



CANADIAN INSTITUTE FOR  
ENVIRONMENTAL LAW AND POLICY

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February 20, 2009

Ross Lashbrook  
Special Project Officer  
Ministry of the Environment  
Operations Division  
Environmental Assessment and Approvals Branch  
2 St. Clair Avenue West  
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Toronto Ontario M4V 1L5

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Dear Mr. Lashbrook,

**Re: Proposed extension of the Ministry of Northern Development and Mine's  
Declaration Orders – Environmental Registry Notice # 010-5527**

I am writing on behalf of the Canadian Institute for Environmental Law and Policy (CIELAP) to provide comments on the proposed extension of the Ministry of Northern Development and Mine's (MNDM's) Declaration Orders under the *Environmental Assessment Act*. CIELAP was founded in 1970, with the mission to provide leadership in the research and development of environmental law and policy that promotes the public interest and sustainability.

As stated in the Registry information notice, MNDM has requested an extension to its Declaration Orders while it completes the *Mining Act* modernization process it has undertaken, and evaluates its EAA requirements. In November 2008, CIELAP released *Balancing Needs Minimizing Conflicts – A Proposal for a Mining Modernization Act, 2008*, a report coauthored with Ecojustice. This report offered recommendations for amending Ontario's *Mining Act*, including requirements for environmental assessment. It recommended that the current Declaration Order exempting mining from environmental assessment in Ontario not be renewed in 2009, and instead proposed that environmental assessment requirements be adopted in the new mining legislation.

CIELAP wishes to endorse and adopt the recommendations made by Ecojustice in its submission dated February 20, 2009 with respect to Environmental Registry notice # 010-5527. In particular, CIELAP wishes to highlight a number of points made by Ecojustice in that submission. CIELAP is concerned that while the current Dispositions Declaration Order (MNDM-3, due to expire on June 11, 2009) has been extended several times, there is no evidence that any progress has been made on the development of a Class EA as required by terms of the prior extensions. The Site Rehabilitation Declaration Order (MNDM-4) is not due to expire until June 27, 2010 leaving the Ministry adequate time to develop a Class EA process to address rehabilitation activities.

While it is understandable that MNDM wishes to link the development of the Class EA to the anticipated amendments to the *Mining Act*, it is troubling that the environmental assessment of mining-related activities has been neglected for so long. CIELAP joins Ecojustice in recommending that the Declaration Orders not be extended and that the existing requirements of Environmental Assessment Act apply to mining projects pending the implementation of anticipated amendments to the *Mining Act* and/or the development of a Class EA process.

If the Ministry of Environment does decide to extend the Declaration Orders, CIELAP supports Ecojustice's recommendations that the following conditions be attached to these extensions:

- MNDM be required to submit an evaluation of its EAA coverage requirements and a work plan for finalizing this coverage to MOE within 3 years
- The evaluation and work plan be required to include the development of a Class EA for MNDM activities subject to the EAA
- The work plan be required to include timelines that would ensure a Class EA is in place and operating prior to the expiry date of the extended Declaration Orders
- MNDM be required to provide the public with bi-yearly updates on MNDM's website of its development of a Class EA, including an evaluation of its current EA coverage and the work plan to be provided to MOE.

Thank you for the opportunity to provide input on the proposed legislative amendments. Please contact me or Maureen Carter-Whitney, CIELAP's Research Director, if you wish to discuss any of these comments further.

Yours sincerely,



Anne Mitchell  
Executive Director

Cc: Hon. John Gerretsen, Minister of the Environment  
Hon. Michael Gravelle, Minister of Northern Development and Mines  
Gord Miller, Environmental Commissioner of Ontario