



May 1, 2019

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Standing Committee on Economic Development and Environment  
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Dear Mr. Ball,

**Re: Submission on Bill 38 – NWT Protected Areas Act**

On behalf of the minerals industry of the Northwest Territories, we are pleased to submit our thoughts and recommendations on Bill 38, the Protected Areas Act. We do so in the interests of sustaining and growing the NWT's minerals industry in order to sustain the significant benefits it creates for all northerners today.

We support the notion of creating special protected areas that need protection from resource development to protect their specialness. However, to meet the needs of good governance, including transparency, balance and congruency with other laws and regulations, we provide the following recommendations:

- **Recommendation #1:** Reducing and De-registering protected areas is good. The ability for a candidate area to be removed as a candidate for protection is necessary. People's attitudes and society's needs can change as can environmental considerations and technology. Any of these could remove the need for a protected area.
- **Recommendation #2:** Maintain and strengthen the Public Registry. A fully transparent and comprehensive public registry needs to be in place for the consideration of any candidate protected area.
  - **Recommendation #2a:** Consider replacing the Protected Areas Act public registry with that of the Mackenzie Valley Environmental Impact Review Board's public registry, given that candidate protected areas are to be treated as "developments" under the MVRMA.
- **Recommendation #3:** Recognize that a Protected Area is a "development" under MVRMA. Recognize, treat and assess a candidate protected area as a "development" under the MVRMA, providing it with the transparency and effort required of any other development in the NWT.
- **Recommendation #4:** Bill 38 must require a mandatory Mineral and Energy Resources Assessment be conducted on any candidate protected area to protect rare mineral resources

from sterilization, so as to protect and promote the economic well-being of residents and communities in the settlement areas, while having regard to the interests of all Canadians.

- **Recommendation #5:** Remove the ability of this Bill to allow private donations to be made to candidate protected areas. Funding of candidate protected areas should come from the NWT's own economic returns.
- **Recommendation #6** allow corridors for transportation, communications, and energy to be established and permitted in protected areas; ensure protected areas are not used to block such developments.
- **Recommendation #7:** Change wording to allow corridors for transportation, communications (e.g., fibre optics), and energy (specifically electricity transmission and oil and gas energy pipelines) to be established and permitted in protected areas.
- **Recommendation #8:** Change wording to allow that corridors could support exploration, mining, oil & gas development, and energy development beyond the boundaries of the protected area.
- **Recommendation #9:** The Minister should not override Land Use Planning processes. They have been created under environmental legislation to conduct public processes to evaluate and designate land use. The Protected Areas Act must be subordinate to the Land Use Planning processes, and support them in conducting transparent, fulsome processes. Wording, as suggested, can be added to clarify this.
- **Recommendation #10:** Let land use planning processes confirm the establishment of a protected area. In their absence, maintain potential protected areas under "candidate" status until a Land Use Plan is established.
- **Recommendation #11:** Add wording to limit the size of protected areas in order to provide some balance between lands open and closed to development.

Attached please find our detailed submission.

Yours truly,

**NWT & NUNAVUT CHAMBER OF MINES**



Gary Vivian  
President

- c.c.: Felix Lee, President of the Prospectors & Developers Association of Canada  
Pierre Gratton, President of The Mining Association of Canada  
Hon. Bob McLeod, Premier of the Northwest Territories  
Hon. Wally Schumann, NWT Minister, Industry, Tourism & Investment  
Hon. Lou Sebert, NWT Minister, Lands  
Hon. R.C. McLeod, NWT Minister, Environment & Natural Resources  
Cory Vanthuyne, Chair, Standing Committee on Economic Development & Environment



**Submission on**  
**Bill 38 – The NWT Protected Areas Act**

**by the**  
**NWT and Nunavut Chamber of Mines**

**– May 2019 –**

**SUBMISSION ON BILL 38 – NWT PROTECTED AREAS ACT**

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## **SUBMISSION ON BILL 38 – NWT PROTECTED AREAS ACT**

We are pleased to submit our thoughts and recommendations on the Protected Areas Act in the interests of sustaining and growing a healthy, beneficial and responsible minerals industry in the Northwest Territories.

This is important, given that the minerals industry is the largest private sector economic activity in the territory, and that it has much future to continue to do so, provided the appropriate support.

