



Nishnawbe Aski Nation
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**KEY CONSIDERATIONS FOR RESOURCE DEVELOPMENT
IN
NAN TERRITORY
FOCUSING ON MINING**

~ A Discussion Paper ~

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1.0 PURPOSE OF REPORT

The purpose of this report is to present some key and critical issues for the NAN Chiefs, Councils and NAN citizens to consider as existing, and new mining developments in northern Ontario, become an increasing contributor to the:

- Economy of Ontario and specifically, the economy in the NAN Territory
- Employment , training and workforce needs - skilled and unskilled
- Community development, infrastructure and benefits

In addition, this paper will identify the bottleneck issues that will challenge all parties, stakeholders and First Nations in terms of:

- Regulatory regimes and burdens
- Lack of local and regional skilled labor
- Widening gaps in community and regional infrastructures
- Importance of ecological and environmental sustainability
- Importance of providing greater benefits to NAN First Nations

There will be a continuing global demand for minerals and metals from the rich reserves that are currently being discovered, and yet to be found, in northern Ontario - specifically, in the regions of Treaties 9 and 5 boundaries, within the remote homelands of the Nishnawbe Aski First Nation communities both remote and non-remote.

How will NAN and Independent First Nations take advantage of the economic opportunities and receive their fair share of the benefits wealth extraction given that mining is a non-renewable resource and a boom-bust cycle? How will mining operations contribute to the long-term economic sustainability of all NAN communities and potential life-threatening environmental damages that will impact the traditional lifestyles and pursuits of NAN citizens?

These are some of the critical questions that the NAN leadership must consider and debate on, in order to assist and support the aspirations of its member First Nations on such developments that may forever change the future landscape of their homelands in every way.

2.0 MINING IN NORTHERN ONTARIO

Up to 2010 there have been 350,000 active claim units staked in Ontario as reported by the Ministry of Mines & Northern Development in northern Ontario including 31,000 claim units held by over 30 companies in the Ring of Fire.

This trend will increase as more minerals are discovered and new mines become feasible to establish.

2.1 Mining Outlook to 2020

The mining potential in northern Ontario will continue to have a positive impact on global mining demand and supply for precious metals (gold, diamonds) and other base metals (chromite, nickel, copper, zinc, etc.) all of which have already been discovered in the NAN territory - specifically, in the Ring of Fire.

The chromite discovery within the McFaulds Lake area is said to have up to a 100-year life cycle with a multi-billion dollar value yet to be determined. Presently, the Timmins area is the most active in mining operations in northern Ontario, including the Sudbury and Red Lake areas which will continue to extract gold and other base metals indefinitely into the future.

2.2 Impact on NAN First Nations

From previous experience across northern Canada and Ontario, mining developments have impacted First Nation communities to varying degrees. Impacts occur throughout the whole mining sequence from early exploration, exploration, feasibility, pre-construction, construction, operations and closure.

All potential impacts - negative or positive must be identified, quantified and analyzed to the best interests of the impacted First Nations. These impacts must be communicated thoroughly by the mining company, governments and First Nation Councils to the community membership in order to minimize misunderstandings, fears and unrealistic expectations.

Certainly, there will be great benefits for those First Nations directly impacted, indirectly impacted, and other NAN First Nations who should also receive some benefits within the spirit of sharing our lands and resources.

2.3 Mine Closure

While mining can contribute to prosperity for NAN First Nations, the question needs to be asked as to what will be the impacts when a mine has exhausted its economic life cycle and must close. First Nations must consider how they will cope with the social and economic impacts once the mine is closed and jobs are lost.

They will need to:

- Take advantage of how a mine closure can benefit their communities through the reclamation or restoration process;
- Examine how other First Nations have diversified their economies through the reclamation process;

- Negotiate mitigation measures with the mining companies which will create jobs and other business opportunities;

3.0 KEY FACTORS for SUCCESSFUL MINING DEVELOPMENT

The key success factors must not only meet industry's desire for a business environment that provides a positive investment climate, but also those factors which will be critical to NAN First Nations including environmental and ecological sustainability. What are these key factors?

