

Clarification of Existing Rights

Introduction

As stated in the Government of Canada's (GOC) submission and discussed during the June and July 2015 technical meetings, the GOC is recommending that the concept of "existing rights" be clarified and expanded in the Land Use Plan. To clarify, the GOC is requesting that the Nunavut Planning Commission (Commission) include provisions in the Draft Nunavut Land Use Plan (DNLUP) that will allow current rights holders and project operators to advance their interests through the development life-cycle. Therefore, the following scenarios should be addressed through exemptions from the Land Use Plan:

- Subsurface rights holders (i.e. mineral claims, mineral leases – list provided in ANNEX A) would be able to continue the exploratory requirements to keep their tenure in good standing and advance from the Prospecting Permit to Mineral Claim to Mineral Lease stages as permitted under the *Nunavut Mining Regulations*, and
- Subsurface rights holders, in good standing before the Land Use Plan comes into force, would be exempt from the Land Use Plan for projects proposed on their subsurface tenure, and
- Project proposals with pre-existing subsurface rights that are advanced from the exploration stage to mine development would not be deemed by the Commission to be a significant modification of a project, or if they are so deemed, would still be exempt from the Land Use Plan.

The existing rights provisions in the Plan would only apply to subsurface rights and/or project proposals that have been approved or are in the process of being approved at the time that the Land Use Plan comes into force as well as the continuation of these rights. Further, they would only exempt the right or activities from the application of the Land Use Plan. All project proposals would continue to be submitted to and reviewed by the Commission to determine conformity with the Land Use Plan or if an exemption applies, in accordance with the Nunavut Land Claims Agreement (NLCA) and NuPPAA. Similarly, all of the Commission's legislated powers, including the power to refer project proposals to the Nunavut Impact Review Board (NIRB) for screening where the Commission has concerns respecting the cumulative impacts of the proposal, remain intact. Environmental assessment and regulatory review requirements would also continue to apply as per the existing legislative framework. In addition, when the subsurface rights or project proposals expire or cease, the exemption no longer applies and all provisions of the Land Use Plan would then become applicable to future subsurface rights or project proposals over the same areas.

For greater certainty, all unapproved ancillary operations related to these projects will need to conform to the new Land Use Plan. However, in those instances where the ancillary operation is absolutely necessary for the project's advancement and viability and cannot be implemented in a Plan-conformant manner, then they too should be exempted from the Plan. For example, access roads, ports, quarries, etc. that are necessary for the viability of a project would be exempt from the Plan but only if they cannot otherwise be implemented in a manner that

Clarification of Existing Rights

conforms to the Plan and does not jeopardize the project's viability. It should be emphasized that this exemption for ancillary operations is intended to be the exception rather than the rule. Under normal circumstances, ancillary operations will need to conform to the Plan, as would any other project proposal or modification that is not already approved when the Plan comes into force.

Although a project proposal (and certain ancillary operations as qualified above) with existing rights would be exempted from conformity, any non-conforming requirements would be appropriately dealt with through the regulatory process in the same fashion as existing environmental assessment pursuant to the NLCA and NUPPAA. (i.e. assessed by NIRB with any mitigation measures as needed).

In order to avoid a potential staking rush that the exemption of existing rights may cause, a pre-set date could be considered for exempting existing tenure from the changes being proposed by the DNLUP. This would require some further discussion on how to implement.

Rationale

The lands open for mineral exploration and development are assessed by territorial land use processes; paragraph 5(d) of the *Nunavut Mining Regulations* prohibit from staking "lands subject to a prohibition on prospecting or staking a claim under a land use plan that has been approved under federal legislation or under a land claims agreement."

