

# ONTARIO FEDERATION OF ANGLERS & HUNTERS



*Ontario Conservation Centre*

P.O. Box 2800, 4601 Guthrie Drive, Peterborough, Ontario K9J 8L5  
Phone: (705) 748.6324 • Fax: (705) 748.9577 • Visit: [www.ofah.org](http://www.ofah.org) • Email: [ofah@ofah.org](mailto:ofah@ofah.org)

OFAH FILE: 794  
October 10, 2023

Mines and Minerals Division  
933 Ramsey Lake Road  
Willet Green Miller Ctr, 2nd Floor  
Sudbury, Ontario  
P3E 6B5

Subject: ERO #019-7598 Proposed regulatory amendments required to implement legislative amendments made through Building More Mines Act, 2023

The Ontario Federation of Anglers and Hunters (OFAH) is Ontario's largest, non-profit, fish and wildlife conservation-based organization, representing 100,000 members, subscribers and supporters, and 725 member clubs. We have reviewed the "Proposed regulatory amendments required to implement legislative amendments made through Building More Mines Act, 2023" and offer the following comments for consideration.

Although we appreciate the need to modernize and increase efficiency of old policies, and that flexibility is often very important for creating practical rules and regulations, many of the proposed changes would allow increased environmental degradation and reduced accountability/liability.

## **Technical Certifications of Closure Plans**

One of the OFAH's chief concerns relates to the elimination of technical review requirements for closure plans. Historically, technical reviews conducted by the Ministry were a requirement for every prospective mine closure. This proposal aims to eliminate these reviews entirely, granting the power of self-certification to the proponents themselves or to a proponent-designated contractor. "Qualified persons" which may, in some cases, have as little qualification as a relevant bachelor's degree and "... five years of practicing experience that is relevant to the subject matter of the closure plan and any technical certification that they provide" will be permitted not only to certify closure plan code compliance, but to certify their own exemptions to the Mine Rehabilitation Code as well. Such an approach ignores a very clear conflict of interest and goes against the advice of the Ontario Auditor General (OAGO, 2015). As an agency of the provincial government, it is the responsibility of the Ministry of Mines (MOM) to act in the best interest of public resources, and handing the proverbial keys to mining proponents does not align with this obligation. British Columbia's Mount Polley disaster, which is considered Canada's greater environmental catastrophe, is a prime example of the dangers of over-dependence on a "professional reliance" model (AGBC, 2016).

We strongly encourage the ministry to maintain some degree of environmental oversight on this aspect of the mine closure process.

## **Ministerial powers**

As part of this regulatory proposal, the Minister will be granted all the authority previously held by the Director of Exploration and the Director of Mine Rehabilitation. Similarly, the advent of "conditional filling orders," which will allow proponents to submit incomplete closure plans under the agreement that "...the proponent meet the outstanding requirements within a specified time and manner." also requires approval by the Minister. Although there are certainly valid reasons for more flexible approaches to closure and rehabilitation, it is vital that decisions around environmental protection and science are made by qualified Ministry professionals whose authority is based solely on merit rather than politics. We feel that such a consolidation of authority has the potential to seriously jeopardize the future of our shared public resources.

**Financial assurance**

The implementation of phased financial assurance has real potential to weaken accountability across Ontario’s mining industry and, thus, threaten the natural environment. Until now, Ontario has required relatively upfront financial assurance for mine remediation, ensuring that sufficient funds would be available to deal with the aftermath of these operations regardless of proponent success. With a phased assurance plan, however, proponents will be permitted to delay the availability of these funds, opening the door to issues that Ontario has experienced in the past, where mining companies declare bankruptcy and skirt their rehabilitation obligations. In other words, these actions prioritize industry over the environment, human health, and efficient use of tax-payer money, and should not be permitted.

**New definition of rehabilitate**

As part of the proposal, the definition of the term “rehabilitate” has been changed. The new definition applies to land that is rendered “...to a condition that is: (i) compatible with the use of adjacent land; or (ii) suitable for an alternative future use of the site, in each case as determined by the Minister in accordance with the regulations.” Although the OFAH appreciates the need for added specificity with respect to the previous definition’s inclusion of lands “...made suitable for a use that the Director sees fit,” we are also concerned about the potential implications of this part of the definition. Despite the near synonymous use of “land rehabilitation” with “habitat restoration” elsewhere (Haldar, 2018), the MOMs definition allows for environmental degradation as long as it is deemed acceptable by the Minister. However, it is clear from Ontario’s Environmental Bill of Rights that the use of natural resources for mining is intended to be a temporary privilege, not a proponent right, allowable under the condition that such actions not compromise every Ontarians “...right to a healthful environment” and our government’s responsibility to protect and conserve “...biological, ecological and genetic diversity” and “...natural resources, including plant life, animal life and ecological systems.” (EBR, 1993)

In a province experiencing significant habitat and biodiversity loss (Finkelstein et al. 2023; OBC, 2015) and faced with impending issues like climate change, we feel it is extremely important that the provincial government treat ecological recovery as a greater priority than the ambiguous potential of any piece of land for “alternative future use.”

We hope the MOM will consider our comments and suggestions in the interest of a sustainable and abundant future for Ontario. We look forward to any opportunity to work with the province on this topic.

Yours in Conservation,



Matthew Robbins  
Fish & Wildlife Biologist

- cc: OFAH Board of Directors
- OFAH Land Use/Access/Trails Advisory Committee
- Angelo Lombardo, OFAH Executive Director
- Matt DeMille, OFAH Director, Policy & Programs
- Mark Ryckman, OFAH Manager, Policy
- Policy & Programs Staff

**Resources**

Auditor General of British Columbia. (2016). An Audit of Compliance and Enforcement of the Mining Sector. [Online]. <https://www.bcauditor.com/pubs/2016/audit-compliance-and-enforcement-mining-sector> Last accessed October 07, 2023.

Auditor General of Ontario. (2015). Annual Report, 2015. [Online]. [https://www.auditor.on.ca/en/content/annualreports/arreports/en15/2015AR\\_en\\_final.pdf](https://www.auditor.on.ca/en/content/annualreports/arreports/en15/2015AR_en_final.pdf) Last accessed October 07, 2023.

Auditor General of Ontario. [2022]. Value-for-Money Audit: Management of Hazards and Emergencies in the Environment. [Online]. [Management of Hazards and Emergencies in the Environment \(auditor.on.ca\)](https://www.auditor.on.ca/en/content/value-for-money-audit-management-of-hazards-and-emergencies-in-the-environment) Last accessed October 07, 2023.

Council, Ontario Biodiversity. (2015). State of Ontario's Biodiversity. Ontario Biodiversity Council, Peterborough, Ontario. [Online]. <https://www.academia.edu/download/51573871/sobr-2015.pdf> Last accessed July 21, 2023

Finkelsteina, Sarah A; Doherty, Cathal; & Loder, Amanda L. (2022). Safety Net Ontario: Ontario's outsized role in the "Global Safety Net" for climate and biodiversity. *Facets* 8, 1-17. <https://doi.org/10.1139/facets-2022-0126> <https://ntrs.nasa.gov/citations/20180001310>

Ontario Government. (1993). Environmental Bill of Rights. SO 1993, c 28. [Online]. <https://canlii.ca/t/54qfg> Last accessed October 07, 2023.