### **INTRODUCTION**

#### ***Who is the Chamber of Mines?***

The NWT & Nunavut Chamber of Mines has been championing on behalf of a healthy minerals industry for over 50 years since its establishment in 1967. We do so with the support of nearly 400 direct members representing mining and exploration companies, consulting, service and supply companies – both Indigenous and non-Indigenous – and individuals, who all have a desire to see a strong minerals industry.

Our mining and exploration members represent well over 3,000 workers – Indigenous and non-Indigenous – directly employed in our industry. Our business members represent many hundreds more who rely on the minerals industry.

### **THE PROTECTED AREAS ACT AND MINERAL DEVELOPMENT**

#### ***The Protected Areas Act and Mineral Development are now in a new context***

At one time resource extraction was approved and carried out on Indigenous lands without their support and often without their participation. Naturally, in that context, the prospect of resource development was something to be feared, to seek protection from.

Today things are much different.

Resource management rules have been strengthened significantly because of Indigenous land claim agreements and Indigenous constitutional rights. Indigenous governments today are partners in co-managing resource development. At the same time, they are participating in resource development as they never have before, through training programs, jobs, new Indigenous mining businesses, and sharing in resource royalties.

Communities and Indigenous governments today are taking a new perspective and approach to resource development.

Indigenous governments are now looking to keep those benefits they have won strong, and to even grow them. They are starting to work hard to attract resource development to their regions, discuss how they can become owners in resource development projects, and help make their communities healthier and wealthier.

We observe that the constitutional reality today is that governance is now being shared between public and Indigenous governments. This means that indigenous governments are accepting the shared responsibility and obligation to protect and promote the social, cultural, environmental and economic well-being of residents and communities in the NWT and to all Canadians.

### ***A Strong and Healthy minerals industry is important***

The benefits of the NWT's minerals industry are significantly important to the economic well-being of northerners, the territory and Canada. Benefits arising from the minerals industry over the past 21 years include:

- 60,000 person-years of employment, approximately half northern and half of those Indigenous workers. Mining is the largest private sector employer of Indigenous residents;
- Over \$20 billion in business expenditure, of which 70% is northern; an unprecedented \$6 billion is with Indigenous business;
- Well over \$100 million to communities in various impact and benefit agreements, in scholarships, and corporate social responsibility contributions; and
- Billions of dollars in various taxes and royalties which are now being shared with Indigenous governments across the Northwest Territories in constitutionally entrenched land claim agreements and under the devolution royalty sharing agreement.
- The minerals industry directly contributes approximately 35% of the gross domestic product of the NWT, and even more when indirect benefits to other sectors of the economy are considered.
- The NWT Government reports that, "In the past three years, diamond mines have contributed 41 percent of the GNWT's corporate income, fuel, property, and payroll tax revenue."
- Mineral exploration contributes many millions more in investment annually and supports additional employment and business benefits.

As a result, today the minerals industry is a significant contributor to Indigenous reconciliation in the NWT.

### ***Creating mining success and benefits requires access to land***

Exploration and mining rely on access to land in order to find and develop the mines that generate the many benefits the NWT receives and needs.

Exploration is a tough, risky business for the investor. It carries high odds that the explorer will be unsuccessful, and won't find a mine. The odds of discovery have been calculated at only 1 in 1,000 prospects becoming a mine; a world class mine has even higher odds, calculated at 1:3,333. The odds of winning at Bingo are higher.

However, just as any good Bingo player knows, the odds of success can be improved by playing many cards at the same time. For exploration, that means attracting many explorers and providing them with as much land as possible to explore. It is critical to remember that mines are not where we want them to be but where the earth's processes put them.

Thankfully, mineral exploration has a very small environmental footprint, and once land has been explored, it would be difficult to find any traces of where the exploration occurred. To help make sure this happens, companies today must provide financial assurances that they will clean up. If for some rare reason that they can't, government can use the security moneys to do the work. This does not happen often.

Mining has a more significant environment impact than mineral exploration. However, its footprint is relatively small, and all the mines historically in the NWT occupy a physical footprint of about 0.006% of the area of the NWT. Mining activity occurs for a number of years, and then the mine is reclaimed and returned to nature as best and safely as possible, and following rules approved by co-management legislation and regulation.