1: It is unclear, whether the DNLUP references to existing rights provides clients with the opportunity to advance the mining life cycle. The nature of the mining life cycle is more reflective of a "series of projects" rather than one comprehensive project. Each stage in the mine development process necessarily stems from the earlier one, but the size, scope, and type of activities involved are quite different. At each stage a different type of subsurface tenure is required and the requirements of surface tenures will likely change. As proponents move forward into the successive stages of the mining life cycle, the need for an environmental assessment and water licence are also more likely. Therefore, the existing rights section in the DNLUP and NuPPAA would likely only apply to mining projects that are in the advanced stages of the mining life cycle (i.e. been approved by NIRB and the NWB). Clients who have tenure in areas designated with prohibitions on "mining" or "mineral exploration and production" would likely not have their rights protected.

2: The mining regime in Nunavut is managed through a free-entry system. The tenure issued to the current rights holders has been issued in accordance with the "rules of the day". The expectation of these clients is that their investments from the beginning of the cycle to the end are secure and are to be allowed to proceed to the next stage within the expectations of the current regulatory regime. Millions of dollars have been spent on research, field work, administration, and tenure charges in Nunavut by clients who are in the early stages of the mining cycle. In areas where the DNLUP prohibits 'mining' or 'mineral exploration and

Clarification of Existing Rights

production', clients with pre-existing mineral tenure would be prevented from pursuing those interests. This will essentially invalidate such tenure, potentially resulting in a form of constructive expropriation that could halt future development and associated investment in those areas, and negatively impact the overall mineral investment climate in Nunavut. Such expropriation could occur if the NLUP includes a new prohibition on mineral exploration or mining in that area, new access restrictions that would prevent tenure from being accessed or exploited, or any other measure that would substantially reduce the value in such tenure.

Complimentary application with NuPPAA

It is the GOC's assertion that it is fully within the Commission's jurisdiction and mandate to provide additional exemptions to the land use plan, so long as it remains consistent with the provisions of NuPPAA and the NLCA. Both NuPPAA and the NLCA require that all projects be sent to the NPC for a conformity determination, however, should the NPC find that these projects are covered by an exemption, then they will be in conformity with the Land Use Plan. The legislation deliberately provides the Commission with a wide degree of latitude in determining the scope and application of a land use plan, taking into account various factors including conservation, development and economic opportunity. Section 58 of NuPPAA explicitly states that when considering whether to approve or reject a draft land use plan, "the Commission, the federal Minister, the territorial Minister and the designated Inuit organization **must** take into account all relevant factors, including...existing rights and interests" (emphasis added). Furthermore, it should be pointed out that just as the NPC is authorized to establish prohibitions or terms and conditions on the use of land, it is similarly authorized to establish exemptions to its own restrictions, in a Land Use Plan.

Comparison with other land use plans in the North

The protection of existing mineral rights is a common practice in all regions where new land use plans are implemented, including in the North. By way of example, the Sahtu Land Use Plan exempts "legacy land uses", which it defines as "ongoing or proposed land uses for which one or more applicable authorizations have been issued under federal or territorial law prior to the Plan coming into effect". Like our proposal, it explicitly includes "prospecting permits", "mineral claims" and "mineral leases" in the definition, but also includes several additional interests and entitlements. It also includes land uses that are "necessarily incidental" to the exercise of rights created by those interests or entitlements, much like our proposal for ancillary operations to existing rights. Under the Sahtu plan, a legacy land use is exempted "until the authorization or disposition on which it depends expires or becomes eligible for renewal or amendment". As another example, the Gwich'in Land Use Plan also exempts "existing activities" from conformity, as well as "development arising from rights existing at the time of Plan approval". Unlike the Sahtu Plan (and our proposal), the Gwich'in Plan even allows for the renewal of permits, licences and authorizations for existing non-conforming activities. Both these plans arguably provide a broader scope of protection than the Government of Canada's proposal.