The following are some of these key factors and critical issues;

- First Nations' understanding the mining sequence thoroughly;
- Developing trusting relationships through partnerships with the industry players;
- Understanding the nature and stability of the regulatory environment (regime):
 - Governmental regulatory processes
 - Duty to consult and First Nation approvals
- The quality and quantity of the resource to be extracted:
 - Community development, relationships and benefits
- The available workforce - skilled and non-skilled:
 - What training will be required
 - Retaining trained local workforce
- The financing of projects and conditions requiring investor confidence;
- The environmental and ecological sustainability of mining operations;
- Infrastructure shortfalls, gaps and requirements by industry and First Nation communities:
 - General infrastructure needs of mining developments
 - Specific infrastructure needs of First Nations communities
 - How governments, mining companies can meet First Nations' growing infrastructure gaps
- Local First Nations' business development to meet mining's logistical needs and supply chain;

4.0 MINING PROSPECTS IN NAN TERRITORY

Sustainable economic development in the NAN territory will evolve from resource development projects and associated key business opportunities that arise from the mining

sector. There are already existing mine re-openings such as the Detour Gold Mine in northeastern Ontario with agreements involving First Nations including Moose Cree, Taykwa Tagamou and Wahgoshig.

Of course there are the newer prospects of mineral discoveries of base metals in the Ring of Fire such as chromite, nickel, zinc, copper, platinum, iron, vanadium, including precious minerals such as gold and diamonds. Some important key considerations of the mining development area known as the 'Ring of Fire' are the focus of discussion in the following sections.

5.0 MINING DEVELOPMENTS in the RING of FIRE

The Ontario government officially confirmed the great importance of this new mining development by announcing its Ring of Fire secretariat at its office complex in Thunder Bay, Ontario. This office will be responsible for 'facilitating' the prospective mining developments within the Ring of Fire.

The Matawa First Nations have also established a Ring of Fire unit within their Tribal Council building in Thunder Bay to assist and support its First Nations in addressing the critical impacts that these developments will have in all areas.

The Ring of Fire has the potential to become the major, significant mineral development in northern Ontario which will have huge economic impacts across the province and particularly, on the surrounding NAN First Nation communities.

It provides unique opportunities for NAN First Nations to plan strategically for sustainable economic development in several broad areas:

- Workforce training, employment and retention
- Land-use planning based on traditional ecological knowledge (TEK)
- Service industries and manufacturing (value-added)
- Business partnerships and equity participation
- Regional and community infrastructure development

5.1 Regulatory Framework

The Ring of Fire development will provide a key test on existing provincial policy under the following regulatory frameworks currently in place or in development:

- Green Energy Act
- Northern Growth Plan
- The Mining Act
- Far North Act

How will these provincial legislative acts enhance socio-economic benefits and minimize negative environmental impacts on NAN First Nations? At this time, there does not appear to be a coordinated provincial plan as to how these Acts can effectively benefit NAN First Nations during major resource development projects.

5.2 Workforce Availability

Mining opportunities in the Ring of Fire can bring immense benefits and wealth to NAN First Nation communities which can supply the workforce to close the growing labour gap in Canada and specifically, in northern Ontario.

The Canadian government estimates that in the near future, up to \$400 billion will be derived from resource-based industries such as the mining sector which are already taking place near First Nation traditional territories. It is estimated that the mining sector alone will require up to 100,000 workers during the next decade in northern Canada.

With the proper education and training, our growing First Nation youth population will be northern Ontario's future workforce. This demographic trend will, in itself, make NAN First Nations a major force and player in the future economy of northern Ontario.

5.3 Proposed Infrastructure

There are two key infrastructure requirements which are being considered by the mining proponents within the Ring of Fire developments:

5.3.1 Transportation

- KWG Resources is undertaking geotechnical studies for a potential north-south railway corridor from its mineral claims south to the Canadian National Railroad near Nakina;
- In its technical report for the Eagle's Nest nickel deposit, Noront Resources proposes a south-west, all-weather road corridor from its site to Pickle Lake;
- Cliffs Natural Resources is proposing a north-south, all-weather road corridor from its mine site to Nakina.