It is important to understand that mining today is not carried out like it was during our grandfathers' or even our father's time.

Environmental rules are more stringent and mining practices are carried out to much higher standards than in the past. Today, we in the North have environmental co-management systems in place, have developed and received approval on how to close mines safely even before they are built, and provide millions of dollars in security to ensure that they will be cleaned up afterwards. The mines' work must undergo the scrutiny of land claims based, resource co-management boards before they are approved, to ensure they do not create any significant adverse environmental impacts.

***The Protected Areas Act is just one tool that will affect land access***

There are special places in the NWT where resource activities – including exploration and mining – may not be desired. People and companies working in the minerals industry and other land use activities, generally understand and support that. We fully support the co-management system but suggest it needs to work in all cases.

The Protected Areas Act is intended to help identify and advance such areas to protection.

It is important to remember that the Protected Areas Act is just one of the tools to be used to protect areas.

Other land protection tools include National Parks, National Wildlife Areas, bird and game sanctuaries, and wildlife conservation areas. Land use plans can also be used to protect certain areas, with the benefit of more flexibility to change protection levels if needed. It is important to remember that the comprehensive land use regulations under the MVRMA and CEAA in the Inuvialuit region also ensure land, wildlife and water are protected from significant adverse environmental impacts.

***The Protected Areas Act must not be taken lightly***

The Protected Areas Act will be very powerful and the implications far-reaching, as it proposes to remove land from development forever. Actions under the Protected Areas Act cannot be taken lightly.

While removal of lands from future development in a protected area can protect the environment, it can also affect the social, cultural, and economic well-being of present and future generations.

It is for this reason that candidate protected areas fall under the rules of the Mackenzie Valley Resource Management Act (MVRMA) which requires that territorial parks be treated as a “development” and be assessed for their effects not only on the environment, but also on the protection of the social, cultural and economic well-being of residents and communities in the Mackenzie Valley.

## **WHAT IS GOOD AND SHOULD BE KEPT IN THE PAA**

### ***Ensure a fulsome, transparent Public Registry***

A public registry can help ensure discussions on protected area development processes are transparent and will lead to better decision making.

Public registries are the foundation of the resource co-management process in the Northwest Territories. They are critically important tools for the Mackenzie Valley Environmental Review Board, all the Land and Water Boards, and the Sahtu Land Use Planning Board. They provide full transparency on development projects.

Similar to those registries, the registry being proposed under the Protected Areas Act should provide full disclosure to the public with all information submitted and related to a candidate protected area, so as to allow the public to track, monitor, and participate in the protected areas process.

We fully support the need for a public registry and provide recommendations later in this submission on the need for the registry to be strengthened so as to support full disclosure and transparency. We also recommend thought be given to deferring this public registry to that of the Mackenzie Valley Environmental Impact Review Board.

### ***Reducing and De-registering protected areas***

Providing the ability for a candidate area to be removed (13.(1)) as a candidate for protection is a necessary and good requirement of the Protected Areas Act.

So too is the ability to reduce in size or even de-register an established protected area from the registry and return it to open public land.

People's attitudes and society's needs and priorities can change; infrastructure routing can change; so too can environmental considerations and technology. All of these should be considered in removing or reducing the need for a protected area.

This is an important distinction that sets a NWT protected area apart from a national park, the ability to be flexible in changing boundaries or even removing protected area status, should the need arise.

- **Recommendation #1:** Reducing and De-registering protected areas is good. The ability for a candidate area to be removed as a candidate for protection is necessary. People's attitudes and society's needs can change; as can environmental considerations and technology change. Both could remove the need for a protected area.

### ***Land Use Planning and Protected Area Establishment***

Later in this submission, we will add further support to the Act's ability to reduce or de-register protected areas, given that land use planning has not been invoked or completed in all regions of the NWT. You will read our recommendation that no candidate area is to be advanced to established status until land use planning is in place, and discussions under that process support that protected area establishment.



### ***Retain corridors in protected areas***

Section 36 speaks to allowing transportation and transmission corridors in protected areas. This is good, and should be kept in the final Act.

However, it should be strengthened with the addition of corridors for energy, specifically powerlines and pipelines.

We address this in the next section with a recommendation for changes.