Clarification of Existing Rights

Recommended definition of “Existing Rights” in the DNLUP should be:

Existing Rights means the ***right to a*** use of land ***or a future use of land*** which does not conform to the Plan but which lawfully existed prior to the approval of the Plan, ***irrespective of whether the work or activity resulting from that use would constitute a new project or a significant modification to an existing project within the meaning of NuPPAA.***

DRAFT

Clarification of Existing Rights

ANNEX A

Surface and Subsurface Tenures

A. Subsurface

Minerals

Mineral tenure refers to a range of mechanisms by which the rights to explore for and develop mineral deposits are allocated. Mineral exploration and mine development are lengthy, capital-intensive and high-risk endeavors. As such, individuals and companies will only be willing to invest their time, effort and money in mineral exploration and mine development if they know that their rights to develop a mineral discovery are secure. The mineral tenure system provides that security. Without secure tenures, private sector exploration would be severely curtailed.

In Nunavut, any company or individual with a prospecting license can be eligible to hold subsurface tenure provided that they complete the requirements under the *Nunavut Mining Regulations*. These tenure instruments grant subsurface rights only and are briefly explained below:

License to Prospect (requirement to secure mineral tenure in Nunavut)

- A license grants the holder the right to prospect for minerals on Crown lands open for mineral exploration.
- Only a license holder can obtain the other types of mineral tenures.
- Licenses must be renewed annually— Cost is \$5 per individual and \$50 per company.
- They are not transferable.

Prospecting Permit

- Prospecting permits are offered annually on a first come first serve basis. The Mining Recorder's Office starts accepting applications on November 1 and prospecting permits are issued February 1.
- Are not issued in areas with any existing mineral tenure (regardless of overlap size).
- Will not be issued if 3 or more applications are submitted for any overlapping land parcels. In these instances it is determined that there is enough interest in the area to allow parties to pursue mineral claims (i.e., ground stake).
- Grant the exclusive rights to explore and have mineral claims recorded within the assigned boundaries of a given area for a fixed term (3 years for areas south of 68°N, and 5 years for areas north of 68°N).
- They are not renewable. Any area of further interest to the holder must be converted to a mineral claim(s) prior to permit expiry provided the work requirements for the specified period have been completed.
- Prospecting Permits are transferable to other parties.

Clarification of Existing Rights

Mineral Claim

- Mineral Claims require ground staking in accordance with the *Nunavut Mining Regulations*. In the “free entry” system any open ground may be staked by an individual / company with a valid prospecting license.
- Mineral claims are staked and submitted to the Mining Recorder’s Office for recording, the recording will not be withheld if the staking is done in accordance with the *Nunavut Mining Regulations*.
- Grants the exclusive right to prospect and develop mineral discoveries within the boundaries of the claim. The surface activity would be subject to environmental and regulatory approvals.
- Mineral Claims require yearly representation work (i.e. exploration) to be kept in good standing and with yearly representation work being completed can be valid for up to 10 years.
- Mineral Claims are transferable to other parties.

Lease

- Mineral Leases are required to sell or dispose of minerals (with a value of over \$100,000).
- A claim holder may apply for a lease if:
 - the representation work has reached a total value of \$25 per hectare,
 - the value of the ore removed from the claim exceeds \$100,000, unless the purpose of removal is for assay and testing;
 - a legal boundary survey of the claim has been recorded; and
 - the right to the claim(s) to be leased is not under dispute.
- Only a mineral claim in good standing can be converted to a lease.
- A lease has a 21-year term and can be renewed for another 21 years.
- Annual rent must be paid.
- Leases are transferable to other parties.

Mineral exploration and mine development are subject to environmental assessment, permitting, regulation and the Nunavut Land Claims Agreement. Projects may be subject to environmental review and could require permits to use land and water.

Coal

The subsurface tenure requirements for Coal are separate from the *Nunavut Mining Regulations*. The Territorial Coal Regulations (TCRs), pursuant to the *Territorial Lands Act (TLA)*, regulates coal exploration and mining in Nunavut on Crown lands. The purpose of the TCRs is to allow for the orderly exploration, discovery, development and mining of coal resources.

No prospector’s license is required to obtain coal rights, and under territorial legislation, companies conducting business or operations in the territory must be registered and in good standing with the Territorial legal registry.