5.3.2 Energy Requirements

- **Noront Resources** requires:
 - Approximately 25MW for its concentrator and mine at its site;
 - Transportation of its Nickel concentrate to existing processing facilities
- **Cliffs Resources** requires:

- 300MW to operate its mine and concentrator at its site;
- Another 300MW for ferrochrome processing identified at Capreol north of Sudbury.

5.3.3 Community Infrastructure

Mining Corporations can also support investments for community infrastructure in First Nations from partnership agreements and/or IBAs. Such investment precedents have already been established with Aboriginal organizations and communities in the NWT and Nunavut as follows:

- BHP Billiton's Community Partnership Program provides financial and in-kind contributions for community infrastructure initiatives;
- Rio Tinto funded infrastructure upgrades in remote communities as follows:
 - Construction of new community centre in the Tlicho community of Weweti;
 - New arenas in the Inuit community of Kugluktuk and the Treaty 8 community of Lutsel K'e¹

Since INAC's major capital budgets are in decline, NAN First Nations may negotiate these infrastructure needs in future agreements with mining companies operating within the Ring of Fire such as KWG, Noront and Cliffs Resources.

5.4 Proposed Ferrochrome Processing Sites

- **Greenstone-Aroland FN** proposal with energy supply from the Little Jackfish River;
- City of **Thunder Bay-Fort William FN** proposal with energy supply from the local OPG site;
- **Cliffs-Capreol** proposal with energy supply from the existing Ontario power grid.

Cliffs Natural Resources is currently evaluating these proposals and is expected to announce its preferred site in the near future.

5.5 Environmental Impacts

There will be significant environmental impacts from the Cliffs Chromite and the Noront Eagle's Nest Projects that are of great concern to the Matawa First Nations which are directly and indirectly impacted.

¹ Northwest Territories and Nunavut Chamber of Mines, 30-31

These include:

- The proposed all-season roads will cross over 100 bodies of water, creek re-routings and pond drainages;
- Water quality and quantity impacts from use of large quantities of water discharging downstream on main rivers/tributaries;
- Surrounding environment and wildlife affected by pollution from diesel-powered equipment and machinery including noise pollution;
- Possible fuel spills during shipment and transportation to generating stations;
- Disruption of habitat and travel of migratory animals from roads, corridors and slurry pipelines;
- Release of harmful chemicals from waste rock and tailings.

All of these activities will need to be subject to the strictest EA mitigation and reclaiming measures.

The Matawa First Nations have publicly opposed the Canadian Environmental Assessment Agency's (CEAA) initiation of a "Comprehensive Study EA" as for the Cliffs Chromite Project announced in October 2011 and the Noront Project in November 2011.

They have consistently called for a Joint Review Panel EA process as per Matawa Chiefs' resolution passed in May 2011.

A Joint Review Panel EA would allow for First Nation nominees on the Panel as well as comprehensive public hearings and information centers in the impacted NAN First Nation communities.

5.6 Community Relations and Benefits

Establishing good working relations between mining companies and First Nations early during the mining sequence (pre-exploration stage) will result in more positive benefits for both parties.

- Employment opportunities helps First Nations members to maintain their traditional pursuits of hunting , fishing and gathering from higher incomes to meet the high costs of harvesting;
- The traditional economy provides important cultural and community benefits that help sustain lifestyles from country foods;

- Industry corporations are also recognizing and integrating First Nations' traditional ecological knowledge (TEK) into their environmental management regimes to assist in monitoring, predicting and evaluating potential environment impacts of major projects.

There are many more community benefits such as education, skills training, heritage funds, special projects, scholarships, infrastructure upgrades and cash financial compensation which can be derived from major resource development projects.