### **WHERE CHANGES NEED TO BE MADE IN THE PAA AND WHY**

We recommend that changes be made to the PAA in the following areas.

#### ***Public Registry needs to be stronger; perhaps replaced***

We support the requirement for a public registry as proposed under Section 9. Removing lands from potential resource development can have significant effects. It is important that the public have the ability to understand what is under consideration with a protected area, and what discussions and actions are being taken by all governments and stakeholders around establishment of a protected area.

The current wording in the Protected Areas Act on what is required in the registry is insufficient and needs to be strengthened, e.g.:

- Section 12(2) requires only:
  - (a) a description of the boundary or a map of the area;
  - (b) the date of approval of the area;
  - (c) the manner of interim protection for the area.
- Section 18 requires only:
  - (a) the metes and bounds description of the area;
  - (b) a description of how the area meets the purpose of this Act;
  - (c) the objectives that are defined for the area;

A protected area is a park and is by definition under the MVRMA a “development” that needs to undergo environmental scrutiny through preliminary screening and potentially environmental assessment. Witness the preliminary screening that Parks Canada’s proposed development of Thaidene Nëné as a national park is undergoing today.

Like other registries established under the MVRMA, the Protected Areas Act’s registry should be more robust and transparent so as to more adequately fulfil the requirements of the MVRMA to support preliminary screenings and potential environmental assessments.

(One additional small point, we recommend that the registry require that an official area in square kilometres be posted to help everyone agree to what quantum is. It is these land quanta that are used to track territorial and national commitments to land conservation and having an agreed upon area will help remove any argument or confusion.)

Details of what is required to be posted in the registry should be strengthened, e.g., all correspondence and documentation by the proponent of the protected area and responses from Indigenous governments and interested stakeholders should be filed.

- **Recommendation #2:** Maintain and strengthen the Public Registry. A fully transparent and comprehensive public registry needs to be in place for the consideration of any candidate protected area.

Given the overlap with the MVRMA, we recommend consideration be given to replacing the public registry or synchronizing it with the MVEIRB's.

- **Recommendation #3:** Consider replacing the Protected Areas Act public registry with that of the Mackenzie Valley Environmental Impact Review Board's public registry, given that candidate protected areas are to be treated as "developments" under the MVRMA. The challenge will be that the MVEIRB's registry is for only two thirds of the NWT, outside of the Inuvialuit Settlement Region.

### ***Recognize that a Protected Area is a "development" under MVRMA***

Because a protected area will never allow mineral or energy resource use, its establishment could have adverse consequences on *"the social, cultural and economic well-being of residents and communities in the settlement area, having regard to the interests of all Canadians"*, words used in the MVRMA.

It is for this reason that the MVRMA treats a protected area as a "development", as per Part 5, Definitions, 111(1):

*development means any undertaking, or any part or extension of an undertaking, that is carried out on land or water and includes an acquisition of lands pursuant to the Historic Sites and Monuments Act and measures carried out by a department or agency of government leading to the establishment of a park subject to the Canada National Parks Act or the establishment of a park under a territorial law.*

As a "development", a protected area proposal must be considered and assessed, first with a preliminary screening (as Thaidene Nene national park reserve is currently undergoing), and conceivably with an environmental assessment where warranted.

- **Recommendation #4:** Add words to the definitions in the Protected Areas Act to reinforce that a protected area is a "development" under MVRMA. This will help reinforce the need for comprehensive and transparent review as required under the MVRMA for any other development in the NWT;

### ***Require a mandatory MERA be conducted over a candidate protected area:***

A severe shortcoming in Bill 38 is the lack of requirements to assess the mineral and energy resource potential of a nominated or candidate protected area.

At best, the Bill makes one reference in 10(5) that a nomination of a candidate protected area must include "a summary of known values of the area". However, it can be expected that these "known values" will reflect only the nominee's perspective of why an area should be protected and not provide the balanced information required for good decision making, including a fulsome assessment of mineral and energy resources that would be lost by protection.

Good governance and the need for informed decision making requires that mineral and energy resource assessments are required of any candidate protected area.