Clarification of Existing Rights

- **Coal Permits:** area should not exceed one acre, permits expire upon March 31st next following date of issue, or within one month after the permittee files a statement with the Mining Recorder that the quantity of coal in the permit has been taken. The permittee may apply to the Mining Recorder before the expiry of the permit for a permit for the next year (in the same location), and the Mining Recorder may issue the permit (without the necessity of re-staking the location) if all of the TCR requirements have been met. No person may hold more than one permit.
- **Coal Lease:** area of the location should not exceed 640 acres, may issue for a term of 21 years and may be renewed for an additional 21 year term(s). Lessee may not assign, transfer or sublet the rights granted by his lease or any part thereof without the consent in writing of the Minister.
- **Coal License:** (similar to prospecting permit – see above). In force for three years commencing on the date of application. New licenses may be issued to same licensee for the same area once the former license has expired. At the end of any year during the term of a license and not later than 90 days after the expiration of the term of a license, a licensee may apply to the Recorder for a lease under section 12 or a permit under section 23. No one else except the licensee may obtain a lease or permit for a licensed area for at least 90 days after the expiry of the license (unless license terminated by the licensee).

B. Surface Tenure on Crown Lands

In order to explore mineral tenure additional surface approvals may be required. The *Territorial Land Use Regulations* (TLURs) and *Territorial Land Regulations* (TLR), administered by AANDC, allows authorized activities on Crown land. Different combinations of rights and privileges are granted by various types of tenure. The type of tenure made available depends on several factors, including:

- The intended length of time the land will be occupied or used
- The intended use of the land
- The need to use the land as collateral or to secure a loan
- The extent and value of the improvements that will be made to the land (i.e. buildings)

The most common types of tenure for explorations are:

Land Use Permit

A Land Use Permit issued in accordance with the *Territorial Land Use Regulations* is not a right, but rather permission to conduct a specific land use activity on Crown Land. Below are a few of the features:

- Gives the right to conduct a specified activity on the land for a maximum term of two years. Written requests for extensions are subject to review and approval and may be granted for up to one year.
- Does not give ownership of the land or interest in the land.
- No extensive improvements to the land are planned.

Clarification of Existing Rights

- Land cannot be used for loan security or collateral.
- No future financial or environmental liability is anticipated as a result of the intended land use.
- Rights are granted by a land use permit and are not transferable.

The following threshold requirements for permits paraphrased for information purposes only.

Class A Permit (Section 8 of TLUR) is required for:

1. Use of more than 150kg of explosives within 30 days.
2. Use of vehicles that exceed 10 tons (10 160kg).
3. Use of power driven machinery for drilling exceeding 2.5 tons (2 540kg).
4. A campsite used for more than 400 man days.
5. Fuel storage greater than 80 000 litres (17 598 gallons) or a single container over 4 000 litres (880 gallons).
6. Self-propelled machinery for moving the earth.
7. Stationary power machinery for prospecting, moving earth or clearing land.
8. Creating a line, trail or right of way exceeding 1.5 metres wide and 4 ha in area.

Class B Permit (Section 9 of TLUR) is required for:

1. Use of more than 50kg of explosives but less than 150kg within 30 days.
2. Use of vehicles that exceed 5 tons (5 080kg) but less than 10 tons (10 160kg).
3. Use of power driven machinery that exerts over 35 kpa of pressure on the ground.
4. A campsite used for more than 100 man days but less than 400 man days.
5. Fuel storage greater than 4 000 litres (880 gallons) but less than 80 000 litres (17 598 gallons) or a single container over 2 000 litres (440 gallons) but less than 4 000 litres (880 gallons).
6. Creating line, trail or right of way exceeding 1.5 metres wide and 4 ha in area.