6.0 DEVELOPING A NEGOTIATION FRAMEWORK

The decision to enter into negotiations between First Nations and mining companies must be made by the communities as a whole to ensure that resource extraction will generate maximum benefits for the communities, while minimizing the negative impacts associated with the large-scale projects, such as the Ring of Fire developments.

Setting up the negotiations on a collective, regional framework will take political will and total unity with the participating NAN First Nations. The 'duty to consult and accommodate' First Nations' aspirations by industry will trigger the principle of 'free, prior and informed consent' of the First Nations before a major project receives community approval.

A community decision to enter into exploratory negotiations does not imply consent to a proposed project or consent to finalize a contractual agreement, or IBA. Once further information is obtained concerning the developer's capacity or willingness to seriously address and meet the community's needs, then the community may decide whether it is in the best interests of its members to enter into serious negotiations or not.

A community, or group of First Nation communities, may delay or terminate such negotiations if it becomes obvious that the developer has no willingness to meet the communities' conditions.

But while negotiations may be deferred, it is always desirable to leave an opening to allow the resumption of negotiations once it becomes apparent that the developer is ready, willing and committed to meet the communities' conditions and desired benefits.

A unified, regional negotiation process among a group of First Nations will always extract more leverage, benefits and environmental protection measures than several individual agreements. This has already been proven with the DeBeers diamond mine negotiations in the NWT and James Bay.

DeBeers aggressively pushed for a single IBA with the Attawapiskat First Nation, thereby leaving the other three impacted First Nations out of the negotiations process. This resulted in an IBA that is still not satisfactory to the First Nation to this day.

Eventually, DeBeers agreed to individually negotiate with Kashechewan, Albany and Moose Cree First Nations, but the bar had already been established at an unprecedented low level compared to the NWT example. The result was the IBAs could not leverage greater benefits for the four First Nations individually, if all four had collectively negotiated a regional IBA initially.

This is not the fault of the Attawapiskat First Nation but it is a classic case of industry's 'divide and conquer' tactics - a situation that must be avoided at all costs with the Ring of Fire developments.

7.0 CONCLUSION & RECOMMENDATIONS

While it is understandable that individual, or two or three First Nations may enter into Memorandums of Understanding or Memorandums of Intent for early exploration or actual full exploration activities in the mining sequence, it would be desirable to collectively negotiate regional participation agreements among NAN First Nations with large-scale mining projects.

There are several reasons for this:

- First and foremost, the principle of 'Sharing our Lands and Resources' was a key element agreed to by our forefathers that led to the signing of Treaties 9 and 5;
- The protection of NAN First Nations' Inherent and Treaty Rights was another key principle stated in the Nishnawbe Aski Declaration of 1977;
- A collective, unified voice will always leverage more benefits and protective measures for First Nations versus individual agreements;
- The principle of 'sharing our resources' collectively for future, large-scale developments can be negotiated by NAN First Nations for the benefit of future generations as well as the Nation as a whole;
- Revenue-sharing among NAN First Nations will take political will, commitment and adherence to the foregoing principles to maximize wealth extraction for the Nation as a whole;
- Various revenue-sharing options among all parties - NAN First Nations, Ontario and Industry - must be explored and developed which may include:
 - Equity interests in the mining companies;
 - Profit sharing from royalties, fees and taxes;
 - A fair, equitable share for First Nations from all potential revenue streams to be derived from wealth extraction in the NAN Territory;

- There will be a need to establish an over-arching, oversight mechanism at the political level. The representatives or composition of this committee can be determined once the concept is agreed to.
- This high-level, guiding mechanism can play a meaningful role to ensure that negotiations between NAN First Nations and Industry are well coordinated, effective and focused on the goal of achieving the maximum benefits in NAN First Nations by minimizing all negative impacts in a timely manner.

This concludes the discussion paper which is solely meant to inform NAN First Nations of the important, key elements that must be considered prior to entering into a series of negotiations with mining companies, particularly in the Ring of Fire.

These recommendations are proposed to generate a healthy constructive debate by NAN First Nations and are by no means all inclusive, or intended to limit or interfere into any initiatives currently in progress by NAN First Nations.