That this is missing in the Bill is alarming, given that such resource assessments are so common in other land management processes, e.g.:

- The original “***Protected Areas Strategy: A Balanced Approach to Establishing Protected Areas in the Northwest Territories (1999)***”, required a multi-step process in identifying potential protected areas. A key step was for governments to: *coordinate the development of an effective mineral and energy assessment process for high priority candidate protected areas.*
- Canada’s **[Minerals and Metals Policy](#)** states:
  - o *In establishing and managing protected areas, the Government recognizes the minerals and metals industry’s important contribution to Canada. It also recognizes the desirability of leaving federal lands, particularly those with high mineral potential, open for mineral development when this is consistent with federal legislation and government policies, and compatible with environmental and social objectives. Consequently, the Government will [amongst other things]:*
    - *fully take into account the mineral potential of the area in question before taking decisions to create protected areas on federal lands;*
    - *impose land withdrawals that preclude mineral development activities only when specific conditions justify such action, and only after economic and social impacts have been carefully considered.*
  - o Further, the Policy empowers a **[Mineral and Energy Resource Assessment \(MERA\)](#)** for National Park proposals:
    - *To ensure that the economic and strategic significance of mineral and energy resource potential is duly considered;*
    - *To ensure that, in making recommendations regarding the withdrawal of land for national park purposes, the Minister is advised on the balance between the values of the land with respect to park establishment criteria and the potential for the exploration, development and use of mineral and energy resources which may inhere in the land; and*
    - *To prepare assessments of the mineral and energy resource potential of areas being considered for national parks.*
- The **[GNWT Land Use and Sustainability Framework](#)** under one of its key Guiding Principles – “Balanced and Sustainable” – commits GNWT to ensure that “*Land-management decisions consider ecological, social, cultural and economic values to ensure maximum benefits to current and future generations.*”

Bill 38 must be strengthened with the addition of language requiring a mineral and resource assessment be conducted. Words for consideration are:

- *Prior to consideration of a candidate protected area as an established protected area, the candidate area must undergo a fulsome mineral and energy resource assessment to ensure that the economic and strategic significance of mineral and energy resource potential is duly considered;*
- *To ensure that, in making recommendations regarding the withdrawal of land for protected area purposes, the Minister is advised on the balance between the values of the land with respect to park establishment criteria and the potential for the exploration, development and use of mineral and energy resources which may inhere in the land;*

- *To prepare assessments of the mineral and energy resource potential of areas being considered for established protected areas; and*
- *To excise any areas with high mineral potential from that candidate protected area.*

Understanding fully the resource and energy potential will help make the best land use decisions.

- **Recommendation #5:** Bill 38 must require a mandatory Mineral and Energy Resources Assessment be conducted on any candidate protected area to protect rare mineral resources from sterilization, so as to protect and promote the economic well-being of residents and communities in the settlement area, and having regard to the interests of all Canadians.

### ***Do not allow private donations to be made to protected areas***

We are concerned with the Bill's proposal under Clause 20, to allow the Minister to establish special purpose funds to accept donations for protected areas.

Private donations, whether from environmental groups or even industry, should not be allowed to advance a protected area.

By allowing them for established protected areas, you open the door to inappropriate influencing of protected areas establishment for money. It is not appropriate.

Donations of several millions of dollars – a not improbable amount – could be seen as very powerful and attractive motivators for small communities to advance protected areas, for example. Yet, that amount is quite paltry when compared to the ability of the land to generate benefits through responsible resource extraction.

The exchange of money for land enters onto dangerous ground. Donations can create perceptions that a protected area is being purchased.

Outside injections of money are artificial, and will likely be biased towards protection, and be biased more towards the interests of those from outside the north who have the money and their own agenda for what is best for the north. This would not be in the long-term interests of the north or northerners.

To remove any concerns of bias or impropriety, protected areas should be developed with the resources that the NWT creates itself economically. We in the NWT need to continue to grow our economic self-reliance in order to look after ourselves using our own resources, and that includes the establishment of parks and protected areas.

- **Recommendation #6:** Remove the ability of this Bill to allow private donations to be made to protected areas. Funding of protected areas should come from the NWT's own economic returns.

### ***Allow corridors in protected areas***

Clauses 35 and 36 speak to corridors.

Clause 36 allows transportation and transmission corridors in protected areas. This is good, and should be kept in the final Act. However, it should be strengthened with the addition of corridors for energy, specifically powerlines and pipelines.