Lease

A Lease is issued in accordance with the *Territorial Lands Regulations* and is a right to exclusive use subject to the clauses of the lease. Below are a few of the features:

- Gives the exclusive right to use the land for the time the lease is active, but does not give ownership of the land.
- The term is negotiable, up to 30 years, but may be renewed for another term up to 30 years.
- Extensive and/or valuable improvements to the land are planned.
- Land can be used for loan security or collateral.
- No future financial or environmental liability is anticipated as a result of the intended land use.
- Rights granted are transferable.

Clarification of Existing Rights

Quarrying

Quarry materials on Crown lands are regulated by the Territorial Quarrying Regulations (TQRs) pursuant to the *Territorial Lands Act*. The TQRs include industrial minerals and building stones such as construction stone, carving stone, limestone, soapstone, marble, gypsum, shale, clay, sand, gravel, volcanic ash, earth, ochre, marl or peat and are specifically excluded from the NMRs and are not contained in a mineral grant. The extraction and use of these quarrying or granular materials on Crown lands requires either a permit or a lease.

- **Quarry Permit:** A Quarry permits is issued for 1 year and allows the taking of a specified quantity of material from Crown lands. The extraction and use of these quarrying or granular materials on Crown lands requires either a permit or a lease. Permits do not grant exclusive rights to an area.
- **Quarry Lease:** A Quarry lease may be issued longer than 1 year. The extraction and use of these quarrying or granular materials on Crown lands requires either a permit or a lease. Grants exclusive rights to the area.

Authorizations that may be required for quarrying operations:

Permit	Purpose	Responsible Authorities
Quarrying Permit	Short-term non –exclusive permission to obtain quarry materials	AANDC
Quarry Lease	Long-term exclusive access to quarry materials	AANDC
Land Use Permit	Use and occupation of land associated with site investigations, geotechnical work and quarrying	AANDC

Clarification of Existing Rights

Summary of Subsurface and Surface Tenure on Crown Lands

Type of Tenure	Application Procedure	Size	Work Requirements/Fees	Duration/Notes
Subsurface				
Prospecting Permit	'Paper' application accepted on November 1, on a first come first serve basis issued February 1.	Varies from: 8,319 hectare to 29,000 hectare (20,557 to 71,661 hectare)	Fee and first year's work requirement as deposit; deposit refundable upon completion of work requirement.	Areas south of 68 degrees N, each work period is one year long for a total of three years.
	Prospecting Permits provide exclusive right to a holder to stake mineral claims within a prescribed area. The Nunavut Map Selection and regulatory changes will eliminate prospecting permits.	Size depends on the specific one-quarter of a 1:50,000 scale map sheet being permitted. Perspective -An international football field is between 0.62 ha and 0.82 ha.	1 st period - \$0.25/hectare 2 nd period - \$0.50/hectare 3 rd period - \$1.00/hectare Please refer to Nunavut Mining Regulations (NMR) for fee schedule for application, renewal and filing fees.	Areas north of 68 degrees N, each of the first two work periods is two years long with the third work period one year long for a total of five years. Excess work may be credited against future years' work requirements. Not renewable / need to stake claims.
Mineral Claim	Physical ground staking required. No limit to number of claims that may be staked. The Nunavut Map Selection and regulatory changes will remove ground staking requirements and allow for staking	Varies from: The area of each claim must not exceed 1250 ha.	Initial period - \$10 per ha Subsequent periods - \$5 per ha Excess work credits may be applied to future requirements. Maximum grouping of 5000 ha, claims must be contiguous.	Claims may be held for a maximum of ten years at which time they must be taken to lease. (If in good standing and they have completed the work requirements).

