



November 24, 2023

Submitted online to the Environmental Registry of Ontario

RE: WCS Canada comments on "Proposed regulations under the *Mining Act* for recovery of minerals" (ERO number 019-7724)

To Whom It May Concern:

Thank you for the opportunity to comment on proposed changes to the regulations for recovery of minerals under Ontario's *Mining Act*.

We are submitting this feedback in our capacities as a WCS Canada scientist and spatial data analyst focused on conservation solutions for the far north region in Ontario. WCS Canada (www.wcscanada.org) is a national non-government organization that has been engaged in the far north in Ontario since 2004. As some of the few scientists and experts with continuous presence in the region, WCS Canada scientists lead ongoing field-based ecological research programs, often in partnership with First Nations, we support and collaborate with First Nations on community-based research and monitoring projects, and we develop tools and approaches for proactive planning and conservation prioritization at regional spatial scales. We have a long-term and consistent engagement with policy and regulation relevant to the environment in Ontario, including those related to mining activity.

Directly relevant to the current proposed regulations, we have previously commented on the proposed *Building More Mines Act, 2023* (ERO 019-6715), and proposed amendments to the *Mining Act* related to the recovery of minerals and decision-making authorities (ERO 019-6717), and related to closure plans (ERO 019-6718), the regulatory changes to closure plan rehabilitation requirements for advanced exploration and mine production and adding an additional class of facilities to the list of such classes that are excluded from the definition of "mine" (ERO 019-6750), and the Critical Minerals Framework Discussion Paper (ERO No. 019-3281).

Our main recommendation for the recovery of minerals is that these operations are held to the same standards as other active mining operations.

The recovery of minerals is a promising approach to reduce the environmental impact of the mining industry by meeting the demand for minerals while reducing the need for new mines. However, there are still environmental and health risks associated with various processes used for recovering minerals from tailings. Therefore, there needs to be assurance that there will not be unacceptable environmental and social risk of recovery of minerals, or unacceptable financial liability for the public associated with cleaning up any damages associated with recovering minerals from tailings if companies fail in their obligations for adequate mine closure.

We are opposed to the proposal to eliminate the need for a closure plan prior to undertaking the recovery of minerals. There is no evidence for this proposal, and in the absence of evidence to justify this approach, **we recommend that recovery of minerals from tailings be held to the same standards as other active mining operations, including requiring: 1) Feasible closure plans that minimize environmental, health, and social risks, and meet clear standards for rehabilitation; 2) Assurances that companies will be responsible for the cost of clean-up; and 3) Transparency and accountability in the process of setting and meeting these standards.**

Further, we overall, **we recommend that Ontario updates its approach to mining to be more consistent with the United Nations Declaration of the Rights of Indigenous Peoples, and to be more consistent with other jurisdictions within Canada.**

While we recognize that this recommendation is not explicitly within the scope of the proposal, our view is that overall, the current *Mining Act* and associated framework related to mining activity in Ontario is failing to ensure that the inherent and treaty rights of Indigenous Peoples are upheld, and failing to adequately assess and manage the environmental, social, and health risks associated with mining activity.

Outside of this individual proposal, we recommend that the *Mining Act* and associated framework related to mining activity in Ontario is updated such that the consultation requirements at every stage are consistent with the United Nations Declaration on the Rights of Indigenous Peoples, including ensuring that Indigenous Peoples are able to provide Free, Prior, and Informed Consent for mineral claims, mineral exploration, active mining, and closure of mines on their Homelands.

We further recommend that mines and smelters be added to the environmental assessment project list in Ontario. Despite the well-documented major environmental risks associated with mining activities, there is little or no relationship between the Ontario *Environmental Assessment Act* and Ontario *Mining Act*, and Ontario is the only jurisdiction in Canada that does not require environmental assessment for private projects, including mines. In our experience, individual environmental assessments would provide greater certainty about the risks, benefits, and alternatives to mining projects, providing greater assurance for Indigenous Peoples and the public that projects will provide net benefit prior to development. This would in turn increase investor and stakeholder certainty about environmental, social, and governance implications of individual projects.

Thank you for your consideration of our recommendations and concerns. We welcome opportunities to engage in any discussion regarding our submission.

Sincerely,



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