Clause 35 prevents a number of activities including mining, oil & gas, and energy developments in protected areas. However, changes should be made to allow for corridors through protected areas to support those activities beyond the boundaries of the protected area.

There is real risk that a protected area could block development beyond its borders. We would like to think this is not the intent of the Bill, particularly when it can be shown that corridors do not carry any significant environmental risks that cannot be mitigated.

We recommend changes to Clause 35 to clarify this and suggest wording like this:

35. (1) Any surface authorizations or interests for lands within a protected area, including transportation, communication and energy corridors, may be issued or renewed, subject to the regulations and any applicable management plan.

36. ... the Minister may identify an area within a protected area where a right to occupy land may be granted for the purposes of establishing a transportation, communications or energy transmission (oil & gas, electricity) corridor within and through the protected area ... to support exploration, mining, oil & gas development, and energy development beyond the boundaries of the protected area.

- **Recommendation #7:** Change wording to allow corridors for transportation, communications (e.g., fibre optics), and energy (specifically electricity transmission and oil and gas energy pipelines) to be established and permitted in protected areas.
- **Recommendation #8:** Change wording to allow that corridors could support exploration, mining, oil & gas development, and energy development beyond the boundaries of the protected area.

Such allowance for corridors would also ensure there was no purposeful move to propose candidate areas to be roadblocks for development beyond.

### ***The Minister should not trump Land Use Planning processes***

Nominating an area as a candidate protected area is a significant move, for it has the potential to remove significant economic benefits from resource development from the North and all of its residents.

Areas of high mineral potential are rare in nature too with deposits seldom located where we want them to be. They are deserving of protection for economic reasons but do not receive any such protection.

For this reason, creation of protected areas cannot be treated lightly. They have the stature of being considered a “development” under the MVRMA and should undergo comprehensive discussions leading to preliminary screening and conceivably environmental assessment.

It appears that under at least 3 clauses in Bill 38, the Minister has the power to override a land use planning board or process, e.g.:

- Clause 12.(3): *If there is a land use planning board or body with a role related to an existing land use plan or a land use plan being developed in a region that includes any part of a candidate protected area, the Minister shall, without delay, give notice to that board or body of the candidate protected area approval and provide a description of the boundary or a map of the area.*

- Clause 16.(4): *If there is a land use planning board or body with a role related to an existing land use plan or a land use plan being developed in a region that includes any part of a candidate protected area, the Minister shall, without delay, give notice of the intention to establish a protected area under section 17 to that board or body before the protected area is established, and provide a description of the boundary or a map of the area.*
- Clause 26.(5): *If there is a land use planning board or body with a role related to an existing land use plan or a land use plan being developed in a region that includes any part of a protected area, the Minister shall, without delay, give notice to that board or body of a change in size or de-registration of a protected area under this section.*

We believe this gives too much power to the Minister.

What should be added after each of these clauses is wording like: “... so as to allow the land use planning board or body to consider (or not) as a formal candidate protected area under its land use planning processes”. This would then recognize the legally sanctioned public processes that the land use planning boards were created for in assessing land usage and designations, which are not intended to be at the Minister’s sole discretion.

Inclusion of the above wording would remove confusion, raise the standard of governance, and bolster regulatory certainty so the Minister is not seen as overriding established land use planning processes.

- **Recommendation #9:** The Minister should not override Land Use Planning processes. They have been created under environmental legislation to conduct public processes to evaluate and designate land use. Support them in conducting transparent, fulsome processes. Wording, as suggested, can be added to clarify this.

### ***No protected area establishment in the absence of land use planning***

While the NWT has a very progressive land and resource co-management regime under the MVRMA, it is not complete. Important to the discussion of a protected areas bill, land use planning has not been invoked or completed in all regions of the NWT.

The process of identifying and setting aside areas for protection is land use decision making. It is a subset of land use planning.

Protecting parcels of land is improved when done in the broader context of all land use.

However, when it is done in the absence of land use planning, then moving ahead with protected area establishment runs the risk of missing “the big picture”, the more fulsome discussions and investigations that land use planning bring and providing full transparency to these considerations.

We recommend that no candidate protected area be advanced to an established protected area until land use planning is in effect and land use discussions support it. The areas can remain as a candidate protected area in the meantime, perhaps similar to how a NATIONAL PARK remains as a NATIONAL PARK RESERVE until outstanding matters like land claims are resolved.