Clarification of Existing Rights

	online.		Please refer to Nunavut Mining Regulations (NMR) for fee schedule for application, renewal and filing fees and definition of work requirements.	
Mineral Lease	Only valid Mineral Claims may be taken to mineral lease after the: -representation work exceeds \$25/hectare, and -Land survey completed	No pre-defined limit.	Rental of \$2.50/hectare for first term increasing to \$5.00/hectare for subsequent renewals. Please refer to the Nunavut Mining Regulations (NMRs) for fee schedule for applications and renewals.	Leases granted for 21 year terms. May be renewed for further 21 year periods. Lease grants right to prospect, develop, extract or sell minerals from lease area, subject to other requirements of federal or territorial legislation.
Surface				
Land use permits	Application in accordance with TLUR allows for two classes of land use permit: Class A and Class B. The class depends on the level of activities detailed under Section 8 and 9.	Based on area required for land use operation including existing cleared areas, campsite, access routes, drill sites, etc.	Application Fee Class A or B Permit - \$150.00 Land Use Fees -lands proposed to be used on the preliminary plan is less than or equal to 2 hectares - \$50.00 -where lands proposed to be Used on the preliminary plan exceeds 2 hectares - \$50.00	All land use permits are issued for a maximum term of two years. Extensions may be granted for up to one year.
Land leases	Application in accordance with TLR	Based on area desired to lease.	The annual rent payable cannot be less than 10% of the appraised value of the land and	Surface leases are issued for a term of not more than 30 years and may be renewed on

Clarification of Existing Rights

			must be at least \$150 per annum.	application for another maximum term of 30 years.
Quarrying permits	<p>Application and payment of royalties.</p> <p>Land use permit is also required to access the land covered by a quarry permit.</p>	Based on area required for quarrying.	<p>Outlined in the Territorial Quarrying Regulations:</p> <p>Royalty on sand, gravel or loam - \$1.50 per M³</p> <p>Royalty on other building material - \$1.25 per M³</p>	<p>A permit is valid for one year or until the quantity of material applied for has been removed.</p> <p>Permits do not grant exclusive rights to an area.</p>
Quarrying leases	An application in accordance with the TQR.	Based on area required for land use operation.	<p>Outlined in the Territorial Quarrying Regulations:</p> <p>Royalty on sand, gravel or loam - \$1.50 per M³</p> <p>Royalty on other building material - \$1.25 per M³</p>	The terms of the lease shall not exceed 10 years.
Coal Permits	Application for a permit in accordance with the Territorial coal Regulations (TCR).	Area should not exceed one acre.	<p>Application for permit - \$1.00</p> <p>Royalty –\$0.25 per ton</p>	Permits expire on March 31 st following the date of issue, or within one month after the permittee files a statement with the Mining Recorder that the quantity of coal in the permits has been taken.
Coal Lease	Application for a permit in accordance with the Territorial coal Regulations (TCR).	Area of the location should not exceed 640 acres.	<p>Application for lease or renewal - \$5.00</p> <p>Annual rental per acre under lease -</p>	May issue for a term of 21 years and may be renewed for an additional 21 year term(s).

Clarification of Existing Rights

			\$1.00 Registration of assignment of lease - \$3.00	Lessee may not assign, transfer or sublet the rights granted by his lease or any part thereof without the consent in writing of the Minister.
Coal License	Application for a permit in accordance with the Territorial coal Regulations (TCR).	Please refer to the Territorial Coal Regulations (TCR).	License fee - \$10.00 Deposit – \$0.05 per acre for the first year Deposit – \$0.10 per acre for the second year Deposit - \$0.20 per acre for the third year	In force for three years commencing on the date of application. New licenses may be issued to same licensee for the same area once the former license has expired.

**Prospecting License required before any prospecting permits, mineral claims, or mineral leases can be acquired. The fee is \$5 for an individual and \$50 for a company. The license expires on March 31st, regardless of application date.*

ANNEX B - Comments as GOC submitted during the June 2015

12.2 Section 7.6 - Existing Rights

Issue and Discussion

In Section 7.6 (Existing Rights) the DNLUP identifies conditions under which the plan does not apply, citing NuPPAA transitional clauses. This section fails to consider the full mineral exploration and development life-cycle which consists of a series of related projects (i.e., prospecting, exploration, development, closure). As such, unless the plan is careful to protect

Clarification of Existing Rights

pre-existing rights, a user with a claim in an area with a land use designation that prohibits mining or activities associated with mining may be prohibited from advancing the project to the next stage of the life-cycle.

