their resource properties. The delays in the Ring of Fire and across the region have cost companies millions of dollars and added to the corporate uncertainty in undertaking major investments in the region. Unless the appropriate measures are taken by all participants – governments, corporations, and First Nations – resource money and attention will shift to other regions across the country and around the world. Northern Ontario has enormous economic potential and could help address Ontario's economic woes, provide Indigenous communities with additional employment and business opportunities, and allow companies to invest in the provincial North and capitalize on their mineral properties in the region. The current challenges – different in scale and complexity but not in kind from those facing other resource development projects – undermine the aspirations of all participants. Northern Ontario faces a major test in the coming years as it seeks to put the acrimony and uncertainty of the past behind it and forge the new relationships needed to provide opportunity for all in one of the most important resource regions in the country.

## ABOUT THE AUTHORS



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She has a PhD in Geography from Queen's University (Kingston), an M.A. in Planning from the University of Waterloo, and a B.A. in Geography from Laurentian University (Sudbury). Her research has been recognized nationally and internationally by the Canadian Association of Geographers' Ontario division (CAGONT), the Innovation Systems Research Network (ISRN), and the Regional Studies Association, and she is an alumnus of the Arctic Frontiers emerging leaders program.



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He has previously published on such topics as Arctic sovereignty, Aboriginal rights in the Maritimes, northern treaty and landclaims processes, regional economic development, and government strategies for working with Indigenous peoples in Canada. His book, *A Global History of Indigenous Peoples: Struggle and Survival*, offered a world history perspective on the issues facing Indigenous communities and governments. He was co-author of the Donner Prize winner for the best book on public policy in Canada, *Arctic Front: Defending Canada in the Far North*, and was short-listed for the same award for his earlier work, *The Marshall Decision and Aboriginal Rights in the Maritimes*.

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## ENDNOTES

- 1 These agreements provide opportunities, financial and otherwise, that are not available to other communities in the North. The underlying concept across the North appears to be that only regional residents of Aboriginal descent have legitimate claims to benefit from resource activity.
- 2 Early estimates reflect the high mineral prices of the first decade of the 21<sup>st</sup> century.





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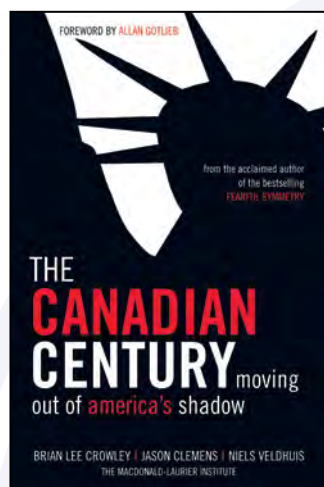
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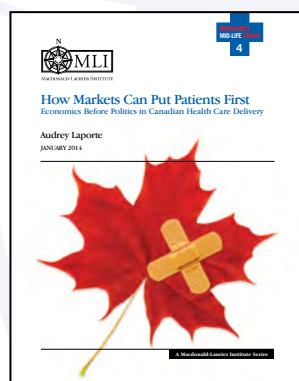
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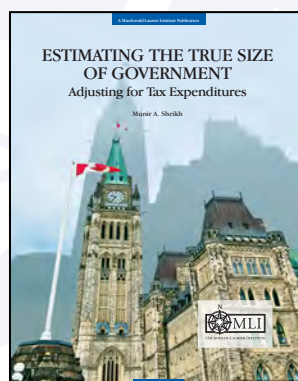
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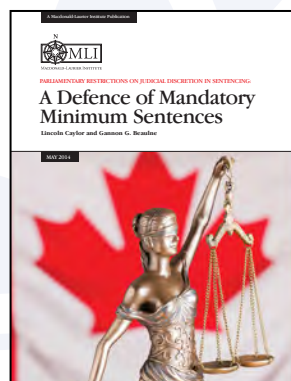
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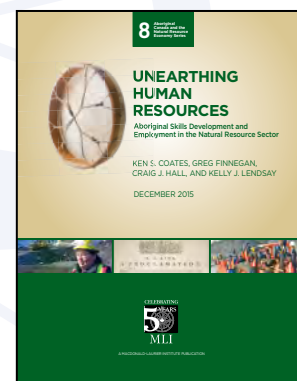
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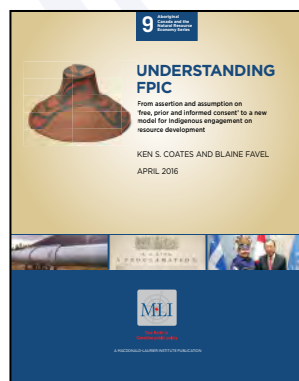
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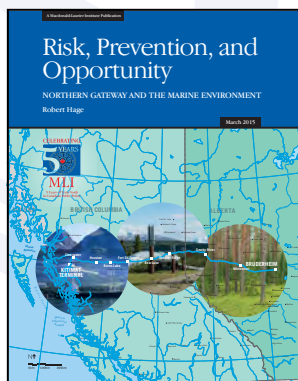
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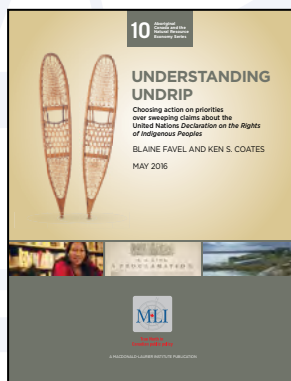
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