- **Recommendation #10:** Let land use planning processes confirm the establishment of a protected area. In their absence, maintain potential protected areas under “candidate” status.

### ***Limit size of protected areas***

There is nothing in the bill that limits the size of protected areas. There is also nothing in the bill that speaks to balancing protection and conservation with development needs.

The minerals industry is by far the largest private sector contributor to the NWT's economy, and given the high geological potential, with supportive actions can continue to do so.

Mining developments are not large, but they can generate phenomenal wealth. The physical footprint of all the mines historically in the NWT are tiny, at less than one hundredth of one percent of the NWT's land area. From this, tremendous wealth can be created responsibly, under the very strong regulatory regime in place today to protect the environment from significant adverse environmental impacts. For example, one of the NWT's diamond mines will generate one billion dollars per square kilometre of disturbance over its two decade life; the land the mine disturbs will be reclaimed and returned safely to the environment after mining is completed.

To sustain this success requires access to land for exploration and when it is successful, mine development. Currently, over 30% of the NWT is off limits to development, and we do not see this abating. While we realize that the territory is itself very large, the high levels of land alienation to development is excessive. It is now affecting the NWT's ability to sustain its minerals industry, and economic forecasts are not strong as a result.

Canada and countries around the world have established limits on the amount of land that will be protected, recognizing that land is also required to support economic activities for their residents.

There must be some limits put on the size of protected areas established under the act.

- **Recommendation #11:** Add wording to limit the size of protected areas in order to provide some balance between lands open and closed to development. Limit total alienation of all lands to resource development to the international commitment made by Canada of 17%.

### **CONCLUSION & RECOMMENDATIONS**

We support the notion of creating some special protected areas that need protection from resource development to protect their specialness. However, to meet the needs of good governance, transparency, balance and congruency with other laws and regulations, we provide the following recommendations:

- **Recommendation #1:** Reducing and De-registering protected areas is good. The ability for a candidate area to be removed as a candidate for protection is necessary. People's attitudes and society's needs can change as can environmental considerations and technology. Any of these could remove the need for a protected area.
- **Recommendation #2:** Maintain and strengthen the Public Registry. A fully transparent and comprehensive public registry needs to be in place for the consideration of any candidate protected area.
- **Recommendation #2a:** Consider replacing the Protected Areas Act public registry with that of the Mackenzie Valley Environmental Impact Review Board's public registry,

given that candidate protected areas are to be treated as “developments” under the MVRMA.

- **Recommendation #3:** Recognize that a Protected Area is a “development” under MVRMA. Recognize, treat and assess a candidate protected area as a “development” under the MVRMA, providing it with the transparency and effort required of any other development in the NWT.
- **Recommendation #4:** Bill 38 must require a mandatory Mineral and Energy Resources Assessment be conducted on any candidate protected area to protect rare mineral resources from sterilization, so as to protect and promote the economic well-being of residents and communities in the settlement areas, while having regard to the interests of all Canadians.
- **Recommendation #5:** Remove the ability of this Bill to allow private donations to be made to candidate protected areas. Funding of candidate protected areas should come from the NWT’s own economic returns.
- **Recommendation #6** allow corridors for transportation, communications, and energy to be established and permitted in protected areas; ensure protected areas are not used to block such developments.
- **Recommendation #7:** Change wording to allow corridors for transportation, communications (e.g., fibre optics), and energy (specifically electricity transmission and oil and gas energy pipelines) to be established and permitted in protected areas.
- **Recommendation #8:** Change wording to allow that corridors could support exploration, mining, oil & gas development, and energy development beyond the boundaries of the protected area.
- **Recommendation #9:** The Minister should not override Land Use Planning processes. They have been created under environmental legislation to conduct public processes to evaluate and designate land use. The Protected Areas Act must be subordinate to the Land Use Planning processes, and support them in conducting transparent, fulsome processes. Wording, as suggested, can be added to clarify this.
- **Recommendation #10:** Let land use planning processes confirm the establishment of a protected area. In their absence, maintain potential protected areas under “candidate” status until a Land Use Plan is established.
- **Recommendation #11:** Add wording to limit the size of protected areas in order to provide some balance between lands open and closed to development.

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