While Section 7.6 of the DNLUP specifies that the land use plan will not apply to Project Proposals with existing rights, the DNLUP does not clearly define “existing rights”. An analysis of current land tenure shows that approximately 21% and 24 % of existing subsurface tenures and surface tenures, respectively, are located in land use designations that prohibit major development. Furthermore, the existing rights provisions only apply to Project Proposals that have been approved or are in the process of being approved. If there is a significant modification to a project that meets the transitional clause conditions, the NLUP will then apply to that modified project.

It is undesirable that proponents, who have invested significant sums of money on research, field work, administration and tenure charges, and who have initiated projects on the expectation that those investments are secure, should be denied the ability to pursue their rights and advance them to the next stage of their expected life-cycle after the adoption of the plan. Canada considers that this is not the right policy to pursue since it would seriously impede the advancement of more than 20% of existing tenures and therefore reduce related potential investments. This might also put a chill on the investment climate in Nunavut in general.

Recommendation

The plan should accommodate the development of all pre-existing tenures, including prospectors’ permits and mining claims, as well as significant modifications to existing projects that were approved before the adoption of the plan so as to allow existing rights to advance to the other stages of their life-cycle. While NuPPAA sets minimal exemptions, the Commission is not bound by this minimum and has the authority to exempt pre-existing tenures from the application of specific land use designations and allow them to be modified so as to advance in the different stages of their life-cycle. When the tenures expire the prohibitions would then become applicable.

ANNEX C

Basis for Rationale

- From a mining perspective, land access is about being granted permission to explore and acquire the mineral rights within a given parcel of land.
- A mineral claim secures the exclusive right to a mineral resource, if discovered through exploration, but it does not allow a company or prospector to conduct anything more than very low-impact exploration activities without screening and authorization.

Clarification of Existing Rights

- Mineral exploration and development are expensive and success is very uncertain. In Nunavut, very few of the many exploration projects will ever advance to become an operating mine, even decades after the first claims were staked.
- Mineral development projects and mines are fixed in location and often require other infrastructure such as roads, airports and ports to move the minerals they produce and bring in employees and supplies. Revoking a mineral claim could thus result in a significant loss of capital investment in addition to the intrinsic value of the mineral deposit.
- Exploring for and building a mine is a very risky business for a company. The financial risk in terms of costs related to revoked claims or the threat of losing claims in good standing is one that can lead to reduced investment, abandonment of the project or the bankruptcy of the company.
- Investors - the company or people providing financing - depend on a reliable, predictable and transparent land use system to clearly mark which areas are available for investment in a predictable, low-risk way. Persisting uncertainty, sudden changes or surprises are very detrimental to current or future investment projects.
- Success in mineral exploration, particularly in Nunavut where information on mineral potential is limited and exploration costs are high, is dependent on access to land with minimal uncertainty as to securing land rights over the long term. Any doubts about the preservation of mineral rights or unexpected constraints on exploration activities will increase the challenge of attracting mining investment in Nunavut.
- Before they begin exploring, companies need to know that exploration will not be slowed down that deposits found will be able to be developed into mines, and that deposits will not be arbitrarily expropriated without compensation or that unexpected costs or taxes will be unilaterally imposed.
- Uncertainties over land access increase risk for companies contemplating work in a given jurisdiction. These issues can push investment and capital away and result in lost development opportunities. Companies have been known to reverse their investment decisions when land access uncertainty becomes too prevalent. It should be remembered that mining and exploration companies have the option of working anywhere in the world and, all other things being equal, countries with clearer rules and regulations (more certainty) attract more mineral exploration and mining activity.
- Smaller companies are more sensitive to land tenure-related risk since they generally have fewer financial options. In addition, financial problems resulting from land access risk (delays, difficulties attracting investors, etc.) can be magnified by cyclical market declines.